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MEMORANDUM OF JUNE 29, 1974

[Presidential Determination No. 74–23]

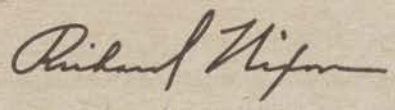
Emergency Security Assistance for Israel

Memorandum for the Secretary of State and the Secretary of Defense

THE WHITE HOUSE,
Washington, June 29, 1974.

By virtue of the authority vested in me by section 4 of Public Law 93–199, the Emergency Security Assistance Act of 1973 (hereinafter "the Act"), I hereby release Israel from its contractual liability to the extent of $500,000,000 to pay for defense articles and defense services financed under the Act by the credit agreement entered into by the Government of Israel and the United States Government on June 3, 1974.

This memorandum shall be published in the FEDERAL REGISTER.



[FR Doc.74–16953 Filed 7–19–74;4:27 pm]

MEMORANDUM OF JUNE 30, 1974

[Presidential Determination No. 74-26]

Determination and Authorization Under Section 614(a) of the Foreign Assistance Act of 1961, as Amended—Providing Security Supporting Assistance to Egypt in FY 1975

Memorandum for the Acting Secretary of State

THE WHITE HOUSE,
Washington, June 30, 1974.

Pursuant to the authority vested in me by section 614(a) of the Foreign Assistance Act of 1961, as amended (hereinafter "the Act"), I hereby:

(a) determine that the use of not to exceed $20 million of funds available in the fiscal year 1975 for security supporting assistance to Egypt, without regard to the requirements of the Act, is important to the security of the United States; and

(b) authorize such use of not to exceed $20 million as security supporting assistance to Egypt for the purposes of sweeping mines from the Suez Canal, providing technical assistance and training to the Egyptians in disposing of unexploded ordnance in the Canal and along its banks, and assisting in the salvage of wrecked ships and debris blocking the Canal.

This determination shall be published in the FEDERAL REGISTER.

Richard Nixon

cc: The Secretary of Defense

[FR Doc.74-16954 Filed 7-19-74;4:27 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 7—Agriculture

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 728—WHEAT

Subpart—Wheat Program for Crop Years 1974–1977

Part 728 of Chapter VII of Title 7 of the Code of Federal Regulations is amended by adding a new subpart "Wheat Program for Crop Years 1974–1977" as set forth below. This new subpart prescribes the terms and conditions under which producers on farms for which a wheat allotment is established may qualify for payments under the program.

Subpart—Wheat Program for Crop Years 1974–1977

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728.2 Definitions.
728.3 Administration.
728.4 1974 national wheat allotment.
728.4a 1975 national wheat allotment.
728.4b 1976 national wheat allotment.
728.4c 1977 national wheat allotment.
728.5 Apportionment of the 1974 national wheat allotment among the several States.
728.5a Apportionment of the 1975–1977 national wheat allotments among the several States.
728.6 Apportionment of the 1974 State allotments of wheat among their respective counties.
728.6a Apportionment of the 1975–1977 State allotments of wheat among their respective counties.
728.7 Farm wheat allotment.
728.8 County projected yields.
728.9 Farm yields.
728.10 Payment rates.
728.11 Notice of allotments and yields.
728.12 Reconstitution of farms.
728.13 Requirements for eligibility.
728.14 Intention to participate in the program.
728.15 Determination of compliance.
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728.19 Division of payments and additional provisions relating to tenants and sharecroppers.
728.20 Successors-in-interest.
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728.22 Setoffs and assignments.
728.23 Appeals.
728.24 Performance based upon advice or action of county or State committee.
728.25 Supervisory authority of State committee.
728.26 Delegation of authority.

AUTHORITY: Sec. 107, 87 Stat. 224 (7 U.S.C. 1445a); sec. 379c, 87 Stat. 227 (7 U.S.C. 1379c); sec. 375(b) 52 Stat. 66 (7 U.S.C. 1375 (b))

Subpart—Wheat Program for Crop Years 1974–1977

§ 728.1 General.

(a) The regulations in this subpart provide terms and conditions for the wheat program for the 1974 through 1977 crops of wheat, respectively, under which producers on farms for which an allotment is established may qualify for payments authorized under the program.

(b) If the operator of the farm elects to participate in the program, he and other producers on such farm may qualify for payments only if an Intention to Participate and Report of Acreage (herein called "Form 580") is filed for the farm by the operator in accordance with § 728.14.

(c) In accordance with section 101 of the Agricultural Act of 1970, as amended, and the regulations in Part 795 of this chapter, as amended, the total amount of payments which a person shall be entitled to receive annually under the wheat program, the feed grain program, and the upland cotton program shall not exceed $20,000.

(d) In accordance with the regulations in Part 796 of this chapter, payments are prohibited to program participants who harvest or knowingly permit to be harvested for illegal use marihuana or other such prohibited drug-producing plants on any part of the lands owned or controlled by them.

(e) The program is applicable throughout the United States except Hawaii and Alaska.

§ 728.2 Definitions.

In the regulations in this subpart and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meaning assigned to them herein unless the content or subject matter otherwise requires.

(a) "Annual nonconserving crop" means any annual crop intended for harvest and produced for market or feed except for the following:

(1) Grasses, regardless of use.

(2) Legumes other than peas or beans produced for seed, grain, or processing.

(3) Corn, grain sorghums, barley, or wheat not defined as feed grain or wheat acreage.

(4) Small grains (other than barley or wheat) destroyed by any means or used for other than grain by the certification date.

(5) Other crops grazed to the extent they cannot be harvested.

(b) "Certification date" means the certification date as set forth in Part 718 of this chapter, as amended.

(c) "Cropland Adjustment Program" (herein called CAP) means the program authorized under Title VI of the Food and Agriculture Act of 1965, as amended, Part 751 of this chapter, as amended.

(d) "Cropland Conversion Program" (herein called CCP) means the program authorized under section 16(e) of the Soil Conservation and Domestic Allotment Act, as amended, Part 751 of this chapter, as amended.

(e) "Current year" means the calendar year in which the wheat crop with respect to which payment may be made under this subpart would normally be harvested.

(f) "Feed Grain Program" means the program authorized under Title V of the Agricultural Act of 1970, Part 775 of this chapter, as amended.

(g) "Upland Cotton Program" means the program authorized under Title VI of the Agricultural Act of 1970, Part 722 of this chapter, as amended.

(h) "Wheat acreage" means:

(1) Any acreage planted to wheat, and any acreage of volunteer wheat which will be harvested as grain excluding:

(i) Any acreage of wheat approved as a conservation use in Part 792 of this chapter, as amended;

(ii) Any acreage of wheat destroyed by any means or used for other than grain not later than the certification date, unless destruction is by natural causes and the operator requests in writing that it be included as wheat acreage.

(2) Any acreage devoted to a mixture of crops if the county committee determines that the predominant crop is wheat and such acreage meets the requirements of paragraph (h)(1) of this section as being wheat acreage.

(i) "Wheat planted and considered planted acreage" means the wheat acreage as defined in paragraph (h) of this section and:

(1) Any acreage which the county committee determines was not planted to wheat or failed because of drought,

flood, or other natural disaster or condition beyond the control of the operator;

(2) Any acreage credited as wheat (except for new farms) under the provisions of Part 719 of this chapter, as amended;

(3) Any acreage planted and considered planted to feed grains under Part 775 of this chapter, as amended, in excess of the allotment which is not credited to cotton (except acreage which the county committee determines was not planted to feed grains because of drought, flood, or other natural disaster or condition beyond the control of the operator): *Provided*, That feed grains in excess of the allotment shall not be considered as planted to wheat for purposes of § 728.7(b)(4)(iii);

(4) Any acreage planted and considered planted to cotton under Part 722 of this chapter, as amended, in excess of the allotment which is not credited to feed grains (except acreage which the county committee determines was not planted to cotton because of drought, flood, or other natural disaster or condition beyond the control of the operator): *Provided*, That cotton in excess of the allotment shall not be considered as planted to wheat for purposes of § 728.7(b)(4)(iii); and

(5) Any other acreage planted to annual nonconserving crops, excluding acreage of allotment crops within the applicable allotment, which is not credited to cotton or feed grains: *Provided*, That such nonconserving crops shall not be considered as planted to wheat for purposes of § 728.7(b)(4)(iii).

(j) In the regulations in this subpart and in all instructions, forms, and documents in connection therewith, all other words and phrases shall have the meanings assigned to them in the regulations governing reconstitution of farms, allotments, and bases, Part 719 of this chapter, as amended.

§ 728.3 Administration.

(a) The program will be administered under the general supervision of the Administrator, Agricultural Stabilization and Conservation Service (ASCS), and shall be carried out in the field by Agricultural Stabilization and Conservation State and county committees (herein called "State and county committees") and the ASCS Data Systems Field Office.

(b) State and county committees, the ASCS Data Systems Field Office, and representatives and employees thereof do not have authority to modify or waive any of the provisions of the regulations in this subpart, as amended or supplemented.

§ 728.4 1974 national wheat allotment.

NOTE: For text of this section, see 39 FR 2101.

§ 728.4a 1975 national wheat allotment.

NOTE: For text of this section, see 39 FR 13869.

§ 728.4b 1976 national wheat allotment.

To be issued as an amendment to this subpart.

§ 728.4c 1977 national wheat allotment.

To be issued as an amendment to this subpart.

§ 728.5 Apportionment of the 1974 national wheat allotment among the several States.

NOTE: For text of this section, see 39 FR 2101.

§ 728.5a Apportionment of the 1975–1977 national wheat allotments among the several States.

The national allotment of wheat is distributed each year on a pro rata basis to the States on the basis of each State's allotment for the preceding year, adjusted for (a) the administrative transfer of farms between States, (b) decreases resulting from farms no longer engaged in agricultural production, farms dropped from the eminent domain pool, farms losing allotment for failure to plant, and farms voluntarily relinquishing their allotment, and (c) established crop-rotation practices in the States of Colorado, Oregon, Utah, and Washington. State allotments are available for inspection in State and county ASCS offices.

§ 728.6 Apportionment of the 1974 State allotments of wheat among their respective counties.

NOTE: For text of this section, see 39 FR 2101.

§ 728.6a Apportionment of the 1975–1977 State allotments of wheat among their respective counties.

The State allotments for wheat, less reserves for new farms, appeals, and corrections, are apportioned among the counties in the various States on the basis of each county's allotment for the preceding year, adjusted for (a) the administrative transfer of farms between counties, (b) acreage allocated to new farms from the State reserve, (c) acreage removed from farms no longer engaged in agricultural production, farms dropped from eminent domain pool, farms losing allotment for failure to plant, and farms voluntarily relinquishing their allotment, and (d) such other relevant factors as determined necessary by the State committee to establish a fair and equitable apportionment base for the county. County allotments are available for inspection in the county ASCS office.

§ 728.7 Farm wheat allotment.

(a) *How obtained.* Except as otherwise provided in this section, the farm wheat allotment for each crop of wheat shall be determined by the county committee by apportioning the county wheat allotment among farms in the county on the basis of the farm wheat allotment for the preceding crop, adjusted to reflect established crop-rotation practices and such other factors as the Deputy Administrator determines should be considered for the purpose of establishing a fair and equitable allotment. Allotments determined as set forth in this paragraph shall be approved by a representative of the State committee.

(b) *New farm allotment.* (1) *Written application.* The county committee, with the approval of the State committee, shall establish an allotment (herein called "new farm allotment") for each eligible farm for which an allotment is requested in writing by July 1 of the year immediately preceding the current year in the winter wheat area, and by February 15 of the current year in the spring wheat area. The spring wheat area shall include any area where spring wheat is normally grown, even though winter wheat is also grown in such area. Each request shall be made by the farm owner or operator on Form MQ–25, Application for New Farm or Producer Allotment, Base or Quota, which shall contain statements as to location and identification of the farm, name and address of the farm operator, and other data necessary to enable the county committee to determine whether the conditions of eligibility prescribed in paragraph (b)(2) of this section have been met.

(2) *Eligibility requirements for owner or operator.* Eligibility for a new farm allotment shall be conditioned upon the following:

(i) *Allotment for farm.* The farm does not otherwise qualify for a wheat allotment.

(ii) *Interest in another farm.* Neither the farm owner nor the farm operator owns, has an ownership interest in, or operates any other farm in the United States for which a wheat allotment is established for the current year.

(iii) *Previous experience.* The applicant has produced wheat in any year prior to the year for which the request is made for a new farm allotment.

(iv) *Availability of equipment and facilities.* The operator has adequate equipment and other facilities readily available for the successful production of the crop on the farm.

(v) *Income requirement.* The operator expects to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products from farming.

(*a*) *Computing operator's income.* The following shall be considered in computing operator's income:

(*1*) *Income from farming.* Income from farming shall include the estimated return from the production of the requested allotment and from home gardens, livestock and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm(s), but shall exclude payments authorized under the wheat program.

(*2*) *Income from nonfarming.* Nonfarming income shall include but shall not be limited to salaries, commissions, pensions, social security payments and unemployment compensation.

(*3*) *Spouse's income.* The spouse's farm and nonfarm income shall be used in the computation.

(*b*) *Operator a partnership.* If the operator is a partnership, each partner must expect to obtain more than 50 per-

cent of his current year income from farming.

(c) *Operator a corporation.* If the operator is a corporation, it must have no major corporate purpose other than ownership or operation of the farm. Farming must provide its officers and general manager with more than 50 percent of their expected income. Salaries and dividends from the corporation shall be considered as income from farming.

(d) *Special provision for low-income farmers.* The county committee may waive the income provisions in this section provided the county committee determines that the farm operator's income, from both farm and nonfarm sources, will not provide a reasonable standard of living for the operator and his family, and a State committee representative approves such action. In waiving the income provisions the county committee must exercise good judgment to see that such determination is reasonable in the light of all pertinent factors, and that this special provision is made applicable only to those who qualify. In making such determination, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family farm income, estimated family off-farm income, number of dependents, and other factors affecting the individual's ability to provide a reasonable standard of living for himself and his family.

(3) *Eligibility requirements for the farm.* The eligibility requirements for the farm are as follows:

(i) *Available land, type of soil, and topography.* The available land, type of soil, and topography of the land on the farm must be suitable for wheat production, and continuous production must not result in an undue erosion hazard.

(ii) *Allotment reduced to zero at the farm owner's request.* At least 3 years must have elapsed from the date the allotment is reduced to zero at the farm owner's request, as authorized in paragraph (d) of this section, to the date the request for a new farm allotment is considered.

(iii) *Eminent domain.* A farm which includes land acquired by an agency having the right of eminent domain for which the entire wheat allotment was pooled pursuant to Part 719 of this chapter, as amended, which is subsequently returned to agricultural production, shall not be eligible for a new farm allotment for a period of 3 years from the date the former owner was displaced.

(iv) *Entire allotment designated by owner for a reconstitution.* A farm which includes land which has no allotment because the owner did not designate an allotment for such land when the parent farm was reconstituted pursuant to Part 719 of this chapter, as amended, shall not be eligible for a new farm allotment for a period of 3 years beginning with the year in which the reconstitution became effective.

(4) *Limitations.* (i) *Wheat acreage planned.* The county committee shall limit the allotment to the smaller of the allotment requested or the wheat acreage planned for the farm for the current year.

(ii) *Reserve.* The total new farm allotments approved in a State in the current year shall not exceed a reserve established by the State committee of not more than 1 percent of the total wheat allotments for all farms in the State. No part of that 1 percent shall be allocated to a farm to reflect new cropland brought into production after November 30, 1970.

(iii) *Current year wheat acreage.* Notwithstanding any other provision of this subpart, if the wheat planted and considered planted acreage for the year a new farm allotment is established is less than 90 percent of the allotment, (*a*) the allotment for such year shall be reduced to the acreage planted and considered planted to wheat and payments computed on the basis of such reduced allotment and (*b*) the wheat allotment for the succeeding year shall be limited to the acreage planted and considered planted to wheat in the prior year.

(5) *Cancellation of new farm allotment for misrepresentation.* If a new farm allotment is established and it is later determined by the county committee that the applicant unknowingly furnished incomplete or inaccurate information the allotment shall be canceled effective for the next crop year. If it is determined that the applicant knowingly furnished incomplete or inaccurate information and the State committee concurs in the county committee determination, the allotment shall be canceled as of the date issued.

(c) *Restrictive lease adjustment.* A wheat allotment determined under the preceding provisions of this section shall, for the current year only, be adjusted downward to the acreage permitted under a restrictive lease on land owned by the Federal Government. An allotment as otherwise determined under the preceding provisions of this section shall remain subject to reduction as provided in paragraph (d) of this section.

(d) *Reduced allotments.* Notwithstanding any other provisions of this subpart, wheat allotments shall be reduced as follows:

(1) *Permanent reductions.* (i) The allotment shall be reduced (*a*) to the extent requested in writing by the farm owner not later than the date established by the State committee and (*b*) to the extent acreage of cropland on the farm is permanently removed from agricultural production, as determined by the county committee.

(ii) If the current year's wheat planted and considered planted acreage is less than 90 percent of the allotment, the allotment for the succeeding year shall be reduced by the percentage by which the planted and considered planted acreage is less than the allotment for the current year, but such reduction shall not exceed 20 percent of the allotment. If the wheat planted and considered planted acreage is zero for three consecutive years, the allotment shall be reduced to zero. However, no allotment shall be reduced or lost through failure to plant if all producers elect by the certification date to limit the acres for deficiency payment to the wheat planted and considered planted acreage as provided in § 728.16(f).

(iii) The 1974 allotment shall be reduced to the extent the sum of allotments for all commodities exceeds the cropland for the farm, unless the operator requests in writing that the reduction be in the feed grain allotment or upland cotton allotment.

(2) *Reduction for current year.* The following reductions shall be made by reducing the smallest allotment first and continuing in order of the size of the allotment, unless the operator requests in writing that the reduction be in a different order:

(i) Reduce wheat, feed grain, and upland cotton allotments each year, beginning in 1975, to the extent the sum of allotments for all commodities exceeds the cropland for the farm.

(ii) Reduce 1974 wheat, feed grain, and upland cotton allotments to the extent the sum of allotments for these commodities exceeds the cropland which, under normal conditions, could reasonably be expected to produce an allotment crop.

(iii) Reduce wheat and feed grain allotments each year, beginning in 1975, to the extent the sum of wheat and feed grain allotments exceeds the cropland which, under normal conditions, could reasonably be expected to produce an allotment crop.

(iv) Reduce wheat, feed grain, and upland cotton allotments that are not partially or completely diverted under the CAP or CCP, to the extent they total more than the number of acres of nonconserving crops permitted under the CCP.

§ 728.8 County projected yields.

County projected yields for the current year are determined for each wheat-producing county in the United States except for counties in Alaska, Hawaii, and New Hampshire, for which no apparent need for such yields exists. The county projected yield for the current year was determined on the basis of the average of the five-year annual yields per harvested acre of wheat for the county immediately preceding the year in which such projected yield was determined, as determined by the Statistical Reporting Service, adjusted for abnormal weather conditions affecting such yields, for trends in yields, and for any significant changes in production practices. The county projected yields for the current year are available for inspection in the county ASCS office.

§ 728.9 Farm yields.

(a) *Determining yields.* The per acre farm yield shall be the county yield, adjusted to reflect the farm productivity for the commodity and established in accordance with instructions issued by the Deputy Administrator.

(b) *Provable yields.* Notwithstanding the provisions of paragraph (a) of this section, if reliable records of the actual

yield in bushels per acre for each of the five years immediately preceding the year in which the yield is determined are available to the county committee, the yield established for the farm shall not be less than the average of such yields, with such adjustment as determined necessary to provide a fair and equitable yield. If the actual yield in any one of the five years immediately preceding the year in which the yield is determined is less than two-thirds of the average of the actual yields for the other four years, the farm operator furnishes a signed and dated statement that the low yield is the result of a natural disaster, and the county committee makes no determination that something other than a natural disaster caused the yield to be low, 93 percent of the average for the other four years shall be used in lieu of the average for the five years in establishing a yield.

(c) *Yield reduction.* For the purpose of determining eligibility for and amount of low yield payment as provided in § 728.18(b), the established yield shall be reduced in accordance with instructions issued by the Deputy Administrator to reflect any reduction in the current year yield which is due to causes other than a natural disaster or condition beyond the control of the producer, such as a change in farming practices.

§ 728.10 Payment rates.

Payment rates shall be established separately for deficiency payments and for disaster payments.

(a) *Deficiency payment rates.* The per bushel payment rate shall be the amount by which the higher of (1) the national weighted average market price received by farmers during the first five months of the marketing year beginning July 1 or (2) the national average loan rate established for wheat is less than the established price of $2.05 per bushel in the case of 1974 and 1975 crops, $2.05 per bushel adjusted to reflect any change during the calendar year 1975 in the index of prices paid by farmers for production items, interest, taxes, and wage rates in the case of the 1976 crop, and the established price for the 1976 crops adjusted to reflect any change during the calendar year 1976 in such index in the case of the 1977 crop: *Provided,* That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of wheat for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of wheat for the three calendar years preceding the year previous to the one for which the determination is made.

(b) *Disaster payment rates.* The per bushel rate shall be equal to the larger of the deficiency payment rate or one-third of the established price. The disaster payment rate for the 1974 program year is $.68 per bushel.

§ 728.11 Notice of allotments and yields.

Each operator interested in the wheat crop on a farm for which a wheat allotment is established shall be notified in writing of the allotment and established yield per acre: *Provided,* That the notice shall not be mailed to any producer who has filed a written request that he not be furnished the notice but it shall be filed with the producer's request in the county office. The producer may withdraw his request at any time; however, during the period a request is in effect, the producer shall be considered as having been timely and correctly notified of the contents of this notice. Such notices will be on Form ASCS–476, Notice of Allotments and Yields (herein called "Form 476").

§ 728.12 Reconstitution of farms.

Farms shall be reconstituted and wheat allotments established therefor in accordance with Part 719 of this chapter as amended. Yields for farms which are reconstituted after yields are originally established shall be determined as follows:

(a) *Combination.* Multiply the allotment by the yield for each parent farm, and divide the sum of the results for all parent farms by the sum of allotments on the parent farm.

(b) *Division.* Determine a yield in accordance with § 728.9. The weighted average yields for all the farms resulting from the division are limited to the yield for the parent farm, except for rounding.

§ 728.13 Requirements for eligibility.

(a) *General.* A person is eligible for the program if he is a producer on a farm which meets the requirements of paragraph (b) of this section and he fulfills the requirements of paragraph (c) of this section.

(b) *Farm requirements.* (1) A Form 580 must be filed for the farm by the operator in accordance with § 728.14.

(2) In the case of any farm participating in the CAP or CCP, the acreage of wheat and other nonconserving crops shall not exceed the number of acres of nonconserving crops permitted under the CAP or CCP.

(3) Land owned by the Federal Government shall be ineligible for participation in the program if it is (i) leased subject to restrictions prohibiting the production of wheat or requiring the use of land for other purposes, or prohibiting the receipt of program payments, (ii) occupied without a lease, permit, or other right of possession, (iii) in a national wildlife refuge, or (iv) covered by a lease which was renewed or executed after March 22, 1973, unless the land was acquired by an agency having the right of eminent domain, and leased back to the former owner with uninterrupted possession.

(4) Producers on a farm acquired for future development for purposes other than agricultural production shall not be eligible for participation in the program, unless the county committee determines that the farm is actively engaged in the production of crops for harvest other than hay, sod, ornamentals, or timber.

(c) *Producer eligibility requirements.* (1) The producer must be a person who as landowner, landlord, tenant, or sharecropper shares in the wheat produced in the current year (or the proceeds therefrom) on a farm meeting the requirements of paragraph (b) of this section or would have shared if wheat had been produced on such farm in the current year.

(2) A minor will be eligible to participate in the program only if (i) the right of majority has been conferred on him by court proceedings; or (ii) a guardian has been appointed to manage his property and the applicable documents are signed by the guardian; or (iii) a bond is furnished under which a surety guarantees to protect the Commodity Credit Corporation from any loss incurred for which the minor would be liable had he been an adult. Notwithstanding the foregoing, payment may be made to a minor after December 31 of the current year upon a determination by the county committee that the minor has met the requirements of the program.

§ 728.14 Intention to participate in the program.

(a) *Who may file.* A Form 580 must be filed by the operator of an eligible farm in order that he and other producers on the farm may participate in the program.

(b) *Where to file.* Form 580 must be filed with the office of the county committee having jurisdiction over the county where the farm is located.

(c) *When to file.* Form 580 shall be filed within the period authorized by the Deputy Administrator. Harvesting wheat prior to filing Form 580 shall make producers on the farm ineligible for wheat disaster payments but shall not disqualify them for deficiency payments.

(d) *Revision.* Any Form 580 filed for a farm before it is reconstituted shall be canceled and the farm operator notified of the cancellation. He may file a new Form 580 by the latter of the closing date or 15 days after the mailing date of such notice of reconstitution.

§ 728.15 Determination of compliance.

(a) Determination of the acreage devoted to wheat and other annual nonconserving crops shall be made in accordance with Part 718 of this chapter, as amended.

(b) A representative of the county committee or the State committee or any authorized representative of the Secretary shall have the right at any reasonable time to enter a farm, concerning which representations have been made on any forms filed under the program, in order to measure the acreage planted to wheat and other annual nonconserving crops, to examine any records pertaining thereto, and otherwise to determine the accuracy of a producer's representation and the performance of his obligations under the program.

§ 728.16 General payment provisions.

(a) *Issuance.* Payments of any amounts due the producers on a farm shall be

made only after they sign an Application for Payment (herein called "Form 580–2") and the payments are approved by the county committee or by an authorized representative thereof. A Form 580–2 signed after May 1 of the year following the current year shall not be accepted by the county committee unless prior approval of the State committee is obtained.

(b) *Failure to fully comply.* Except as otherwise provided herein and in Part 791 of this chapter, as amended, payment shall not be made for a farm or to a producer when there is failure to comply fully with the regulations in this subpart.

(c) *Payment due producer.* Subject to the provisions of the payment limitation regulations in Part 795 of this chapter, as amended, the total earned payment due each eligible producer under the program shall be determined by multiplying the total earned payment for the farm by the producer's share of such payment.

(d) *Payment declined.* If a producer declines, for personal reasons, to accept all or any part of his share of the payment computed for a farm in accordance with the provisions of this section, such payment or portions thereof shall not become available for any other producer on the farm.

(e) *Idle farm.* Producers on a farm not used for the commercial production of crops or livestock on cropland, or from which only sod, ornamentals, or timber are harvested shall not be eligible for program payments when the wheat allotment is preserved with vegetative cover as authorized by the regulations in Part 719 of this chapter, as amended.

(f) *Allotment protection.* Producers otherwise eligible for payment may elect by the certification date to limit the acres for deficiency payment to the wheat planted and considered planted acreage in order to protect the wheat allotment from reduction due to failure to plant.

(g) *Unearned payments.* Payments to any producer which exceed the total payment he earns under the program with respect to any farm shall be refunded to the Commodity Credit Corporation, and, if for any reason such earned payment is zero, he shall pay interest at the rate of 6 percent per annum on the amount of the refund from the issue dates of the sight drafts to the date the payments are refunded. The provisions of the foregoing sentence requiring the payment of interest when no payment is earned shall not apply if the producer earns any feed grain or upland cotton payments for the farm.

§ 728.17 Deficiency payments.

(a) Deficiency payments shall be determined by multiplying the allotment by the farm yield established as provided in § 728.9 and by the per bushel rate determined in accordance with § 728.10(a): *Provided,* That no deficiency payment shall be made for any part of the allotment times the yield for which a disaster payment is made.

(b) Deficiency payments will be made to producers as soon as practicable after December 1 of the current year.

§ 728.18 Disaster payments.

Producers may qualify for disaster payments only when the county committee determines that prevented planting or a low yield as hereinafter described in this section occurs because of drought, flood, or other natural disaster or when the County Committee determines that prevented planting or a low yield occurs because of a condition beyond the control of the producer. Disaster payments shall be made as soon as practicable after the disaster is reported, the extent of crop loss is determined, and payment is approved.

(a) *Prevented planting.* (1) The acreage for prevented planting payments shall be determined by grouping the farm's wheat and feed grain allotments together and shall equal the smaller of (i) the acreage of annual nonconserving crops the producer is prevented from planting or (ii) the amount that the sum of the wheat and feed grain allotments exceeds the total acreage devoted to annual nonconserving crops, excluding acreage within the applicable allotment of commodities other than wheat and feed grains.

(2) Prevented planting payments shall be determined by:

(i) Crediting the acreage for payment proportionately to each commodity of the total wheat and feed grain allotments.

(ii) Multiplying the acreage credited to wheat by the yield established as provided in § 728.9 and by the rate determined in accordance with § 728.10(b).

(iii) Multiplying the acreage credited to each feed grain by the applicable yield and by the applicable disaster payment rate established as provided in Part 775 of this chapter, as amended.

(b) *Low yields.* (1) Eligibility for low yield payments and the total acreage on which such payments are based shall be determined by grouping the wheat allotment together with other allotments of commodities involved in substitution. Substitution shall be applicable when the total feed grain allotment or wheat allotment is underplanted and the total feed grain alloment, wheat allotment, or cotton allotment is overplanted. Cotton acreage in excess of the cotton allotment shall be considered as substituted for wheat only when the wheat allotment is underplanted more than the total feed grain allotment is overplanted. Where substitution is applicable, any references in this section to the allotment, planted acres, established yield, or county yield shall be deemed also to refer, where appropriate, to the applicable allotment, planted acres, established yield, or county yield for the commodities involved in substitution. Failed wheat or feed grain acreage which is replanted to another program crop (upland cotton, feed grain, or wheat) and any acreage from which the production is not appraised and an immature program crop is used for other than lint, grain, or corn or grain sorghum silage, shall be disregarded for the purpose of determining low yield payments.

(2) A farm shall not be deemed to have suffered a loss which qualifies it for a low yield payment unless the current year production is less than the smaller of the allotment or planted acres multiplied by the yield established as provided in § 728.9 and by a factor determined by dividing two-thirds of the 10-year average county yield by the county yield referred to in § 728.8: *Provided,* That a farm may qualify under the foregoing provisions if (i) the provisions of § 728.9 (c) do not result in a reduction in the established yield and (ii) the current year production is less than two-thirds of what the production would be computed by multiplying the smaller of the allotment or planted acres by one of the following:

(*a*) The smaller of the yield established as provided in § 728.9 or the actual unadjusted average yield for the preceding five years.

(*b*) The yield established as provided in § 728.9 and:

(*1*) There is convincing proof that the loss was due to a sudden and identifiable destruction of the crop,

(*2*) Acreage is actually harvested from which the per acre yield is at least two-thirds of the established yield, and the county committee determines that but for the disaster the per acre yield on the destroyed acreage would have been equal to that obtained on the acreage harvested, and

(*3*) Payment is approved in writing by a representative of the State committee.

(3) The wheat production from acreage not harvested shall be appraised and added to the actual production for the purpose of determining eligibility for and amount of low yield payments, in accordance with instructions issued by the Deputy Administrator.

(4) The total acreage on which low yield payments are based shall be determined by converting the deficiency in production below 100 percent of the smaller of the allotment or planted acres times the applicable yield established as provided in § 728.9 to an acre equivalent figure representing such deficiency.

(5) Low yield payments shall be determined by:

(i) Crediting the acreage for payment proportionately to all allotments involved in substitution.

(ii) Multiplying the acreage credited to wheat by the yield established as provided in § 728.9 and by the applicable per bushel rate determined in accordance with § 728.10(b).

(iii) Multiplying the acreage credited to each feed grain by the applicable yield and by the applicable disaster payment rate established as provided in Part 775 of this chapter, as amended.

(iv) Multiplying the acreage credited to cotton by the yield and by the disaster payment rate established as provided in Part 722 of this chapter, as amended.

(6) The low yield wheat payment shall be reduced by an amount up to the net value of any annual nonconserving crop, other than feed grains, wheat, or upland cotton, planted on failed wheat acreage within the allotment. The reduction

amount shall be computed in accordance with instructions issued by the Deputy Administrator.

§ 728.19 Division of payments and additional provisions relating to tenants and sharecroppers.

The regulations relating to the division of payments and additional provisions relating to tenants and sharecroppers are set forth in Part 794 of this chapter, as amended.

§ 728.20 Successors-in-interest.

(a) In the case of the death, incompetency, or disappearance of any producer whose name appears on Form 580, the payment due him shall be made to his successor as determined in accordance with the regulations in Part 707 of this chapter, as amended.

(b) When any person who had an interest as a producer of wheat or would have had an interest as a producer if wheat had been produced (herein called "predecessor") is succeeded on the farm by another producer (herein called "successor") after Form 580 has been filed, the payment to the predecessor and successor shall be divided between them on such basis as they agree is fair and equitable. If such persons are unable to agree to a division of the payment, the payment shall be issued to the producer who has the interest in the crop at the time of harvest. If the crop is completely destroyed prior to harvest, the payment shall be issued to the producer who had the interest at the time of destruction of the crop. In the event no crop is planted for harvest, a fair and equitable division of the payment shall be determined by the county committee.

(c) In any case where any payment due any successor producer has previously been paid to the producer who filed Form 580, such payment shall not be paid to the successor producer unless it is recovered from the producer to whom it has been paid or payment is authorized by the Deputy Administrator.

§ 728.21 Misrepresentation and scheme or device.

(a) A producer who is determined by the county committee or the State committee to have erroneously represented any fact affecting a program determination shall not be entitled to payments under the program for the farm with respect to which the representation was made and shall refund to the Commodity Credit Corporation the payments received by him with respect to such farm.

(b) A producer who is determined by the State committee, or the county committee with the approval of the State committee, to have knowingly (1) adopted any scheme or device which tends to defeat the purpose of the program, (2) made any fraudulent representation, or (3) misrepresented any fact affecting a program determination shall not be entitled to payments for any farm under the program and shall refund to the Commodity Credit Corporation all payments received by him with respect to the program.

(c) The provisions of this section shall be applicable in addition to any liability under criminal and civil fraud statutes.

§ 728.22 Setoffs and assignments.

(a) *Producer indebtedness.* The regulations issued by the Secretary governing setoffs and withholdings, Part 13 of this chapter, as amended, shall be applicable to this program.

(b) *Assignments.* Payments may be assigned only to the Farmers Home Administration in accordance with instructions issued by the Deputy Administrator.

§ 728.23 Appeals.

A producer may obtain reconsideration and review of determinations made under this subpart in accordance with the Appeal Regulations, Part 780 of this chapter, as amended.

§ 728.24 Performance based upon advice or action of county or State committee.

The provisions of Part 790 of this chapter, as amended, relating to performance based upon action or advice of an authorized representative of the Secretary shall be applicable to this subpart.

§ 728.25 Supervisory authority of State committee.

The State committee may take any action required by these regulations which has not been taken by the county committee. The State committee may also (a) correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with the regulations of this subpart, or (b) require a county committee to withhold taking any action which is not in accordance with the regulations of this subpart.

§ 728.26 Delegation of authority.

No delegation herein to a State or county committee shall preclude the Administrator, ASCS, or his designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee. Effective date: Since farmers are now completing their plans for the 1974 crop year, it is essential that the foregoing regulations governing the Wheat Program for Crop Years 1974–1977 be made effective as soon as possible. It is hereby found and determined that compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Accordingly, these regulations shall become effective July 23, 1974.

Signed at Washington, D.C., on July 16, 1974.

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

[FR Doc.74-16823 Filed 7-22-74;8:45 am]

SUBCHAPTER D—PROVISIONS COMMON TO MORE THAN ONE PROGRAM

PART 794—DIVISION OF PAYMENTS

Part 794, issued on July 8, 1971 (36 FR 12839), is revised by changing the caption thereof to read as shown above and further revised as set forth below, effective with the 1974 program year. The material previously appearing in these sections remains in full force and effect as to the programs to which it was applicable.

Sec.
794.1 Applicability.
794.2 Division of program payments.
794.3 Additional provisions relating to tenants and sharecroppers.

AUTHORITY: Sec. 105, 87 Stat. 230; sec. 107, 87 Stat. 224; sec. 103, 87 Stat. 233 (7 U.S.C. 1441 note, 7 U.S.C. 1445a, 7 U.S.C. 1444).

§ 794.1 Applicability.

This part is applicable to the 1974–1977 Feed Grain Program, Part 775 of this chapter, as amended; the 1974–1977 Wheat Program, Part 728 of this chapter, as amended; the 1974–1977 Upland Cotton Program, Part 722 of this chapter, as amended; and all other programs to which this part is made applicable by individual program regulations.

§ 794.2 Division of program payments.

(a) *General.* Each person on a participating farm shall be given the opportunity to participate in the program in proportion to his interest in the crops covered by the Intention to Participate, hereinafter called "intention form", or the interest he would have had if the crops had been produced. His name shall be listed on the intention form together with the share of any program payment which he is to receive. If he refuses or fails to sign the intention form, the share of the payment to which he would otherwise be entitled shall nevertheless be shown on the form. Federal agencies can earn no program payments but any shares to which they would otherwise be entitled shall also be shown on the form as though they were earning them. The sum of the percentage shares of the program payment shall equal 100 percent.

(b) *Division of program payment.* Each producer's share of the farm program payment for a crop shall be based on (1) his share of the crop on the farm, or the proceeds thereof, or (2) if no crop is produced, the share which he would have received had the crop been produced. Notwithstanding the foregoing sentence, except in the case of a small farm payment under the upland cotton program, a different division which is fair and equitable may be approved by the county committee, with the concurrence of a representative of the State committee if all producers who would otherwise share in the payment agree to the division in writing. A different division of the payment may also be approved by the county committee when required by the provisions pertaining to successors-in-interest in the applicable program regulations.

(c) *Refund of payments not properly divided.* Payments which producers receive with respect to which they are determined not to be entitled shall be refunded to the Commodity Credit Corporation. In the event of fraud, the producer shall be subject to the provisions pertaining to fraudulent representation in the applicable program regulations.

§ 794.3 Additional provisions relating to tenants and sharecroppers.

(a) An intention form shall not be approved for the current year if the county committee determines that any of the conditions specified below exist:

(1) The landlord or operator has not given his tenants and sharecroppers an opportunity to participate in the program;

(2) The number of tenants and sharecroppers on the farm is reduced by the landlord or operator below the number on the farm in the year prior to the current year in anticipation of or because of participating in the program. This provision shall not apply to:

(i) A tenant or sharecropper who leaves the farm voluntarily or for some reason other than being forced off the farm by the landlord or operator in anticipation of or because of participating in the program; or

(ii) A cash tenant, standing-rent tenant, or fixed-rent tenant unless such tenant was living on the farm in the year immediately preceding the current year or received 50 percent or more of his income in such year from farming.

(3) There exists between the operator or landlord and any tenant or sharecropper, any lease, contract, agreement, or understanding unfairly exacted or required by the operator or landlord which was entered into in anticipation of participating in the program, the effect of which is:

(i) To cause the tenant or sharecropper to pay over to the landlord or operator any payments earned by him under the program;

(ii) To change the status of any tenant or sharecropper so as to deprive him of any payments or other right which he would otherwise have had under the program;

(iii) To reduce the size of the tenant's or sharecropper's producer unit; or

(iv) To increase the rent to be paid by the tenant or decrease the share of the crop or its proceeds to be received by the sharecropper.

(4) The landlord or operator has adopted any other scheme or device for the purpose of depriving any tenant or sharecropper of the payments to which he would otherwise be entitled under the program. If any of such conditions occur or are discovered after approval of the intention form all, or such part as the State committee may determine, of the payments which have been received by the producers shall be refunded to the Commodity Credit Corporation.

(b) Notwithstanding any other provision of this section, a landlord or operator who in the past had tenants or sharecroppers on his land for purposes of producing the crop covered by the intention form and such individuals are now classified as employees subject to the minimum wage provisions under the Fair Labor Standards Act, may pay these individuals on a wage basis and this section will not be considered as reducing the number of tenants or sharecroppers. Effective date: Since farmers are now completing their plans for the 1974 crop year, it is essential that the foregoing regulations governing the feed grain, wheat, and upland cotton programs for Crop Years 1974–1977 be made effective as soon as possible. It is hereby found and determined that compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Accordingly, these regulations shall become effective July 23, 1974.

Signed at Washington, D.C., on July 16, 1974.

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

[FR Doc.74-16822 Filed 7-22-74;8:45 am]

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

[Valencia Orange Reg. 473, Amdt. 1]

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

Limitation of Handling

This regulation increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period July 12–18, 1974. The quantity that may be shipped is increased due to improved market conditions for California-Arizona Valencia oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908.

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

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Valencia Orange Regulation 473 (39 FR 25639). The marketing picture now indicates that there is a greater demand for Valencia oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Valencia oranges to fill the current demand thereby making a greater quantity of Valencia oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

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

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i), and (ii) of § 908.773 (Valencia Orange Regulation 473 (39 FR 25639) are hereby amended to read as follows:

(i) District 1: 316,000 cartons;

(ii) District 2: 259,000 cartons.

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

Dated: July 17, 1974.

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

[FR Doc.74-16750 Filed 7-22-74;8:45 am]

[Lime Reg. 8, Amdt. 1]

PART 911—LIMES GROWN IN FLORIDA

Limitation of Handling

This regulation increases the quantity of Florida limes that may be shipped to fresh market during the weekly regulation period July 14 through July 20, 1974. The quantity that may be shipped is increased due to improved market conditions for Florida limes. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 911.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911; 37 FR 10497), regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Florida Lime Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such limes, as hereinafter provided, will tend

to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of limes available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Lime Regulation 8, (39 FR 25640). The marketing picture now indicates that there is a greater demand for limes than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of limes to fill the current market demand thereby making a greater quantity of limes available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

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

(b) *Order, as amended.* Paragraph (b)(1) of § 911.408 (Lime Regulation 8, 39 FR 25640) is hereby amended to read as follows: "The quantity of limes grown in Florida which may be handled during the period July 14 through July 20, 1974, is hereby fixed at 26,000 bushels".

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

Dated: July 17, 1974.

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

[FR Doc.74–16749 Filed 7–22–74;8:45 am]

PART 927—HANDLING OF BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

Order Amending the Amended Order Regulating Handling

It is hereby ordered that on and after the date hereinafter specified all handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California shall be in conformity to, and in compliance with, the terms and conditions of the "Order Amending the Order, as Amended, Regulating the Handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau Varieties of Pears Grown in Oregon, Washington, and California" which was annexed to and made a part of the decision of the Assistant Secretary of Agriculture, issued May 23, 1974 (FR Doc. 74–11925; 39 FR 18112), with respect to proposed further amendment of the marketing agreement and order regulating the handling of such pears. All of the findings, determinations, terms, and conditions of the aforesaid amendatory order shall be, and hereby are, the findings, determinations, terms, and conditions of this order as if set forth in full herein.

The aforesaid findings and determinations are hereby supplemented by additional determinations in § 927.0(b) as set forth below.

Dated: July 18, 1974, to become effective August 22, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

§ 927.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations made in connection with the issuance of the order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held at Portland, Oregon, on February 26, 1974, upon proposed amendments to the marketing agreement, as amended, and Order No. 927, as amended (7 CFR Part 927), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order, as amended, and as hereby further amended, regulates the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in the State of Oregon, Washington, and California in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreement upon which hearings have been held;

(3) The said order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area that is practicable, consistent with carrying out the declared policy of the act; and the issuance of several orders applicable to subdivisions of such regional production area would not effectively carry out the declared policy of the act; and

(4) The said order, as amended, and as hereby further amended, prescribes such different terms, applicable to different production and marketing areas, as are necessary to give due recognition to differences in the production and marketing of such pears.

(b) *Determination.* It is hereby determined that:

(1) The marketing agreement, as amended, regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California, upon which the aforesaid public hearing was held, has been signed by handlers (excluding cooperative associations of producers who were not engaged in processing, distributing, or shipping the pears covered by this order) who, during the fiscal period July 1, 1973, through June 30, 1974, shipped not less than 50 percent of the pears covered by said order, as amended, and hereby further amended;

(2) The aforesaid marketing agreement, as amended, and as hereby further amended, has been executed by handlers who were signatory parties to said marketing agreement and who during the preceding fiscal period shipped not less than 67 percent of the volume of pears, covered by the said order, as amended, and as hereby further amended, shipped by all signatory handlers to said marketing agreement during such representative period;

(3) The issuance of this order, amending the aforesaid order, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who, during the determined representative period (July 1, 1973, through April 30, 1974) were engaged within the area in the production for market of the pears covered by said order; and

(4) The issuance of this order, amending the aforesaid order, is favored or approved by producers who, during the aforesaid representative period, produced for market at least two-thirds of the volume of the said varieties of pears produced for market within the States of Oregon, Washington, and California.

It is, therefore, ordered, That, on and after the effective date hereof, all handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in the States of Oregon, Washington, and California shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended, and as hereby further amended as follows:

Section 927.47 is revised to read:

§ 927.47 **Research and development.**

The Control Committee, with the approval of the Secretary, may establish or provide for the establishment of production research or marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of pears. The expense of such projects shall be paid from funds collected pursuant to § 927.41.

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

[FR Doc.74–16820 Filed 7–22–74;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1446—PEANUTS

Subpart—1974-Crop Peanut Warehouse Storage Loans

This annual crop supplement, together with the General Regulations Governing 1974 and Subsequent Crop Peanut Warehouse Storage Loans and any amendments thereto (hereinafter called the General Regulations), contain the terms and conditions under which CCC will make warehouse storage loans on 1974-crop peanuts.

It is impracticable to give notice of the proposed rulemaking, with respect to this Supplement because 1974-crop peanuts will soon be moving to market and it is essential that price support loan rates applicable to such peanuts be made available at the earliest possible time. Therefore, this Supplement is being issued without following such proposed rulemaking procedure and shall be effective July 23, 1974.

WAREHOUSE STORAGE LOANS

Sec.

1446.8 Association through which producers may obtain price support.
1446.9 Applicability.
1446.10 National average support value.
1446.11 Average support value by type.
1446.12 Calculation of support values.
1446.13 Producer agreement on handling Segregation 3 peanuts.

AUTHORITY. Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c). Interpret or apply Secs. 101, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1421).

WAREHOUSE STORAGE LOANS

§ 1446.8 **Associations through which producer may obtain price support.**

Eligible producers may obtain price support by means of warehouse storage loans on eligible 1974-crop farmers stock peanuts through, in the Southeastern area, GFA Peanut Association, Camilla, Georgia; Southwestern area, Southwestern Peanut Growers' Association, Gorman, Texas; and Virginia-Carolina area, Peanut Growers Cooperative Marketing Association, Franklin, Virginia.

§ 1446.9 **Applicability.**

The support prices specified in this subpart apply to 1974-crop farmers stock peanuts in bulk or in bags, net weight basis, eligible for price support advances under the General Regulations.

§ 1446.10 **National average support value.**

The national average support value for 1974-crop peanuts is $358.50 per ton.

§ 1446.11 **Average support values by type.**

The support values by type per average grade ton of 1974-crop peanuts are:

Type:	*Dollars per ton*
Virginia	$364.58
Runner	362.04
Southeast Spanish	351.88
Southwest Spanish	348.83
Valencia, in the Southwest area suitable for cleaning or roasting	364.58

The price for all Valencia type peanuts in the Southeast and Virginia-Carolina areas and those in the Southwest area which are not suitable for cleaning and roasting will be the same as for Spanish type peanuts in the same area.

§ 1446.12 **Calculation of support values.**

The support value per ton for 1974-crop peanuts of a particular type and quality shall be calculated on the basis of the following rates, premiums, and discounts (with no value being assigned to damaged kernels), except that the minimum support value for any lot of eligible peanuts of any type shall be 4 cents per pounds of kernels in the lot:

(a) *Kernel value per net ton excluding loose shelled kernels.* (1) Price for each percent of sound mature and sound split kernels shall be:

Type:	*Dollars per ton*
Virginia	$5.112
Runner	5.073
Southeast Spanish	5.073
Southwest Spanish	5.073
Valencia:	
Southwest area—suitable for cleaning and roasting	5.518
Southwest area—not suitable for cleaning and roasting	5.073
Areas other than Southwest	5.073

(2) Price for each percent of other kernels:

All types	$1.40

(3) Premium for each 1 percent extra large kernels in Virginia type peanuts shall be 45 cents, except that no premium shall be applicable to any lot of such peanuts containing more than 7 percent damaged kernels.

(b) *Value of loose shelled kernels per pound.*

All types	$0.07

(c) *Damaged kernel discount.* For all types of peanuts, the discount per ton for damaged kernels shall be as follows:

Peanuts containing damaged kernels of:	*Discount*
1 percent	None
2 percent	$3.40
3 percent	7.00
4 percent	11.00
5 percent	25.00
6 percent	40.00
7 percent	60.00
8 to 9 percent	80.00
10 percent and over	100.00

(d) *Sound split kernel discount.* For all types of peanuts, the discount per ton for sound split kernels shall be as follows:

Peanuts containing sound split kernels of:	*Discount*
1 through 4 percent	None
5 percent	$1.00
6 percent	1.60

Plus 80 cents for each percent of sound split kernels in excess of 6 percent.

(e) *Foreign material discount.* The discount for each full 1 percent foreign material in excess of 4 percent and not over 10 percent shall be $1.00 per ton.

(f) *Price adjustment for peanuts sampled with other than a pneumatic sampler.* The support price for Virginia type peanuts sampled with other than a pneumatic sampler shall be reduced by $0.10 per percent sound mature and sound split kernels.

(g) *Mixed type discount.* Individual lots of farmer stock peanuts containing mixtures of two or more types in which there is less than 90 percent of any one type will be supported at a rate which is $10 per ton less than the support price applicable to the type in the mixture having the lowest support price.

(h) *Location adjustments to support prices.* Farmers stock peanuts delivered to the association for price support advances in the States specified, where peanuts are not customarily shelled or crushed, shall be discounted as follows:

(1) Arizona, $25 per ton.
(2) Arkansas, $10 per ton.
(3) California, $33 per ton.
(4) Louisiana, $7 per ton.
(5) Mississippi, $10 per ton.
(6) Missouri, $10 per ton.
(7) Tennessee, $25 per ton.

(i) *Virginia type peanuts.* Virginia type peanuts, to receive peanut price support as Virginia type, must contain 40 percent or more "fancy" size peanuts, as determined by a presizer with the rollers set at $^{34}/_{64}$ inch space. Virginia type peanuts so determined to contain less than 40 percent "fancy" size peanuts will be supported (but not classed) as though they were Runner type.

§ 1446.13 **Producer agreement on handling segregation 3 peanuts.**

Peanuts, as they are marketed, are inspected for visible Aspergillus flavus mold; a mold known to produce toxins. Peanuts containing such mold are not eligible for price support. It is essential that CCC stocks of peanuts suitable for sale for normal commercial purposes remain free from contamination by pea-

nuts containing Aspergillus flavus mold, Therefore, the producer, by tendering any peanuts for price support advance at a warehouse which has entered into a warehouse storage contract with the association, agrees that, as a condition of being eligible for such advance, any lot of his peanuts found by the Federal-State inspection service to have visible Aspergillus flavus mold will be disposed of in the following manner:

(a) The lot may be recleaned one time to remove loose shelled kernels and foreign material. If the lot is not recleaned, or if after recleaning the visible mold is found in the lot, the producer will cause, at the point of inspection, such lot to be turned over to the association for marketing on his behalf or will sell such lot to a buyer for crushing or to a signer of the peanut marketing agreement for disposition as provided in the Outgoing Quality Regulations of the agreement relating to 1974-crop peanuts.

(b) If the lot is not sold or turned over to the association for handling at the point of first inspection, the producer will be given a copy of the Inspection Certificate and Sales Memorandum, Form MQ-94, which will show that the visible mold was found, and the producer will return such copy and the lot it represents by the close of business on the next work day following the initial inspection, to the inspector before the lot is next inspected.

(c) If the peanuts are not so handled, the producer agrees that any future load of 1974-crop peanuts he delivers will be considered a suspect lot as though it has Aspergillus flavus mold, and therefore, will be ineligible for price support.

Effective date: July 23, 1974.

Signed at Washington, D.C., on July 16, 1974.

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

[FR Doc.74-16677 Filed 7-22-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 74-EA-26]

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

Alteration of Control Zone and Transition Area

On page 16154 of the FEDERAL REGISTER for May 7, 1974, the Federal Aviation Administration published a proposed rule which would alter the Poughkeepsie, N.Y., Control Zone (39 FR 419) and Transition Area (39 FR 572).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t. September 12, 1974.

(Sec. 307(a) of the Federal Aviation Act of 1958, 72 Stat. 749 (49 U.S.C. 1348), and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on July 3, 1974.

JAMES BISPO,
Deputy Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Poughkeepsie, N.Y. control zone by adding the following:

* * * and within 3.5 miles each side of the Kingston, N.Y. VORTAC 050° radial, extending from the VORTAC to 10.5 miles northeast of the VORTAC.

2. Amend § 71-181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Poughkeepsie, N.Y. transition area by inserting after the phrase "10.5 miles northeast of the VORTAC;" the following:

* * * within 5 miles each side of the Kingston, N.Y. VORTAC 050° radial, extending from the VORTAC to 11.5 miles northeast of the VORTAC;

[FR Doc.74-16645 Filed 7-22-74;8:45 am]

[Airspace Docket No. 74-EA-20]

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

Alteration of Transition Area

On page 16155 of the FEDERAL REGISTER for May 7, 1974, the Federal Aviation Administration published a proposed rule which would alter the New York, N.Y., Transition Area (39 FR 555).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. September 12, 1974.

(Sec. 307(a) of the Federal Aviation Act of 1958, 72 Stat. 749 (49 U.S.C. 1348), and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on July 1, 1974.

JAMES BISPO,
Deputy Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the New York, N.Y. transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center 40°38'25" N., 73°46'41" W., of John F. Kennedy International Airport, New York, N.Y., extending clockwise from a 035° bearing to a 065° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 065° bearing to a 228° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 228° bearing to a 244° bearing from the airport; within a 14-mile radius of the center of the airport, extending clockwise from a 244° bearing to a 290° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 290° bearing to a 338° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 338° bearing to a 035° bearing from the airport; within 3 miles each side of the Canarsie, N.Y. VOR 210° radial, extending from the Canarsie, N.Y. VOR to 4 miles southwest of the VOR; within a 9-mile radius of the center, 40°46'36" N., 73°52'24" W., of LaGuardia Airport, New York, N.Y., extending clockwise from a 029° bearing to a 080° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 080° bearing to a 117° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 117° bearing to a 243° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 243° bearing to a 320° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 320° bearing to a 029° bearing from the airport; within 3.5 miles each side of the LaGuardia, N.Y. VOR 038° radial, extending from the LaGuardia, N.Y. VOR to 9 miles northeast of the VOR; within a 10-mile radius of the center, 40°50'57" N., 74°03'47" W., of Teterboro Airport, Teterboro, N.J., extending clockwise from a 047° bearing to a 077° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 077° bearing to a 241° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 241° bearing to a 253° bearing from the airport; within a 15-mile radius of the center of the airport, extending clockwise from a 253° bearing to a 047° bearing from the airport; within 9.5 miles northwest and 4.5 miles southeast of the Teterboro Airport ILS localizer southwest course, extending from the OM to 18.5 miles southwest of the OM; within a 9-mile radius of the center, 40°41'40" N., 74°10'02" W., of Newark International Airport, Newark, N.J.

Extending clockwise from a 011° bearing to a 071° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 071° bearing to a 123° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 123° bearing to a 150° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 150° bearing to a 232° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 232° bearing to a 255° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 255° bearing to a 011° bearing from the airport, within 2.5 miles each side of a 105° bearing from a point 40°45'24" N., 74°30'48" W., extending from the 12-mile radius area to 4 miles east of said point; within 5 miles each side of a 098° bearing from the Chatham, N.J. RBN, extending from the 12-mile radius area to 2 miles east of the Chatham, N.J. RBN; within a 10-mile radius of the center, 40°47'58" N., 74°24'56" W., of Morristown Municipal Airport, Morristown, N.J., extending clockwise from a 022° bearing to a 116° bearing from the airport within an 8.5-mile radius of the center of

the airport, extending clockwise from a 116° bearing to a 225° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 225° bearing to a 264° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 264° bearing to a 335° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 335° bearing to a 022° bearing from the airport; within 6.5 miles northwest and 4.5 miles southeast of the Morristown Municipal Airport ILS localizer northeast course, extending from 5.5 miles southwest of the OM to 11.5 miles northeast of the OM; within 9.5 miles southeast and 4.5 miles northwest of the Morristown Municipal Airport ILS localizer northeast course, extending from the OM to 18.5 miles northeast of the OM; within 9.5 miles northwest and 4.5 miles southeast of a 204° bearing from the Chatham, N.J. RBN, extending from the Chatham, N.J. RBN to 18.5 miles southwest of the RBN; within 5 miles each side of the Solberg, N.J. VORTAC 067° radial, extending from the Solberg, N.J. VORTAC to 10.5 miles northeast of the VORTAC; within 5 miles each side of the Morristown Municipal Airport ILS localizer southwest course, extending from the localizer to 14.5 miles southwest of the localizer; within a 5.5-mile radius of the center, 40°31'30" N., 74°35'52" W., of Kupper Airport, Manville, N.J.

Extending clockwise from a 064° bearing to a 331° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 331° bearing to a 064° bearing from the airport; within 6.5 miles northeast and 4.5 miles southwest of the Solberg, N.J. VORTAC 298° radial and 118° radial, extending from 5.5 miles southeast to 11.5 miles northwest of the VORTAC; within a 7-mile radius of the center, 40°52'15" N., 74°17'00" W., of Caldwell-Wright Airport, Caldwell, N.J., extending clockwise from a 062° bearing to a 149° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 149° bearing to a 267° bearing from the airport; within a 14-mile radius of the center of the airport, extending clockwise from a 267° bearing to a 346° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 346° bearing to a 062° bearing from the airport; within 3.5 miles each side of a 276° bearing from a point 40°52'48" N., 74°20'08" W., extending from said point to 11.5 miles west of said point; within 5 miles each side of a 281° bearing from a point 40°52'48" N., 74°20'08" W., extending from said point to 13.5 miles west of said point; within 9.5 miles northwest and 4.5 miles southeast of a 054° bearing from the Paterson, N.J. RBN, extending from the RBN to 18.5 miles northeast of the RBN; within a 6-mile radius of the center, 40°41'28" N., 74°32'08" W., of Somerset Hills Airport, Basking Ridge, N.J., extending clockwise from a 035° bearing to a 162° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 162° bearing to a 217° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 217° bearing to a 287° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 287° bearing to a 035° bearing from the airport; within 8 miles northwest and 4.5 miles southeast of a 058° bearing and a 238° bearing from the Chatham, N.J. RBN, extending from 5.5 miles southwest of the RBN to 11.5 miles northeast of the RBN; within 5 miles each side of the Sparta, N.J. VORTAC 082° radial, extending from 23 miles east of the VORTAC to 38 miles east of the VORTAC; within an 8.5-mile radius of the center, 40°37'30" N., 74°40'30" W., of Somerset Airport, Somerville, N.J.

Extending clockwise from a 044° bearing to a 138° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 138° bearing to a 274° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 274° bearing to a 312° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 312° bearing to a 044° bearing from the airport, within 8 miles southeast and 4.5 miles northwest of the Solberg, N.J. VORTAC 050° and 230° radials, extending from 5.5 miles northeast of the VORTAC to 11.5 miles southwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at 41°19'00" N., 74°00'00" W., to 41°12'00" N., 74°00'00" W., to 41°11'00" N., 74°09'00" W., to 41°08'10" N., 74°13'00" W. thence northwesterly along the boundary of the State of New Jersey to 41°17'45" N., 74°33'15" W., to 41°19'00" N., 74°33'00" W., to the point of beginning; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at 40°-30'00" N., 73°36'00" W.; thence east along 40°30'00" N. to the northwest edge of V-139, thence southwest along the northwest edge of V-139 to 40°12'55" N., 73°19'00" W.; to 40°14'15" N., 73°30'30" W., to 40°21'45" N., 73°40'45" W., to 40°16'35" N., 73°47'30" W., to 41°17'30" N., 73°54'45" W., to 40°17'00" N., 73°58'00" W.. to 40°24'00" N., 73°58'00" W., to 40°29'00" N., 74°16'00" W., to 40°32'-00" N., 74°16'00" W., to 40°41'00" N., 74°11'-45" W., to 40°32'00" N., 73°49'00" W., to 40°-32'00" N., 73°45'00" W., to 40°33'00" N., 73°41'00" W., to 40°41'00" N., 73°39'00" W., to 40°55'00" N., 73°50'00" W., to 40°55'00" N., 73°58'00" W., to 41°00'00" N., 73°54'00" W., to 41°00'00" N., 73°33'00" W., to 40°50'-00" N., 73°42'00" W., to 40°41'00" N., 73°33'-30" W., to the point of beginning. The airspace within W-106 below 3,000 feet MSL is excluded.

[FR Doc.74-16646 Filed 7-22-74;8:45 am]

[Airspace Docket No. 74-GL-18]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Kokomo, Indiana, control zone.

Official weather reporting and airport surface communications are now available at the Grissom AFB and the Kokomo, Indiana, Municipal Airport. This will allow the control zone centered around each airport to be separated and will provide more accurate weather information in the Kokomo control zone and will result in safer operations in the zone.

The separated control zones will be the same as presently described as the Kokomo control zone with no additional airspace required.

Since this alternation is minor in nature and is in the interest of safety, compliance with the notice and public procedure provisions of the Administrative Procedures Act is unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., September 12, 1974, as hereinafter set forth:

In § 71.171 (39 FR 354), the following control zone is amended to read:

KOKOMO, INDIANA

Within a 5-mile radius Kokomo Municipal Airport (latitude 40°31'45" N., longitude 86°03'30" W.); within 3 miles each side of the Kokomo VOR 039° radial extending from the 5-mile radius zone to 7 miles northeast of the VOR; and within 3 miles each side of the Kokomo VOR 129° radial extending from the 5-mile radius zone to 7 miles southeast of the VOR excluding the portion overlying the Grissom AFB control zone. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

In § 71.171 (39 FR 354), the following control zone is added:

GRISSOM AFB, INDIANA

Within a 5-mile radius of Grissom AFB (latitude 40°38'55" N., longitude 86°09'10" W.); within 2½ miles each side of the Grissom AFB TACAN 053° radial extending from the 5-mile radius zone to 7 miles northeast of the TACAN; within 3½ miles each side of the Grissom AFB VOR 230° radial extending from the 5-mile radius zone to 10½ miles southwest of the VOR.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))).

Issued in Des Plaines, Illinois, on July 3, 1974.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.74-16722 Filed 7-22-74;8:45 am]

[Airspace Docket No. 74-GL-12]

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

Designation of Transition Area

On Page 17978 of the FEDERAL REGISTER dated May 22, 1974, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Mt. Carmel, Illinois.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t. September 12, 1974.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Des Plaines, Illinois, on July 3, 1974.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

In consideration of the foregoing, the Federal Aviation Administration amends Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (39 FR 440) the following transition area is amended:

VINCENNES, INDIANA

Add "within a five-mile radius of the Mt. Carmel Municipal Airport (latitude 38°36'30" N., longitude 87°43'30" W.) and within three miles either side of the 038° bearing from the Mt. Carmel Airport extending from the five-mile radius area northeast to join the Lawrenceville and O'Neal radius areas".

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

[FR Doc.74-16721 Filed 7-22-74;8:45 am]

[Airspace Docket No. 74-AL-13]

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

Alteration of Fairbanks, Alaska, transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to make editorial changes in the description of the Fairbanks, Alaska, transition area as a result of the conversion and renaming of the Fairbanks, Alaska, low frequency four course radio range (LFR) to the Chena, Alaska, nondirectional radio beacon (RBN) at its present location.

A plan for the conversion of all LFRs and RBNs in the State of Alaska was circulated January 14, 1972, with a request for comment. All comments received were favorable. Renaming the Fairbanks LFR to Chena RBN eliminates the duplication of names for navaids at this location.

Since this action simply redescribes controlled airspace with no substantive alteration to any airspace dimension, it is a minor matter in which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary. In order to provide sufficient time for changes to be made on appropriate aeronautical charts, this amendment will be made effective September 12, 1974.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., September 12, 1974, as hereinafter set forth.

Section 71.181 (39 FR 440, 19449), Fairbanks, Alaska, transition area is amended as follows:

"within 4.5 miles N and 9.5 miles S of the Fairbanks RR E course, extending from Fairbanks RR to 18.5 miles E of the RR" is deleted and "within 4.5 miles N and 9.5 miles S of the Chena 089° bearing, extending from Chena RBN to 18.5 miles E of the RBN" is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Anchorage, Alaska, on July 12, 1974.

QUENTIN S. TAYLOR,
Acting Director, Alaskan Region.

[FR Doc.74-16723 Filed 7-22-74;8:45 am]

[Airspace Docket No. 74-AL-9]

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

Alteration of Colored Airways, Controlled Airspace, Reporting Points; Correction

On June 12, 1974, FR Doc. 74-13377 was published in the FEDERAL REGISTER (39 FR 20586) effective September 12, 1974. This document amended Parts 71 and 75 of the Federal Aviation Regulations, in part, by changing Northway, Alaska, RR to Nabesna, Alaska, RBN and Unalakleet, Alaska, RR to North River, Alaska, RBN in the description of certain airways, controlled airspace, reporting points and jet routes.

An amendment to the description of Green 8 airway to reflect the change from Northway RR to Nabesna RBN was inadvertently omitted and is included herein. The amendment to Amber 1 airway erroneously cited the Nabesna RBN as the replacement for the Unalakleet RR rather than North River RBN. This also is corrected herein.

Since this action merely corrects minor errors without altering the location of any route or the dimension of any airspace, it is a minor matter on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER, FR Doc. No. 74-13377 (39 FR 20586) is amended as follows.

1. All of item numbered 1. § 71.103 * * * in the left column of page 20587 is deleted and the following substituted therefor.

1. § 71.103 (39 FR 305, 1272, 3670, 10115, 10116, 15259) is amended as follows:

a. In G-7 "INT Galena RBN 089° bearing and west course Fairbanks, Alaska, RR; Fairbanks RR." is deleted and "INT Galena RBN 089° and Chena, Alaska, RBN 269° bearings; Chena RBN." is substituted therefor.

b. In G-8 "INT 052° bearing Glenallen, RBN and southwest course Northway, Alaska, RR; Northway RR." is deleted and "INT Glenallen RBN 052° and Nabesna, Alaska, RBN 252° bearings; Nabesna RBN." is substituted therefor.

2. Under item numbered 2. § 71.105 * * *, in the left column of page 20587, in paragraph a. the third from last line, "Nabesna, Alaska, RBN; 52 miles 12 AGL, 51", is deleted and "North River, Alaska, RBN; 52 miles 12 AGL, 51", is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on July 17, 1974.

GORDON E. KEWER,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74-16724 Filed 7-22-74;8:45 am]

[Airspace Docket No. 74-GL-23]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Orr, Minnesota, transition area.

The transition area required to protect an NDB approach procedure to the Orr Municipal Airport, Orr, Minnesota, was designated in Airspace Docket No. 73-GL-57, published in the FEDERAL REGISTER dated April 18, 1974.

Since completing the rulemaking action, the approach procedure has been changed which will require a small change in the designated airspace. The approach course has been changed from 308° to 320°.

Since this change is minor in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the change may be accomplished by final rule action.

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended, effective 0901 G.m.t., September 12, 1974, as hereinafter set forth:

In § 71.181 (39 FR 440), the following transition area is amended to read:

ORR, MINN.

That airspace extending upward from 700 feet above the surface within a five mile radius of Orr Municipal Airport (latitude 48°01'00" N., longitude 92°51'21" W.); within three miles each side of the 324° bearing from the Orr Municipal Airport, extending from the five mile radius to eight miles northwest of the airport; and that airspace extending upward from 1200 feet above the surface within five miles each and 9½ miles west of the 324° bearing of the Orr Municipal Airport extending from the airport to 18½ miles northwest; within five miles each side of the 144° bearing of the Municipal Airport extending from the airport to 12 miles southeast of the airport.

(Sec. 307(a), Federal Aviation Act of 1958, (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Des Plaines, Illinois, on July 3, 1974.

R. O. ZIEGLER,
Acting Director, Great Lakes Region.

[FR Doc.74-16716 Filed 7-22-74;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

Exports of Crime Control and Detection Equipment to U.S.S.R., Eastern Europe, and the People's Republic of China (Country Groups Q, W, and Y)

The Export Administration Regulations are revised to require validated export licenses for exports to the Soviet Union, the East European countries, and the People's Republic of China (Country Groups Q, W, and Y) of any instruments and equipment particularly useful in crime control and detection. The decision to implement these controls was made after a determination that the unrestricted export of such equipment to Groups Q, W, and Y would be contrary to the foreign policy interests of the United States.

Accordingly, the Export Administration Regulations (15 CFR Part 376) are revised by adding a new § 376.14 as follows:

§ 376.14 Crime control and detection instruments and equipment.

(a) *Export License Requirements.* (1) A validated export license is required for the export to Country Groups Q, W, and Y of any instrument and equipment particularly useful in crime control and detection. Commodities affected by this requirement (in addition to commodities controlled by listing on the Commodity Control List) include, but are not limited to: Voice print identification or analysis equipment; psychological stress analysis equipment; mobile crime science laboratories; nonmilitary gas masks and bullet proof vests, helmets and shields; nonmilitary arms such as shotguns, stun guns, dart guns and riot guns; infrared and ultraviolet ray film, plates, and filters; photographing equipment specially designed for crime control and detection; items used for tracing, fixing, removing, preserving, processing and coding fingerprints; ballistics laboratory equipment; document authentication equipment; metal detecting and other special purpose searching equipment and devices; identification document production and authentication equipment; and restraint devices.

(2) Any exporter who knows, or has reason to believe, that such commodities will be exported to a destination in Country Group Q, W, or Y, either for exhibition or for sale for such purpose shall include that information on his application for a validated export license or on his request for authorization to reexport. In preparing the application or reexport authorization request, the exporter shall enter the phrase "Crime Control and Detection" at the top of the requisite form.

(b) *Effect on Other Provisions.* (1) If, at the time of export or reexport, a validated license is also required under other provisions of the Export Administration Regulations, the application shall be submitted in accordance with this § 376.14 as well as all other applicable provisions. The requirements of this § 376.14 are in addition to, rather than in lieu of, other validated license requirements set forth in the Export Administration Regulations.

(2) Insofar as consistent with the provisions of this § 376.14, all other provisions of the Export Administration Regulations shall apply also to export license applications and reexport requests and to export licenses and reexport authorizations for these commodities.

Effective date of action: 12 Noon, e.d.t., July 19, 1974.

RAUER H. MEYER,
Director,
Office of Export Administration.

[FR Doc.74-16835 Filed 7-19-74;10:31 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 33-5510, 34-10898, IC-8410]

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

Corporation Finance Division: Views on Business Combinations Involving Open-End Investment Companies

The Securities and Exchange Commission today issued a release setting forth the views of its Division of Corporation Finance with respect to registration procedures applicable to open-end investment companies registered under the Investment Company Act of 1940 when they issue their securities in connection with business combination transactions subject to rule 145 (17 CFR 230.145) under the Securities Act of 1933. Generally, rule 145 states that an "offer" or "sale" within the meaning of the Securities Act is involved with respect to the visions, controlling instruments or otherperson where, pursuant to statutory provisions, contrlling instruments or otherwise, there is submitted for the vote or consent of such security holders a plan or agreement for: (1) Reclassifications other than stock splits and changes in par value; (2) mergers, consolidations and similar plans of acquisition except where the sole purpose of such a transaction is to change an issuer's domicile; and (3) certain transfers of assets for securities where there is a subsequent distribution of such securities to those voting on the transfer of the assets. The Commission has previously authorized the publication of a general interpretative release setting forth various views and positions of the Division of Corporation Finance with respect to rule 145 and related matters (see Securities Act Release No. 5463 (February 28, 1974) (39 FR 10891))

From time to time open-end investment companies registered under the Investment Company Act acquire the portfolio assets of personal holding companies and other investment companies with fewer than 100 shareholders which are not registered under the Investment Company Act, or acquire the portfolio assets of open-end or closed-end investment companies which are registered under the Investment Company Act. Typically such transactions, which are subject to the approval of the shareholders of the investment company whose assets are to be acquired, involve a tax-free exchange of the portfolio assets of that company for securities issued by the acquiring open-end investment company, which securities are thereafter distributed on a pro rata basis to the shareholders of the acquired investment company. Inasmuch as this type of stock-for-assets transaction involves an "offer" and "sale" under the Securities Act by virtue of rule 145(a)(3), the securities issued in such a transaction by the acquiring open-end investment company must be registered under the Securities Act and the issuer must comply with the applicable disclosure and prospectus delivery requirements under the Act unless a statutory exemption under that Act is available. Procedural questions have been raised with the Division as to how the securities issued in such transactions are to be registered under the Securities Act and the type of disclosure required to be furnished pursuant to that Act to the security holders of the company whose assets are to be acquired.

Many registered open-end investment companies are continuously offering their securities to the public by means of a current prospectus available under an effective registration statement on Form S-5 (17 CFR 239.26). It is the Division of Corporation Finance's view that if such a registered open-end investment company proposes to effect a statutory merger, a stock-for-assets exchange or any other business combination transaction described in Paragraph (a) of rule 145 under the Securities Act, then the investment company must register the securities to be issued therein by filing: (1) A new registration statement on Form S-14 (17 CFR 239.23) or Form S-5; or (2) a post-effective amendment to its current registration statement on Form S-5. It should be noted that if an investment company chooses to file a new registration statement on Form S-5 or to file a post-effective amendment to its current registration statement on Form S-5, its prospectus (or a supplement thereto) must disclose all of the information required by Form S-14, including financial and the information regarding the company to be acquired.

Under most circumstances an open-end investment company will determine that its most efficient registration procedure for a Rule 145 transaction would

be to utilize its effective registration statement on Form S–5, particularly since section 24(e) of the Investment Company Act permits the registration of additional shares, rather than filing a new registration statement subject to the requirements of Forms S–5 and S–14. Under this procedure, the post-effective amendment to the effective registration statement on Form S–5 should contain all of the requisite Form S–14 information in an amended prospectus or in a supplement to the current prospectus, and the facing sheet should comply with all the Form S–5 requirements and should clearly indicate: (i) That the amendment is being filed in lieu of Form S–14, (ii) the approximate number of shares designated for the rule 145 transaction, and (iii) that no additional filing fee is due. If the proposed rule 145 transaction would be material to the acquiring investment company, its current prospectus should be stickered to reflect this proposed transaction so that the prospectus can be used for sales other than the rule 145 transaction until such transaction is consummated. Once the post-effective amendment is declared effective, the investment company must deliver its prospectus and supplement thereto, if any, in connection with the rule 145 transaction in accordance with the requirements of rule 153A (17 CFR 230.153a) under the Securities Act. After consummation of the transaction, the acquiring investment company should, in the case of material acquisitions, file another post-effective amendment updating its current prospectus. In the case of non-material acquisitions, an investment company in order to curtail costs need only submit a letter for the Commission's public files indicating that the acquisition has been consummated and the number of shares issued therein. Such a letter should be addressed to the Division's branch chief who processed the registration statement and should refer to Release No. IC–8410 in the caption.

Similar procedures concerning the stickering of prospectuses to reflect proposed material transactions and the updating of prospectuses upon completion of a rule 145 transaction would be applicable to investment companies filing new registration statements for such transactions.

It should be noted that if a registered investment company is acquired by an open-end investment company in a Rule 145 transaction, the acquired company should file an application, pursuant to section 8(f) of the Investment Company Act, requesting an order of the Commission that it has ceased to be an investment company.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

JULY 3, 1974.

[FR Doc.74–16818 Filed 7–22–74;8:45 am]

[Release No. 33–5511, 34–10899]

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

Guidelines for Filings Related to Extractive Reserves and Natural Gas Supplies Effective Date: August 1, 1974

The Securities and Exchange Commission announced today the adoption of amendments to Guide 28, "Extractive Reserves," of the Guides for Preparation and Filing of Registration Statements (Release No. 4936, as amended) under the Securities Act of 1933 ("Securities Act"). Guide 28 has been amended by adding a new paragraph (b) relating to disclosure by companies engaged in the gathering, transmission, or distribution of natural gas and has been recaptioned "Disclosure of Extractive Reserves and Natural Gas Supplies." The Commission also has adopted the substance of Guide 28, as amended, as Guide 2, "Disclosure of Extractive Reserves and Natural Gas Supplies," of the Guides for Preparation and Filing of Reports and Registration Statements under the Securities Exchange Act of 1934 ("Exchange Act").

Paragraph (a) of Guide 28 states that Instruction 2 to Item 10 ("Description of Property") of Form S–1 (17 CFR 239.11) and Item 5(a) ("Business") of Form S–7 (17 CFR 239.26) require registrants engaged in extractive operations to include in their prospectus appropriate information regarding the quantitative amount of their estimated reserves and indicates the manner in which such information may be set forth. Paragraph (a) of Guide 2 also requires disclosure of the quantitative amount of extractive reserves pursuant to Items 1(b) ("Business") and 3 ("Properties") of Form 10 (17 CFR 249.210). Although the Commission has not determined that such disclosure is required in annual reports on Form 10–K (17 CFR 249.310) or in other periodic reports under the Exchange Act, any company which voluntarily files extractive reserve information in such reports should comply with Guide 2(a).

Pursuant to Items 9(a) ("Description of Business") and 10 of Form S–1 and Item 5(a) of Form S–7, Guide 28 requires in new paragraph (b) thereof that registrants engaged in the gathering, transmission, or distribution of natural gas dicslose material information, based upon the facts and circumstances of their particular situation, with respect to the current availability of gas supplies. The Guide sets forth certain factors that firms in the gas industry should consider in making disclosure of their capacity to respond to users' needs for natural gas. Paragraph (b) of Guide 2 relates to similar disclosure required by Items 1(b) and 3 of Forms 10 and 10–K under the Exchange Act.

These amendments were published for public comment in Securities Act Release No. 5454 (39 FR 8353). In response to the views and comments of interested persons, the Commission has made minor revisions to certain portions of the Guides and has defined certain terms used therein so as to clarify the nature of the disclosure which is required.

These Guides are designed to provide more meaningful and understandable information in registration statements filed pursuant to the Securities Act and in reports and registration statements filed pursuant to the Exchange Act. However, in light of present energy shortages and the actual or possible impact which a demand for natural gas in excess of current supply may have on the operations of firms in the gas industry, the Commission reiterates that, as a matter of policy, prompt and accurate disclosure should be made to the investing public with respect to information, both favorable and unfavorable, concerning the current availability of such firms' natural gas supplies.

Guide 28 of the Guides for Preparation and Filing of Registration Statements in Securities Act Release No. 4936 (33 FR 18617) is amended to read as follows:

28. *Disclosure of Extractive Reserves and Natural Gas Supplies.* (a) Instruction 2 to Item 10 of Form S–1 and Item 5(a) of Form S–7 require that registrants engaged in extractive operations include in their prospectus, where appropriate, the quantitative amount of their estimated reserves. If appropriate, the current market price per barrel of oil, m.c.f. of gas, or the assay value per ton of ore may also be shown, but it is deemed inappropriate to show a dollar amount equal to the market price multiplied by the number of barrels of oil, m.c.f. of gas, or tons of ore.

(b) Pursuant to Items 9(a) and 10 of Form S–1 and Item 5(a) of Form S–7, registrants engaged in the gathering, transmission, or distribution of natural gas are required to disclose material information with respect to the current availability[1] of gas supplies. Each such registrant should develop disclosure based upon the facts and circumstances of its particular situation, including, where appropriate, disclosure by areas or regions. Such disclosure should be in a form understandable to investors and should include, but not be limited to, descriptions of the following factors:

1. Estimates of gas supplies (proved reserves, whether developed or undeveloped, or other sources) owned, dedicated, or contracted to a system, whether or not based on reports of outside consultants, are not necessarily indications of the registrant's ability to meet its current obligations (whether or not evidenced by contract) to its customers;

2. The total gas supply available to the registrant's system may include significant amounts of gas subject to priorities which may affect quantities delivered to certain classes of customers, such as customers receiving services under low priority and interruptible contracts;

3. Priority allocations and price limitations imposed by federal and state regulatory

[1] The term "availability" is used herein to mean that quantity of gas which can be delivered from current sources of supply for a given future time period such as a day, a month, or a year. This term is not intended to have the same meaning as the term "deliverability" which is used by the Federal Power Commission in Form 15 Annual Reports.

agencies, as well as other factors beyond the control of the registrant, may affect the ability of the registrant to meet its contractual obligations;

4. Numerous factors beyond the control of the registrant, such as other parties having control over the drilling of new wells, competition for the acquisition of gas, and the availability of foreign reserves, may affect the ability of the registrant to acquire additional gas supplies, or to maintain or increase the capacity to deliver; and

5. The registrant's earnings and financing needs may be affected by its inability to meet its short or long-term contractual obligations.

6. Investors would be better informed concerning the current availability of gas supplies if registrants would publish in tabular form information concerning gas supplies, delivery commitments, and customers' requirements. Such presentations should set forth historical information with respect to gas obtained from registrants' sources of supply [2] the principal sources of supply relied upon, and the amounts received from each such source, together with estimates of gas available from present sources for the next year, or such other period of years as may be appropriate. Information also should be provided as to steps that may be taken by the registrant to insure available gas for current and future commitments. [3]

Guide 2 is adopted to read as follows:

2. *Disclosure of Extractive Reserves and Natural Gas Supplies.* (a) Items 1(b) and 3 of Form 10 require that companies engaged in extractive operations include, where appropriate, the quantitative amount of their estimated reserves. If appropriate, the current market price per barrel of oil, m.c.f. of gas, or the assay value per ton of ore may also be shown, but it is deemed inappropriate to show a dollar amount equal to the market price multiplied by the number of barrels of oil, m.c.f. of gas, or tons of ore.

(b) Pursuant to Items 1(b) and 3 of Forms 10 and 10–K, companies engaged in the gathering, transmission, or distribution of natural gas are required to disclose material information with respect to the current availability [4] of gas supplies. Each such company should develop disclosure based upon the facts and circumstances of its particular situation, including, where appropriate, disclosure by areas or regions. Such disclosure should be in a form understandable to investors and should include, but not be limited to, descriptions of the following factors:

1. Estimates of gas supplies (proved reserves, whether developed or undeveloped, or other sources) owned, dedicated, or contracted to a system, whether or not based on reports of outside consultants, are not necessarily indications of the company's ability to meet its current obligations (whether or not evidenced by contract) to its customers;

2. The total gas supply available to the company's system may include significant amounts of gas subject to priorities which may affect quantities delivered to certain classes of customers, such as customers receiving services under low priority and interruptible contracts;

3. Priority allocations and price limitations imposed by federal and state regulatory agencies, as well as other factors beyond the control of the company, may affect the ability of the company to meet its contractual obligations;

4. Numerous factors beyond the control of the company, such as other parties having control over the drilling of new wells, competition for the acquisition of gas, and the availability of foreign reserves, may affect the ability of the company to acquire additional gas supplies, or to maintain or increase the capacity to deliver; and

5. The company's earnings and financing needs may be affected by its inability to meet its short or long-term contractual obligations.

6. Investors would be better informed concerning the current availability of gas supplies if companies would publish in tabular form information concerning gas supplies, delivery commitments, and customers' requirements. Such presentations should set forth historical information with respect to gas obtained from companies' sources of supply,[5] the principal sources of supply relied upon, and the amounts received from each such source, together with estimates of gas available from present sources for the next year, or such other period of years as may be appropriate. Information also should be provided as to steps that may be taken by the company to insure available gas for current and future commitments.[6]

The Commission has amended Guide 28 and has adopted Guide 2 pursuant to authority in sections 6, 7, 10, and 19(a) of the Securities Act, as amended, and sections 12, 13, and 23(a) of the Exchange Act, as amended. The amendments will be effective August 1, 1974, and will apply to registration statements under the Securities Act and to reports and registration statements under the Exchange Act filed on or after that date, but not to such registration statements and reports filed before that date.

(Sections 6, 7, 10, 19, 48 Stat. 78, 81, 85; secs. 12, 13, 23, 205, 209, 48 Stat. 892, 894, 901, 906, 908; sec. 203(a), 49 Stat. 704; secs. 1, 8, 49 Stat. 1375, 1379; secs. 8, 202, 68 Stat. 685, 686; secs. 3, 4, 78 Stat. 565–68–69; sec. 1, 79 Stat. 1051; secs. 1, 2, 82 Stat. 454; sec. 28(c), 84 Stat. 1435; secs. 1, 2, 84 Stat. 1497; 15 U.S.C. 77f, 77g, 77j, 77s(a), 78l, 78m, 78(w)(a))

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

JULY 3, 1974.

[FR Doc.74–16819 Filed 7–22–74;8:45 am]

[2] The phrase "sources of supply" is used herein to mean gas owned or controlled by the registrant and gas purchased under both short and long-term contracts from suppliers.

[3] Where such information is unknown or not reasonably available, reference is made to the provisions of Rule 409 under the Act.

[4] The term "availability" is used herein to mean that quantity of gas which can be delivered from current sources of supply for a given future time period such as a day, a month, or a year. This term is not intended to have the same meaning as the term "deliverability" which is used by the Federal Power Commission in Form 15 Annual Reports.

[5] The phrase "sources of supply" is used herein to mean gas owned or controlled by the company and gas purchased under both short and long-term contracts from suppliers.

[6] Where such information is unknown or not reasonably available, reference is made to the provisions of Rule 12b–21 under the Act.

Title 20—Employees' Benefits

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

[Regs. No. 22]

PART 422—ORGANIZATION AND PROCEDURES

Subpart B—General Procedures

Subpart E—Availability of Information and Records to the Public

Fee Schedules

The amendments set forth below revise Subparts B and E of Part 422 of the regulations by bringing charges made by the Social Security Administration for the reproduction of information and records into conformity with those fees charged by the Office of the Secretary. Further, the amendments represent a more liberal policy on fees.

Accordingly, the Secretary of HEW finds that publication with Notice of Proposed Rule Making, as well as publication at least 30 days prior to an effective date, are unnecessary.

Nevertheless, consideration will be given to any comments pertaining to these amendments which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, North Building, 4th and Independence Avenue, SW., Washington, D.C. 20201, on or before August 22, 1974.

Copies of all comments received in response to these amendments will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

(Sections 205, 1102, and 1871, 53 Stat. 1368, as amended, 49 Stat. 647, as amended, 79 Stat. 331; 42 U.S.C. 405, 1302, and 1395hh.)

Effective date. The amendments shall be effective July 23, 1974.

(Catalog of Federal Domestic Assistance Program Nos. 13.800–13.807, Social Security)

Dated: June 26, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: July 16, 1974.

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

Subparts B and E of Regulations No. 22 are amended as set forth below.

1. Section 422.125(e)(2) is amended by revising the last sentence thereof to read as follows:

§ 422.125 Statements of earnings; resolving earnings discrepancies.

* * * * *

(e) * * *

(2) * * *

If the individual requests that the information be certified by the custodian of the records there will be an additional charge of $3.

2. Section 422.430 is revised to read as follows:

§ 422.430 Materials available at district offices and branch offices.

(a) *Materials available for inspection.* The following are available or will be made available for inspection at the district offices and branch offices:

(1) Compilation of the Social Security Laws.

(2) The Public Information Regulation of the Department of Health, Education, and Welfare (45 CFR Part 5).

(3) Regulations of the Social Security Administration under the retirement, survivors, disability, health insurance, and supplemental security income programs, i.e., Regulation No. 1 (Part 401 of this chapter), Regulations No. 5 (Part 405 of this chapter); regulations under Part B of title IV (Black Lung Benefits) of the Federal Coal Mine Health and Safety Act of 1969, Regulations No. 10 (Part 410 of this chapter), Regulations No. 16 (Part 416 of this chapter), and Regulations No. 22 (this Part 422).

(4) Social Security Rulings.

(5) Social Security Handbook.

(b) *Materials available for inspection and copying.* The following materials are available or will be made available for inspection and copying at the district offices and branch offices:

(1) Claims Manual of the Social Security Administration.

(2) Department Staff Manual on Organization, Department of Health, Education, and Welfare, Part 8, Chapter 8000.

(3) Handbook for State Social Security Administrators.

(4) Disability Insurance State Manual.

(5) Parts 2 and 3 of the Part A Intermediary Manual (Provider Services under Medicare).

(6) Parts 2 and 3 of the Part B Intermediary Manual (Physician and Supplier Services).

(7) BHI (Bureau of Health Insurance) Intermediary Letters Related to Parts 2 and 3 of the Part A and Part B Intermediary Manuals.

(8) State Buy-In Handbook (State Enrollment of Eligible Individuals under the Supplementary Medical Insurance Program) and Letters.

(9) Group Practice Prepayment Plan Manual (HIM–8) and Letters.

(10) State Operations Manual (HIM–7).

(11) BHI Letters to State Agencies.

(12) Extended Care Facility Manual (HIM–12).

(13) Hearing Officers Handbook (Supplementary Medical Insurance Program—HIM–21).

(14) Hospital Manual (HIM–10).

(15) Home Health Agency Manual (HIM–11).

(16) Outpatient Physical Therapy Provider Manual (HIM–9).

(17) Provider Reimbursement Manual (HIM–15).

(18) Audit Program Manuals for Hospital (HIM–16), Home Health Agencies (HIM–17), and Extended Care Facilities (HIM–18).

(19) Statements of deficiencies based upon survey reports of health care institutions or facilities prepared after January 31, 1973, by a State agency, pursuant to its agreement entered into under section 1864 of the Social Security Act, and such reports (including pertinent written statements furnished by such institution or facility on such statements of deficiencies), as set forth in § 401.3(v)(1) of this chapter. Such statements of deficiencies, reports, and pertinent written statements shall be available or made available only at the district office and the regional office servicing the area in which the institution or facility is located, except that such statements of deficiencies and pertinent written statements shall also be available at the local public assistance offices servicing such area.

(20) Supplemental Security Income Handbook.

(21) Service Area Directory (including the addresses and geographic areas serviced by district offices, branch offices, regional offices, and payment centers).

(22) Indexes to the materials listed in paragraph (a) of this section and in this paragraph (b) and an index to the Bureau of Hearings and Appeals Handbook.

3. Section 422.440 is revised to read as follows:

§ 422.440 Fees and charges.

(a) *Applicability.* The provisions of this section do not apply to a request for information pursuant to Part 401 of this chapter (see §§ 401.5 and 401.6 of Part 401 of this chapter) or to a request for a detailed statement of earnings for a purpose not related to title II of the Act (see § 422.125(e)(2)).

(b) *Policy on fees.* It is the policy of the Social Security Administration to provide routine information to the general public without charge. Special information services involving a benefit that does not accrue to the general public are subject to the payment of fees which are fixed in such amounts as to recover the cost to the Government of providing such services. Fees will be charged for the following special services:

(1) Reproduction, duplication, or copying of records;

(2) Searches of or for records;

(3) Certification or authentication of records; and

(4) Preparing materials from punch cards, magnetic tape, or microfilm.

No charge will be made for time spent in making an administrative decision regarding whether to provide the requested copies, or for time spent securing authorization. Similarly, there will be no charge for forwarding the materials to the requester.

(c) *Copying.* A charge of 10 cents per page (one side of a sheet) will be made for the first copy of documents or records; a fee of 5 cents per page (one side of a sheet) will be made for each subsequent copy based on the same request; except that no fee will be charged if total copying cost is less than $1.00. If we furnish copies which were already printed, the actual printing costs per page or cost of printing the report should be charged, in lieu of copying costs.

(d) *Searches.* No fee will be charged for searching for materials described in §§ 422.430 and 422.432. In the event a search is required to locate other materials, a charge of $3 per hour will be made (fractional parts of an hour will be charged on a one-half hour basis) except that no charge will be made for the first one-half hour.

(e) *Certification.* A fee of $3 will be charged for each certification of records or documents if certification is requested.

(f) *Preparing other materials.* The actual cost, determined on a case-by-case basis, will be charged for preparing materials from punch cards, magnetic tape, or microfilm. (Costs are determined according to type of request and the processing necessary to prepare the materials; thus the costs will be determined on a request-by-request basis.)

(g) *Applicability.* These policies and fees are applicable for all components of the Social Security Administration.

4. Section 422.448 is revised to read as follows:

§ 422.448 Review by the Commissioner.

(a) The Commissioner of Social Security or his delegatee will, when a request for review has been filed as provided in § 422.444, review the decision in question and the findings upon which it was based, and upon the basis of the data considered in connection with the decision and whatever other evidence and written argument is submitted by the person requesting the review or which is otherwise obtained, the Commissioner or his delegatee will affirm or revise in whole or in part the findings and decision in question. Written notice of the decision of the Commissioner or his delegatee shall be mailed to the person who requested the review. The decision shall state the basis therefor.

(b) Decisions on review shall be in writing within 20 working days from receipt of the request for review. If the decision is in favor of the requester, the decision shall order records made available to the requester as provided in the decision.

[FR Doc.74–16753 Filed 7–22–74;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER B—ESTATE AND GIFT TAXES

[ESTATE TAX REGULATIONS]

[T.D. 7319]

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

[GIFT TAX REGULATIONS]

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

Valuation of Shares in an Open-End Investment Company

By a notice of proposed rulemaking appearing in the FEDERAL REGISTER on

April 9, 1974 (39 FR 12869), amendments to the Estate Tax Regulations (26 CFR Part 20) under section 2031 of the Internal Revenue Code of 1954 and to the Gift Tax Regulations (26 CFR Part 25) under section 2512 of such Code were proposed in order to conform such regulations to the decision of the Supreme Court in United States v. Cartwright, 411 U.S. 546 (1973).

The amendments provide for the valuation of shares of an open-end investment company at the "bid" or public redemption price of such shares, rather than at the "asked" or public offering price, for purposes of the estate and gift taxes.

The revised valuation rules would generally apply to estates of decedents dying after August 16, 1954, and to gifts made after December 31, 1954.

Adoption of amendments to the regulations. On Friday, April 9, 1974, notice of proposed rule making with respect to the amendments of the Estate Tax Regulations (26 CFR Part 20) under section 2031 of the Internal Revenue Code of 1954 and to the Gift Tax Regulations (26 CFR Part 25) under section 2512, in order to provide for the valuation of shares of an open-end investment company at the "bid" or public redemption price of such shares, rather than at the "asked" or public offering price, for purposes of the estate and gift taxes, was published in the FEDERAL REGISTER (39 FR 12869). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments of the regulations as proposed are hereby adopted, without change.

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

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

Approved: July 16, 1974.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

PARAGRAPH 1. Paragraph (b) of § 20.2031–8 is amended to read as follows:

§ 20.2031–8 Valuation of certain life insurance and annuity contracts; valuation of shares in an open-end investment company.

* * * * *

(b) *Valuation of shares in an open-end investment company.* (1) The fair market value of a share in an open-end investment company (commonly known as a "mutual fund") is the public redemption price of a share. In the absence of an affirmative showing of the public redemption price in effect at the time of death, the last public redemption price quoted by the company for the date of death shall be presumed to be the applicable public redemption price. If the alternate valuation method under 2032 is elected, the last public redemption price quoted by the company for the alternate valuation date shall be the applicable redemption price. If there is no public redemption price quoted by the company for the applicable valuation date (e.g., the valuation date is a Saturday, Sunday, or holiday), the fair market value of the mutual fund share is the last public redemption price quoted by the company for the first day preceding the applicable valuation date for which there is a quotation. In any case where a dividend is declared on a share in an open-end investment company before the decedent's death but payable to shareholders of record on a date after his death and the share is quoted "ex-dividend" on the date of the decedent's death, the amount of the dividend is added to the ex-dividend quotation in determining the fair market value of the share as of the date of the decedent's death. As used in this paragraph, the term "open-end investment company" includes only a company which on the applicable valuation date was engaged in offering its shares to the public in the capacity of an open-end investment company.

(2) The provisions of this paragraph shall apply with respect to estates of decedents dying after August 16, 1954.

PAR. 2. Paragraph (b) of § 25.2512–6 is amended to read as follows:

§ 25.2512–6 Valuation of certain life insurance and annuity contracts; valuation of shares in an open-end investment company.

* * * * *

(b) *Valuation of shares in an open-end investment company.* (1) The fair market value of a share in an open-end investment company (commonly known as a "mutual fund") is the public redemption price of a share. In the absence of an affirmative showing of the public redemption price in effect at the time of the gift, the last public redemption price quoted by the company for the date of the gift shall be presumed to be the applicable public redemption price. If there is no public redemption price quoted by the company for the date of the gift (e.g., the date of the gift is a Saturday, Sunday, or holiday), the fair market value of the mutual fund share is the last public redemption price quoted by the company for the first day preceding the date of the gift for which there is a quotation. As used in this paragraph the term "open-end investment company" includes only a company which on the date of the gift was engaged in offering its shares to the public in the capacity of an open-end investment company.

(2) The provisions of this paragraph shall apply with respect to gifts made after December 31, 1954.

[FR Doc.74–16675 Filed 7–22–74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 8—VETERANS ADMINISTRATION

PURCHASES FOR ELIGIBLE BENEFICIARIES; PARCEL POST SHIPMENTS AND OTHER SERVICES

Miscellaneous Amendment to Chapter

Chapter 8 of Title 41, Code of Federal Regulations is amended as set forth below. Section 8–1.302–1 is revised to provide for current clearances issued by Federal Prison Industries for shoes and other items of clothing which apply to Veterans Administration purchases for eligible beneficiaries. Section 8–3.605–3 is revised to add VA Form 10–2570d, Dental Record, Authorization and Invoice for Outpatient Services, as an agency order form for dental services and § 8–19.302 is revised to update procedures on parcel post shipment.

It is the general policy of the Veterans Administration to allow time for interested parties to participate in the rule making process. However, the amendments herein concern administrative matters. Therefore, the public rule making process is deemed unnecessary in this instance.

PART 8–1—GENERAL

1. In § 8–1.302–1, paragraph (d) is amended to read as follows:

§ 8–1.302–1 General.

* * * * *

(d) *Eligible beneficiaries.* When it is determined that a therapeutic benefit to eligible beneficiaries will result from personal selection of shoes, clothing and incidentals, acquisition from the Veterans Canteen Service or commercial sources is authorized. The Director, Supply Service, will notify Veterans Administration activities of existing Federal Prison Industries clearances which apply to purchases of shoes and other items of clothing.

PART 8–3—PROCUREMENT BY NEGOTIATION

2. In § 8–3.605–3(b), subparagraph (4) is added to read as follows:

§ 8–3.605–3 Agency order forms.

* * * * *

(b) * * *

(4) VA Form 10–2570d, Dental Record, Authorization and Invoice for Outpatient Services.

* * * * *

PART 8–19—TRANSPORTATION

3. Section 8–19.302 is revised to read as follows:

§ 8–19.302 F.O.B. origin.

(a) Normally shipments falling within this category will be shipped on a Government bill of lading. If, however, it is determined that parcel post is the most advantageous method of transporting purchases of this kind, a preaddressed mail indicia label, VA Form 07–3017a, will be attached to the purchase order together with a preaddressed Certificate of Mailing, Postal Service Form 3817. This latter form which is available from your local postmaster will, prior to mailing to the vendor, be modified as follows:

Delete "Postage and postmark"
Insert, by means of a rubber stamp—
"Postage and Fees Paid"
"Veterans Administration"
"VA–601"

The number of VA Forms 07–3017a and estimated postage will be furnished the station mail activity.

(b) The vendor will be instructed to forward the merchandise by parcel post utilizing VA Form 07–3017a as an address label and postage. He will also be instructed to have Postal Service Form 3817 receipted by the sending post office and returned to the contracting officer as evidence that shipment was mailed.

(c) Shipment of flat bronze markers by the vendor, as directed by the Director, National Cemetery System, or his designee, will be made by parcel post. VA Form 40–4951, Order for Flat Bronze Marker, will be used for this purpose.

These regulations are effective August 14, 1974.

Approved: July 17, 1974.

By direction of the Administrator.

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

[FR Doc.74–16775 Filed 7–22–74;8:45 am]

Title 45—Public Welfare

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

PART 170—CONSTRUCTION OF ACADEMIC FACILITIES

Notice of proposed rulemaking was published in the FEDERAL REGISTER on December 10, 1973 (38 FR 33985); setting forth regulations governing the administration of Title VII of the Higher Education Act of 1965, as amended. (Academic Facilities Construction, which continued and amended the Higher Education Facilities Act of 1963, Public Law 88–204 as part of the Higher Education Act.) This program provides financial assistance to institutions of higher education for construction of academic facilities. Pursuant to section 503 of the Education Amendments of 1972, Public Law 92–318, a public hearing was held February 19, 1974 in Washington, D.C. on the proposed regulations. In addition written comments were received and considered.

1. *Summary of comments.* Several commenters suggested that annual interest grants made under Subpart E be approved only if health planning agencies had been provided ample opportunity to review and comment on each application that includes health services or health sciences education programs. Since general review procedures are available under the State and Regional clearinghouse system of OMB Circular A–95, it is deemed inappropriate to emphasize one specific program in these regulations. Accordingly no change was made in these regulations.

2. Assistance provided under this program is subject to the provisions in the governing legislation as well as the provisions in this part. Assistance under this program is also subject to the applicable provisions of Subchapter A of this Chapter (45 CFR 100a, published at 36 FR 30654, 30662, November 6, 1973).

After making necessary changes to correct minor technical and grammatical errors, Part 170 of Title 45 of the Code of Federal Regulations is amended to read as set forth below.

Effective date. Pursuant to section 503(d) of the Education Amendments of 1972 (P.L. 92–318), these regulations become effective August 22, 1974.

Dated: June 17, 1974.

PETER P. MUIRHEAD,
Acting U.S. Commissioner of Education.

Approved: July 8, 1974.

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

(Catalog of Federal Domestic Assistance Program No. 13.457, Higher Education Academic Facilities Construction—Interest Subsidization; 13.458—Higher Education Academic Facilities Construction—Public and Private Colleges and Universities; 13.459, Higher Education Academic Facilites Construction—Public Community Colleges and Technical Institutes)

PART 170—FINANCIAL ASSISTANCE FOR CONSTRUCTION OF HIGHER EDUCATION FACILITIES

Subpart A—General Provisions

Sec.
170.1 Definitions.
170.2 Office of Education general provisions.
170.3 Modification of general requirement for competitive bidding on contracts and for acquisition and installation of built-in equipment.
170.4 Fiscal control and fund accounting procedures by State commissions.
170.5 Retention of records by State commissions.
170.6 Determination of costs eligible for Federal participation.
170.7 Urgency of need for projects of public institutions.

Subpart B—Grants for Construction of Academic Facilities

170.11 Institutional eligibility for grants under section 702 of the Act.
170.12 Institutional eligibility for grants under section 703 of the Act.
170.13 Conditions for grant approval.
170.14 Submission and processing of Title VIIA applications.
170.15 Criteria for standards and methods to determine relative priorities of eligible projects.
170.16 Criteria for standards and methods to determine Federal shares of eligible projects.
170.17 State plans.
170.18 Adjustments in amount of Federal share.

Subpart C—Grants for Construction of Graduate Academic Facilities

170.41 Eligibility for grants.
170.42 Submission of applications.
170.43 Facilities panel.
170.44 Criteria for evaluating applications.

Subpart D—Loans for Construction of Academic Facilities

170.51 Eligibility for loans.
170.52 Submission of applications.
170.53 Special terms and conditions.
170.54 Determination of nonavailability of equally as favorable terms and conditions.
170.55 Form of evidence of indebtedness.
170.56 Security for loans.
170.57 Length and maturity of loans.
170.58 Bond counsel opinion.
170.59 Determination of priorities for loan approvals.
170.60 Loan agreement.
170.61 Loan closing.
170.62 Interim financing.
Sec.
170.63 Construction fund.
170.64 Investment of idle construction funds.
170.65 Disposal of balance remaining in the construction fund.

Subpart E—Annual Interest Grants for Construction of Academic Facilities

170.71 Eligibility for annual interest grants.
170.72 Amount of annual interest grants.
170.73 Submission of applications.
170.74 Conditions for approval of annual interest grants.
170.75 Limits governing extent of Federal assistance.
170.76 Approval of financing plans.
170.77 Evidence of lowest possible cost of loan.
170.78 Annual interest grant agreement.
170.79 Payment of annual interest grants.
170.80 Reduction of grant where refinancing produces lower cost.
170.81 Priority considerations; closing dates.
170.82 Preceding provisions not exhaustive of authority of Government.

AUTHORITY: Secs. 701–782, Pub. L. 89–329, Title VII, as amended, 86 Stat. 288–303 (20 U.S.C. 1132a–1132e), unless otherwise noted.

Subpart A—General Provisions

§ 170.1 Definitions.

"Act" means Public Law 89–329, the Higher Education Act of 1965, as amended. Unless otherwise indicated, title references are to titles of the Act. All terms defined in the Act shall have the same meaning as given them in the Act. All references to sections are to sections of this part, unless otherwise indicated.

"Academic facilities," as defined in the Act, are further defined and subdivided into the following categories:

(1) "Instructional and library facilities" means all rooms or areas used regularly for instruction of students, for faculty offices, or for library purposes, and service areas which adjoin and are used in connection with such rooms or areas.

(2) "Instruction - related facilities" means all rooms or areas other than instructional and library facilities which are used for purposes related to the instruction of students, research, or for the general administration of the educational or research programs of an institution of higher education and service areas which adjoin and are used in conjunction with such rooms or areas.

(3) "Health-care facilities," as authorized under Titles VII A and VII C, means infirmaries and all other rooms or areas designed to be used for medical examination or treatment of students and institutional personnel, and service areas which directly serve such rooms or areas.

(4) "Related supporting facilities" means all other areas and facilities which are necessary for the utilization, operation, and maintenance of "instructional and library facilities," "instruction-related facilities," or "health care facilities," as defined above. This term includes building service and circulation areas and central maintenance and utility facilities which serve more than one building, to the degree that such central facilities are designed and used to

serve academic facilities of the aforementioned categories, rather than other, nonacademic facilities such as dormitories, chapels, stadiums, or facilities which are excluded by statute from the definition of eligible academic facilities because they are used by ineligible schools or departments.

(20 U.S.C. 1132e-1)

"Assignable area" means square feet of area in facilities which are designed and available for assignment to specific functional purposes (such as instruction, research, and administration, and including noneligible purposes such as student sleeping rooms, apartments, or chapel rooms). Areas used for general circulation within the building, for public washrooms, for building maintenance and custodial services, or in central maintenance and utility facilities which exist only to support the operation and utilization of other structures on the campus and which are not available for assignment to other specific functional purposes, as illustrated above, shall be classified as nonassignable area.

(20 U.S.C. 1132e-1 (1) and (2))

"Branch campus" means a separately organized unit of an institution of higher education which is located apart from the parent institution and which meets in its own right the definition of an institution of higher education as defined in the Act.

(20 U.S.C. 1141)

"Capacity/enrollment ratio" means the ratio of (1) the square feet of assignable area of instructional and library facilities as defined in paragraph (b)(1) of this section to (2) the total student clock-hour enrollment, at a particular campus of an institution. For purposes of this definition, "student clock-hour enrollment" means the aggregate clock hours (sometimes called contact hours) per week in classes or supervised laboratory or shop work for which all resident students (i.e., students enrolled for credit courses on the campus) are enrolled as of a particular date. Where formally established independent study programs exist, systematically determined equivalents of class or laboratory hours may be included under "student clock-hour enrollment."

(20 U.S.C. 1132a-4)

"Developing institution" means an eligible institution of higher education which has the desire and potential to make a substantial contribution to the higher education resources of our Nation but which for financial and other reasons is struggling for survival and is isolated from the main currents of academic life.

(20 U.S.C. 1051)

"Equipment" means manufactured items which have an extended useful life and are not consumed in use and which have an identity and function which are not lost through incorporation into a different or more complex unit or substance. Equipment is further subdivided into two categories: Built-in equipment and initial equipment.

(1) "Built-in equipment" means equipment which is a permanent part of the structure.

(2) "Initial equipment" means all items of equipment other than built-in equipment, which are necessary and appropriate for the initial functioning of a particular academic facility for its specific purpose. No equipment shall be considered as initial equipment unless it has been acquired or contracted for prior to the date on which the facility is first used for education of students.

(20 U.S.C. 1132e-1(2))

"Full-time equivalent number of students" means:

(1) For purposes of determining State allotments, the number of full-time students enrolled in programs which consist wholly or principally of work normally creditable towards a bachelor's or higher degree plus one-third of the number of part-time students enrolled in such programs, plus 40 percent of the number of students enrolled in programs which are not chiefly transferable towards a bachelor's or higher degree plus 28 percent of the remaining number of such students. Student enrollment figures for each fiscal year for the purposes of this computation shall be those contained in the most recent Office of Education survey containing data on opening fall enrollments in higher education.

(20 U.S.C. 1132a-1, 1132a-2)

(2) For purposes of reporting undergraduate enrollment trends and projections in connection with applications for financial assistance for individual institutions under Title VII A of the Act, the "full-time equivalent number of students" may be defined for each State by the State commission by specific State plan provision. In the absence of such a definition in the applicable State plan, "full-time equivalent number of students" for application purposes shall be the total number of full-time students plus one-third of the number of part-time students. For the purpose of this definition, full-time students are those carrying at least 75 percent of a normal student-hour load.

(20 U.S.C. 1132a-4)

"Institution of higher education, or institution," means only so much of an educational institution in any State as meets the requirements set forth in section 1201(a) of the Act. The term "educational institution" limits the scope of this definition to establishments at which teaching is conducted.

(20 U.S.C. 1141)

"Project" means the facilities (all or a portion of one or more structures) which are eligible for grant or loan assistance under a particular title of the Act, and for which grant or loan assistance is requested in a specific grant or loan application. Only facilities to be part of a unified construction activity and to be constructed on the same campus may be included in the same project application.

(20 U.S.C. 1132e-1(2))

"State commission" means the State agency designated or established in each State which is broadly representative of the public and of institutions of higher education in that State.

(20 U.S.C. 1132a-2)

"State plan" means the document submitted by a State commission and approved by the Commissioner, which sets forth the standards, methods, and administrative procedures whereby the State Commission will review projects proposed by applicants in the State for Federal assistance under Title VII A of the Act, and will determine and recommend the relative priority of each such project and the Federal share of the costs eligible for Federal financial participation for each such project.

(20 U.S.C. 1132a-3(a))

§ 170.2 Office of Education general provisions.

Assistance provided under Title VII of the Act, except Part C thereof is subject to applicable provisions contained in Subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters). Assistance under Part C of Title VII of the Act is, however, subject to Subpart K of Subchapter A of this chapter (relating to construction requirements).

(20 U.S.C. 1132a)

§ 170.3 Modification of general requirement for competitive bidding on contracts for construction and for acquisition and installation of built-in equipment.

(a) Owner-furnished material or equipment may be procured in accordance with the procedures set out in 45 CFR Part 100a, Subpart I (Procurement standards).

(b) In order to assure the eligibility of costs under § 170.5, recipients must obtain the approval of costs to be incurred both before advertising for or soliciting bids and before awarding any construction contract covered under the Act. Such approval will be given only after Federal assistance has been approved for the facility by an appropriate Federal agency.

(20 U.S.C. 1132a-6(a)(2)(F))

§ 170.4 Fiscal control and fund accounting procedures by State commissions.

Each State plan shall contain specific information regarding fiscal control and fund accounting procedures as required by the Commissioner to insure proper disbursement of and accounting for Federal funds which may be paid to the State commission for expenses for the proper

and efficient administration of the State plan.

(20 U.S.C. 1132a–3)

§ 170.5 Retention of records by State commissions.

State commissions shall establish a complete case file on each Title VII–A application received; inform applicants of official actions and determinations by letter or similar type of correspondence, and shall retain records regarding each case for at least 2 years after final action with respect to any such application. In addition, each State commission shall maintain a full record of all hearings on appeals pursuant to section 704(a)(5) of the Act, and all proceedings by which it establishes relative priorities and recommended Federal shares for eligible projects considered as of each specified closing date and shall retain such records for at least 3 years.

(20 U.S.C. 1132a–3(a)(b))

§ 170.6 Determination of costs eligible for Federal participation.

(a) Determination of costs eligible for Federal participation will be based for each individual project, whether application is made under Title VII–A, VII–B, or VII–C of the Act, upon: (1) The date on which a given cost item was incurred or contracted for; (2) whether the cost is an allowable "development cost," as defined in section 782(3) of the Act, and has been incurred in accordance with the requirements set forth in these regulations; (3) the portion of the proposed facility which is eligible under the type of assistance for which the application is submitted; and (4) the amount of any financial assistance under any other Federal program which the applicant has obtained or is assured of obtaining for the project.

(b) For a project for which an application is filed for the first time under any program of the Act on or after July 1, 1972, the following shall be excluded from the eligible development cost:

(1) Any cost for the acquisition of land which was incurred more than 2 years prior to the date an application is filed;

(2) Any cost for the acquisition of an existing structure incurred more than 1 year prior to the date an application is filed;

(3) Any cost for initial equipment incurred before the date an application is filed; or

(4) Any cost for construction (including new construction, remodeling, rehabilitation, or conversion) or for built-in equipment where the contract has been entered into prior to the date an application is filed and prior to the concurrence of the Commissioner in the award of the contract.

(20 U.S.C. 1132e–1 (3) and (4))

(c) With respect to applications for annual interest grants submitted under Subpart E of this part, where the construction contract or contract for the purchase or installation of built-in equipment was entered into on or before July 1, 1966, an exception to the provisions set forth in paragraph (b) of this section may be made by the Commissioner in unusual cases where he finds that the applicant is financially hard pressed and has secured only short-term (not in excess of 5 years) financing of the academic facilities with respect to which the annual interest grant is requested, which short-term financing must be replaced in order to reduce the financial hardships, and where such academic facilities provide significant additional enrollment capacity for disadvantaged students. In making the foregoing findings the Commissioner will take into account:

(1) The number of disadvantaged students enrolled by the college and the percentage of the total enrollment represented by that number,

(2) The number of low-income families residing in the area served by the college and the average family income in that area,

(3) The immediacy of the college's need to obtain new financing, the availability of financing from other sources, and the effect of the burden of the present and proposed new financing on the college's ability to continue serving disadvantaged students,

(4) The number of disadvantaged students who benefit from the facilities for which the college is seeking financing, and

(5) The extent of programs offered by the college to assist disadvantaged students in taking maximum advantage of their educational opportunity.

In no event will an exception be made by the Commissioner pursuant to this paragraph unless the applicant produces evidence that the provisions of § 170.3 have been met and has satisfied the Commissioner that the reasons for the applicant not having timely filed an application or secured the Commissioner's approval as provided for in paragraph (b)(4) of this section were not due to any unwillingness on the part of the applicant to meet such conditions.

(20 U.S.C. 1132c–4)

§ 170.7 Urgency of need for projects of public institutions.

(a) Notwithstanding other project eligibility requirements, the Commissioner under Parts B, C, and D of Title VII of the Act and the State commission under Part A of Title VII of the Act, shall not approve an application for assistance of a public institution of higher education unless the Commissioner or State commission, as appropriate, determines that the need for the project is urgent in light of the capacity of other public institutions of higher education which enroll students from basically the same geographic area as the applicant institution.

(b) If the applicant institution has a history of not serving persons of a particular race, color, or national origin and if there are within the geographic area which the institution serves one or more public institutions of higher education which have a history of not serving persons of another race, color, or national origin, the Commissioner or the State commission, as appropriate, shall not determine that such urgency of need exists unless the applicant provides evidence satisfactory to the Commissioner that the construction and proposed use of the facilities will not establish, increase, or impede the elimination of the racial identifiability of any of these institutions.

(20 U.S.C. 1132a–4, 1132b, 1132c–4, 1132d–1 and Shannon vs. HUD, 436 F 2d 809)

Subpart B—Grants for Construction of Academic Facilities

§ 170.11 Institutional eligibility for grants under section 702 of the Act.

To qualify for a grant from funds allotted pursuant to section 702 of the Act, an institution or a branch campus of an institution shall meet the requirements specified in section 1201(a) and 782(6) of the Act.

(a) An institution which is not accredited by a nationally recognized accrediting agency or association listed pursuant to section 1201 of the Act may qualify, alternatively, by obtaining a certification from the Commissioner (dated no earlier than 2 years prior to the date of filing of the application for a grant) stating that the institution has met the requirements set forth in subsection 1201(a)(5) of the Act.

(b) An institution or a branch campus of an institution shall be determined to be organized and administered principally to provide a 2-year program as specified in section 782(6) of the Act, if:

(1) More than 50 percent of the full-time equivalent student enrollment at the institution or branch campus is in 2-year programs of the types specified in section 782(6) of the Act; and

(2) The application for a grant pursuant to section 702 of the Act contains a statement that the institution or branch campus is organized and administered principally to provide such programs, and such statement is supported by information available to or obtained by the State Commission.

(20 U.S.C. 1132a–1, 1141)

§ 170.12 Institutional eligibility for grants under section 703 of the Act.

To qualify for a grant from funds allotted pursuant to section 703 of the Act, an institution shall meet requirements specified in section 1201(a) of the Act. An institution which is not accredited by a nationally recognized accrediting agency or association listed pursuant to section 1201(a) of the Act may qualify, alternatively, by obtaining a certification from the Commissioner (dated no earlier than 2 years prior to the date of filing of the application for a grant) stating that the institution has met the requirements set forth in subsection 1201(a)(5) of the Act.

(20 U.S.C. 1132a–2)

§ 170.13 Conditions for grant approval.

(a) An application for a grant under Title VII A of the Act shall be approved only if the Commissioner is satisfied, on the basis of information submitted with the application, that:

(1) The facilities included in the Title VII A project are intended for use predominantly in undergraduate instruction, extension, and continuing education programs, and/or health care to students or personnel of the institution;

(2) The requirements of section 705 of the Act will be met; and

(3) The application meets all requirements of section 707(a) of the Act.

(b) In determining whether an institution of higher education shall be eligible for a grant in accordance with section 705 of the Act, the State commission shall base its determination on the following criteria:

(1) To establish whether a substantial expansion of student enrollment capacity, health care capacity, or continuing education capacity is being provided, the State commission must determine that the increase to be provided in any one of the three types of capacities will exceed 10 percent of current capacity, or, in the case of enrollment capacity an increase of 10,000 S.F. of instructional and library space. For purposes of this paragraph student enrollment capacity means "instructional and library facilities," health care capacity means "infirmaries and all other rooms or areas designed to be used for medical examination or treatment of students and institutional personnel," and extension and continuing education capacity means "academic facilities" used principally for extension and continuing education programs of the institution.

(2) To establish whether such substantial expansion or creation of capacity is urgently needed, the State commission shall give consideration to:

(i) The planned enrollment growth of the institution (10 percent over 4 years to be considered minimal growth at existing institutions);

(ii) The capacity enrollment ratio at the campus to be expanded (other utilization measures may be substituted); and

(iii) Serious deficiencies in the quality of programs due to inadequacies in existing space.

(3) As used in section 705 of the Act, "other construction to be undertaken within a reasonable time" means construction approved to start within 1 year of the date of application.

(c) In determining whether an institution of higher education would experience a decrease in enrollment capacity if an urgently needed facility is not constructed, the Commissioner shall give consideration to:

(1) The age and condition of existing instructional and library facilities which will be withdrawn from use, and

(2) Any other factors which will cause facilities to be functionally inadequate for instructional or library purposes.

(20 U.S.C. 1132a-6(a)(2))

§ 170.14 Submission and processing of Title VII A applications.

(a) *Closing dates for filing of applications.* Closing dates for which applications may be filed and accepted by the State commission shall be established in the State plan. For each category of application (i.e., applications for public community colleges and public technical institutes and applications for institutions of higher education other than public community colleges and public technical institutes) the State plan shall provide at least two closing dates for any Federal fiscal year, and all such closing dates shall be between July 31 and February 15: *Provided, however,* That where the Commissioner determines unusual circumstances so warrant, the State plan may provide for a closing date after February 15.

(b) *Submission of project applications.* Applications shall be submitted directly to the appropriate State commission, together with any supplemental information which may be required by the State commission. The State commission shall officially record the date of receipt of each application. Applications must be initially submitted in advance of inviting bids for construction. The application may be considered at only those closing dates which occur no later than 12 months after construction has started.

(c) *Verification of application data and institutional and project eligibility.* Before determining the relative priority or Federal share for any application for grant assistance under Title VII A of the Act, the State commission shall satisfy itself that the data contained in the application appear to be valid, and that the institution and the project appear to meet basic eligibility requirements set forth in the Act and the regulations governing the administration of the Act. In any case where in the opinion of the State commission a question may be raised as to the eligibility of an institution, the State commission shall promptly forward a copy of the application to the Office of Education for a clarification of such eligibility. In any such case, the State commission shall continue to process and rank such application as if it were eligible, but shall delay final action on all applications under the same category considered as of the same closing date until receipt of notification by the Office of Education of the disposition of the eligibility question.

(d) *Determination of relative priorities and Federal shares.* All eligible applications received by each specified closing date shall be considered by the State commission together with others of the same category (i.e., applications for public community colleges and public technical institutes for funds allotted under section 702 of the Act, and applications for all other institutions of higher education for funds allotted under section 703 of the Act) and assigned relative priorities and recommended Federal shares in accordance with the provisions of the State plan.

(e) *Procedures where funds are insufficient to provide full Federal shares for all eligible projects.* (1) In any case where the funds available in a State allotment for projects considered as of a particular closing date are insufficient to cover all eligible applications, the State commission shall nevertheless determine the full Federal share, calculated according to the State plan, for all projects in their order of relative priority, until the remaining available funds are insufficient to provide the full Federal share as calculated for the next project in order of priority.

(2) If the State plan provides for apportionment of the State allotment among closing dates, the State plan may provide also that sufficient funds will be made available immediately, from such funds as were apportioned to later closing dates in the same fiscal year so that the full Federal share as initially calculated will be available for the first project for which only a part of the Federal share would otherwise have been available. In any case where the State allotment is apportioned among closing dates and no such provision is included in the State plan, all projects for which the full Federal share, as calculated, cannot be provided for by the available funds shall be carried over to any subsequent closing dates in the same fiscal year.

(3) If the State allotment is not apportioned among closing dates, or in the case of the last closing date in the fiscal year, the amount of the remaining funds shall be offered as a partial Federal share for the first project in order of relative priority for which less than the full Federal share as calculated is available. The offer and acceptance of such a lesser Federal share shall in no way be deemed to diminish the scope of the project. An applicant which agrees to accept such a partial Federal share shall in all cases have the option to submit a supplemental application as provided in paragraph (e)(1) of this section. If the applicant offered such a partial Federal share declines to accept it, the remaining funds and the application for which the partial Federal share was declined shall be carried over to the next closing date, if any, in the same fiscal year.

(f) *Recommendation by State commissions.* Promptly upon completing its consideration of applications as of each closing date, and no later than March 31 of each Federal fiscal year, each State commission will forward to the Commissioner: (1) A current project report, on forms supplied by the Commissioner, for the pertinent category of applications, listing each application received or carried over from the previous closing date, each application returned to the applicant and the reason for return of such application, each application considered as of the closing date, and the priority and Federal share determined according to the State plan for each project considered and (2) the application form and exhibits in the number of copies requested by the Commissioner, for each

project assigned a priority high enough to qualify for a Federal grant within the amount of funds available in the allotment for the State.

(g) *Notification to applicants.* The State commission shall promptly notify each applicant of the results of all determinations regarding its application as of each closing date, and any applicant shall, upon request in accordance with such orderly procedures as are established by the State commission, be furnished access to the records of official State commission proceedings on the basis of which relative priorities and Federal shares of all applications were determined.

(h) *Disposition of applications which are not recommended for grants.* Applications which are not recommended for a grant within the fiscal year in which they are filed may be retained by the State commission, but the unsuccessful applicants should be notified when there are no longer any funds available in the State allotments for the fiscal year. Applications may be reconsidered the following fiscal year for any project which does not receive a recommendation for a grant and which the applicant states in writing a desire to have reconsidered in a subsequent year. In addition, whenever any application is carried over from one closing date to the next those portions of the application requiring data on enrollments and available instructional, library, and/or health care facilities must be amended to reflect most recent opening fall term data.

(i) *Grant award.* For a Title VII A project application which meets all eligibility requirements the Commissioner will approve the application and reserve Federal funds from the appropriate State allotment and will prepare and send to the applicant a grant award, which sets forth the pertinent terms and conditions of the grant.

(j) *Amendment of project applications.* Any time prior to a closing date for which an application is to be considered, the applicant may make changes in the application by written notification to the State commission. After any such closing date, no changes in applications shall be permitted, except corrections or submission of additional data as requested by the State commission.

(k) *Project changes.* After a project has been forwarded to the Commissioner by the State commission, no substantial changes in the nature or scope of the project shall be approved by the Commissioner without first verifying that such changes would not have affected the State commission's original recommendation of the project for a grant.

(l) *Supplemental applications.* Any time after approval of a Title VII A grant, an applicant may, for reasons of not having received the maximum Federal share allowable under the Act or the applicable State plan, file a supplemental application. The supplemental application shall take the form of a written request to the State commission and should contain all amended application data necessary to assign a priority to the application and to calculate a revised eligible development cost of the project where applicable. In no event, however, will a supplemental application be considered by a State commission (1) for a closing date which is more than 12 months after construction has been started or (2) for a closing date which is after the date the project has been substantially completed, whichever is earlier.

(20 U.S.C. 1132a-6(c))

§ 170.15 Criteria for standards and methods to determine relative priorities of eligible projects.

(a) The State plan shall set forth separately the standards and methods for determining the relative priorities of eligible projects for the construction of academic facilities (1) for public community colleges and public technical institutes and (2) for institutions of higher education other than public community colleges and public technical institutes. The standards and methods set forth for each of the two categories of eligible projects shall provide separately for new institutions or new branch campuses and for established institutions or campuses. Unless otherwise defined in the State plan, a new institution or branch campus (as distinguished from an established institution or branch campus) shall be one which was not in operation and admitting students as of the fourth fall term preceding the date of application for assistance under Title VII A.

(b) The standards for determining relative priorities for established institutions or branch campuses shall include the following, each of which shall be assigned at least the percentage of the total weight assigned to all standards for established institutions or branch campuses:

(1) One or more standards dealing with the planned for and reasonably expected numerical and/or percentage increase in full-time equivalent undergraduate student enrollment at the campus at which the facilities are to be constructed occurring between the opening of the fall term which opened preceding the closing date for which the application is being considered and the opening of either the third, fourth, or fifth term thereafter (at least 20 percent of total weight with priority advantage given to higher numerical and/or percentage increases).

(2) One or more standards (at least 10 percent of total weight) dealing with the amount and/or percentage by which the construction of the project will increase or replace the assignable area in instructional and library facilities and health care facilities on the campus at which the facilities are to be constructed.

(3) One or more standards designed to favor projects for institutions or branch campuses which are most effectively utilizing their existing academic facilities (at least 10 percent of total weight).

(4) A standard (at least 5 percent of total weight) designed to favor projects submitted by institutions or branch campuses that are committed to the enrollment of a substantial number of students from low-income families.

(5) A standard (at least 5 percent of total weight) designed to favor projects submitted by institutions or branch campuses which are committed to the enrollment of a substantial number of veterans returning to civilian life.

(c) The standards for determining relative priorities for new institutions or branch campuses shall include the following, each of which shall be assigned at least the indicated percentage of the total weight assigned to all standards for new institutions or branch campuses:

(1) A standard dealing with the planned for and reasonably expected numerical increase in full-time equivalent undergraduate student enrollment at the campus at which the facilities are to be constructed occurring between the opening of the fall term which opened preceding the closing date for which the application is being considered and the opening of either the third, fourth, or fifth fall term thereafter (at least 30 percent of total weight, with priority advantage given to higher numerical increases).

(2) A standard (at least 10 percent of total weight) dealing with the amount by which the construction of the project for which a Title VII A grant is requested will provide for assignable area in instructional and library facilities and/or health care facilities on the campus at which the facilities are to be constructed.

(3) A standard (at least 5 percent of total weight) designed to favor projects submitted by institutions or branch campuses that are committed to the enrollment of a substantial number of students from low-income families.

(4) A standard (at least 5 percent of total weight) designed to favor projects submitted by institutions or branch campuses which are committed to the enrollment of a substantial number of veterans returning to civilian life.

(d) The State plan may include additional standards for determining relative priorities which are not inconsistent with the standards set forth in paragraphs (b) and (c) of this section and which will carry out the purposes of the Act.

(e) The methods for application of the standards for determining relative priorities shall provide for the assignment of point scores for each standard applied, such that the potential total score for each project will be the same whether the project is for a new institution or branch campus or for an established institution or branch campus. The assignment of points for each standard may be by any one of the following methods or by similar objective methods, a different one of which may be used in connection with each standard:

(1) Applications may be ranked according to relative performance for the standard, and assigned a point score for relative rank (e.g., 10 points placement

in the highest 10 percent, 9 points for placement in the second highest 10 percent, 8 points for placement in the third highest 10 percent, etc.).

(2) Applications may be compared to a scoring table for the standard, and assigned points accordingly (e.g., for numerical increase in full-time equivalent undergraduate enrollment, a scoring table might provide for 10 points for an increase of 1,000 or more, 8 points for an increase of 800–999, 6 points for an increase of 600–799, etc.).

(3) Applications may be compared to a fixed requirement for the standard, and assigned points if they meet the requirement or denied points if they do not. This type of scoring should be used where comparison against the standard involves a "yes—no" decision (e.g., Is the proposed project located in a geographic area of the State in which an unfilled need for creation or expansion of undergraduate enrollment capacity has been documented in a statewide study? If "yes," award 5 points if "no," award 0 points).

(f) The methods for application of the standards shall provide for determination of relative priorities on the basis of the total of the points earned by each application for each applicable standard and shall specify factors to be applied in determining which application shall receive the higher priority in the case of identical scores.

(g) The standards and methods for determining relative priorities must be developed on the basis of information which is to be submitted on the application form prescribed by the Commissioner, or required by the State commission to be submitted on supplemental State forms to accompany the application, or contained in published reports or publications readily available to the State commission and to all institutions within the State. Whenever supplemental forms or definitions or data in public reports or publications are to be used in connection with optional State plan standards, the State plan shall include a section setting forth such definitions and supplementary data sources and an appendix illustrating the supplemental State forms.

(h) In no event shall an institution's readiness to admit out-of-State students be considered as a priority factor adverse to such institution and in no event may the nature of the control or sponsorship of the institution, or the fact that construction of the project had commenced, or that part of the cost of a project has been incurred before or under a contract entered into prior to the date of the application, be considered as a priority factor either in favor of, or adverse to, an institution.

(20 U.S.C. 1132a–5(a))

§ 170.16 Criteria for standards and methods to determine Federal shares of eligible projects.

(a) Unless the Federal share is specified in the State plan as a uniform percentage of the costs eligible for Federal financial participation, the State plan shall prescribe the standards and methods in accordance with which the State commission shall determine the Federal share of such costs, but in no event may the Federal share of a project exceed the percentage of the eligible project development cost specified by the Act.

(b) Standards and methods for determining the Federal share pursuant to paragraph (a) of this section: (1) Must be objective and simple to apply; (2) may involve the use only of data which are to be submitted on the application form prescribed by the Commissioner, required by the State commission to be submitted on supplemental State forms to accompany the application, or contained in reports or publications readily available to the State commission and the institutions of higher education in the State; (3) must be such as will enable an applicant to calculate in advance (on the assumption that sufficient funds will be available to cover all applications) the minimum Federal share of the estimated eligible project development cost which the State commission will certify to the Commissioner if it recommends the project for a Federal grant; and (4) must be consistent with criteria published by the Commissioner with respect to the determination of relative priorities among projects and be promotive of the purposes of the Act.

(20 U.S.C. 1132a–5(b))

§ 170.17 State plans.

(a) A State plan shall be submitted to the Commissioner no later than 60 days prior to the first closing date of each fiscal year that the State desires to participate in the Title VII A grant program. The Commissioner shall approve a State plan and annual revision upon the basis that he has received satisfactory assurance and explanation regarding the basis on which the State commission submitting the plan meets the requirements of section 704(a) of the Act. A new or revised State plan submitted in accordance with section 704 of the Act shall be submitted on forms or in a format supplied by the Commissioner and shall contain all provisions required by the Commissioner pursuant to section 704 of the Act and other sections of the regulations in this part, together with such additional organizational and administrative information as the Commissioner may request.

(b) All proposed amendments to the State plan shall be submitted to the Commissioner for his approval in such form and in accordance with such instructions as are established for that purpose. Such amendments shall apply uniformly to all applications to be considered together as of any closing date, and, unless otherwise provided in the State plan, shall become effective immediately upon approval by the Commissioner, except that in no event shall any amendment which affects the standards and methods for determining priorities or Federal share or any amendment providing for an additional closing date or for the change in an existing closing date become effective sooner than 60 days after the date the proposal to make such amendment is received by the Commissioner and 30 days after the date of the Commissioner's approval of the amendments as a part of the State plan: *Provided, however,* That amendments which are required by amendments of the Act or of these regulations or are designed to implement promptly amendments of the Act or of these regulations may be effective immediately upon their approval by the Commissioner.

(c) State plan amendments conforming to the provisions in these regulations regarding determination of priorities shall be submitted and approved prior to State commission actions on any Title VII A applications for closing dates later than April 1, 1973.

(20 U.S.C. 1132a–3)

§ 170.18 Adjustments in amount of Federal share.

In any case where the costs eligible for Federal participation are determined to be less than those provided for in the grant award, the Commissioner shall redetermine the amount of the Federal share which would have been recommended for the project, based on the lesser eligible cost, under State plan provisions in effect at the time the project was recommended for a grant, as if sufficient funds had been available in the State allotment at that time to provide the maximum Federal share provided for by the plan. If such redetermined Federal share entitlement is less than the maximum amount authorized by the grant award the grant shall be reduced accordingly, and any overpayment of Federal funds shall immediately be due to the Government of the United States. If such redetermined Federal share is equal to or greater than the maximum amount of the Federal share authorized by the grant award, the final settlement shall be based on the Federal share amount authorized by the grant award.

(20 U.S.C. 1132a–6(c))

Subpart C—Grants for Construction of Graduate Academic Facilities

§ 170.41 Eligibility for grants.

Grants for construction of academic facilities from funds appropriated under Title VII B of the Act may be made only to assist institutions of higher education and cooperative graduate center boards in the construction of such academic facilities, including facilities essential to their operation, as will be dedicated to the provision of graduate education.

(20 U.S.C. 1132b(a))

§ 170.42 Submission of applications.

Applications covered by this subpart may be submitted by institutions of higher education or by cooperative graduate center boards as defined in section 782(8) of the Act. Such applications shall be submitted at such time and in such manner as may be prescribed by the Commissioner and will be processed by the staff of the Office of Education

in the order of their receipt. Upon the completion of such processing as is appropriate, each application will be submitted to the panel of specialists for their review and evaluation. Applications must be submitted in advance of inviting bids for construction.

(20 U.S.C. 1132b–1 (a) and (b))

§ 170.43 Facilities panel.

The Commissioner shall not approve any application for a grant under this title until he has obtained the advice and recommendations of a panel of specialists who are not employees of the Federal Government and who are competent to evaluate such applications. The panel of specialists shall review all applications in the light of the criteria set forth in § 170.44 and shall make recommendations to the Commissioner for the approval or disapproval, in whole or in part, of each such application.

(20 U.S.C. 1132b–1(b))

§ 170.44 Criteria for evaluating applications.

In determining relative priorities in recommending grants against available funds consideration shall be given, but not limited to, the following factors which are not necessarily listed in the order of their importance:

(a) The extent to which the programs to be assisted by the proposed construction will contribute toward the establishment or development of a graduate school or cooperative graduate center of excellence, or the extent to which such program or programs will contribute toward the improvement of an existing graduate school or cooperative graduate center.

(b) The extent to which the proposed construction will increase the capacity of the institution to supply highly qualified personnel critically needed by the community, industry, government, research, and teaching.

(c) The extent to which the proposed construction will assist in attaining a wider distribution throughout the United States of graduate schools and cooperative graduate centers.

(d) The capability of the applicant to give full financial support to its program generally, and specifically to the programs of graduate education to be assisted by the proposed construction.

(e) The extent to which the program or programs to be assisted by the proposed construction are likely to draw to the institution both graduate students and faculty of a high level of competence.

(f) The adequacy of applicant's existing academic facilities with respect to the present demands made on them and the demands that can reasonably be expected to be made on them in the foreseeable future, with particular reference to the adequacy of those facilities, if any, available for the conduct of the program or programs to be assisted by the proposed construction.

(g) The extent to which the proposed construction would contribute significantly to the increase in both or either the quantity or quality of graduate education in a relatively wide geographical area.

(20 U.S.C. 1132b(a))

Subpart D—Loans for Construction of Academic Facilities

§ 170.51 Eligibility for loans.

Loans may be made only for construction of academic facilities for institutions of higher education or for cooperative graduate centers.

(20 U.S.C. 1132c(a)(2))

§ 170.52 Submission of applications.

Each institution, cooperative graduate center board or higher education building agency desiring a loan for the construction of academic facilities shall submit an application for such assistance, in the manner and containing the information specified by the Commissioner. Applications must be submitted in advance of inviting bids for construction.

(20 U.S.C. 1132c)

§ 170.53 Special terms and conditions.

Before approving a loan the Commissioner will require:

(a) Satisfactory evidence that the applicant has or will have a fee simple or such other estate or interest in the facilities and site, access thereto, sufficient in the opinion of the Commissioner to assure undisturbed use and possession for the purpose of the construction and operation of the facilities for not less than 50 years from the date of application.

(b) Satisfactory evidence of the ability of the applicant to comply with the appropriate terms and conditions for repayment of the loan.

(c) Satisfactory evidence that the applicant has the necessary legal authority to finance, construct, and maintain the proposed facilities, to apply for and receive the proposed loan, and to pledge or mortgage any assets or revenues to be given as security for the proposed loan.

(d) Satisfactory assurances that the project for which the loan is requested is related to a plan for development of the institution, branch campus, or cooperative graduate center for which it will be constructed, and is associated with either a planned increase in student enrollment or a planned improvement in the instructional programs offered by the institution, branch campus, or cooperative graduate center.

(e) Satisfactory assurance that the applicant will not mortgage to others without the consent of the Commissioner the facility to be constructed with the assistance of the loan during the life of the loan.

(20 U.S.C. 1132c–2(b)(1))

(f) Satisfactory assurance that not less than 20 percent of the development cost of the facility will be financed from non-Federal sources except that in the instance of an institution qualifying as a developing institution pursuant to Title III of the Act, the applicant is not required to provide such an assurance.

(20 U.S.C. 1055(b)(1); 1132c–1(a))

§ 170.54 Determination of nonavailability of equally as favorable terms and conditions.

No loan will be made unless the Commissioner finds that the applicant is unable to secure the amount of such loan from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this part. For the purpose of making such determination, the applicant shall be required to comply with such procedures as the Commissioner may establish, including, where deemed necessary, public advertising for bids from other sources.

(20 U.S.C. 1132c–1(a)(2))

§ 170.55 Forms of evidence of indebtedness.

The evidence of indebtedness shall be in such form as may be prescribed by the Commissioner.

(20 U.S.C. 1132c–1(b))

§ 170.56 Security for loans.

All loans shall be secured in a manner which the Commissioner finds sufficient to reasonably assure repayment. The security may be one or a combination of the following:

(a) A first mortgage on the facilities and site thereof.

(b) Negotiable stocks or bonds of a quality and value acceptable to the Commissioner.

(c) A pledge of unrestricted and unencumbered income from an endowment or other trust funds acceptable to the Commissioner.

(d) A pledge of a specified portion of annual general or special revenues of the institution, acceptable to the Commissioner.

(e) General obligations of a State or local public body.

(f) Such other types of security as the Commissioner may find acceptable in specific instances.

(20 U.S.C. 1132c–1(b))

§ 170.57 Length and maturity of loans.

(a) The maximum repayment period for loans under Title VII C of the Act shall be 30 years, except where the Commissioner finds that a longer repayment period is required.

(b) Substantially level total annual installments of principal and interest, sufficient to amortize the loan from the third year through the final year of the life of the loan, will be required unless otherwise authorized by the Commissioner.

(c) Loans maturing in less than 30 years, or loans which do not mature serially, may be considered by the Commissioner in order to fit any such loan into an applicant's total financial plan.

(d) In no case shall a loan repayment period exceed the estimated useful life

of the facilities to be constructed with the assistance of the loan.

(20 U.S.C. 1132c-1(b))

§ 170.58 Bond Counsel opinion.

At appropriate stages in the loan application and development procedure, a legal memorandum or opinion of bond counsel will be required with respect to the legality of the proposed bond or note issue, the legal authority to offer the issue and secure it by the proposed collateral, and the legality of the issue upon delivery. "Bond Counsel" means either a law firm or individual lawyer, thoroughly experienced in the financing of construction projects by the issuance of bonds, and whose approving opinions have previously been accepted by purchasers of bonds offered at public sales. In addition, where the borrower is a public institution or agency, the proposed bond counsel shall be a recognized bond counsel in the municipal field. The legal memorandum or opinion to be provided by such an acceptable bond counsel in each case generally shall be as follows:

(a) A memorandum by bond counsel, submitted with the loan application, stating that there is or will be authority to finance, construct, maintain the project, and to issue the proposed obligations and to pledge or mortgage the assets and/or revenues offered to secure the loan, citing the basis for such authority.

(b) A preliminary approving opinion of bond counsel, submitted at the time the applicant proposes to advertise for construction bids for the project, to the effect that when the bonds or notes described in the loan agreement are sold and delivered they will comply with the applicable provisions of the loan agreement and will be valid and binding obligations of the issuer and will be payable in accordance with their terms.

(c) The final approving opinion of bond counsel, delivered at the same time as the delivery of the bonds or notes, stating that the bonds or notes (1) are those described in the loan agreement and the authorizing proceedings, (2) have been duly authorized, sold, and delivered to the Commissioner, and (3) constitute the valid and binding obligations of the issuer payable in accordance with their terms.

(20 U.S.C. 1132c-2(b)(6))

§ 170.59 Determination of priorities for loan approvals.

Loan applications shall be processed in such order and according to such standards and methods as the Commissioner may determine. Such standards and methods shall be developed as may be neessary and appropriate to encourage distribution of the available loan funds in accordance with actual needs and may include establishment of closing dates for consideration of applications and for determination of priorities.

(20 U.S.C. 1132c-2(b))

§ 170.60 Loan agreement.

For project applications which meet all requirements of the Act and of the regulations governing the administration of the Act, and upon approval by the Commissioner together with a reservation of Federal funds, a loan offer will be prepared by the Commissioner and sent to the applicant. The loan offer will set forth the pertinent terms and conditions for the loan, and will be conditioned upon the fulfillment of these terms and conditions. The accepted loan offer will constitute the loan agreement between the Commissioner and the applicant for the partial financing of the construction of the approved project.

(20 U.S.C. 1132c-2(b))

§ 170.61 Loan closing.

Loan closing shall be accomplished at such time as may be determined by the Commissioner.

(20 U.S.C. 1132c-2(b))

§ 170.62 Interim financing.

If necessary, the applicant shall arrange for interim financing, subject to the approval of the Commissioner, to cover the cost of construction pending the loan closing. Where the Commissioner finds that an applicant is unable to secure necessary interim financing on reasonable terms, he may provide for advances against the approved loan.

(20 U.S.C. 1132c-2(b))

§ 170.63 Construction fund.

The proceeds of the sale of the bonds or notes, any interim advances against the approved loans, and all other moneys to be used in paying for the construction, of which the project is a part, shall be deposited into a separate bank account to be maintained in a bank of the applicant's choice and to be known as the Construction Fund. All expenditures for the construction shall be made from this fund. Accounting for this fund shall be in accordance with generally accepted accounting principles. When necessary and appropriate, the Commissioner may approve other arrangements for the deposit of construction funds and the construction fund accounting, provided such arrangements provide adequate accountability for the total construction receipts and expenditures.

(20 U.S.C. 1132c-2(b))

§ 170.64 Investment of idle construction funds.

Where the moneys on deposit in the construction fund exceed the estimated disbursements for the project for the next 90 days, the borrower shall, if permitted by State or local law, direct the depository bank to invest such excess funds in direct obligations of the U.S. Government or obligations the principal of or interest on which is guaranteed by the U.S. Government, which shall mature not later than eighteen (18) months from the date of such investment.

(20 U.S.C. 1132c-2(b))

§ 170.65 Disposal of balance remaining in the construction fund.

The balance of moneys remaining in the construction fund at the completion of construction shall be disposed of in accordance with the provisions of the loan agreement.

(20 U.S.C. 1132c-2(b))

Subpart E—Annual Interest Grants for Construction of Academic Facilities

§ 170.71 Eligibility for annual interest grants.

(a) Annual interest grants may be made to institutions of higher education, higher education building agencies, and cooperative graduate center boards, to reduce the cost to them of borrowing funds, other than those available under this part, for the construction of academic facilities.

(20 U.S.C. 1132c-4)

(b) No annual interest grant shall be made unless the Commissioner finds that the applicant is unable to secure a loan in the amount with respect to which the annual interest grant is to be made, from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to direct Federal loans under Subpart D of this part. For the purpose of making such determination, the applicant shall comply with such procedures as the Commissioner may establish, including public advertising for bids from other sources.

(20 U.S.C. 1132c-4(e)(2))

(c) Annual interest grants may not be made with respect to loans consummated prior to the filing of an application under this subpart or Subpart D of this part.

(20 U.S.C. 1132c-4(3)(2))

(d) Annual interest grants may not be made with respect to loans (or portions thereof) which cover a construction activity that was begun more than 12 months before the closing date for which consideration is being requested, unless an exception is granted specifically pursuant to § 170.7(c).

(20 U.S.C. 1132c-3(b)(1))

§ 170.72 Amount of annual interest grants.

Except where limitation of general applicability is promulgated, each grant shall be in an amount approximately equal to but not more than the difference between (a) the average annual debt service which is required to be paid, during the life of the loan, on the amount borrowed from private sources for the construction of an academic facility covered by the application, and (b) the average annual debt services which the institution would have been required to pay, during the life of the loan, with respect to such amount if the applicable interest rate were 3 percent per annum. The amount of the annual interest grant stipulated in the agreement may be amended by the Commissioner to reflect changes in the amount or terms of the loan. An increase in the annual grant amount resulting from a request to increase the amount of loan to be subsidized must be made not later than 12

months after construction has started, through the submission of an amended application and is subject to priority considerations applicable at the time such a supplemental request is filed. A request for an increase in the annual grant amount resulting from a change in the rate of interest or the term at the time of actual consummation of the loan will be considered apart from the priority ranking system.

(20 U.S.C. 1132c-4(b))

§ 170.73 Submission of applications.

Each applicant desiring to receive annual interest grants shall submit an application for such grant assistance, in the manner and containing the information specified by the Commissioner. A copy of each application shall be furnished to the State Commission prior to filing with the Regional Office. The Commission will review and evaluate the application and provide comments regarding (a) space utilization, (b) enrollment projections, and (c) over-all need for the facility for which assistance is requested. Following its review, the State Commission will furnish its evaluation to the applicant. If the applicant does not agree with the evaluation, the applicant may include, with the application, a statement supporting its counter position. Applications then shall be submitted to the appropriate Regional Office of the Department of Health, Education, and Welfare together with all required State agency comments. Applications must be submitted in advance of inviting bids for construction.

(20 U.S.C. 1132c-4)

§ 170.74 Condition for approval of annual interest grants.

An application for annual interest grants will be approved only if the Commissioner is satisfied that:

(a) The facilities to be constructed are urgently needed to accommodate more students or to replace inadequate facilities in order to prevent a decrease in student enrollment capacity;

(b) Funds will be available as required to pay the total development cost to the facilities;

(c) The applicant has or will have a fee simple or such other estate or interest in the facilities and site, including access thereto, sufficient in the opinion of the Commissioner to assure undisturbed use and possession for the purpose of the construction and operation of the facilities for not less than 50 years from the date of application;

(d) The applicant has the necessary legal authority to finance, construct, and maintain the proposed facilities, to apply for and receive the proposed loan and annual interest grants, and to pledge or mortgage any assets or revenues to be given as security for the proposed loan; and

(e) The applicant's financing plan meets the conditions of § 170.76 and is otherwise practicable and feasible.

(20 U.S.C. 1132c-4)

§ 170.75 Limits governing extent of Federal assistance.

The principal amount of loan (or portion thereof) on which an annual interest grant is approved, together with the amount of any other Federal financial assistance the applicant has obtained or is assured of obtaining under any other Federal program, may not exceed 90 percent of the eligible development cost. Further, the aggregate principal amount of loans (or portions thereof) with respect to which annual interest grants are approved during any Federal fiscal year may not exceed $5 million per campus.

(20 U.S.C. 1132c-4)

§ 170.76 Approval of financing plans.

(a) Except as provided in paragraph (b) of this section, in order to be acceptable a financing plan submitted pursuant to § 170.73 must:

(1) Provide that the term of the loan with respect to which an annual interest grant is to be paid does not exceed 30 years or the useful life of the facilities with respect to which such annual interest grant is to be made, whichever is the lesser;

(2) Provide that such loan is to be repaid in substantially level annual installments of interest and principal over the term of the loan, except that interest only may be paid for an initial period not exceeding 5 years; and

(3) Contain such other terms and conditions as will assure the Commissioner that the support provided by the Government over the term of the loan is no more than is necessary to effectuate the purposes of this subpart.

(b) Financing plans may also be acceptable where the term of the loan is longer than 30 years or the annual installments of interest and principal are not substantially level, if the Commissioner finds that unusual circumstances warrant such exception: *Provided, however,* That in no event shall the term of the loan exceed 40 years.

(20 U.S.C. 1132c-4)

§ 170.77 Evidence of lowest possible cost of loan.

An applicant shall demonstrate to the satisfaction of the Commissioner that the loan it proposes to obtain is at the lowest possible net interest cost. In the case of an applicant proposing to issue tax-exempt bonds to finance the construction of academic facilities, a sale pursuant to public advertising or bids for the securities in an advertising medium acceptable to the Commissioner will be deemed to meet this requirement. Prior to advertising bonds for sale, the applicant shall submit to the Commissioner for approval a draft of the proposed notice of sale and a statement of essential facts concerning the sale. An applicant not issuing tax-exempt securities will be expected to submit offers from at least three (3) lending institutions normally engaged in making long term construction loans. The applicant must have furnished each such institution with the information necessary to enable it to specify in its offer the amount, interest rate, maturity period, security and prepayment provisions of the loan. A loan offer must be approved by the Commissioner before the applicant enters into a firm and binding agreement with a lender.

(20 U.S.C. 1132c-4)

§ 170.78 Annual interest grant agreement.

Upon approval of an application for annual interest grant, the Commissioner shall prepare and send to the applicant a proposed agreement, which shall contain the terms and conditions relating to the receipt of an annual interest grant including a description of the project and the facilities, the maximum principal amount of the loan (or portion thereof) on account of which annual interest grants payments will be made, the maximum annual grant amount and the anticipated terms of the annual interest grant payments. The proposed agreement shall also provide that where a loan is not consummated prior to execution of such agreement by the Commissioner, no grant shall be made thereunder unless the Commissioner concurs in the rate of interest and other terms and conditions of the loan. The agreement once executed by the applicant and the Commissioner creates a contractual obligation on the part of the Commissioner to make annual interest grants in future years in accordance with the terms and conditions of the agreement for so long as the applicant carries out its obligations under the agreement. The agreement for annual interest grants is not entered into for the benefit of, nor to induce the making of loans by or the sale of bonds to, third parties, and the Commissioner shall not entertain grievances or claims of such third parties.

(20 U.S.C. 1132c-4)

§ 170.79 Payment of annual interest grants.

Payments under an annual interest grant agreement will be made by the Government once a year. The date of such payment will coincide as closely as possible with the anniversary date of the loan or, a date during the year when debt service requirement related to the loan is greatest. Once established, the payment date shall remain fixed for the duration of the loan. The first payment shall accrue from a date not earlier than the date of initial use of the project to the date established for the annual payment. The last payment will accrue from the effective date of the next-to-last payment to the date the loan is completely repaid. Payment of annual interest grants shall be made directly to the grantee or to a trustee, paying agent, or lender pursuant to an assignment of such payments by the grantee.

(20 U.S.C. 1132c-4)

§ 170.80 Reduction of grant where refinancing produces lower costs.

Where the Commissioner finds that the applicant could have accelerated repayment of the loan outstanding and obtained a new loan where to do so would have resulted in a net savings in the cost of the loan, the amount of annual interest grants shall be computed as if such refinancing had been undertaken.

(20 U.S.C. 1132c–4)

§ 170.81 Priority considerations; closing dates.

Priority shall be given first to applications from public community colleges and public technical institutes, developing institutions (as defined in § 170.1) and to institutions enrolling 20 percent or more students from low-income families. All applications from other institutions of higher education will be considered next. Within the two priority categories, applications shall be processed in such manner as is appropriate to encourage distribution of the available funds to those institutions or branch campuses that are (a) in urgent need of additional academic facilities to meet increasing enrollments or to prevent a decrease in enrollment due to inadequate facilities and (b) committed to the enrollment of substantial numbers of veterans. Closing dates by which applications must be filed in order to be considered for funds allocated for such closing date shall be on September 1 and February 1 in each fiscal year in which funds are available unless otherwise announced by the Commissioner. Applications filed by September 1 will be considered as filed for the February 1 closing date. Available funds will be divided equally among closing dates.

(20 U.S.C. 1132c–4)

§ 170.82 Preceding provisions not exhaustive of authority of Government.

The provisions of this subpart are not exhaustive of the authority of the Government to impose, at such time as it may deem appropriate, further limitations respecting the amount of the annual interest grant or the amount on which such grant is based.

(20 U.S.C. 1132c–4)

[FR Doc.74–16755 Filed 7–22–74;8:45 am]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER A—GENERAL PROVISIONS

[General Order 16, Amdt. 11; Docket No. 74–13]

PART 502—RULES OF PRACTICE AND PROCEDURE

Enlargement of Time for Commission Action Upon Protests Against Tariff Changes

The Commission instituted this proceeding by notice of proposed rulemaking published in the FEDERAL REGISTER on April 18, 1974, to amend § 502.67(a) of its rules of practice and procedure (Rule 5(g)(1)). The purpose of the amendment is to provide the Commission a 15-day period in which to act upon protests against tariff changes rather than the existing 13-day period.

This proposed extension resulted from a determination that frequently there is not enough time for staff evaluation of the protests or replies thereto and consideration by the Commission. The proposed 15-day period, it was felt, would allow a reasonable time for replies to protests, proper analysis by the staff of the Commission and submission of recommendations for timely consideration by the Comission.

Thus, to remedy the current drawback it was proposed that § 502.67(a) be amended to provide as follows:

§502.67 Proceedings under section 3 of the Intercoastal Act.

(a) Protests against proposed changes in tariffs, invoking section 3 of the Intercostal Shipping Act, 1933, may be made by letter, telegram, or radiogram, and shall be filed with the Director, Bureau of Compliance, not later than fifteen (15) days prior to the proposed effective date of the change unless the Commission permits the filing of the change in less than fifteen (15) days prior to the proposed effective date thereof, pursuant to the provisions of section 2 of the Intercoastal Act. Every protest shall clearly identify the tariff in question, give specific reference to the items opposed, set forth the grounds for opposition to the change, including a reference to the section or sections of the shipping acts alleged to be violated, shall be subscribed and verified, and shall be served upon each carrier whose traiff is protested or the issuing agent. Protests sent by telegraph or radiogram shall be confirmed promptly by letter signed by the person making the protest or by someone in his behalf, and shall be subscribed and verified. Replies thereto shall conform to the requirements of § 502.74 (Rule 5(n)).

Comments in response to the Commissions Notice of Proposed Rulemaking were received from the Commonwealth of Puerto Rico (Commonwealth), Sea-Land Service, Inc. (Sea-Land), and TMT Trailer Ferry, Inc. (TMT).

The Commonwealth did not object to the proposed amendment, provided § 502.67 was further amended by the addition of a new subsection (c), reading as follows:

(c) The Commission will not consider any information submitted in justification of proposed changes in traiffs unless such information is also made available to any person requesting such information.

According to the Commonwealth, no party can be expected to formulate a sound protest if it is prevented from analyzing the very information which purportedly justifies the tariff change.

In proposing its revision to § 502.67, the Commonwealth noted that the Commission staff was generally unwilling to release any information filed in justification of a tariff change without the consent of the carrier involved, on the ground that the information is shielded from disclosure to other persons by 46 CFR 503.35, which relates to the availability of records.[1]

The Commonwealth took the position that § 503.35 does not provide a sound basis for withholding information submitted by a carrier in justification of a tariff change from a party which may intend to protest the change. According to the Commonwealth, "there is little doubt that justification information is not truly confidential information, and that it should not be treated as such."

It is the opinion of this Commission that while a carrier may voluntarily divulge records, an amendment requiring that information given to the Commission in confidence be divulged by this Commission to any person requesting it flies in the face of the clear prohibition of the regulation.

While Sea-Land in its comments generally endorsed the revision originally proposed, it also urged favorable consideration of four specific recommendations. The Commission has carefully considered these recommendations and finds, for reasons stated below, none of them to be presently appropriate or acceptable.

First Sea-Land suggested that the Commission ensure in the proposed amendment that tariff filings be available to the public not later than the day filed. At the present time, it is Commission policy to make available all tariff publications in the public file room for inspection and copying as soon as possible after receipt by the Commission. As a result, in the majority of cases tariff publications are available in the public file room the next business day following receipt by the Commission.

The second recommendation of Sea-Land would have Rule 5(g)(1) amended to require simultaneous service of a protest upon the carrier. It is the opinion of this Commission that such a revision would be accomplished in separate proceedings rather than with the confines of the current proceedings and the matter will be given consideration.

Additionally, Sea-Land would have the Commission grant respondents seven days to file replies to protests prior to the proposed effective date. The time limit which Sea-Land urges upon the Commission in which to allow for replies to protests would replace the burden which this rule is designed to avoid by imposing an additional action of the Commission within the time period provided in the rule.

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[1] 46 CFR 503.35, Exceptions to Availability of Records, provides that:

The following records shall not be available * * *

(d) Information given in confidence. This includes information obtained by or given to the Commission which constitutes trade secrets, confidential commercial or financial information, privileged information or other information which was given to the Commission in confidence or would not customarily be released by the person from whom it was obtained.

Finally, Sea-Land would have the Commission adopt a practice whereby both protestant and respondent are given notification by telephone of the Commission's decision one full day prior to the proposed effective date. While the Commission may in practice afford parties this accommodation, such a practice need not be reduced to the rigidity of a requirement under this rule.

TMT noted that they frequently find themselves hard pressed to analyze the material, prepare and file a protest within the present time frame. They argued that to reduce their time to do so by an additional two days would, in many cases, prevent a legitimate protest on their part from being recognized by the Commission by virtue of being time-barred. TMT, therefore, requested the Commission reconsider the proposed amendment.

While this Commission realizes that the time in which a person wishing to protest a tariff change may file that protest will be decreased by two days, we do not believe that this limitation is as severe as TMT alleged. We doubt that such a two-day reduction would, in many cases, lead to time-barred legitimate protests where diligence applied by the party protesting. We think this suggestion a bit exaggerated in light of the countervailing benefits provided by two more days of Commission examination.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and section 43 of the Shipping Act, 1916 (46 U.S.C. 841a), § 502.67(a) of 46 CFR Part 502 is revised to read as follows:

§ 502.67 Proceedings under section 3 of the Intercoastal Act.

(a) Protests against proposed changes in tariffs, invoking section 3 of the Intercoastal Shipping Act, 1933, may be made by letter, telegram, or radiogram, and shall be filed with the Director, Bureau of Compliance not later than fifteen (15) days prior to the proposed effective date of the change unless the Commission permits the filing of the change in less than fifteen (15) days prior to the proposed effective date thereof, pursuant to the provisions of section 2 of the Intercoastal Act. Every protest shall clearly identify the tariff in question, give specific reference to the items opposed, set forth the grounds for opposition to the change, including a reference to the section or sections of the shipping acts alleged to be violated, shall be subscribed and verified, and shall be served upon each carrier whose tariff is protested or the issuing agent. Protests sent by telegraph or radiogram shall be confirmed promptly by letter signed by the person making the protest or by someone in his behalf, and shall be subscribed and verified. Replies thereto shall conform to the requirements of § 502.74 (Rule 5(n)).

Effective date. Since all substantial objections and comments which have been raised were answered, this rule shall be effective August 22, 1974.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.74-16698 Filed 7-22-74;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 19963 RM-2250, RM-2263, RM-2268, RM-2269, RM-2290, RM-2291, RM-2294; FCC 74-755]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Certain Cities; Table of Assignments

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Johnstown, Ohio; Boyne City, Mich.; Glennville, Ga.; Kilmarnock, Va.; Pinckneyville, Ill.; Huntingdon, Tenn.; and Graham, Texas.)

1. The Commission has before it the notice of proposed rulemaking adopted March 7, 1974 (39 FR 9987), inviting comments on a number of changes in the FM Table of Assignments (§ 73.202(b) of the rules). The communities, channel assignments proposed, and petitioning parties are as follows:

RM-2250	Channel 276A to Johnstown, Ohio[1]	(Richard N. Seiler, Jr.; Robert G. Shaw; John W. Smith)
RM-2263	Channel 228A to Boyne City, Michigan	(William F. Gipperich)
RM-2268	Channel 292A to Glennville, Georgia[1]	(Tattnall County Broadcasting Company)
RM-2269	Channel 269A to Kilmarnock, Virginia	(Northern Neck & Tidewater Broadcasting Co., Inc.)
RM-2290	Channel 280A to Pinckneyville, Illinois[1]	(Coalbelt Broadcasters)
RM-2291	Channel 265A to Huntingdon, Tennessee[1]	(Ernest Vickers, Jr.)
RM-2294	Channel 296A to Graham, Texas	(KSWA, Inc.)

2. In each of the above cases, the petitioner seeks the assignment of a first Class A FM channel without requiring any changes in the FM Table of Assignments. The petitioning party for each of the proposed assignments filed supporting statements or comments and reiterated its intent to apply for the channel, if assigned, and to build a station if authorized. All proposals were unopposed except that concerning Pinckneyville, Illinois, which was opposed by DuQuoin Broadcasting Company (DuQuoin Broadcasting), licensee of Stations WDQN and WDQN-FM, DuQuoin, Illinois. The Pinckneyville proposals is discussed below.

3. Pinckneyville (pop. 3,377),[2] the seat of Perry County (pop. 19,757), is located approximately 60 miles southeast of St. Louis, Missouri. DuQuoin (pop. 6,691), also in Perry County, is about 10 miles southeast of Pinckneyville. Pinckneyville has no local aural service; DuQuoin has two—WDQN (daytime-only) and WDQN-FM. Coalbelt Broadcasters (Coalbelt) requested the assignment of Channel 280A to Pinckneyville. The channel could be assigned there in conformance with the Commission's minimum mileage separation rule if the transmitter site is located approximately 8 miles south-southeast of Pinckneyville. Because the site must be so located, we stated in the Notice that there is a question as to the availability of a suitable site from which a station operating on Channel 280A would be able to provide the requisite city-grade signal over Pinckneyville. Both Coalbelt and DuQuoin Broadcasting address this point in their comments. Coalbelt states that with respect to this question it has obtained a statement from a real estate agent familiar with the area and he advises that land is available for sale in sections 28, 29, 32, and 33, Township 6 South, Range 2 West, in Perry County, which is the area in question relative to a site necessary to meet required co-channel and adjacent channel spacing. Coalbelt attached an engineering statement to its comments which indicates that utilizing an antenna height of 300 feet above average terrain and an effective radiated power of 3000 watts, a city-grade signal (70 dBu) would be placed over the entire community of Pinckneyville from a site at or very near the reference point set forth in its original engineering study.

4. In its comments opposing the Pinckneyville proposal, DuQuoin Broadcasting Company contends that the proposal does not comply with the requirements of § 73.315(a) of the Commission's rules in that a substantial portion of Pinckneyville lies beyond the predicted 70 dBu contour of a maximum facility Class A FM station operating from the reference point stated in the original proposal. DuQuoin Broadcasting attached an engineering report to its opposing comments stating that on the basis of terrain profile studies the 70 dBu (3.16 mV/m) contour of a station operating from Coalbelt's reference point, with 3.0 kilowatts at 300 feet above average terrain, cannot meet the Commission's requirement for minimum service to the principal community. DuQuoin Broadcasting states that Coalbelt has chosen a site closer to DuQuoin than to Pinckneyville because Pinckneyville's 1970 Census population of only 3,377 does not offer a very satisfactory economic base for a commercial broadcast operation. It points

[1] In order to meet the minimum spacing requirements of our rules, a site 4 miles north-northeast of Johnstown, Ohio, would be required; a site 3 miles northeast of Glennville, Ga., would be required; a site 8 miles south-southeast of Pinckneyville, Ill., would be required; and a site 3 miles southwest of Huntingdon, Tenn. would be required.

[2] Population figures are from the 1970 Census.

out that recent data compiled by the State of Illinois show that of the total of $674,524.77 in sales-related State tax receipts (4 percent of retail sales), $249,127.24 or 37 percent were collected from sales in DuQuoin and that in contrast tax collections in Pinckneyville totalled only $142,583.88, which is only 21 percent of the Perry County total.

5. In reply comments, Coalbelt contends that it had its consulting engineer recheck the required co-channel and adjacent channel spacing requirements for Channel 280A, and, from another site which complied with the spacing requirements, it was determined that the required 70 dBu contour of a Class A FM broadcast station operating with maximum height and power would completely encompass the city of Pinckneyville. In response to the DuQuoin contention that the site selected was closer to DuQuoin than to Pinckneyville because Coalbelt was a better economic base, petitioner states that the site was so chosen in order to meet co-channel and adjacent channel spacing requirements. Petitioner states that the economic statistics cited by DuQuoin Broadcasing do not include sales tax figures for coal mined in Perry County but sold elsewhere. Petitioner adds that a new state law provides that sales taxes from the retail sale of coal will be credited to the county from which the coal was mined and that therefore, under this law, an increase in future sales tax figures for Perry County will occur.

6. DuQuoin Broadcastsing in reply comments reiterates its opposition to the addition of Channel 280A at Pinckneyville and submits that the petitioner has failed to meet the burden placed upon it in the Commission's Notice of Proposed Rule Making. It contends that the Commission has questioned the availability of a suitable site from which a principal-city-grade site can be placed over Pinckneyville and placed the burden of showing that such a site is indeed available. DuQuoin Broadcasting states that this burden has not been sustained. It argues that, even though petitioner submitted a letter from a real estate agent in DuQuoin which said that land is available for sale at the reference site, the letter does not discharge petitioner's burden, since the site is not adequate to begin with. DuQuoin Broadcasting states that the land in question is coal land which has been strip mined. DuQuoin Broadcasting attached to its reply comments a letter from the counsel to United Electric Coal Companies, owner of the land in question. Counsel states in the letter that it is his client's past policy not to sell or lease and of its stripped land for any purpose. DuQuoin Broadcasting states that, in view of that statement, it is suggested that something more than the generalized letter of a real estate agent is required for petitioner to show that there is a reasonable expectation that a suitable site will be available.

DECISION

7. As a result of the minimum mileage separation requirements, the site of the proposed Pinckneyville station would have to be located about eight miles southeast of the community, and the opponent has alleged that a projected Class A station operating from the petitioner's assumed site would not comply with the provisions of § 73.315 of the rules. In its reply comments, proponent shows that the location of any station is not restricted to that originally shown in its petition, and that from another site, an FM station would comply with the provisions of § 73.315 of the rules. The availability of such a site is disputed. Coalbelt's letter exhibit refers to sections 28, 29, 32 and 33 of land. DuQuoin's letter exhibit refers only to sections 28 and 29, which leaves a question as to the availability of sections 32 and 33. In any event, in a rule making proceeding the question as to the availability and suitability of an antenna site in a marginal situation is important only to the extent of whether, if a channel were to be assigned, there is a reasonable assurance that a station would be able to provide an adequate service to the community. The question of whether a specific site is legally available and suitable is a matter to be more appropriately considered in connection with an application for a construction permit for the use of a channel. We believe that the assignment of Channel 280A to Pinckneyville would be in the public interests. Since Pinckneyville does not have a local broadcast station, the assignment of an FM channel there would provide the community with an opportunity to establish an FM station as an outlet for local expression.

8. In arriving at our decision herein, we have given consideration to all comments, supporting statements, and other pleadings. In the Notice of Proposed Rulemaking, we set out economic and other information pertaining to the need for a first FM assignment in each of the communities. That information is accepted as being substantially correct and will not be repeated here, except to say that the communities range in size from 841 for Kilmarnock, Virginia, to 7,477 for Graham, Texas (1970 Census), that a daytime-only station operates at Glennville, Georgia, a daytime-only station operates at Graham, and that there are no local broadcast facilities of Johnstown, Ohio; Boyne City, Michigan; Kilmarnock, Virginia; Pinckneyville, Illinois; or Huntingdon, Tennessee. Each of the communities appears to warrant the proposed assignment. We are of the view that adoption of each proposal would serve the public interest.

9. The Canadian Government has given its concurrence to the assignment of Channel 228A and Channel 276A to Boyne City, Michigan and Johnstown, Ohio, respectively.

10. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 303 and 307(b) of the Communications Act of 1934, as amended.

11. In view of the foregoing, *It is ordered*, That effective August 23, 1974, § 73.202(b) of the Commission's Rules, the FM Table of Assignments is amended to read as follows:

City	*Channel No.*
Georgia: Glennville	292A
Illinois: Pinckneyville	280A
Michigan: Boyne City	228A
Ohio: Johnstown	276A
Tennessee: Huntingdon	265A
Texas: Graham	296A
Virginia: Kilmarnock	269A

12. It is further ordered, that this proceeding is terminated.

Adopted: July 9, 1974.

Released: July 16, 1974.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

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

[FR Doc.74-16713 Filed 7-22-74;8:45 am]

[FCC 74-754]

PART 73—RADIO BROADCAST SERVICES

References to Time

In the matter of amendment of Part 73 of the Commission's Rules—Radio Broadcast Services—to clarify existing references to time.

1. The Commission has reviewed § 73.83 of its rules ("References to time") in light of the recent enactment of year-around daylight saving time legislation (PL 93-182), as well as changes made over the past five years in the rules dealing with the operating hours of broadcast stations, under which the times listed in most license documents and other authorizations are now specifically designated as "standard (non-advanced)," "advanced," or "local," as appropriate.

2. On the basis of this review, it has been determined that § 73.83 is unnecessarily complex and, in some important respects, now obsolete. A simplification and updating of the rule is therefore indicated.

3. Authority for the adoption of this order is contained in sections 4(i), 303(c), and 303(r) of the Communications Act of 1934, as amended. Since it is intended only to reinterpret and clarify existing requirements, compliance with the notice and effective date provisions of the Administrative Procedure Act (5 U.S.C. 553) would serve no useful purpose and is otherwise unnecessary.

4. Accordingly, it is ordered, that, effective July 23, 1974, § 73.83 of the rules is amended, and a new § 73.1209 is added in the manner set forth below.

Adopted: July 9, 1974.

Released: July 16, 1974.

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

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

Part 73 of 47 CFR Chapter I, is amended as follows:

1. Section 73.83 is amended to read as follows:

§ 73.83 References to time.

See § 73.1209.

2. A new § 73.1209 is added to read as follows:

§ 73.1209 References to time.

Unless specificially designated as "standard (non-advanced)" or "advanced," all references to time contained in this part, and in license documents and other authorizations issued thereunder shall be understood to mean local time; i.e., the time legally observed in the community.

[FR Doc.74-16712 Filed 7-22-74;8:45 am]

[RM No. 2283; FCC 74-736]

PART 87—AVIATION SERVICES

Civil Air Patrol Stations in Puerto Rico

In the matter of amendment of Part 87 of the rules to permit the assignment of the frequencies 4466 kHz, 4467.5 kHz, and 4469 kHz to Civil Air Patrol stations in Puerto Rico.

1. The Civil Air Patrol (CAP), a civilian auxiliary of the United States Air Force, has filed a petition for a rule change of Part 87, Aviation Services, to permit the assignment of the frequencies 4466 kHz, 4467.5 kHz, and 4469 kHz to CAP stations in Puerto Rico.

2. The frequencies involved are now available for assignment to CAP stations in the District of Columbia and 20 southeastern states. The petitioner asserts that the frequencies are now utilized to provide direct radio communication between the region headquarters and all of its respective wings (states) located in the Southeast Region, with the exception of the wing located in Puerto Rico, which is not presently authorized the use of these frequencies. The grant of the petitioner's request will enable the CAP Southeast Region headquarters to have direct radio communications with all of its regional wings on the same frequencies and thereby provide a beneficial improvement in CAP communications.

3. We believe that in view of the CAP's contributions during emergency and search and rescue missions in the past, the public interest would be served by approving the petitioner's request for rule amendment in this instance.

4. The Interdepartment Radio Advisory Committee (IRAC) has been consulted in this matter and interposed no objections.

5. The amendment adopted herein pertains to the use of government frequencies used only by the CAP. Since users of other frequencies are not affected, we find the amendment to be minor in nature, and the prior notice, effective date, and procedure provisions of 5 U.S.C. Section 553 are not applicable.

6. In view of the foregoing, *It is ordered*, That pursuant to the authority contained in section 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 87 of the Commission's rules is amended, effective July 23, 1974, as set forth below.

7. *It is further ordered*, That this proceeding is terminated.

Adopted: July 9, 1974.

Released: July 16, 1974.

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

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

Part 87 of 47 CFR Chapter I is amended as follows:

1. Section 87.513(b)(4) is amended to read as follows:

§ 87.513 Frequencies available.

* * * * *

(b) * * *

(4) Assignment of the frequencies 4466 kHz, 4467.5 kHz, and 4469 kHz is limited to stations in the District of Columbia, Puerto Rico, and the following States:

Alabama.	New Jersey.
Connecticut.	New York.
Delaware.	North Carolina.
Florida.	Pennsylvania.
Georgia.	Rhode Island.
Maine.	South Carolina.
Maryland.	Tennessee.
Massachusetts.	Vermont.
Mississippi.	Virginia.
New Hampshire.	West Virginia.

* * * * *

[FR Doc.74-16711 Filed 7-22-74;8:45 am]

Title 49—Transportation

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

[Docket No. 70-27; Notice 11]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Hydraulic Brake Systems

Correction

In FR Doc. 74-15989 appearing at page 25943, in the issue of Monday, July 15, 1974, make the following corrections:

1. In the first paragraph of the second column, on page 25943, change lines 8, 9, and 10 to read as follows: "for a brake fluid level sensor for vehicles with a GVWR over 10,000 pounds, and for two years, a 60-pound maximum base-".

2. In 571.105-75, change the 9th line of the addition to S5.1.1.3 to read: "Table II if its GVWR does not exceed".

3. In 571.105-75, insert the following between the 9th and 10th lines of S5.1.4.3 (b): "and the greater of minus 10 pounds".

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

ACTION

Section 213.3359 is amended to show that one position of Staff Assistant to the Director is excepted under Schedule C.

Effective July 23, 1974, § 213.3359(q) is added as set out below.

§ 213.3359 Action.

* * * * *

(q) One Staff Assistant to the Director.

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

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

[FR Doc.74-16789 Filed 7-22-74;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Justice

Section 213.3310 is amended to show that one position of Staff Assistant to the Associate Deputy Attorney General is excepted under Schedule C.

Effective July 23, 1974, § 213.3310(b)(7) is added as set out below.

§ 213.3310 Department of Justice.

* * * * *

(b) *Office of the Deputy Attorney General.* * * *

(7) One Staff Assistant to the Associate Deputy Attorney General.

* * * * *

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-58 comp. p. 128)

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

[FR Doc.74-16790 Filed 7-22-74;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that one position of Special Program Assistant to the Director, National Park Service, is excepted under Schedule C. This section is further amended to show that an additional position of Special Assistant to the Director, National Park Service, is excepted under Schedule C.

Effective July 23, 1974, § 213.3312(h)(3) is amended and (h)(6) is added as set out below.

§ 213.3312 Department of the Interior.

* * * * *

(h) *National Park Service.* * * *

(3) Three Special Assistants to the Director.

* * * * *

(6) One Special Program Assistant to the Director.

* * * * *

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

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

[FR Doc.74-16791 Filed 7-22-74;8:45 am]

PART 213—EXCEPTED SERVICE

Small Business Administration

Section 213.3332 is amended to show that one position of Confidential Assistant (Secretary) to the Associate Administrator for Finance and Investment is excepted under Schedule C.

Effective July 23, 1974, § 213.3332(r) is added as set out below.

§ 213.3332 Small Business Administration.

* * * * *

(r) One Confidential Assistant (Secretary) to the Associate Administrator for Finance and Investment.

* * * * *

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

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

[FR Doc.74–16792 Filed 7–22–74;8:45 am]

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

Section 213.3199 is amended to show that until June 30, 1975, positions in grade GS–15 and below on the staff of the National Commission on Productivity are excepted under Schedule A.

Effective July 23, 1974, § 213.3199(n) (1) is amended as set out below.

§ 213.3199 Temporary Boards and Commissions.

* * * * *

(n) *National Commission on Productivity.*

(1) Until June 30, 1975, positions in grade GS–15 and below on the staff of the Commission.

* * * * *

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–58 comp. p. 219)

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

[FR Doc.74–16793 Filed 7–22–74;8:45 am]

PART 870—REGULAR LIFE INSURANCE

Cancellation of Waivers and Payment of Full Cost for Employees of the U.S. Postal Service

The life insurance regulations are hereby amended to (1) permit the automatic cancellation of waivers of regular life insurance for employees of the United States Postal Service when they first enter on duty in a pay status on or after July 20, 1974 and (2) show that the United States Postal Service pays the full cost of regular life insurance for its employees.

Effective July 20, 1974, new paragraphs (e) are added to § 870.204 and § 870.401 as set out below.

§ 870.204 Cancellation of waiver of insurance coverage.

* * * * *

(e) Notwithstanding paragraphs (b) and (c) and (d) of this section, the waiver of regular life insurance coverage of an employee who is or becomes an employee of the United States Postal Service on or after July 20, 1974, in a position wherein he is not excluded from insurance coverage is automatically cancelled and he is insured for regular life insurance on the first day he enters on duty in a pay status on or after July 20, 1974.

§ 870.401 Withholdings and contributions.

* * * * *

(e) Notwithstanding paragraphs (a), (b), (c), and (d) of this section, the United States Postal Service contributes the full cost of regular life insurance, that is, the sum of the amounts otherwise to be withheld and contributed under paragraphs (a), (b), (c), and (d) of this section, for each period in which an employee of the United States Postal Service is insured.

(5 U.S.C. 8716)

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

[FR Doc.74–16952 Filed 7–22–74;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

Internal Revenue Service

[26 CFR Part 1]

[Income Tax Regs.]

INCOME TAX

Determination of Sources of Income and Income of Foreign Central Banks

Proposed rules relating to dividend gross-up and foreign tax credit for domestic corporate shareholders of a foreign corporation were published in tentative form with a notice of proposed rulemaking in the FEDERAL REGISTER for September 11, 1964 (29 FR 12834). The proposed amendments to the Income Tax regulations contained in §§ 1.861, 1.861–3(a)(2), and 1.902–3(d)(1) as set forth in paragraphs 6, 7, and 12, respectively, of such notice of proposed rulemaking are hereby withdrawn.

Notice is hereby given that the regulations set forth in tentative form below, including regulations in lieu of the proposed regulations so withdrawn, are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by August 22, 1974. Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, a person submitting written comments should not include therein material that he considers to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rulemaking is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by August 22, 1974. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

A notice of proposed rulemaking containing amendments to conform the Income Tax regulations to section 9 of the Revenue Act of 1962 (76 Stat. 999) was published in the FEDERAL REGISTER for September 11, 1964 (29 FR 12834). Most of the amendments as so proposed were adopted, subject to certain changes, by T.D. 6805, which was published in the FEDERAL REGISTER for March 9, 1965 (30 FR 3208). However, proposed amendments contained in §§ 1.861, 1.861–3(a)(2), and 1.902–3(d)(1), as set forth in paragraphs 6, 7, and 12, respectively, of that notice were never adopted or withdrawn. This notice withdraws such unadopted proposals and includes proposed amendments in lieu thereof. In addition, amendments to the Income Tax regulations (26 CFR Part 1) are proposed in order to conform such regulations to the amendments of the Internal Revenue Code of 1954 made by section 102 (a), (b), and (c) of the Foreign Investors Tax Act of 1966 (80 Stat. 1541, 1543) and by section 435(a) of the Tax Reform Act of 1969 (83 Stat. 625), and to make certain other changes. The amendments under the Foreign Investors Tax Act of 1966 are generally effective for taxable years beginning after December 31, 1966. The amendment under section 435(a) of the Tax Reform Act of 1969 is effective with respect to interest paid or credited after 1969.

Section 102(a)(1) of the Foreign Investors Tax Act of 1966 amended section 861(a)(1)(A) of the Code, and added section 861(c), to provide that certain interest paid after December 31, 1966, and before January 1, 1973, to nonresident aliens or foreign corporations was to be treated as income from sources without the United States if the interest was not effectively connected with the conduct of a U.S. business by the recipient. This rule applies to interest paid on deposits with persons carrying on the banking business in the United States or with certain savings and loan institutions and to interest earned on amounts held by insurance companies under an agreement to pay interest thereon. Interest paid on such deposits or amounts after December 31, 1972, was to be treated as income from sources within the United States even though not effectively connected with the conduct of a U.S. business; however, section 435(a) of the Tax Reform Act of 1969 postponed this terminal date to December 31, 1975.

Section 102(a)(2) of the Foreign Investors Tax Act of 1966 eliminated the rule in section 861(a)(1)(B) of the Code that interest paid by a resident foreign corporation having less than 20 percent of its gross income from U.S. sources was to be treated as income from sources without the United States. In addition, it provided a new rule in section 861(a)(1)(D) that a proportionate part of the interest paid by a resident foreign corporation was to be treated as income from U.S. sources if 50 percent or more of its gross income is effectively connected with the conduct of a U.S. business by the recipient. An exception to this new rule provided, however, that interest paid after December 31, 1972, by the U.S. banking branch of a resident foreign corporation was to be treated as U.S. source income, but section 435(a) of the Tax Reform Act of 1969, accelerated this exception so as to apply to amounts paid after December 31, 1969. Section 102(a)(2) of the 1966 Act also added a new rule in section 861(a)(1)(F) that after December 31, 1966, interest paid by a foreign branch bank of a U.S. corporation is to be treated as foreign source income.

Section 102(a)(4) of the Foreign Investors Tax Act of 1966 expanded the exemption previously accorded under section 895 of the Code to foreign central banks of issue. First, the section was made applicable also to the Bank for International Settlements. Secondly, the exemption applicable to income from obligations of the United States was extended to income from obligations of any agency or instrumentality of the United States. Thirdly, the exemption was extended to interest on deposits with persons carrying on the banking business, including any such interest paid after December 31, 1975.

Section 102(b) of the Foreign Investors Tax Act of 1966 amended section 861(a)(2)(B) of the Code to change the 50-percent rule therein for determining the source of dividends paid by a foreign corporation to depend on whether the paying corporation had derived gross income effectively connected with the conduct of a U.S. business rather than having gross income from U.S. sources. In addition, the 100/85ths rule for treating part of the dividend from foreign sources for purposes of the foreign tax credit was made inapplicable to dividends for

which a 100-percent dividends deduction is allowable under section 245(b) of the Code, as added by section 104(e)(1) of the 1966 Act.

Sectin 102(c) of the Foreign Investors Tax Act of 1966 amended section 861(a)(3)(C)(ii) of the Code, relating to the 90-day and $3,000 test for determining the source of income derived from personal services performed in the United States, to broaden the rule therein so as to have it apply to services performed by the nonresident alien individual for an office or place of business maintained in a foreign country or possession of the United States by an individual who is a citizen or resident of the United States or by a domestic partnership.

In order to avoid confusion in making such amendments to the Income Tax regulations as were necessary to conform to the changes made by the Foreign Investors Tax Act of 1966, the decision was reached to replace the pertinent regulations with completely new regulations applicable only to taxable years beginning after December 31, 1966, and to refer to those sections in the Code of Federal Regulations (revised as of January 1, 1972) where the corresponding rules for taxable years beginning before January 1, 1967, may be found.

The amendment of § 1.861–2 made by paragraph 2 of this notice does not take into account the addition of § 1.861–2(d) (relating to section 861(a)(1)(G)) which was published in the FEDERAL REGISTER for May 23, 1974 (39 FR 18073). When the proposed amendments which are published today are finally adopted, they will be coordinated with the amendment of § 1.861–2 which was published on May 23, 1974.

PARAGRAPH 1. Section 1.861 is amended by revising all of section 861(a)(1) except the part preceding paragraph (A) thereof, by revising subsection (a)(2)(B) and (C) and (3)(C)(ii) of section 861, by adding new subparagraph (D) to section 861(a)(2), by adding new subsections (c), (d), and (e) to section 861, and by revising the historical note, as follows:

§ 1.861 Statutory provisions; income from sources within the United States.

SEC. 861. *Income from sources within the United States*—(a) *Gross income from sources within United States.* * * *

(1) *Interest.* * * *

(A) Interest on amounts described in subsection (c) received by a nonresident alien individual or a foreign corporation, if such interest is not effectively connected with the conduct of a trade or business within the United States,

(B) Interest received from a resident alien individual or a domestic corporation, when it is shown to the satisfaction of the Secretary or his delegate that less than 20 percent of the gross income from all sources of such individual or such corporation has been derived from sources within the United States, as determined under the provisions of this part, for the 3-year period ending with the close of the taxable year of such individual or such corporation preceding the payment of such interest, or for such part of such period as may be applicable,

(C) Interest received from a foreign corporation (other than interest paid or credited by a domestic branch of a foreign corporation, if such branch is engaged in the commercial banking business), when it is shown to the satisfaction of the Secretary or his delegate that less than 50 percent of the gross income from all sources of such foreign corporation for the 3-year period ending with the close of its taxable year preceding the payment of such interest (or for such part of such period as the corporation has been in existence) was effectively connected with the conduct of a trade or business within the United States,

(D) In the case of interest received from a foreign corporation (other than interest paid or credited by a domestic branch of a foreign corporation, if such branch is engaged in the commercial banking business), 50 percent or more of the gross income of which from all sources for the 3-year period ending with the close of its taxable year preceding the payment of such interest (or for such part of such period as the corporation has been in existence) was effectively connected with the conduct of a trade or business within the United States, an amount of such interest which bears the same ratio to such interest as the gross income of such foreign corporation for such period which was not effectively connected with the conduct of a trade or business within the United States bears to its gross income from all sources,

(E) Income derived by a foreign central bank of issue from bankers' acceptances,

(F) Interest on deposits with a foreign branch of a domestic corporation or a domestic partnership, if such branch is engaged in the commercial banking business, and

(G) Interest on a debt obligation which was part of an issue with respect to which an election has been made under section 4912(c) and which, when issued (or treated as issued under section 4912(c)(2)), had a maturity not exceeding 15 years and, when issued, was purchased by one or more underwriters with a view to distribution through resale, but only with respect to interest attributable to periods after the date of such election.

(2) *Dividends.* * * *

(B) From a foreign corporation unless less than 50 percent of the gross income from all sources of such foreign corporation for the 3-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was effectively connected with the conduct of a trade or business within the United States; but only in an amount which bears the same ratio to such dividends as the gross income of the corporation for such period which was effectively connected with the conduct of a trade or business within the United States bears to its gross income from all sources; but dividends (other than dividends for which a deduction is allowable under section 245(b)) from a foreign corporation shall, for purposes of subpart A of part III (relating to foreign tax credit), be treated as income from sources without the United States to the extent (and only to the extent) exceeding the amount which is 100/85ths of the amount of the deduction allowable under section 245 in respect of such dividends, or

(C) From a foreign corporation to the extent that such amount is required by section 243(d) (relating to certain dividends from foreign corporations) to be treated as dividends from a domestic corporation which is subject to taxation under this chapter, and to such extent subparagraph (B) shall not apply to such amount, or

(D) From a DISC or former DISC (as defined in section 992(a)) except to the extent attributable (as determined under regulations prescribed by the Secretary or his delegate) to qualified export receipts described in section 993(a)(1) (other than interest and gains described in section 995(b)(1)).

(3) *Personal services.* * * *

(C) * * *

(ii) An individual who is a citizen or resident of the United States, a domestic partnership, or a domestic corporation, if such labor or services are performed for an office or place of business maintained in a foreign country or in a possession of the United States by such individual partnership, or corporation.

* * * * *

(c) *Interest on deposits, etc.* For purposes of subsection (a)(1)(A), the amounts described in this subsection are—

(1) Deposits with persons carrying on the banking business,

(2) Deposits or withdrawable accounts with savings institutions chartered and supervised as savings and loan or similar associations under Federal or State law, but only to the extent that amounts paid or credited on such deposits or accounts are deductible under section 591 (determined without regard to section 265) in computing the taxable income of such institutions, and

(3) Amounts held by an insurance company under an agreement to pay interest thereon.

Effective with respect to amounts paid or credited after December 31, 1975, subsection (a)(1)(A) and this subsection shall cease to apply.

(d) *Special rules for application of paragraphs (1)(B), (1)(C), (1)(D), and (2)(B) of subsection (a)—(1) New entities.* For purposes of paragraphs (1)(B), (1)(C), (1)(D), and (2)(B) of subsection (a), if the resident alien individual, domestic corporation, or foreign corporation, as the case may be, has no gross income from any source for the 3-year period (or part thereof) specified, the 20 percent test or the 50 percent test, as the case may be, shall be applied with respect to the taxable year of the payor in which payment of the interest or dividends, as the case may be, is made.

(2) *Transition rule.* For purposes of paragraphs (1)(C), (1)(D), and (2)(B) of subsection (a), the gross income of the foreign corporation for any period before the first taxable year beginning after December 31, 1966, which is effectively connected with the conduct of a trade or business within the United States is an amount equal to the gross income for such period from sources within the United States.

(e) *Election to treat income from certain aircraft and vessels as income from sources within the United States—(1) In general.* For purposes of subsection (a) and section 862(a), if a taxpayer owning an aircraft or vessel which is section 38 property (or would be section 38 property) but for section 48(a)(5) leases such aircraft or vessel to a United States person, other than a member of the same controlled group of corporations (as defined in section 1563) as the taxpayer, and if such aircraft or vessel is manufactured or constructed in the United States, the taxpayer may elect, for any taxable year ending after the commencement of such lease, to treat all amounts includible in gross income with respect to such aircraft or vessel (whether during or after the period of any such lease), including gain from sale or other disposition of such aircraft or vessel, as income from sources within the United States.

[Sec. 861 as amended by sec. 3(b), Act of Sept. 14, 1960 (Pub. L. 86-779, 74 Stat. 998); sec. 9(c), Rev. Act 1962 (76 Stat. 1001); sec. 102 (a), (b), and (c), Foreign Investors Tax Act 1966 (80 Stat. 1541, 1543); sec. 435 (a), Tax Reform Act 1969 (83 Stat. 625); sec. 3(a)(2), Interest Equalization Tax Extension Act 1971 (85 Stat. 15); secs. 314(a) and 503, Rev. Act 1971 (85 Stat. 528, 550)]

Par. 2. Section 1.861-2 is amended to read as follows:

§ 1.861-2 Interest.

(a) *In general.* Gross income consisting of interest from the United States or any agency of instrumentality thereof (other than a possession of the United States or an agency or instrumentality of a possession), a State or any political subdivision thereof, or the District of Columbia, and interest from a resident of the United States on a bond, note, or other interest-bearing obligation issued or assumed by such person shall be treated as income from sources within the United States. Interest other than that described in the preceding sentence is not to be treated as income from sources within the United States. The method by which, or the place where, payment of the interest is made is immaterial in determining whether interest is derived from sources within the United States. If the interest is paid on an obligation of a resident of the United States by a nonresident of the United States acting in his capacity as a guarantor of the obligation of the resident, the interest will be treated as income from sources within the United States. The term "resident of the United States", as used in this paragraph, includes (1) an individual who at the time of payment of the interest is a resident of the United States, (2) a domestic corporation, (3) a domestic partnership which at any time during its taxable year is engaged in trade or business in the United States, or (4) a foreign corporation or a foreign partnership, which at any time during its taxable year is engaged in trade or business in the United States. For purposes of this section, the term "interest" includes all amounts treated as interest under section 483, and the regulations thereunder; it also includes original issue discount, as defined in section 1232(b)(1). Pursuant to this paragraph, interest received from the United States on a refund of Federal income tax constitutes income from sources within the United States. In the case of interest received by a nonresident alien individual or foreign corporation this paragraph applies whether or not the interest is effectively connected for the taxable year with the conduct of a trade or business in the United States by such individual or corporation.

(b) *Interest not derived from U.S. sources.* Notwithstanding paragraph (a) of this section, interest shall be treated as income from sources without the United States to the extent provided by subparagraphs (A) through (F), of section 861(a)(1) and by the following subparagraphs of this paragraph.

(1) *Interest on bank deposits and on similar amounts.* (i) Interest paid or credited before January 1, 1976, to a nonresident alien individual or foreign corporation on—

(*a*) Deposits with persons, including citizens or alien individuals and foreign or domestic partnerships or corporations, carrying on the banking business in the United States,

(*b*) Deposits or withdrawable accounts with savings institutions chartered and supervised as savings and loan or similar associations under Federal or State law, or

(*c*) Amounts held by an insurance company under an agreement to pay interest thereon,

shall be treated as income from sources without the United States if such interest is not effectively connected for the taxable year with the conduct of a trade or business in the United States by such nonresident alien individual or foreign corporation. If such interest is effectively connected for the taxable year with the conduct of a trade or business in the United States by such nonresident alien individual or foreign corporation, it shall be treated as income from sources within the United States under paragraph (a) of this section unless it is treated as income from sources without the United States under another subparagraph of this paragraph. For a special rule for determining whether such interest is effectively connected for the taxable year with the conduct of a trade or business in the United States, see paragraph (c)(1)(ii) or § 1.864-4.

(ii) Subdivision (i)(*b*) of this subparagraph applies to interest on deposits or withdrawable accounts described therein only to the extent that the interest paid or credited by the savings institution described therein is deductible under section 591 in determining the taxable income of such institution; and, for this purpose, whether an amount is deductible under section 591 shall be determined without regard to section 265, relating to deductions allocable to tax-exempt income. Thus, for example, such subdivision does not apply to amounts paid by a savings and loan or similar association on or with respect to its nonwithdrawable capital stock or on or with respect to funds held in restricted accounts which represent a proprietary interest in such association. Subdivision (i)(*b*) of this subparagraph also applies to so-called dividends paid or credited on deposits or withdrawable accounts if such dividends are deductible under section 591 without reference to section 265.

(iii) For purposes of subdivision (i)(*c*) of this subparagraph, amounts held by an insurance company under an agreement to pay interest thereon include policyholder dividends left with the company to accumulate, prepaid insurance premiums, proceeds of policies left on deposit with the company, and overcharges of premiums. Such subdivision does not apply to (*a*) the so-called "interest element" in the case of annuity or installment payments under life insurance or endowment contracts or (*b*) interest paid by an insurance company to its creditors on notes, bonds, or similar evidences of indebtedness, if the debtor-creditor relationship is between the insurer and a person other than the insured or a beneficiary of the insured, in their capacities as such, under a contract of insurance with the insurer.

(iv) For purposes of subdivision (i) of this subparagraph, interest received by a partnership shall be treated as received by each partner of such partnership to the extent of his distributive share of such item.

(2) *Interest from a resident alien individual or domestic corporation deriving substantial income from sources without the United States.* The entire amount of interest from a resident alien individual or a domestic corporation shall be treated as income from sources without the United States when it is shown to the satisfaction of the district director (or, if applicable, the Director of International Operations) that less than 20 percent of the gross income from all sources of such individual or corporation has been derived from sources within the United States, as determined under the provisions of sections 861 to 863, inclusive, and the regulations thereunder, for the 3-year period ending with the close of the taxable year of such individual or corporation preceding its taxable year in which such interest is paid or credited, or for such part of such period as may be applicable. If 20 percent or more of the gross income from all sources of such individual or corporation has been derived from sources within the United States, as so determined, for such 3-year period (or part thereof), the entire amount of the interest from such individual or corporation shall be treated as income from sources within the United States.

(3) *Interest from a foreign corporation not deriving major portion of its income from a U.S. business.* Interest from a foreign corporation which, at any time during the taxable year, is engaged in trade or business in the United States shall be treated as income from sources without the United States when it is shown to the satisfaction of the district director (or, if applicable, the Director of International Operations) that (i) less than 50 percent of the gross income from all sources of such foreign corporation for the 3-year period ending with the close of its taxable year preceding its taxable year in which such interest is paid or credited (or for such part of such period as the corporation has been in existence) was effectively connected with the conduct by such corporation of a trade or business in the United States, as determined under section 864(c) and § 1.864-3, or (ii) such foreign corporation had gross income for such 3-year period (or part thereof) but none was effectively connected with the conduct of a trade or business in the United States. If 50 percent or more of the gross

income from all sources of such foreign corporation for such 3-year period (or part thereof) was effectively connected with the conduct by such corporation of a trade or business in the United States, see paragraph (c)(1) of this section for determining the portion of interest from such corporation which is treated as income from sources within the United States. For purposes of this subparagraph the gross income which is effectively connected with the conduct of a trade or business in the United States includes the gross income which, pursuant to section 882 (d) or (e) and the regulations thereunder, is treated as income which is effectively connected with the conduct of a trade or business in the United States. This subparagraph does not apply to interest paid or credited after December 31, 1969, by a branch in the United States of a foreign corporation if, at the time of payment or crediting, such branch is engaged in the commercial banking business in the United States; furthermore, such interest is treated under paragraph (a) of this section as income from sources within the United States unless it is treated as income from sources without the United States under subparagraph (1) or (4) of this paragraph.

(4) *Bankers' acceptances.* Interest derived by a foreign central bank of issue from bankers' acceptances shall be treated as income from souces without the United States. For this purpose, a foreign central bank of issue is a bank which is by law or government sanction the principal authority, other than the government itself, issuing instruments intended to circulate as currency. Such a bank is generally the custodian of the banking reserves of the country under whose laws it is organized.

(5) *Foreign banking branch of a domestic corporation or partnership.* Interest paid or credited on deposits with a branch outside the United States (as defined in section 7701(a)(9)) of a domestic corporation or of a domestic partnership shall be treated as income from sources without the United States if, at the time of payment or crediting, such branch is engaged in the commercial banking business. For purposes of applying this subparagraph, it is immaterial (i) whether the domestic corporation or domestic partnership is carrying on a banking business in the United States, (ii) whether the recipient of the interest is a citizen or resident of the United States, a foreign corporation, or a foreign partnership, (iii) whether the interest is effectively connected with the conduct of a trade or business in the United States by the recipient, or (iv) whether the deposits with the branch located outside the United States are payable in the currency of a foreign country. Notwithstanding the provisions of § 1.863–6, interest to which this subparagraph applies shall be treated as income from sources within the foreign country, possession of the United States, or other territory in which the branch is located.

(c) *Special rules*—(1) *Proration of interest from a foreign corporation deriving major portion of its income from a U.S. business.* If, after applying the first sentence of paragraph (b)(3) of this section to interest to which that paragraph applies, it is determined that the interest may not be treated as income from sources without the United States, the amount of the interest from the foreign corporation which at some time during the taxable year is engaged in trade or business in the United States which is to be treated as income from sources within the United States shall be the amount that bears the same ratio to such interest as the gross income of such foreign corporation for the 3-year period ending with the close of its taxable year preceding its taxable year in which such interest is paid or credited (or for such part of such period as the corporation has been in existence) which was effectively connected with the conduct by such corporation of a trade or business in the United States bears to its gross income from all sources for such period.

(2) *Payors having no gross income for period preceding taxable year of payment.* If the resident alien individual, domestic corporation, or foreign corporation, as the case may be, paying interest has no gross income from any source for the 3-year period (or part thereof) specified in subparagraph (2) or (3) of paragraph (b) of this section, or subparagraph (1) of this paragraph, the 20-percent test or the 50-percent test, or the apportionment formula, as the case may be, described in such subparagraph shall be applied solely with respect to the taxable year of the payor in which the interest is paid or credited. This subparagraph applies whether the lack of gross income for the 3-year period (or part thereof) stems from the business inactivity of the payor, from the fact that the payor is a corporation which is newly created or organized, or from any other cause.

(3) *Transitional rule.* For purposes of applying paragraph (b)(3) of this section, and subparagraph (1) of this paragraph, the gross income of the foreign corporation for any period before the first taxable year beginning after December 31, 1966, which is from sources within the United States (determined as provided by sections 861 through 863, and the regulations thereunder, as in effect immediately before amendment by section 102 of the Foreign Investors Tax Act of 1966 (Pub. L. 89–809, 80 Stat. 1541)) shall be treated as gross income for such period which is effectively connected with the conduct of a trade or business in the United States by such foreign corporation.

(4) *Gross income determinations.* In making determinations under subparagraph (2) or (3) of paragraph (b) of this section, or subparagraph (1) or (3) of this paragraph—

(i) The gross income of a domestic corporation or a resident alien individual is to be determined by excluding any items specifically excluded from gross income under chapter 1 of the Code, and

(ii) The gross income of a foreign corporation which is effectively connected with the conduct of a trade or business in the United States is to be determined under section 882(b)(2) and by excluding any items specifically excluded from gross income under chapter 1 of the Code.

However, the gross income from all sources of a foreign corporation for such purposes is to be determined without regard to section 882(b) and without excluding any items otherwise specifically excluded from gross income under chapter 1 of the Code.

(d) *Statement with return.* Any taxpayer who is required to file a return and applies any provision of this section to exclude an amount of interest from his gross income must file with his return a statement setting forth the amount so excluded, the date of its receipt, the name and address of the obligor of the interest, such computations as are necessary to show that the amount of the exclusion is properly determined, and the location of the records which substantiate the amount of the exclusion.

(e) *Effective date.* This section applies with respect to taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.861–2 (Rev. as of Jan. 1, 1972).

PAR. 3. Section 1.861–3 is amended by revising paragraph (a)(3), by redesignating paragraph (b) as paragraph (c), by adding a new paragraph (b), by revising paragraph (c) as so redesignated, and by adding a new paragraph (d). These revised and added provisions read as follows:

§ 1.861–3 Dividends.

(a) *General.* * * *

(3) *Dividend from a foreign corporation—*

(i) *In general.* A dividend described in this subparagraph is a dividend from a foreign corporation (other than a dividend to which subparagraph (4) of this paragraph applies) unless less than 50 percent of the gross income from all sources of such foreign corporation for the 3-year period ending with the close of its taxable year preceding the taxable year in which occurs the declaration of such dividend (or for such part of such period as the corporation has been in existence) was effectively connected with the conduct of a trade or business in the United States, as determined under section 864(c) and § 1.864–3. Thus, no portion of a dividend from a foreign corporation shall be treated as income from sources within the United States if less than 50 percent of the gross income of such foreign corporation from all sources for such 3-year period (or part thereof) was effectively connected with the conduct of a trade or business in the United States or if such foreign corporation had gross income for such 3-year period (or part thereof) but none was effectively connected with the conduct of a trade or business in the United States. If 50 percent or more of the gross income from all sources of such foreign corporation for such 3-year period (or part thereof)

was effectively connected with the conduct of a trade or business in the United States, the amount of the dividend which is to be treated as income from sources within the United States shall be the amount that bears the same ratio to such dividend as the gross income of such foreign corporation for such 3-year period (or part thereof) which was effectively connected with the conduct of a trade or business in the United States bears to its gross income from all sources for such period. For purposes of this subdivision, the gross income which is effectively connected with the conduct of a trade or business in the United States includes the gross income which, pursuant to section 882 (d) or (e), is treated as income which is effectively connected with the conduct of a trade or business in the United States.

(ii) *Rule applicable in applying limitation on amount of foreign tax credit.* For purposes of determining under section 904 the limitation upon the amount of the foreign tax credit—

(*a*) So much of a dividend from a foreign corporation as exceeds (and only to the extent it so exceeds) the amount which is 100/85ths of the amount of the deduction allowable under section 245 (a) in respect of such dividend, plus

(*b*) An amount which bears the same proportion to any section 78 dividend to which the dividend from the foreign corporation gives rise as the amount of the excess determined under (*a*) of this subdivision bears to the total amount of the dividend from the foreign corporation,

shall, notwithstanding subdivision (i) of this subparagraph, be treated as income from sources without the United States. This subdivision applies to a dividend for which no dividends-received deduction is allowed under section 245 or for which the 85 percent dividends-received deduction is allowed under section 245(a) but does not apply to a dividend for which a deduction is allowable under section 245 (b). All of a dividend for which the 100 percent dividends-received deduction is allowed under section 245(b) shall be treated as income from sources within the United States for purposes of determining under section 904 the limitation upon the amount of the foreign tax credit. If the amount of a distribution of property other than money (constituting a dividend under section 316) is determined by applying section 301(b)(1)(C), such amount must be used as the dividend for purposes of applying (*a*) of this subdivision even though the amount used for purposes of section 245(a) is determined by applying section 301(b)(1)(B). In making determinations under this subdivision, a dividend (other than a section 78 dividend referred to in (*b*) of this subdivision) shall be determined without regard to section 78.

(iii) *Illustrations.* The application of this subparagraph may be illustrated by the following examples:

Example (1). D, a domestic corporation, owns 80 percent of the outstanding stock of M, a foreign manufacturing corporation. M, which makes its returns on the basis of the calendar year, has earnings and profits of $200,000 for 1971 and 60 percent of its gross income for that year is effectively connected for 1971 with the conduct of a trade or business in the United States. For an uninterrupted period of 36 months ending on December 31, 1970, M has been engaged in trade or business in the United States and has received gross income effectively connected with the conduct of a trade or business in the United States amounting to 60 percent of its gross income from all sources for such period. The only distribution by M to D for 1971 is a cash dividend of $100,000; of this amount, $60,000 ($100,000×60%) is treated under subdivision (i) of this subparagraph as income from sources within the United States, and $40,000 ($100,000−$60,000) is treated under § 1.862-1(a)(2) as income from sources without the United States. Accordingly, under section 245(a), D is entitled to a dividends-received deduction of $51,000 ($60,000×85%), and under subdivision (ii) of this subparagraph $40,000 ($100,000−[$51,000×100/85]) is treated as income from sources without the United States for purposes of determining under section 904(a) (1) or (2) the limitation upon the amount of the foreign tax credit.

Example (2). (a) The facts are the same as in example (1) except that the distribution for 1971 consists of property which has a fair market value of $100,000 and an adjusted basis of $30,000 in M's hands immediately before the distribution. The amount of the dividend under section 316 is $58,000, determined by applying section 301(b)(1)(C) as follows:

Portion of adjusted basis of property attributable to gross income of M effectively connected for 1971 with conduct of trade or business in United States ($30,000×60%)	$18,000
Portion of fair market value of property attributable to gross income of M not effectively connected for 1971 with conduct of trade or business in United States ($100,000×40%)	40,000
Total dividend	58,000

(b) Of the total dividend, $34,800 ($58,000×60% (percentage applicable to 3-year period)) is treated under subdivision (i) of this subparagraph as income from sources within the United States, and $23,200 ($58,000×40%) is treated under § 1.862-1(a)(2) as income from sources without the United States. However, by reason of section 245(c) the adjusted basis of the property ($30,000) is used under section 245(a) in determining the dividends-received deduction. Thus, under section 245(a), D is entitled to a dividends-received deduction of $15,300 ($30,000×60%×85%).

(c) Under subdivision (ii) of this subparagraph, the amount of the dividend for purposes of applying (*a*) of that subdivision is the amount ($58,000) determined by applying section 301(b)(1)(C) rather than the amount ($30,000) determined by applying section 301(b)(1)(B). Accordingly, under subdivision (ii) of this subparagraph $40,000 ($58,000−[$15,300×100/85]) is treated as income from sources without the United States for purposes of determining under section 904(a) (1) or (2) the limitation upon the amount of the foreign tax credit.

Example (3). (a) D, a domestic corporation which makes its returns on the basis of the calendar year, owns 100 percent of the outstanding stock of N, a foreign corporation which is not a less developed country corporation under section 902(d). N, which makes its returns on the basis of the calendar year, has total gross income for 1971 of $100,000, of which $80,000 (including $30,000 from sources within foreign country X) is effectively connected for that year with the conduct of a trade or business in the United States. For 1971 N is assumed to have paid $27,000 of income taxes to country X and to have accumulated profits of $81,000 for purposes of section 902(c)(1)(A). N's accumulated profits in excess of foreign income taxes amount to $54,000. For 1971 D receives a cash dividend of $42,000 from N, which is D's only income for that year.

(b) For 1971 D chooses the benefits of the foreign tax credit under section 901, and as a result is required under section 78 to include in gross income an amount equal to the foreign income taxes of $21,000 ($27,000×$42,000/$54,000) it is deemed to have paid under section 902(a)(1). Thus, assuming no other deductions for the taxable year, D has gross income of $63,000 ($42,000+$21,000) for 1971 less a dividends-received deduction under section 245(a) of $28,560 ([$42,000×$80,000/$100,000]×85%), or taxable income for 1971 of $34,440.

(c) Under subdivision (ii) of this subparagraph, for purposes of determining under section 904(a) (1) or (2) the limitation upon the amount of the foreign tax credit, $12,600 is treated as income from sources without the United States, determined as follows:

Excess of dividend from N over amount which is 100/85ths of amount of sec. 245(a) deduction ($42,000−[$28,560×100/85])	$8,400
Proportionate part of sec. 78 dividend ($21,000×$8,400/$42,000)	4,200
Taxable income from sources without the United States	12,600

Example (4). A, an individual citizen of the United States who makes his return on the basis of the calendar year, receives in 1971 a cash dividend of $10,000 from M, a foreign corporation, which makes its return on the basis of the calendar year. For the 3-year period ending with 1970 M has been engaged in trade or business in the United States and has received gross income effectively connected with the conduct of a trade or business in the United States amounting to 80 percent of its gross income from all sources for such period. Of the total dividend, $8,000 ($10,000×80%) is treated under subdivision (i) of this subparagraph as income from sources within the United States and $2,000 ($10,000−$8,000) is treated under § 1.862-1(a)(2) as income from sources without the United States. Since under section 245 no dividends received-deduction is allowable to an individual, A is entitled under subdivision (ii) of this subparagraph to treat the entire dividend of $10,000 ($10,000−[$0×100/85]) as income from sources without the United States for purposes of determining under section 904(a) (1) or (2) the limitation upon the amount of the foreign tax credit.

(b) *Special rules*—(1) *Foreign corporation having no gross income for period preceding declaration of dividend.* If the foreign corporation has no gross income from any source for the 3-year period (or part thereof) specified in paragraph (a)(3)(i) of this section, the 50-percent test, or the apportionment formula, as the case may be, described in such paragraph shall be applied solely with respect to the taxable year of such corporation in which the declaration of the dividend occurs. This subparagraph

applies whether the lack of gross income for the 3-year period (or part thereof) stems from the business inactivity of the foreign corporation, from the fact that such corporation is newly created or organized, or from any other cause.

(2) *Transitional rule.* For purposes of applying paragraph (a)(3)(i) of this section, the gross income of the foreign corporation for any period before the first taxable year beginning after December 31, 1966, which is from sources within the United States (determined as provided by sections 861 through 863, and the regulations thereunder, as in effect immediately before amendment by section 102 of the Foreign Investors Tax Act of 1966 (Pub. L. 89–809, 80 Stat. 1541)) shall be treated as gross income for such period which is effectively connected with the conduct of a trade or business within the United States by such foreign corporation.

(3) *Gross income determinations.* In making determinations under subparagraph (2) or (3) of paragraph (a) of this section, or subparagraph (2) of this paragraph—

(i) The gross income of a domestic corporation is to be determined by excluding any items specifically excluded from gross income under chapter 1 of the Code, and

(ii) The gross income of a foreign corporation which is effectively connected with the conduct of a trade or business in the United States is to be determined under section 882(b)(2) and by excluding any items specifically excluded from gross income under chapter 1 of the Code.

However, the gross income from all sources of a foreign corporation for such purposes is to be determined without regard to section 882(b) and without excluding any items otherwise specifically excluded from gross income under chapter 1 of the Code.

(c) *Statement with return.* Any taxpayer who is required to file a return and applies any provision of this section to exclude any dividend from his gross income must file with his return a statement setting forth the amount so excluded, the date of its receipt, the name and address of the corporation paying the dividend, such computations as are necessary to show the amount of the exclusion is properly determined, and the location of the records which substantiate the amount of the exclusion.

(d) *Effective date.* This section applies with respect to dividends received or accrued after December 31, 1966. For corresponding rules applicable with respect to dividends received or accrued before January 1, 1967, see 26 CFR 1.861–3 (Rev. as of Jan. 1, 1972).

PAR. 4. Section 1.861–4 is amended by revising paragraph (a) and by adding a new paragraph (d), as follows:

§ 1.861–4 Compensation for labor or personal services.

(a) *In general.* Gross income from sources within the United States includes compensation for labor or personal services performed in the United States irrespective of the residence of the payer, the place in which the contract for service was made, or the place or time of payment; except that such compensation shall be deemed not to be income from sources within the United States, if—

(1) The labor or services are performed by a nonresident alien individual temporarily present in the United States for a period or periods not exceeding a total of 90 days during his taxable year,

(2) The compensation for such labor or services does not exceed in the aggregate a gross amount of $3,000, and

(3) The compensation is for labor or services performed as an employee of, or under any form of contract with—

(i) A nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, or

(ii) An individual who is a citizen or resident of the United States, a domestic partnership, or a domestic corporation, if such labor or services are performed for an office or place of business maintained in a foreign country or in a possession of the United States by such individual, partnership, or corporation.

As a general rule, the term "day", as used in subparagraph (1) of this paragraph, means a calendar day during any portion of which the nonresident alien individual is physically present in the United States. Solely for purposes of applying this paragraph, the nonresident alien individual, foreign partnership, or foreign corporation for which the nonresident alien individual is performing personal services in the United States shall not be considered to be engaged in trade or business in the United States by reason of the performance of such services by such individual. In determining for purposes of subparagraph (2) of this paragraph whether compensation received by the nonresident alien individual exceeds in the aggregate a gross amount of $3,000, any amounts received by the individual from an employer as advances or reimbursements for travel expenses incurred on behalf of the employer shall be omitted from the compensation received by the individual, to the extent of expenses incurred, where he was required to account and did account to his employer for such expenses and has met the tests for such accounting provided in § 1.162–17 and paragraph (e)(4) of § 1.274–5. If advances or reimbursements exceed such expenses, the amount of the excess shall be included as compensation for personal services for purposes of such subparagraph. Pensions and retirement pay attributable to labor or personal services performed in the United States are not to be taken into account for purposes of subparagraph (2) of this paragraph.

* * * * *

(d) *Effective date.* This section applies with respect to taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.861–4 (Rev. as of Jan. 1, 1972).

PAR. 5. Section 1.861–5 is revised to read as follows:

§ 1.861–5 Rentals and royalties.

Gross income from sources within the United States includes rentals or royalties from property located in the United States or from any interest in such property, including rentals or royalties for the use of, or for the privilege of using, in the United States, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like property. The income arising from the rental of property, whether tangible or intangible, located within the United States, or from the use of property, whether tangible or intangible, within the United States, is from sources within the United States. For taxable years beginning after December 31, 1966, gains described in section 871(a)(1)(D) and section 881(a)(4) from the sale or exchange after October 4, 1966, of patents, copyrights, and other like property shall be treated, as provided in section 871(e)(2), as rentals or royalties for the use of, or privilege of using, property or an interest in property. See paragraph (e) of § 1.871–11.

PAR. 6. Section 1.861–8 is amended by revising paragraph (b) to read as follows:

§ 1.861–8 Computation of taxable income from sources within the United States.

* * * * *

(b) *Personal exemptions.* The deductions for the personal exemptions allowed by section 151 or 642(b) shall not be taken into account for purposes of paragraph (a) of this section but shall be allowed as deductions from the taxable income computed thereunder, if and to the extent that such deductions are allowable for purposes of computing the taxable income of the taxpayer. See sections 641(b), 873, 904(c), and 931(e), and the regulations thereunder.

* * * * *

PAR. 7. Section 1.862–1 is amended by revising paragraph (a) to read as follows:

§ 1.862–1 Income specifically from sources without the United States.

(a) *Gross income.* The following items of gross income shall be treated as income from sources without the United States:

(1) Interest other than that specified in section 861(a)(1) and § 1.861–2 as being derived from sources within the United States;

(2) Dividends other than those derived from sources within the United States as provided in section 861(a)(2) and § 1.861–3;

(3) Compensation for labor or personal services performed without the United States;

(4) Rentals or royalties from property located without the United States or from any interest in such property, including rentals or royalties for the use of, or for the privilege of using, without the United States, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like property;

(5) Gains, profits, and income from the sale of real property located without the United States; and

(6) Gains, profits, and income derived from the purchase of personal property within the United States and its sale without the United States.

For rules treating certain interest as income from sources without the United States, see paragraph (b) of § 1.861–2. For the treatment of compensation for labor or personal services performed partly within the United States and partly without the United States, see paragraph (b) of § 1.861–4. In applying subparagraph (4) of this paragraph for taxable years beginning after December 31, 1966, gains described in section 871(a)(1)(D) and section 881(a)(4) from the sale or exchange after October 4, 1966, of patents, copyrights, and other like property shall be treated, as provided in section 871(e)(2), as rentals or royalties for the use of, or privilege of using, property or an interest in property. See paragraph (e) of § 1.871–11. For determining the time and place of sale of personal property for purposes of subparagraph (6) of this paragraph, see paragraph (c) of § 1.861–7. Income derived from the purchase of personal property within the United States and its sale within a possession of the United States shall be treated as derived entirely from within that possession.

* * * * *

PAR. 8. Section 1.863–6 is revised to read as follows:

§ 1.863–6 Income from sources within a foreign country or possession of the United States.

The principles applied in §§ 1.861–1 to 1.863–5, inclusive, for determining the gross and the taxable income from sources within and without the United States shall generally be applied, for purposes of the income tax, in determining the gross and the taxable income from sources within and without a foreign country, or within and without a possession of the United States. This section shall not apply, however, to the extent it is determined by applying § 1.863–3 that a portion of the taxable income is from sources within the United States and the balance of the taxable income is from sources within a foreign country or possession of the United States. In the application of this section the name of the particular foreign country or possession of the United States shall be substituted for the term "United States", and the term "domestic" shall be construed to mean created or organized in such foreign country or possession. In applying section 861 and the regulations thereunder for purposes of this section, references to sections 243, 245, and 931 shall be excluded, and the exception in section 861(a)(3) shall not apply. In the case of any item of income, the income from sources within a foreign country or possession of the United States shall not exceed the amount which, by applying any provision of §§ 1.861–1 to 1.863–5, inclusive, without reference to this section, is treated as income from sources without the United States.

PAR. 9. Section 1.864–2 is amended by revising paragraph (b)(2) (ii) and (iv) to read as follows:

§ 1.864–2 Trade or business within the United States.

* * * * *

(b) *Performance of personal services for foreign employer.* * * *

(2) *Rules of application.* * * *

(ii) Solely for purposes of applying this paragraph, the nonresident alien individual, foreign partnership, or foreign corporation for which the nonresident alien individual is performing personal services in the United States shall not be considered to be engaged in trade or business in the United States by reason of the performance of such services by such individual.

* * * * *

(iv) In determining for purposes of subparagraph (1) of this paragraph whether compensation received by the nonresident alien individual exceeds in the aggregate a gross amount of $3,000, any amounts received by the individual from an employer as advances or reimbursements for travel expenses incurred on behalf of the employer shall be omitted from the compensation received by the individual, to the extent of expenses incurred, where he was required to account and did account to his employer for such expenses and has met the tests for such accounting provided in § 1.162–17 and paragraph (e)(4) of § 1.274–5. If advances or reimbursements exceed such expenses, the amount of the excess shall be included as compensation for personal services for purposes of such subparagraph. Pensions and retirement pay attributable to personal services performed in the United States are not to be taken into account for purposes of subparagraph (1) of this paragraph.

* * * * *

PAR. 10. Section 1.895 is amended by revising section 895 and the historical note to read as follows:

§ 1.895 Statutory provisions; income derived by a foreign central bank of issue from obligations of the United States or from bank deposits.

SEC. 895. *Income derived by a foreign central bank of issue from obligations of the United States or from bank deposits.* Income derived by a foreign central bank of issue from obligations of the United States or of any agency or instrumentality thereof (including beneficial interests, participations, and other instruments issued under section 302(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717)) which are owned by such foreign central bank of issue, or derived from interest on deposits with persons carrying on the banking business, shall not be included in gross income and shall be exempt from taxation under this subtitle unless such obligations or deposits are held for, or used in connection with, the conduct of commercial banking functions or other commercial activities. For purposes of the preceding sentence the Bank for International Settlements shall be treated as a foreign central bank of issue.

[Sec. 895 as added by sec. 1, Act of May 4, 1961 (Pub. L. 87–29, 75 Stat. 64); as amended by sec. 102(a)(4), Foreign Investors Tax Act 1966 (80 Stat. 1543)]

PAR. 11. Section 1.895–1 is amended to read as follows:

§ 1.895–1 Income derived by a foreign central bank of issue, or by Bank for International Settlements, from obligations of the United States or from bank deposits.

(a) *In general.* Income derived by a foreign central bank of issue from obligations of the United States or of any agency or instrumentality thereof, or from interest on deposits with persons carrying on the banking business, is excluded from the gross income of such bank and is exempt from income tax if the bank is the owner of the obligations or deposits and does not hold the obligations or deposits for, or use them in connection with, the conduct of a commercial banking function or other commercial activity by such bank. For purposes of this section and paragraph (i) of § 1.1441–4, obligations of the United States or of any agency or instrumentality thereof include beneficial interests, participations, and other instruments issued under section 302(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717). See 24 CFR Part 1600 et seq.

(b) *Foreign central bank of issue.* A foreign central bank of issue is a bank which is by law or government sanction the principal authority, other than the government itself, issuing instruments intended to circulate as currency. Such a bank is generally the custodian of the banking reserves of the country under whose law it is organized. See also paragraph (b)(5) of § 1.861–2. The exclusion granted by section 895 applies to an instrumentality that is separate from a foreign government, whether or not owned in whole or in part by a foreign government. For example, foreign banks organized along the lines of, and performing functions similar to, the Federal Reserve System qualify as foreign central banks of issue for purposes of this section. The Bank of International Settlements shall be treated as though it were a foreign central bank of issue for purposes of obtaining the exclusion granted by section 895.

(c) *Ownership of United States obligations or bank deposits.* The exclusion does not apply if the obligations or bank deposits from which the income is derived are not owned by the foreign central bank of issue. Obligations held, or deposits made, by a foreign central bank of issue as agent, custodian, trustee, or in any other fiduciary capacity, shall be

considered as not owned by such bank for purposes of this section.

(d) *Commercial banking function or other commercial activity.* The exclusion applies only to obligations of the United States or of any agency or instrumentality thereof, or to bank deposits, held for, or used in connection with, the conduct of a central banking function and not to obligations or deposits held for, or used in connection with, the conduct of commercial banking functions or other commercial activities by the foreign central bank.

(e) *Other exclusions.* See section 861 and § 1.861–2 for special rules relating to interest paid or credited before January 1, 1976, on deposits and on similar amounts and for rules on interest derived from bankers' acceptances. See section 892 and § 1.892–1 for rules relating to the income of foreign governments. For exemption from withholding under § 1.1441–1 on income derived by a foreign central bank of issue, or by the Bank for International Settlements, from obligations of the United States or of any agency or instrumentality thereof, or from bank deposits, see paragraph (i) of § 1.1441–4.

(f) *Effective date.* This section shall apply with respect to taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.85–1 (Rev. as of Jan. 1, 1972).

PAR. 12. Section 1.902–1 is amended by revising pragraph (c) to read as follows:

§ 1.902–1 Credit for domestic corporate shareholder of a foreign corporation (before amendment by Revenue Act of 1962).

* * * * *

(c) *Source of income of foreign subsidiaries and country to which tax is deemed to be paid.* For the purpose of section 904(a)(1) (relating to the per-country limitation), a dividend from a foreign corporation (at least 10 percent of whose voting stock is owned by a domestic corporation) shall be deemed to be derived from sources within the foreign country or possession of the United States under the laws of which such foreign corporation is created or organized, to the extent that under section 861(a)(2)(B) (before amendment by section 9(c), Revenue Act of 1962, 76 Stat. 1001) such dividend is treated as income from sources without the United States. In addition, for purposes of section 904 all income, war profits, and excess profits taxes paid, or deemed to be paid under section 902, by such foreign corporation to any foreign country or possession of the United States shall be deemed to be paid to the foreign country or possession under the laws of which such foreign corporation is created or organized.

* * * * *

PAR. 13. Section 1.902–3 is amended by adding a new paragraph (d)(1) to read as follows:

§ 1.902–3 Credit for domestic corporate shareholder of a foreign corporation (after amendment by Revenue Act of 1962).

* * * * *

(d) *Source of income from first-tier corporation and country to which tax is deemed paid*—(1) *Source of income.* For purposes of section 904(a)(1) (relating to the per-country limitation), in the case of a dividend received by a domestic shareholder from a first-tier corporation there shall be deemed to be derived from sources within the foreign country or possession of the United States under the laws of which the first-tier corporation is created or organized the sum of the amounts which under paragraph (a)(3)(ii) of § 1.861–3 are treated, with respect to such dividend, as income from sources without the United States.

* * * * *

PAR. 14. Section 1.1441–3 is amended by revising paragraph (c)(1) to read as follows:

§ 1.1441–3 Exceptions and rules of special application.

* * * * *

(c) *Interest*—(1) *Government obligations.* Withholding is required under § 1.1441–1 in the case of interest paid on obligations issued on or after March 1, 1941, by the United States or any agency or instrumentality thereof. See section 103 and the regulations thereunder, relating to the taxation of such interest, and § 1.1461–1, relating to ownership certificates.

* * * * *

PAR. 15. Section 1.1441–4 is amended by adding a new paragraph (i) to read as follows:

§ 1.1441–4 Exemptions from withholding.

* * * * *

(i) *Income of foreign central bank of issue or Bank for International Settlements.* Section 895 provides for the exclusion from gross income of certain income derived by a foreign central bank of issue, or by the Bank of International Settlements, from obligations of the United States or of any agency or instrumentality thereof or from bank deposits. In the absence of knowledge that a foreign central bank of issue, or the Bank for International Settlements, is operating without the scope of the exclusion granted by section 895, the withholding agent is not required to withhold under § 1.1441–1 upon income derived by such bank from obligations of the United States or of any agency or instrumentality thereof, or upon interest derived from deposits with persons carrying on the banking business, if the withholding agent receives from the bank a statement certifying that the bank—

(1) Is a foreign central bank of issue, or the Bank for International Settlements, as the case may be,

(2) Is the owner of the obligations of the United States or of any agency or instrumentality thereof, or the owner of such bank deposits, as the case may be, and

(3) Does not, and will not, hold such obligations or such bank deposits for, or use them in connection with, the conduct of a commercial banking function or other commercial activity.

A copy of the statement filed pursuant to, the Form 1042S required by paragraph (c) of § 1.1461–2 with respect to payments of income made on such obligations or bank deposits during the calendar year.

[FR Doc.74–16774 Filed 7–22–74;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 20]

MIGRATORY BIRD HUNTING

Proposed Steel/Nontoxic Shot Regulations

The Director, United States Fish and Wildlife Service, hereby issues a notice of proposed rulemaking which would require that shotgun shells containing steel pellets or pellets made of such other materials as may be approved by the Director, United States Fish and Wildlife Service, be the only type of shot loads permitted for hunting ducks, geese, and swans (*Anatidae*), and coots (*Fulica americana*). It is proposed that this regulation be implemented beginning in 1976 in the Atlantic Flyway States and in 1977 in the Mississippi Flyway States and in 1978 in designated areas in the Central and Pacific Flyway States.

The purpose of these regulations is to eliminate further deposition of lead pellets in areas used by aquatic birds. Spent lead pellets are known to be consumed by these birds, causing lead intoxication and death to a portion of the resource each year. If the proposal is adopted, the net environmental result will be the alleviation and eventual elimination of lead poisoning from lead shotgun pellets as a significant mortality factor among these birds.

BACKGROUND

Responsibility for the protection, conservation, and management of migratory birds, including waterfowl, and authority to regulate the manner in which these birds will be hunted in the United States lies with the Department of the Interior as described by the Migratory Bird Treaty Act, July 3, 1918, and Executive Order 10250, June 5, 1951. Authority vested in the Secretary of the Interior includes authority: "* * * to promulgate regulations permitting and governing the hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any migratory bird included in the terms of certain conventions, or any part, nest, or egg thereof." (Executive Order 10250).

Research on the problem of lead poisoning in waterfowl has been conducted during the past 20 years. The complexities of the issue have been explored with

conservationists, ammunition manufacturers, and State fish and game departments. During the past 2 years the United States Fish and Wildlife Service has intensively studied this complex issue in cooperation with advisory committees representing a broad cross section of interests affected by and concerned with the problem of lead poisoning in waterfowl. Data collected from various sources clearly demonstrates that a lead poisoning problem exists. It has been determined that the best talents and resources available are needed to develop an optimum mechanism to alleviate the problem as soon as practicable.

Although steel is the only suitable shot material available at this time to serve as an alternative to lead shot, it is possible that improvements in shot materials, which will not impose a significant danger to waterfowl or their habitats because of their toxic effects, will be discovered in the future. A mechanism for the identification, and approval for use of such materials, is created within the proposed regulations which it is hoped will encourage such developments.

PROPOSAL

This proposal will amend the the basic migratory bird hunting regulations to restrict the type of shotgun pellets that may be used for taking ducks, geese, swans (*Anatidae*), and coots (*Fulica americana*) in certain areas over a phased time schedule. Specifically, it is proposed to add a new subsection to § 20.21—Hunting Methods, which will contain the basic prohibition against the use of any shot pellet except that which is made from a material approved by the Director in States or areas within States which will be specified in Subpart K, Annual Seasons, Limits, and Shooting Hour Schedules. Subpart K is revised annually and is the appropriate place to designate the States, and areas within States, where it is determined that the prohibition should be applied.

It is proposed to apply the restriction on nontoxic shot types only to the taking of ducks, geese, and swans (*Anatidae*), and coots (*Fulica americana*), because it is believed that the deposition of lead pellets into the environment so as to create a lead poisoning problem results primarily from hunting activities directed at these types of birds. The hunting of other types of aquatic and upland game birds does not, in itself, appear to be the source of a significant lead poisoning problem.

It is further proposed that Subpart K of these regulations will be amended at the appropriate time so that these proposed restrictions on the use of shot shall take effect in states of the Atlantic Flyway (Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia) with the hunting season commencing in 1976; in states of the Mississippi Flyway (Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin) with the hunting season commencing in 1977; and in states in the Central Flyway (Colorado (part), Kansas, Montana (part), Nebraska, New Mexico (part), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (part)) and Pacific Flyway (Arizona, California, Colorado (part), Idaho, Montana (part), Nevada, New Mexico (part), Oregon, Utah, Washington, and Wyoming (part)) with the hunting season commencing in 1978.

Additionally, it is proposed that Subpart K of these regulations will be amended so that these restrictions shall apply flyway-wide in the Atlantic and Mississippi Flyways. In the Central and Pacific Flyways the regulation may be limited to specifically designated areas where the United States Fish and Wildlife Service, in consultation with the states of these flyways, determines that a lead poisoning problem exists; provided that such limitation is determined to be a feasible approach to eliminating the lead poisoning problem in these flyways. Differences between flyways in the proposed application of this restriction are based on apparent flyway differences in the distribution of the lead poisoning problem in the United States. The level of exposure of waterfowl to lead poisoning is greatest in the Atlantic Flyway, and least in the Central Flyway. In the Mississippi and Pacific Flyways the level of exposure is high but intermediate between levels in the Atlantic and Central. In addition, it is believed that lead poisoning from shotgun pellets is less widely distributed in the Central and Pacific than in the Atlantic and Mississippi Flyways, suggesting that a restriction on shot type need not be as flyway-wide in these flyways as appears necessary in the others. This is based on information suggesting that concentrated lead poisoning problems may be limited to specific areas in the two western flyways to a significantly greater degree than in the two eastern flyways.

The effectiveness of this approach would depend in large part on the ability of state and Federal biologists to define these areas in such a way as to provide a practical solution to the lead poisoning problem. It appears that hunting pressure is so evenly distributed throughout the Mississippi and Atlantic Flyways that a limited area concept is not feasible in these flyways.

A gradual implementation of the shot type regulation beginning in 1976 in the Atlantic Flyway and extending to other flyways during the succeeding 2 years establishes a systematic implementation time table which is designed to:

1. Allow adequate time for public review and discussion of the proposal prior to a final decision. This is a matter of great interest and controversy among hunters, wildlife administrators and conservationists throughout the United States.

2. Begin action against the lead poisoning problem in the flyway (Atlantic) where it appears to be most severe.

3. Allow adequate time for ammunition manufacturers to perfect production techniques and develop production capability for sufficient quantities of the required ammunition type to supply the needs of hunters in the United States once a decision has been made.

4. Allow adequate time to develop and produce ammunition for commonly used shotgun gauges other than 12-gauge, presently the only gauge for which the required ammunition type is available.

5. Allow ammunition wholesalers and retailers to dispose of current inventories of lead shot ammunition.

6. Allow law enforcement and hunter acceptance problems to be determined prior to full implementation so that methods for resolving them can be developed and employed as implementation proceeds.

7. Allow for development of more refined information about lead poisoning and methods of dealing with it which may be used to better define the most suitable procedures for implementation, particularly in the Central and Pacific Flyways.

These proposed regulations also include new sections which set forth the method and procedure for approval of nontoxic shot material by the Director, requiring application with supporting data and appropriate public review procedures. There is also a new section which describes shot material which has been approved for use by the Director.

ENVIRONMENTAL IMPACT STATEMENT

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, Public Law 91-190, the Department of the Interior has prepared a draft environmental impact statement for these proposed regulations. Final action will not be taken until the requirements of the National Environmental Policy Act have been met.

Copies of the draft statement are available for inspection and single copies may be obtained by writing the—

Chief, Office of Environmental Coordination
U.S. Fish and Wildlife Service
Washington, D.C. 20240

U.S. Fish and Wildlife Service Regional Offices at—

1500 N.E. Irving Street
Portland, Oregon 97208

17 Executive Park Drive, N.E.
Atlanta, Georgia 30329

517 Gold Avenue, S.W.
Albuquerque, New Mexico 87103

U.S. Post Office and Courthouse
Boston, Massachusetts 02109

Federal Building, Fort Snelling
Twin Cities, Minnesota 55111

Denver Federal Center
Denver, Colorado 80225

PUBLIC COMMENTS SOLICITED

The Director intends that the finally adopted rules be as responsive as possible to all concerned interests; he therefore desires to obtain the comments and

suggestions of the public, other concerned governmental agencies and private interests on the problems of achieving compliance with the proposed rules and the associated impact on the various concerned persons.

Public hearings on this proposal will be held in each flyway prior to final rulemaking. The dates, times, and places of the hearings will be announced at a later date by publication of a notice in the FEDERAL REGISTER. At least 30 days will be allowed between such publication and the date of any such hearing.

The Director's final promulgation of steel shot regulations will take into consideration the comments and testimony he receives. Comments, testimony, and any additional information received may lead the Director to adopt final regulations that differ in important ways from this proposal.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036. All relevant comments received no later than November 15, 1974, will be considered. The Service will attempt to acknowledge receipt of comments, but substantive responses to individual comments will not be provided. Comments received will be available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

This notice of proposed rulemaking is issued under the authority of the Migratory Bird Treaty Act (16 U.S.C. 704).

Dated: July 9, 1974.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

PROPOSED REGULATIONS

It is proposed to amend Subpart C by adding a new paragraph (j) to § 20.21 and to add a new § 20.134 to Subpart L of Chapter I, Subchapter B of Title 50 of the Code of Federal Regulations as follows:

§ 20.21 Hunting methods.

* * * * *

(j) With a shotgun containing shells loaded with shot composed of any metal other than such material as may be determined by the Director to be nontoxic to migratory waterfowl pursuant to procedures set forth in § 20.134: *Provided,* That this restriction applies only to the taking of ducks, geese, and swans (*Anatidae*), and coots (*Fulica americana*) in the areas described and/or States designated in Subpart K.

§ 20.134 Nontoxic shot.

(a) *Approval procedures.* The Director shall determine shotgun shot material to be nontoxic for the purposes of § 20.21(j), if after a review of applications and supporting data submitted in accordance with this section, together with all other relevant evidence, it is concluded that the shot material can be used in migratory waterfowl habitats without imposing a significant danger to such waterfowl or to such habitats.

(1) *Application.* All applications under this section shall be submitted to the Director and shall include (i) the name, chemical identity, and composition of the shot material; (ii) a full and complete report of the results of any experimental work by the applicant on the toxicity of the shot material to migratory waterfowl and their habitat; (iii) data relating to the toxicity, to migratory waterfowl and their habitat, of the shot material obtained by other qualified investigators; (iv) any other material which the applicant believes will justify a finding of nontoxicity; and (v) information analyzing the environmental impacts of the proposed action, which information should be of the type, quantity, and quality specified by the Council on Environmental Quality for Preparation of Environmental Impact Statements, in order that the Director can make an assessment of the environmental impact of the proposed activity as required under the National Environment Policy Act.

(2) *Public participation.* Approximately 30 days after receipt of an application for a determination of nontoxicity, the Director will publish such application, or a summary thereof, in the FEDERAL REGISTER and invite public comment thereon for a period of at least 60 days.

(3) *Decision.* The Director, within 180 days after receipt of an application, will make a determination of toxicity or nontoxicity, or he may reject such an application without prejudice to any later applications for the same shot material. Such a rejection without prejudice may be made if there exists insufficient data, or if the application contains insufficient data, to demonstrate that the shot material can be used in migratory waterfowl habitats without imposing a significant danger to such waterfowl or to such habitats. In making these decisions the Director is not limited to his review of the application, supporting data, and public comments, but may consider any data deemed relevant to a determination of toxicity. Notice of the Director's decision will be published in the FEDERAL REGISTER, together with a summary of the reasons for such determination. Shot materials which have been determined by the Director to be nontoxic shall be listed at paragraph (b) of this section.

(b) *Approved nontoxic shot material.* Only the following materials have been determined by the Director to be nontoxic for the purposes of § 20.21(j):

(1) *Steel shot.* Shotgun pellets manufactured from and composed entirely of low carbon steel wire, as defined by standards set by the American Society for Testing and Materials (ASTM).

[FR Doc.74-16807 Filed 7-22-74;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Part 252]

OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARGO VESSELS ENGAGED IN WORLDWIDE SERVICES

Contracting for and Payment of Subsidy

By notice published in the FEDERAL REGISTER on June 10, 1974 (39 FR 20383), there was proposed a new Part 252 to Title 46 of the Code of Federal Regulations setting forth regulations governing the payment of operating-differential subsidy to bulk cargo vessels engaged in worldwide services pursuant to Title VI of the Merchant Marine Act, 1936, as amended (46 USC 1171–1180).

Said notice invited comments, views and argument concerning the proposed revision to be submitted in duplicate to the Secretary, Maritime Administration, Washington, D.C. 20230, on or before August 12, 1974. In order to provide more time for the preparation of comments, the date for submission of comments is hereby extended to close of business on September 12, 1974.

By order of the Maritime Subsidy Board, Maritime Administration.

Dated: July 17, 1974.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.74-16824 Filed 7-22-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 1, 3, 10, 15, 100, 102]

CERTAIN PROPOSED FOOD LABELING PROVISIONS

Extension of Time for Filing Comments

In the FEDERAL REGISTER of June 14, 1974 (39 FR 20885) the Commissioner of Food and Drugs issued several proposals to amend Title 21 of the Code of Federal Regulations. Interested persons were invited to file comments on these proposals with the Hearing Clerk, Food and Drug Administration, on or before August 13, 1974.

Based upon a request which the Commissioner has received from the Association of Food and Drug Officials of the United States, the time for filing comments on the following proposals is extended to October 1, 1974: (1) (1) Multiunit and Multicomponent Food Packages (39 FR 20885); (2) Uniform Method of Declaring the Percentage of an Ingredient in Foods (39 FR 20885); (3) Food Labeling; Label Declaration of Ingredients; Misleading Vignettes; Common or Usual Name for Food (39 FR 20888); (4) Common or Usual Name for Plant Protein Products; Withdrawal of Textured Protein Products Proposal (39 FR 20892); and (5) General Principles Governing the Addition of Nutrients to Foods

(39 FR 20900). The Commissioner has concluded that the time for filing comments on the remaining proposals will not be extended.

Dated: July 17, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-16848 Filed 7-22-74;8:45 am]

[21 CFR Part 121]

SUBSTANCES PROHIBITED FROM USE IN FOOD

Amendment to Notice of Proposed Rule Making

In the FEDERAL REGISTER of July 26, 1973 (38 FR 20040), the Commissioner of Food and Drugs proposed to amend 21 CFR Part 121 to add a new § 121.106, which would consolidate in one regulation various substances whose use in food has been prohibited on the basis of toxicological data showing a potential health hazard or because inadequate data exist to conclude that they are safe for use in food. One of those substances is safrole, along with oil of sassafras, and the safrole derivatives isosafrole and dihydrosafrole. As published, proposed § 121.106(d)(6)(ii) provided:

> Food containing any added safrole, oil of sassafras, dihydrosafrole, or safrole or as a constituent of any food or extract is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of December 3, 1960 (25 FR 12412).

Because of a transcription error, several words were omitted or transposed in the proposed rule. The provision should have read as follows:

> Food containing any added safrole, oil of sassafras, isosafrole, or dihydrosafrole, or any safrole as a constituent of any food or extract deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of December 3, 1960 (25 FR 12412).

In the near future the Commissioner will publish in the FEDERAL REGISTER a final order promulgating 21 CFR 121.106 which will incorporate the corrected version of proposed § 121.106(d)(6)(ii). It has become apparent, however, that the corrected version of § 121.106(d)(6)(ii) should be clarified in certain respects. Accordingly, the Commissioner proposes that the corrected version of § 121.106 (d)(6)(ii) which will shortly be published in the FEDERAL REGISTER be further revised as described in this proposal.

The December 3, 1960, order referenced in § 121.106(d)(6)(ii) was based on the conclusion of an expert panel, after a full review of the scientific data, that safrole and oil of sassafras are carcinogens, and on the results of studies which demonstrated that dihydrosafrole and isosafrole caused liver damage to test animals. The toxic properties of the four substances were such that the Commissioner was unable to find that there would be no undue risk to the public health in continuing to authorize their use in food under section 6(c) of the Food Additives Amendment of 1958.

Recently, questions have been raised concerning the legal status of sassafras plant parts (sassafras), which contain safrole as a natural constituent, and which are offered for use in making the beverage commonly known as sassafras tea. Safrole is the characterizing ingredient in sassafras tea, which is usually made by infusing sassafras bark in water. Sassafras tea is considered by some to be a "tonic" with therapeutic properties, and has at times been represented as such on the labels of packages of sassafras offered for making tea.

Prior to publication of the 1960 order, safrole (as such or in oil of sassafras) was widely used as a flavor ingredient in root beer and other soft drinks. Safrole for such commercial use was in the form of an extract from the safrole-bearing parts of the sassafras tree (or of other safrole-rich plants, such as the tree Ocotea cymbarum), which was then added during manufacture to the product to be flavored. The resulting levels of safrole were, for example, 20 parts per million (ppm) in root beer. (R. Hall, "Toxicants Occurring Naturally in Spices and Flavors," National Academy of Sciences/National Research Council, Toxicants Occurring Naturally in Foods, at 448, 457 (National Academy of Sciences, Washington, DC, 1973).) Analyses performed by the Food and Drug Administration using an unofficial test method revealed levels of safrole in six samples of commercial root beer produced prior to 1960 of from 8.0 to 26.7 ppm. (Journal of the Association of Official Analytical Chemists 42: 696, 698 (1959).)

Sassafras tea is usually made by infusing sassafras bark, either loose or in tea bags, in hot water. The purpose of the infusion process is to extract safrole from the sassafras bark, and thus to introduce safrole into the water as a flavoring ingredient. Recent tests performed by the Food and Drug Administration determined that safrole was present in sassafras tea brewed from one manufacturer's product at levels of 4.23, 4.66, 7.84, and 10.07 ppm, that is, at levels not significantly lower than those present in commercially produced root beer made from a formula calling for safrole. Moreover, it is reasonable to assume that safrole levels vary with length of brewing time, and thus that "strong" sassafras tea would contain greater concentrations of safrole than sassafras tea brewed in accordance with package directions.

Both root beer and sassafras tea are water-based beverages in which safrole is intentionally present as a flavoring ingredient. In both cases the intended use of the safrole, whether alone, as part of oil of sassafras, or combined with sassafras bark, results in its becoming a component of a food.

The Commissioner is thus unable to distinguish between safrole along or in oil of sassafras, on the one hand, and safrole in sassafras bark, on the other, with respect to its use as a flavoring ingredient, and concludes that the sale of safrole in its natural form as a constituent of sassafras for the purpose of making tea is precluded by the food additive provisions of the act together with the 1960 order prohibiting the use of safrole in food. That safrole is introduced into root beer in the form of an extract from sassafras bark whereas safrole is introduced into sassafras tea directly by infusion of the sassafras bark itself is not a distinction which is legally or practically relevant. If it were, it would be legal to add safrole to root beer so long as the safrole was extracted from the sassafras bark during rather than before the manufacturing process. Nor do the food additive provisions of the act contemplate different treatment of an ingredient based on whether it becomes a component of food at the consumer level as the result of following label directions rather than during the manufacturing process. Otherwise, it would be lawful to market safrole directly to the consumer for addition to root beer.

The data concerning safrole, including the carcinogenic and other toxicologic properties of safrole, do not establish that safrole in sassafras used to impart safrole as a flavor ingredient is safe, or is generally recognized as safe. The quantity of safrole known to be present in sassafras is such that consumption of sassafras in any food form, including sassafras tea, has not been proved to be safe. Hence, sassafras is adulterated within the meaning of section 402(a)(2)(C) of the act (21 U.S.C. 342(a)(2)(C)) unless it has been treated to remove the safrole, or comes from a part of the sassafras plant in which safrole is not ordinarily found and in fact contains no safrole.

While it is clear that safrole in sassafras sold to make tea is subject to regulation as a food additive, the Commissioner notes that the presence of small or trace amounts of safrole in other food substances, e.g., nutmeg, and mace, does not invoke the food additive provisions of the act. The safrole in such substances is not the only, or even necessarily an important, contributor to their value and purpose as foods. By contrast, the food value and purpose of sassafras derives principally from the presence of safrole, and the ability of sassafras to impart safrole to other foods as a flavoring ingredient. The best information available to the Commissioner indicates that the amount of safrole likely to be ingested through consumption of sassafras tea is greater by several orders of magnitude than that presently available from any other source. Thus, apart from sassafras and other safrole-rich plants, nutmeg is one of the few food ingredients containing quantifiable amounts of safrole. It has been estimated, however, that under reasonably anticipated patterns of consumption an individual could ingest as much safrole from sassafras tea in less

than a week, and perhaps in as little as a day, as from nutmeg in 1 year. The public health problem associated with sassafras tea is compounded by the impossibility of predicting the strength to which sassafras tea will be brewed by the consumer. Sassafras bark contains heavy concentrations of safrole. Food and Drug Administration analyses of four samples of sassafras bark revealed concentrations of 9,500, 14,200, 22,700, and 28,000 ppm. The amount of safrole in a given cup of tea would appear to be limited, therefore, only by the length of brewing time dictated by the taste of the consumer, and concentrations of safrole two to three times that in a "normal" strength cup of sassafras tea would not be unexpected. Such abundantly available amounts of safrole are not present in nutmeg or in any other food ingredient in which safrole has been detected.

For these reasons, and to dispel the confusion surrounding the legal status of sassafras products offered for use in making a sassafras tea beverage, the Commissioner proposes to amend § 121.106(d)(6)(ii) as set forth herein.

The Commissioner also wishes to make clear that a sassafras product offered for sale to make a tea beverage with the representation that the beverage has therapeutic properties comes within the definition of "drug" under section 201(g) of the act (21 U.S.C. 321(g)) with respect to any such representation, as well as within the definition of "food" under section 201(f) of the act with respect to the food use of the product. Consequently sassafras for which therapeutic claims are made is subject to regulation under both the food provisions of the Federal Food, Drug, and Cosmetic Act, as previously discussed, and pertinent provisions regulating the interstate sale of drugs, including section 502 (a), (f) and (j) (21 U.S.C. 352(a) (false or misleading labeling), 21 U.S.C. 352(f) (directions for use and warnings on labels), 21 U.S.C. 352(j) (drugs dangerous to health when used in dosage, or with frequency, recommended or suggested)), and section 505 (21 U.S.C. 355 (requirement for new-drug application if drug is not generally recognized as having been shown by substantial evidence to be safe and effective)). Use of the word "tonic" on the labeling of a sassafras product offered to make sassafras tea in a manner such that sassafras tea is represented, directly or indirectly, as having therapeutic properties, renders the product a drug, as well as a food.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788, as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that § 121.106 be amended by revising paragraph (d)(6)(ii) to read as follows:

§ 121.106 Substances prohibited from use in food.

* * * * *

(d) * * *

(6) * * *

(ii) Safrole, oil of sassafras, isosafrole, or dihydrosafrole, as such, or food containing any added safrole, oil of sassafras, isosafrole, or dihydrosafrole, or food containing any naturally occurring safrole, oil of sassafras, isosafrole, or dihydrosafrole, e.g., sassafras bark, which is intended solely or primarily as a vehicle for imparting such substances to another food, e.g., sassafras tea, is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of December 3, 1960 (25 FR 12412).

* * * * *

Interested persons may on or before August 22, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. The report of the panel on which the December 30, 1960, order prohibiting the use in food of safrole and related substances was based, all scientific data on which the panel relied in concluding that safrole is a carcinogen, and other relevant data and information concerning the carcinogenicity of safrole and its derivatives, as well as other comments received on this proposal, will be available for inspection in the above office during working hours, Monday through Friday.

Dated: July 18, 1974.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.74–16847 Filed 7–22–74;8:45 am]

Office of Education

[45 CFR Part 142]

LOANS TO PRIVATE NONPROFIT SCHOOLS FOR STRENGTHENING INSTRUCTION IN ACADEMIC SUBJECTS

Notice of Proposed Rulemaking

In accordance with Section 503 of the Education Amendments of 1972 (P.L. 92–318) and pursuant to the authority contained in section 305 of the National Defense Education Act of 1958, as amended, 20 U.S.C. 445, the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Title 45, Part 142 of the Code of Federal Regulations to read as set forth below.

1. *Program purpose.* Section 305 of the National Defense Education Act of 1958, provides for a program of loans to private nonprofit schools for strengthening instruction in academic subjects through purchases of laboratory and other special equipment, and for minor remodeling of space needed for the use of that equipment.

2. *Section 503 procedures and effect.* Section 503 of the Education Amendments of 1972 requires the Commissioner to study all rules, regulations, guidelines, or other published interpretations or orders issued by him or by the Secretary after June 30, 1965, in connection with, or affecting, the administration of Office of Education programs; to report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives concerning such study; and to publish in the FEDERAL REGISTER such rules, regulations, guidelines, interpretations, and orders, with an opportunity for public hearing on the matters so published. The regulations proposed below reflect the results of this study as it pertains to the program under section 305 of the National Defense Education Act of 1958. Revised Part 142 will be published as a final regulation after comments and hearing. Thirty days after such publication, it will supersede all preceding rules, regulations, guidelines, and other published interpretations and orders issued in connection with or affecting Part 142.

3. *Effect of Office of Education general provisions regulation.* The proposed regulation differs from the current regulation in that definitions have been deleted which are presently contained in the Office of Education General Provisions for Programs, published in the FEDERAL REGISTER at 38 FR 30654 (November 6, 1973), in connection with the same study under section 503 of the Education Amendments of 1972 of which this publication is a part.

4. *Guidelines.* At present there will be no guidelines under the program. Should guidelines be issued in the future, they will be limited to recommendations and suggestions concerning program operation and management.

5. *Citations of legal authority.* As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)) and section 503 of the Education Amendments of 1972, a citation of statutory or other legal authority for each section of the regulations has been placed in parentheses on the line following the text of the section.

On occasion, a citation appears at the end of a subdivision of the section. In that case the citation is to all that appears in that section above the citation and following the preceding citation. When the citation appears only at the end of the section it applies to the entire section.

6. *Opportunity for public hearing.* Pursuant to section 503(c) of the Education Amendments of 1972, the Commissioner will provide interested parties an opportunity for a public hearing on these regulations as follows:

A hearing will take place at the U.S. Office of Education on September 17, 1974 in the auditorium of Regional Office Building Three (ROB–3) located at 7th and D Streets, SW., Washington, D.C., beginning at 10 a.m.

The purpose of the hearing is to receive comments and suggestions on the published materials. Interested parties may also submit written comments and recommendations to Room 2079–G, Federal Office Building No. 6, 400 Maryland Avenue, SW., Washington, D.C. 20202,

Attention: Chairman, Office of Education Task Force on section 503. All relevant material received prior to the date of the hearing will be considered. Comments and suggestions submitted in writing will be available for review in the above office between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday of each week.

Parties interested in attending the hearing should notify the Office of Education at the above address, and are urged to submit a written copy of their comments with such notification. Each party planning to make oral comments at the hearing is urged to limit his presentation to a maximum of fifteen minutes.

(Catalog of Federal Domestic Assistance Program No. 13.479, School Equipment Loans to Nonprofit Private Schools).

Dated: May 28, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

Approved: July 1, 1974.

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

PART 142—LOANS TO PRIVATE NONPROFIT SCHOOLS FOR STRENGTHENING INSTRUCTION IN ACADEMIC SUBJECTS

Subpart A—Scope of Section 305

Sec.
142.1 Purpose of loan program.

Subpart B—Definitions

142.2 General provisions regulations.
142.3 Definitions.

Subpart C—Application

142.4 Filing application.
142.5 Content of application.
142.6 Authorization for application.

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142.35 Limitation on amount.
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142.37 Use of loan funds.
142.38 Unused and unreported funds.
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142.40 Disposal or unauthorized use of equipment.
142.41 Time of acquisition.
142.42 Interest.
142.43 Repayment.
142.44 Reports and records.

AUTHORITY: Secs. 305 and 1001, Pub. L. 85-864, as amended, 72 Stat. 1590 (20 U.S.C. 445), unless otherwise noted.

Subpart A—Scope of Section 305

§ 142.1 Purpose of loan program.

The Federal Government makes loans available under the provisions of section 305 of the Act to eligible private nonprofit elementary and secondary schools for the acquisition of laboratory and other special equipment suitable for use in providing education in academic subjects as defined in § 142.2, and for minor remodeling of laboratory or other space used for that equipment.

(20 U.S.C. 445)

Subpart B—Definitions

§ 142.2 General provisions regulations.

Definitions listed in § 100.1 of this chapter apply to this part except as otherwise provided in this subpart.

(20 U.S.C. 445)

§ 142.3 Definitions.

As used in this part:

"Academic subjects" means the following elementary and secondary school subjects: the arts, civics, economics, english, geography, history, the humanities, industrial arts, mathematics, modern foreign languages, reading, and science.

"Act" means section 305 of the National Defense Education Act of 1958, 20 U.S.C. 445.

"Arts" includes, but is not limited to, music (instrumental and vocal), dance, drama, folk art, creative writing, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, industrial design, costume and fashion design, film, television, radio, tape and sound recording, and the arts related to the presentation, performance, execution and exhibition of such major art forms.

"Audiovisual library" means a facility for the collection, custody, cataloging, maintenance, and distribution of audiovisual materials for education in academic subjects in elementary or secondary schools, and controlled and operated by a school or a group of schools under a school system.

"Equipment" means laboratory and other special equipment as defined in this section, including materials as defined in § 100.1 of this chapter.

"Humanities" includes, but is not limited to the study of the following: language, both modern and classic; linguistics; literature; history; jurisprudence; philosphy; archeology; the history, criticism, theory, and practice of the arts; and those aspects of the social sciences which have humanistic content and employ humanistic methods.

"Laboratory and other special equipment" (a) The term includes: (1) Fixed or movable articles which are particularly appropriate for use in providing education in academic subjects in an elementary or secondary school and which are to be used either by teachers in connection with teaching or by students in learning in such subjects; (2) audiovisual equipment (including projectors, recorders, television cameras, television receivers, closed-circuit television distribution systems, and ancillary television projection and reception equipment to be used primarily for nonbroadcast purposes, except where broadcast takes the place of closed-circuit cable systems), to be used, either by teachers in connection with teaching or by students in connection with learning primarily in providing education in academic subjects in a private elementary or secondary school; (3) materials (as defined in S100.1 of this chapter) and devices (other than those used for printing, such as printing presses and offset printing machines) to be used for preparation of audiovisual and instructional materials for academic subjects; (4) storage equipment to be used solely for the care and protection of the items specified in paragraph (a)(1)-(3) of this definition, when used in laboratories or classrooms; (5) testgrading equipment to be used primarily in providing education in academic subjects in a private elementary or secondary school; and (6) (i) specialized equipment for audiovisual libraries serving private elementary or secondary schools when such equipment is to be used primarily in providing education in academic subjects. (ii) The term excludes such items as general-purpose furniture, school public address systems, or items for the maintenance and repair of equipment. However, the term does include equipment for maintenance, repair, and storage of materials in audiovisual libraries.

"Minor remodeling" (notwithstanding the definition set forth in § 100.1 of this chapter) means (a) those minor alterations, in a previously completed building in space used or to be used as a laboratory or classroom for education in academic subjects, which are needed to make effective use of equipment in providing education in such subjects. The term also includes those minor alterations in a previously completed building which are needed to make effective use of the items referred to in paragraph (a)(5)-(6) of the definition of "Laboratory and other special equipment" in this section. (b) The term may also include the extension of utility lines, such as for water and electricity, from points beyond the confines of the space in which the minor remodeling is undertaken but within the confines of such previously completed building, to the extent needed to make effective use of equipment. The term does not include building construction, structural alterations to buildings, building maintenance, repair, or renovation. (c) Minor remodeling may be done in a building owned by or under lease to the applying school. If the building is leased, the leasehold interest shall be sufficient in the light of the cost of the remodeling to be accomplished with loan funds.

"Private," as applied to a school, means a school which is established by an agency other than a State or a political subdivision or any combination of either or both, and which is supported in whole or in part by other than public funds and is administered and controlled by other than publicly elected or appointed officials.

"School" means a division of instructional organization consisting of a group of pupils comprised of one or more grade groups, organized on a class basis as one unit with one or more teachers to give instruction of a defined type, and housed in a school plant of one or more buildings. More than one school may be housed in one schol plant as when elementary and secondary schools are so housed.

"State" means a State of the Union, Puerto Rico, the District of Columbia, the Canal Zone, Guam, American Samoa, the

Virgin Islands and the Trust Territory of the Pacific Islands.

"Textbook" means a book or workbook, or manual, which is used as the principle source of study material for a given class, or group of students, a copy of which is expected to be available for the individual use of each pupil in that class or group of students.

(20 U.S.C. 403, 445)

Subpart C—Applications

§ 142.4 Filing application.

A private nonprofit elementary or secondary school, or its governing authority, desiring to borrow funds under this part shall file an application for that purpose with the Commissioner.

(20 U.S.C. 445(1))

§ 142.5 Content of application.

Each application under this part shall include:

(a) An appropriate identification of the applicant school;

(b) Satisfactory evidence of the applicant's eligibility as a private nonprofit elementary or secondary school;

(c) Statements of financial condition and information concerning credit of the applicant and of any proposed guarantor;

(d) A request for a loan in a definite amount;

(e) Proposed plan of repayment of principal with interest not to extend beyond 10 years from the date of the loan;

(f) An itemized list of the equipment, including materials, which is proposed to be acquired with the loan funds and the estimated cost thereof, the list to be organized by subject area and school level (i.e., elementary or secondary) at which the equipment is to be used;

(g) If funds are requested for minor remodeling, a full description of the work to be done (including drawings or blueprints), the estimated cost thereof, and the necessity for such minor remodeling in order to make effective use of equipment;

(h) A certification that the equipment, including materials, for providing education in academic subjects is to be used primarily for providing education in academic subjects, except that storage equipment will be used solely for the care and protection of equipment, and a certification that the minor remodeling, if any, is to be performed to make more effective use of equipment in providing education in academic subjects;

(i) A description showing the direct relationship of the proposed expenditures to the overall design for enriching the planned educational program and the achievement of desired curriculum goals in academic subjects; and

(j) Such additional information as the Commissioner may require.

(20 U.S.C. 445)

§ 142.6 Authorization for application.

The application shall be signed by an authorized representative of the school, and shall contain satisfactory evidence of—

(a) The authority of the applying entity to make the loan application;

(b) The authority of the person signing the application to act as the representative of the school and to negotiate for the loan;

(c) The legal identity of the corporation, association or other entity that will be the maker of the note; and

(d) The designation, by title, of the officer, or officers, empowered to execute the note on behalf of that entity.

(20 U.S.C. 445)

Subpart D—Loan Procedures

§ 142.24 Review of application.

The Commissioner will act upon a loan application only after a review of information contained in the application and any other pertinent information which he may possess.

(20 U.S.C. 445)

§ 142.25 Action on approved application.

(a) *Execution of note.* After the Commissioner approves an application for a loan, he will so notify the applicant and will require the execution of a promissory note, which will include a schedule of payments of the principal, with interest accruing on the unpaid principal of the loan to the dates of such payments. If the note is not executed by the last day of the fiscal year following the fiscal year in which the application was approved and promptly submitted to the Commissioner, the Commissioner may cancel the loan approval.

(b) *Payment to school.* Upon receipt of a duly executed note, the Commissioner will cause the loan funds to be paid by the U.S. Treasury to the applicant at the time loan funds will be needed.

(c) *Cancellation of loan approval.* If the applicant does not request the loan funds within a reasonable time after notification to the applicant of approval, the Commissioner may cancel approval of the loan.

(20 U.S.C. 445)

Subpart E—Loan Conditions

§ 142.35 Limitation on amount.

Each loan will be limited to the amount which may reasonably be expected to be expended without undue delay for the acquisition of equipment or for minor remodeling.

(20 U.S.C. 445)

§ 142.36 Assurance of repayment.

All loans will be made on the basis of such security or evidence of financial responsibility as will reasonably assure repayment.

(20 U.S.C. 445)

§ 142.37 Use of loan funds.

All loans will be subject to the condition that the funds borrowed will be used only for the acquisition of equipment, and for the performance of minor remodeling, substantially similar to the project described in the approved application.

(20 U.S.C. 445)

§ 142.38 Unused and unreported funds.

Loan funds that are not used by the last day of the fiscal year following the fiscal year in which the application was approved for the purposes set out in § 145.37, and loan funds used but not reported as required in § 142.44, shall immediately become due and payable, with interest accrued thereon unless the Commissioner extends the period upon the written request of the applicant. This paragraph shall not apply if the total amount not used for the acquisition of equipment, and for the performance of minor remodeling, and not reported does not exceed two percent of the amount lent or $200, whichever is smaller.

(20 U.S.C. 445)

§ 142.39 Misused funds.

Loan funds that are used for purposes other than those provided for in § 142.1 shall immediately become due and payable, with interest accrued thereon.

(20 U.S.C. 445)

§ 142.40 Disposal or unauthorized use of equipment.

If during the period of the loan the applicant disposes of equipment or fails to use it primarily for the purposes authorized under the loan conditions, the regulations, or the Act, the balance of the loan shall, at the option of the Commissioner, become immediately due and payable, with interest accrued thereon. Any such unauthorized use and any such disposal shall be reported to the Commissioner.

(20 U.S.C. 445(2))

§ 142.41 Time of acquisition.

Loan funds shall not be used for the acquisition of equipment, or minor remodeling, for which firm commitments have been made prior to the time when the application is approved by the Commissioner.

(20 U.S.C. 445)

§ 142.42 Interest.

(a) *Determination of interest rate.* Loans will bear interest at the rate arrived at by adding one-quarter of 1 per centum per annum to the rate which the Secretary of the Treasury determines to be equal to the current average market yield on outstanding marketable obligations of the United States with redemption periods to maturity comparable to the average maturities of those loans as computed at the end of the fiscal year next preceding the date the application for the loan is approved and by adjusting the result obtained to the nearest one-eighth of 1 per centum.

(b) *Effective interest rate.* The interest rate in effect at the time a loan is approved will remain in effect for the life of the loan.

(c) *Date of loan.* The date of the U.S. Treasury check paying the funds to the

applicant will be the date of the loan and the date from which interest accrues.

(20 U.S.C. 445(3))

§ 142.43 Repayment.

(a) *Schedule of repayments.* Repayments of principal with accrued interest shall be made on those dates as may be agreed upon by the Commissioner and the applicant.

(b) *Date of maturity.* A loan may be made for any period of time except that the date of maturity shall be not more than ten years after the date on which the loan is made.

(c) *Prepayments.* Loans may be prepaid in full or in part at any time, with accrued interest to the date of payment, without penalty for prepayment.

(20 U.S.C. 445(4))

§ 142.44 Reports and records.

(a) *Reports.* Each applicant receiving a loan shall furnish a completion report upon completing the approved project, and shall furnish such progress or other reports as the Commissioner may from time to time require regarding the use of loan funds. The completion report shall be submitted by the last day of the fiscal year following the fiscal year in which the application was approved unless the Commissioner extends the period upon the written request of the applicant.

(b) *Records.* Each applicant receiving a loan shall keep the loan in a separate bank account or maintain a separate accounting of all such funds sufficient readily to identify all transactions with the loan funds. Each applicant shall also maintain intact all records supporting the use of loan funds for three years after the loan has been repaid in full. Such records shall be made available to fiscal representatives of the Government for audit purposes.

(20 U.S.C. 1232c(b) (2), (3))

[FR Doc.74-16754 Filed 7-22-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 157]

[CGD 74-32]

TANK VESSELS ENGAGED IN DOMESTIC TRADE

Protection of Marine Environment; Notice of Proposed Rulemaking; Correction

In FR Doc. 74-14884 appearing at pages 24150-7 in the issue for Friday, June 28, 1974, the following corrections should be made:

1. In § 157.03(e)(1), appearing at page 24153, the word "bisible" should read "visible".

2. Following § 157.11, appearing at page 25154, a note should be added reading as follows:

NOTE: An existing vessel must comply with the requirements in § 157.11 before December 31, 1977.

3. In § 157.29(a), appearing at page 24155, the word "and" should read "or".

4. In section 3(a)(2) in Appendix A, appearing at page 24156, the formula in the definition for K^1 should read

$$"1-\frac{b^1}{t_e}".$$

5. In section 3(b) in Appendix A, appearing at page 24156, the formula in the definition for S^1 should read

$$"1-\frac{l^1}{l_e}".$$

6. In section 3(c)(2) in Appendix A, appearing at page 24156, the word "is" should be added after "h_1" in the second sentence.

7. In section (3)(c) in Appendix B, appearing at page 24156, the first sentence should read as follows:

Where damage involves transverse bulkheads as specified in paragraphs (a) (1) and (2) of this section, transverse watertight bulkheads must be spaced at least at a distance equal to the longitudinal extent of the assumed damage specified in paragraph (b) of this section in order to be considered effective.

Dated: July 18, 1974.

D. H. CLIFTON,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.74-16787 Filed 7-22-74;8:45 am]

[46 CFR Parts 40, 151]

[CGD 74-167]

VINYL CHLORIDE

Proposed Carriage Requirements

The Coast Guard is considering amending the bulk dangerous cargoes regulations for the carriage of vinyl chloride (vinyl chloride monomer) by requiring venting, gauging and cargo transfer systems which provide greater protection to personnel than those presently permitted. These amended regulations will apply to all tank vessels, both existing and new construction, carrying vinyl chloride.

Written comments. Interested persons are invited to participate in this proposed rulemaking by submitting written data, views, or arguments to the Executive Secretary, Marine Safety Council, U.S. Coast Guard Headquarters (C-CMC/82), Room 8234, 400 Seventh Street, SW., Washington, D.C. 20590. (Telephone 202 426-1477). Each person submitting comments should include his name and address, identify the notice (CGD 74-167), and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8234, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. Copies will be furnished upon payment of fees prescribed in 49 CFR 7.81.

Public hearing. The Coast Guard will hold a hearing on August 15, 1974, at 9:30 a.m. in Conference Room 8334, Department of Transportation, Nassif Bldg., 400 Seventh Street, SW., Washington, D.C. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. It is requested that anyone desiring to attend the hearing notify the Executive Secretary at least ten days in advance of the time needed for his presentation. Written summaries or copies of oral presentations are encouraged.

Closing date for comments. All communications received before September 6, 1974, will be evaluated before final action is taken on this proposal. The proposed regulations may be changed in the light of comments received.

The Occupational Safety and Health Administration, Department of Labor announced in the FEDERAL REGISTER of Friday, April 5, 1974 (39 FR 12342) that vinyl chloride is carcinogenic for humans and that the new exposure standard for vinyl chloride is 50 ppm. OSHA also announced in the FEDERAL REGISTER of Friday, May 10, 1974 (39 FR 16896) that a new level of exposure standard of "no detectable level" is proposed. Present Coast Guard regulations for vinyl chloride permit restricted gauging and venting of vinyl chloride to the atmosphere during cargo transfer operations. Since both the use of a restricted gauge and the venting of vinyl chloride vapors to the atmosphere during cargo transfer operations result in vinyl chloride concentrations in excess of 50 ppm, action was necessary to provide protection to personnel from this danger.

Accordingly, the Coast Guard disseminated by message (131513Z May 1974) interim measures to prevent exposure of personnel to vapors during cargo transfer operations. These interim measures are proposed to be superseded by the following regulations:

(a) Prohibition of liquid level gauges, other than closed gauges, on cargo tanks containing vinyl chloride.

(b) Prohibition of venting of vinyl chloride vapors to the atmosphere during cargo transfer operations (requirement of vapor return to a shore process stream).

(c) Requirement of continuous detection for vinyl chloride vapor leaks aboard tank vessels undergoing vinyl chloride transfer operations.

(d) Discontinuing of transfer operations whenever vinyl chloride vapor concentrations in excess of 50 ppm are detected.

(e) Requirement of purging of cargo lines to a shore process stream following completion of cargo transfer operations before disconnecting cargo piping to reduce vinyl chloride vapor concentrations to 50 ppm or less.

The proposed exposure limit of 50 ppm may be changed as a result of OSHA's exposure limit determined after its June 25, 1974 hearing, and comments on the following proposed regulations should be made with this fact in mind.

In consideration of the foregoing, it is proposed to amend Parts 40 and 151 of Chapter I, Title 46, Code of Federal Regulations as follows:

1. By amending Part 40 of Chapter I, Title 46, Code of Federal Regulations by adding a new Subpart 40.15—*Vinyl Chloride*, applicable to all tankships carrying vinyl chloride in bulk, as follows:

Subpart 40.15—Vinyl Chloride (Vinyl Chloride Monomer)

§ 40.15–1 General–T/ALL.

(a) A tank containing vinyl chloride may not have any liquid level gauges, other than closed gauges.

(b) The person in charge of cargo transfer shall ensure:

(1) That cargo vapors are returned to a shore process stream during cargo transfer operations;

(2) That continuous detection for vinyl chloride vapor leaks is conducted aboard a tankship undergoing vinyl chloride transfer operations, with detection capability of 1 ppm±0.5 ppm;

(3) That cargo transfer operation is aboard a tankship undergoing vinyl chloride vapor concentration in excess of 50 ppm is detected; and

(4) That upon completion of cargo transfer, before disconnecting cargo piping, all cargo lines are purged to a shore process stream to reduce vinyl chloride vapor concentrations to 50 ppm or less.

2. By changing the requirement for gauging in Table 151.05—*Summary of Minimum Requirements* for vinyl chloride from restricted to closed.

3. By adding paragraphs (g) and (h) to § 151.50–34 containing special requirements for the carriage of vinyl chloride:

§ 151.50–34 Vinyl chloride (vinyl chloride monomer).

* * * * *

(g) A tank containing vinyl chloride may not have any liquid level gauges, other than closed gauges.

(h) The person in charge of cargo transfer shall ensure:

(1) That cargo vapors are returned to a shore process stream during cargo transfer operations;

(2) That continuous detection for vinyl chloride vapor leaks is conducted aboard a tank barge undergoing vinyl chloride transfer operations, with detection capability of 1 ppm±0.5 ppm;

(3) That cargo transfer operation is discontinued whenever a vinyl chloride vapor concentration in excess of 50 ppm is detected; and

(4) That upon completion of cargo transfer, before disconnecting cargo piping, all cargo lines are purged to a shore process stream to reduce vinyl chloride vapor concentrations to 50 ppm or less.

(80 Stat. 937; 46 U.S.C. 170, 391a, 375, 416 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46 (b) and (o)(4))

Dated: July 18, 1974.

D. H. CLIFTON,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.74–16788 Filed 7–22–74;8:45 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 74–GL–15]

CONTROL ZONE

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a control zone at Aurora, Illinois.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before August 22, 1974, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An FAA control tower will be commissioned at the Aurora Municipal Airport, Aurora, Illinois.

A control zone will be required when the control tower is in operation and will have the same effective hours of the tower.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.171 (39 FR 354), the following control zone is added:

AURORA, ILLINOIS

That airspace within a 5-mile radius of the Aurora Municipal Airport (latitude 41°46'20" N., longitude 88°28'20" W.), and within 1½ miles either side of the DuPage VOR 217° radial extending from the five-mile radius to 7½ miles NE of the Aurora Airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Des Plaines, Illinois, on July 3, 1974.

R. O. ZIEGLER,
Acting Director, Great Lakes Region.

[FR Doc.74–16725 Filed 7–22–74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74–GL–24]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Sandusky, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before August 22, 1974, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A standard instrument approach procedure has been developed based upon the relocated Sandusky VOR. Accordingly, it is necessary to alter the Sandusky, Ohio transition area to adequately protect the aircraft executing this procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (39 FR 440), the following transition area is amended to read:

SANDUSKY, OHIO

That airspace extending upward from 700 feet above the surface with a 5-mile radius of the Griffing Sandusky Airport (latitude 41°26'01" N., longitude 82°39'08" W.); within 3 miles either side of the Sandusky VOR 090° radial extending from the five mile radius to 7½ miles east of the airport excluding that portion that overlies the Port Clinton transition area.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and sec. 6(c) of the

Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Des Plaines, Illinois on June 26, 1974.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc.74-16727 Filed 7-22-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-GL-22]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Winchester, Indiana.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before August 22, 1974, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for information conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An instrument approach procedure has been developed for Randolph County Airport, Winchester, Indiana. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this approach procedure by designating a transition area at Winchester, Indiana.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.171 (39 FR 354), the following control zone is added:

WINCHESTER, IND.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Randolph County Airport (latitude 40°10'15" N., longitude 84°55'15' W.); within 2.5 miles either side of the 111 bearing extending from the 5 mile radius to 6 miles southeast of the airport.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Des Plaines, Illinois, on July 3, 1974.

R. O. ZIEGLER,
Acting Director, Great Lakes Region.

[FR Doc.74-16726 Filed 7-22-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-EA-44]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Emporia, Va., Transition Area (39 FR 487).

A review of the terminal airspace requirements for Emporia, Va., indicates that alteration of the transition area is required to provide controlled airspace in consonance with Terminal Instrument Procedures (TERPs) for IFR arrivals and departures at Emporia Municipal Airport. Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Emporia, Virginia, proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the Emporia, Va. transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, (36°41'30" N., 77°29'30" W.) of Emporia Municipal Airport, Emporia, Va., extending clockwise from a 057° bearing to a 183° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 183° bearing to a 057° bearing from the airport and within 3 miles each side of a 135° bearing from the Emporia RBN (36°40'58" N., 77°28'57" W.) extending from the RBN to 8.5 miles southeast of the RBN.

(Sec. 307(a) of the Federal Aviation Act of 1958, 72 Stat. 749; (49 U.S.C. 1348) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on July 5, 1974.

ROBERT H. STANTON,
Director, Eastern Region.

[FR Doc.74-16648 Filed 7-22-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-CE-13]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Higgonsville, Missouri.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before August 22, 1974, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

A VOR public use instrument approach procedure is being developed for the Higginsville, Missouri, Municipal Airport. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this approach procedure by designating a transition area at Higginsville, Missouri.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In Section 71.181 (39 FR 440), the following transition area is added:

HIGGINSVILLE, MISSOURI

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Higginsville Municipal Airport (latitude 39°04'20" N., longitude 93°40'39"

W.); and within three miles either side of the 351° bearing from the airport, extending from the 5.5-mile radius to eight miles north of the airport.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Kansas City, Missouri, on July 5, 1974.

A. L. COULTER,
Director, Central Region.

[FR Doc.74-16649 Filed 7-22-74;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 423]

CARE LABELING OF TEXTILE WEARING APPAREL

Notice of Extension of Time for Submitting Comment and Data

Notice of the opportunity to submit written comment and data regarding specific questions concerning the Commission's trade regulation rule relating to the care labeling of textile wearing apparel was published in the FEDERAL REGISTER on April 2, 1974 (39 FR 12036). The Notice also set forth the text of the specific questions about which comment was requested.

In response to appeals from interested parties for more time to submit written comment and data, the Federal Trade Commission has extended the closing date for receiving such comments until September 23, 1974. Comments and data should be submitted to the Assistant Director for Special Statutes, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

Issued: July 23, 1974.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.74-16827 Filed 7-22-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1121]

[Ex Parte No. 277 (Sub-No. 2)]

INTERCITY RAIL PASSENGER SERVICE; ADEQUACY OF TRACK

Notice of Proposed Rulemaking

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 3rd day of July, 1974.

Pursuant to section 801 of the Rail Passenger Service Act of 1970 (RPSA), as amended (45 U.S.C. 641) and regulation 28 of the Commission's regulations for the Adequacy of Intercity Rail Passenger Service (Adequacy Regulations) (49 CFR 1124.28), 344 I.C.C. 758, 816, notice is hereby given that the Commission proposes to amend its standards of adequacy of intercity rail passenger service, by promulgating regulations relative to the adequacy of railroad track utilized for passenger service.

BACKGROUND

In 1970, Congress created the National Railroad Passenger Corporation (Amtrak) for the stated purpose of providing " * * * [an] intercity rail passenger service, employing innovative operating and marketing concepts so as to fully develop the potential of modern rail service in meeting the nation's intercity passenger transportation requirements." [1]

In evaluating the nation's need for rail passenger service, Congress found that the public convenience and necessity required not only the continuance of rail passenger service but also the improvement of such service to provide fast and comfortable transportation between crowded urban areas and in other areas of the country.[2]

RPSA of 1970 posited in this Commission certain controls over Amtrak, as well as additional jurisdiction over railroads which continue to operate their own intercity rail passenger service. One such authority was the power vested in this Commission pursuant to section 801 of RPSA,[3] to prescribe regulations relating to the provision of safe and adequate service, equipment and facilities for intercity rail passenger service.

In accordance with this provision of RPSA, the Commission instituted a rulemaking proceeding on December 3, 1971 in Ex Parte No. 277 (Sub-No. 1), Adequacy of Intercity Rail Passenger Service. The outcome of this proceeding was the promulgation of regulations which imposed upon carriers new standards for service. These standards encompassed the consist of trains, the carriers' information and reservation services, baggage claim procedures, et al. See Adequacy, 344 I.C.C. 758 (1973) and 346 I.C.C. 74 (1974).

In order to further the goals of RPSA, Congress enacted the Amtrak Improvement Act of 1973 (AIA).[4] In addition to providing financial assistance to Amtrak, Congress amended various sections of RPSA including section 801. In its amended form this section states:

Sec. 801. Adequacy of service. (a) The Commission shall promulgate, within 60 days from the date of enactment of the Amtrak Improvement Act of 1973, and shall from time to time revise, such regulations as it considers necessary to provide adequate service, equipment, tracks, and other facilities for quality intercity rail passenger service. The Corporation may contract with railroads or with regional transportation agencies for the improvement of service, equipment, tracks and other facilities necessary to meet such regulations promulgated by the Commission. In the event of a failure to agree, the Commission shall by rule establish procedures for allocating between the Corporation and a railroad any costs required to be incurred to meet the regulations establishing adequate service, equipment, tracks, and other facilities.

(b) Any person who violates a regulation issued under this section shall be subject to a civil penalty of not to exceed $500 for each violation. Each day a violation continues shall constitute a separate offense.

The amended version of section 801 specifically provides that the Commission shall promulgate regulations to provide for adequate trackage, et al. In its report the Committee on Conference to the AIA stated that this provision would help foster high quality rail passenger service. Additionally, the Committee stated that this provision in appropriate situations would enable the Commission to promulgate rules and regulations requiring tracks to be upgraded beyond their condition as of 1971.[5]

In addition to specifically providing for Commission regulation of trackage, Congress clarified the jurisdiction of the Department of Transportation (DOT) and the Commission over trackage, by modifying the description of the Commission's scope of regulations to read "adequate service" rather than "safe and adequate service." The Committee on Conference in commenting on this change, recognized that the original version of section 801 resulted in a possible legislative inconsistency between DOT's and this Commission's jurisdiction as it relates to railroad safety. The Committee reiterated the Congressional intention that section 801 did not alter the exclusive jurisdiction of DOT over railroad safety as provided in the "Federal Railroad Safety Act of 1970." [6] In this light, the Commission notes that its adequacy regulations will not infringe upon DOT's jurisdiction over the safety aspects of maintenance and construction of trackage.

Finally, we note the Congressional directive contained in the Committee on Conference's Report. Therein the Committee recognized the failure of Congress, in its enactment of RPSA of 1970, to directly charge a regulatory body with the responsibility to insure that the requisite elements of high quality rail passenger service are present. In commenting on the amended version of section 801, the Committee stated that this responsibility has been posted with the Commission. It is this Congressional mandate which the Commission intends to satisfy by its promulgation of regulations for adequate trackage for the present and future.

GENERAL COMMENTS—TRACKAGE IMPROVEMENT AND UPGRADING

In proposing standards for adequate trackage there are numerous factors which the Commission has considered and which it will examine further in this proceeding. Amongst these considerations are the dramatic upsurge in rail ridership,[7] the technological advances in

[1] Section 301 of Rail Passenger Service Act of 1970 (RPSA), 45 U.S.C. 541.

[2] Section 101 of RPSA, 45 U.S.C. 501.

[3] 45 U.S.C. 641.

[4] Public Law 93-146, 87 Stat. 548.

[5] See Report No. 93-587, Amtrak Improvement Act of 1973, Conference Report, pp. 22-23.

[6] See Report, *ibid.* at 22.

[7] The Annual Report of the National Railroad Passenger Corporation for 1973 (Annual Report) indicated that there was an overall 14 percent increase in ridership for the subject period. In a press release, dated April 25, 1974, Amtrack noted that for the first quarter of 1974, 4.6 million persons rode Amtrak trains, an increase of 41 percent over the same quarter in 1973.

foreign rail systems, especially modern techniques in track construction and roadbed maintenance,[8] the present on-time performance of Amtrack trains,[9] and the inability of presently existing railroad equipment, especially such trains as the Metroliner and Turboliner, to be utilized to their full capabilities due to inadequate trackage.[10]

Our initial analysis indicates that due to the present conditions of trackage, it is advisable to implement a two step approach in these regulations. The first step requires immediate trackage improvements whereas the second step contemplates further trackage improvements over an extended period of time.

Presently, there exists an immediate need to bring the condition of all trackage used for intercity rail passenger service up to the level which existed on May 1, 1971, the date upon which Amtrak commenced operations. In requiring this first step, the Commission is mindful of the contractual obligations existing between Amtrak and participating railroads which require the participating railroads to maintain subject trackage at the "level of utility" in existence as of May 1, 1971.[11]

The second step contemplates the promulgation of regulations requiring rail passenger trackage to be upgraded beyond its 1971 condition. This upgrading will be performed over various lines in accordance with a schedule which takes into consideration the exigencies of cost, demand for service and availability of resources. In effectuating this goal, the Commission envisions a regulation wherein a time schedule will be implemented requiring trackage to be maintained at various levels in accordance with DOT safety classifications. (These classifications are set out in Appendix A). With the passage of time, trackage will be required to be upgraded to meet successively higher safety classifications thus enabling trains to proceed at successively higher speeds. It is anticipated that in the future, track and roadbed will be available to sustain trains travelling at speeds in excess of 110 m.p.h., the maximum allowable operating speed for passenger trains under present DOT regulations. Such development is a reality in foreign countries and Amtrak currently possesses equipment capable of speeds in excess of 110 m.p.h., but is unable to utilize its equipment to its full capabilities due to inadequate trackage.

At this juncture, the schedule to be implemented for the upgrading of trackage will not be set. This is in recognition of the breadth of this undertaking and the necessity to promulgate regulations which properly consider the existing realities of the nation's trackage. It is necessary for the Commission to first examine present trackage conditions, including the current DOT classifications for all rail passenger trackage and information as to the costs involved in upgrading trackage, before it can set realistic schedules for the upgrading of various lines. Suffice it to say, however, that the schedules promulgated will require high speed rail passenger service at the earliest possible date.

Special Consideration for Trackage Requirements Between Specific Localities

In analyzing the need for upgraded trackage, the Commission believes that these adequacy regulations should be constructed to reflect the basic distinction which exists in rail passenger service between short-haul and long-haul service. In so doing, the Commission recognizes that it would be improvident to consider all passenger service as requiring the same level of trackage; for such a singular approach would ignore the operating realities in the rail passenger industry.

In recognition of this distinction the Commission believes that short-haul routes should be accorded special consideration in these regulations.

Accordingly, the final regulations would set higher speed designations for short-haul service than those set for the remainder of the system.

In selecting intercity routes for inclusion in this special category, the Commission has primarily utilized those city-pairs which Amtrak has designated as short-haul or corridor routes. This selection is appropriate since these routes provide a considerable amount of Amtrak's patronage and the potential areas for successful competition between rail and other passenger modes.

Additionally, the Commission has selected other intercity routes which may require inclusion in this special category. Selection of these locations was based upon their population base, growth, proximity and need for service, as well as an examination of various studies relating to high speed service on those routes. It should be noted that selection of these additional locations is not an attempt by this Commission to usurp the managerial function of Amtrak. Rather, their inclusion in this proceeding merely reflects this agency's desire to promulgate regulations which fully consider the various types of service required for different communities and routes.

The final selection for special consideration is the Northeast corridor. This is in recognition of the Northeast's population density and the large number of Amtrak patrons in this area.[12] Additionally, in according this region special attention the Commission has responded to the Congressional directive contained in the Regional Rail Reorganization Act of 1973.[13] Therein Congress has required that a final system plan be formulated for the subject region which effectuates the goal of the establishment of improved high speed rail passenger service in the Northeast corridor.

It is anticipated that interested parties will afford the Commission the benefit of their opinions and studies relative to the particular rail service needs of city-pairs designated in Appendix B.

Areas of Investigation

In order to prescribe realistic track standards, it is imperative that certain basic determinations be made. First, the Commission seeks to ascertain to what degree upgraded trackage will result in increased rail ridership; and secondly what level of speed would be most beneficial for particular markets and between specific localities. In the absence of such initial information, final regulations prescribing upgraded trackage could be unresponsive to the public's needs and an improvident expenditure of the carriers' funds.

At this juncture, the Commission has determined six basic areas which it desires to investigate in depth in this rulemaking proceeding. They are as follows:

(1) The present condition of trackage utilized for intercity rail passenger service and to what degree its condition has deteriorated since May 1, 1971; including data relating to the speeds of trains over passenger lines presently as compared to their speeds as of May 1, 1971;

(2) The technological advances in the rail industry both domestic and foreign which would enable the construction and maintenance of track to provide for high speed carriage of passenger trains;

(3) The expenditures and time required: (a) to bring trackage up to its condition as of May 1, 1971 and (b) to upgrade trackage in accordance with the six DOT rail safety classifications;

(4) The effect of upgraded trackage upon rail passenger patronage, especially as it relates to the carriers' predictions of growth in various markets;

(5) Cost-benefit analyses of improved trackage between the various localities listed for special consideration in Appendix B; and

(6) Designation of trackage used for both freight and passenger service and examination of physical problems inherent in such dual usage.

This list represents the principal areas of Commission inquiry and interested parties are invited to submit information as to these areas and other matters which they consider relevant for investigation in this proceeding.

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[8] The British Railways Board has published a study which outlines technological advances in their track construction. This study is contained in Rail Technology Present and Future—The British Contribution.

[9] The Amtrack Annual Report notes that on-time performance for corridor routes was 70.4 percent for 1973 as compared to 82.4 percent for 1972, whereas on time performance for long distance routes was 30.4 percent for 1973 as compared to 53.3 percent for 1972. Amtrak reported that slow orders on track accounted for 51,911 delays in 1973. See pp. 11–13 of Annual Report.

[10] Both the Metroliners and Turboliners are capable of speeds in excess of the maximum allowable speed of 110 m.p.h. permitted by the DOT safety classifications.

[11] See the National Railroad Passenger Corporation Agreement, sections 4.2 and 4.3.

[12] Amtrak's Annual Report, p. 61, indicates that for the three months ended September 1973, of the 4,211,258 total passengers, 2,446,253 of them utilized the service in the Northeast Corridor.

[13] Section 206(a)(3).

CONCLUDING REMARKS

The institution of this proceeding marks a new area of Commission regulation and represents this agency's intention to implement the Congressional mandate to provide the American public with a high quality intercity rail passenger service. In order to obtain this goal the Commission recognizes the need for regulation on adequacy of trackage, and for their speedy implementation.

This notice has presented the six basic areas of Commission investigation in this proceeding. Examination of these and other possible areas will afford the Commission the necessary information to promulgate final regulations providing for: (1) Date by which all trackage utilized for intercity rail passenger service shall be brought up to the condition of that trackage as of May 1, 1971; (2) the schedule for further upgrading trackage in accordance with the speed designations contained in the DOT safety classifications; and (3) the designation of city-pairs which due to their needs for high speed service require trackage speed designations greater than those prescribed for the remainder of the system.

The Commission does not consider it necessary to prescribe herein specific schedules for obtaining upgraded trackage. Suffice it to say that the final regulations will provide schedules requiring upgraded trackage at the earliest possible dates.

In order to provide proper standards and realistic schedules the Commission needs to obtain and investigate a considerable amount of data relating to the present condition of trackage, technological advances in this area and the existing programs of all carriers for improvement of trackage. In this light, the Commission invites all interested parties to join in this proceeding and to afford the Commission the benefit of their comments.

PROCEDURAL MATTERS

Oral hearings do not appear to be necessary at this time and none is contemplated. Anyone wishing to present their views and evidence either in support of, or in opposition to, the action proposed in this order may do so by the submission of written data, views, or arguments.

It is ordered, That based on the foregoing explanation, a proceeding be, and it is hereby, instituted, under the authority of section 801 of the Rail Passenger Service Act, as amended (45 U.S.C. 641), the Interstate Commerce Act (49 U.S.C. 1 et seq.), regulation 28 of the Commission's Regulation for the Adequacy of Intercity Passenger Service (49 CFR 1124.28), 344 I.C.C. 758, 816 (1973) and the Administrative Procedure Act (5 U.S.C. 553 and 559) for the purpose of determining how this agency can best provide for adequate intercity rail passenger trackage and meet its statutory obligations, and for the purpose of taking such other and future action as the facts and circumstances may justify or require;

It is further ordered, That Amtrak and all Class I railroads subject to the Interstate Commerce Act be, and they are hereby, made respondents in this proceeding, and that all Class I railroads and Amtrak will be expected to submit evidence relating to the six areas of investigation listed above in the notice of proposed rulemaking and to submit additional evidence relating to other matters which they deem relevant to this proceeding.

It is further ordered, That notice of the institution of this proceeding be given to the Federal Railroad Administration of the Department of Transportation, the United States Railway Association, the Office of Rail Planning, Interstate Commerce Commission, the Association of American Railroads and the National Association of Railroad Passengers; and that the Bureau of Enforcement of the Interstate Commerce Commission be, and it is hereby, directed to participate herein.

It is further ordered, That no oral hearing be scheduled for the receiving of testimony in this proceeding unless a need therefor should later appear, but that respondents or any other interested persons may participate in this proceeding by submitting for consideration written statement of facts, views and arguments on any of the areas of investigation listed above or any other subject pertaining to this proceeding.

It is further ordered, That any person intending to participate in this proceeding by submitting initial statements shall notify this Commission by filing with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, on or before August 16, 1974, the orginal and one copy of a statement of his intention to participate; that this Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties to this proceeding, upon whom copies of all statements must be filed; and that upon service of the service list, the Commission will fix the time within which initial statements and reply statement must be filed.

It is further ordered, That other interested persons not indicating an intention to exchange initial and reply statements but desiring to be kept informed of this proceeding may have their names placed on a separate list for service of copies of future notices, orders, and releases by the Commission.

It is further ordered, That written material or suggestions submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C., during regular business hours; and

It is further ordered, That statutory notice of the institution of this proceeding be given to the general public by mailing a copy of this order to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy of this order in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy thereof to the Director, Division of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

APPENDIX A

The following table lists the maximum allowable operating speeds over the various classes of track as prescribed by the Department of Transportation, Federal Railroad Administration, 49 CFR 213.9(a):

[In miles per hour]

Over track that meets all of the requirements prescribed in this part for—	The maximum allowable operating speed for freight trains is—	The maximum allowable operating speed for passenger trains is—
Class 1 track	10	15
Class 2 track	25	30
Class 3 track	40	60
Class 4 track	60	80
Class 5 track	80	90
Class 6 track	110	110

NOTE: Trains may operate in excess of the maximum allowable speed of 110 m.p.h. only upon approval of the Federal Railroad Administration, pursuant to 49 CFR 213.9(c).

APPENDIX B

The following short-haul routes designated by Amtrak as corridor routes are selected for special consideration in this proceeding:

New York-Washington
New York-Boston (via Province)
New York-Boston (via Springfield and Worcester)
New York-Buffalo
Philadelphia-Harrisburg
Washington-Cumberland
Chicago-Carbondale
Chicago-Champaign
Chicago-Detroit
Chicago-Quincy
Chicago-St. Louis
Chicago-Milwaukee
Seattle-Portland
Oakland-Los Angeles
Los Angeles-San Diego

The following routes are also selected for special consideration:

Washington-Richmond-Norfolk
Chicago-Indianapolis-Cincinnati
Orlando-Tampa

[FR Doc.74-16689 Filed 7-22-74;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Office of the Secretary

NON-POWERED HAND TOOLS FROM JAPAN

Amendment of Determination of Sales at Less Than Fair Value

A "Determination of Sales at Less Than Fair Value" with respect to non-powered hand tools from Japan was published in the FEDERAL REGISTER of June 21, 1974 (39 FR 22287, FR Doc. 74-14208).

That determination is hereby amended to restrict its scope to wrenches, pliers, screwdrivers, and metal-cutting snips and shears from Japan.

Accordingly, the "Determination of Sales at Less Than Fair Value" referred to above is amended by changing the caption to read "Wrenches, Pliers, Screwdrivers, and Metal-Cutting Snips and Shears from Japan", and by substituting the words "wrenches, pliers, screwdrivers, and metal-cutting snips and shears" for "non-powered hand tools" in the first and third paragraphs of the determination. Insofar as the determination on non-powered hand tools included merchandise other than that described in the four categories described above, the determination and the Withholding of Appraisement (published in the FEDERAL REGISTER of March 25, 1974, 39 FR 11122) are hereby revoked.

The United States Tariff Commission is being advised of this amendment.

[SEAL] DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

JULY 18, 1974.

[FR Doc.74-16828 Filed 7-22-74;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Notice of Meeting

JULY 17, 1974.

The USAF Scientific Advisory Board Aerospace Vehicles Panel Committee on B-1 Structures will hold a closed meeting on August 12, 1974, from 2 p.m. until 5:30 p.m., on August 13, 1974, from 8 a.m. until 5 p.m., and on August 14, 1974, from 8 a.m. until 5 p.m., at Rockwell International Plant, Los Angeles, California.

The Committee will receive classified briefings on the structural aspects of the B-1 aircraft development program.

For further information on this meeting, contact the Scientific Advisory Board Secretariat at 202-697-8845.

STANLEY L. ROBERTS,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.74-16763 Filed 7-22-74;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 74-4]

DAVID M. HIGGINS

Revocation of Certificate of Registration

On April 3, 1974, the Deputy Administrator of the Drug Enforcement Administration issued an Order to Show Cause to David M. Higgins, M.D., 32 Delmar Drive, Greenville, Pennsylvania, relative to the revocation of his Drug Enforcement Administration Registration AH3470678 "* * * for the reason that on February 8, 1974, in the United States District Court for the Western District of Pennsylvania, [he was] * * * adjudicated guilty of two felony counts of knowingly and intentionally distributing controlled substances, as defined by Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

Thereafter, on May 14, 1974, Anthony V. DeCello requested a hearing in the matter on behalf of his client, David M. Higgins, M.D. and, on June 4, 1974, that hearing was held before Paul Merlin, Administrative Law Judge. Following that hearing, Proposed Findings of Fact and Conclusions of Law were submitted to Judge Merlin by the Office of Chief Counsel, Drug Enforcement Administration. Counsel for Dr. Higgins did not file Proposed Findings of Fact or Conclusions of Law.

On July 1, 1974, Judge Merlin filed the following Recommended Findings of Fact and Conclusions of Law, and his Recommended Decision with the Drug Enforcement Administration.

Discussion of the evidence. Dr. Higgins has admitted his felony conviction on two counts of violating section 401(a)(1) of the Controlled Substances Act, 21 U.S.C. § 841(a)(1) (1970). In addition, during the instant proceedings Dr. Higgins has admitted that on January 8, 1973, he sold Corporal Prandy 453 barbiturates for $40 and 700 amphetamines for $150 and that on January 12, 1973, he sold Corporal Prandy 20,000 amphetamines for $2,400.

Dr. Higgins seeks, however, to avoid revocation of his DEA registration on the grounds that he entered into the transactions in question out of fear because his life and the lives and safety of his family had been threatened. The evidence of record, consisting primarily of the testimony of Dr. Higgins and Corporal Prandy, is, however, in conflict regarding many of the material circumstances surrounding the subject transactions. The recommended decision depends, therefore, on a resolution of these evidentiary conflicts through an evaluation of credibility.

Dr. Higgins testified that on the January 8 meeting the informant, Billy Frank, had a gun and made threatening movements towards him and that Corporal Prandy said that he would not leave the doctor's office empty-handed. Dr. Higgins first stated that he did not remember for sure but thought that Billy Frank had taken the $190 which Corporal Prandy had paid for the drugs but the doctor later stated that he actually saw Billy Frank take this money. On the other hand, Corporal Prandy testified that although Frank had a gun, it was in his belt, was not drawn, and was not used to threaten the doctor. Corporal Prandy further stated that physical force was not used and that the doctor was not in any way compelled to make the sale. According to Corporal Prandy, the only reluctance that the doctor exhibited was a fear of police surveillance because in the doctor's opinion, the informant was too "hot." After observation of the witnesses at the hearing and upon review of the transcript, this Administrative Law Judge finds Corporal Prandy's account of the January 8 meeting to be credible and probative. Corporal Prandy's recital of the January 8 transaction was comprehensive and consistent, setting forth in precise and uncontradicted detail exactly what happened, e.g. where the doctor kept amphetamines and barbiturates, how he transferred them from their containers into paper bags, etc. * * * Dr. Higgin's testimony on the contrary was vague and general and, when the doctor did become more specific, he contradicted himself, as illustrated by his allegation that he saw Billy Frank take the $190.

There are also a number of conflicts between the testimony of Dr. Higgins and that of Corporal Prandy with respect to the January 12 meeting. Dr. Higgins stated that although Billy Frank was not in the automobile when the actual sale was made, Dr. Higgins was afraid of Corporal Prandy although he hid his fear. On the other hand, Corporal Prandy testified that the January 12 meeting was amicable, that the doctor was not nervous or reluctant, and that he did not harrass or compel the doctor in any way to complete the transaction. Here again, after observation of the witnesses at the hearing and upon review of the transcript, Corporal Prandy's testimony is found credible and probative. First, Corporal Prandy's account is detailed and consistent. In addition, his description of the January 12 transaction as voluntary and amicable is supported by

several factors. Thus, the doctor met Corporal Prandy at the Mark Restaurant after arranging for the meeting at an earlier encounter in front of the doctor's office. In addition, the actual transaction took place in the doctor's own car where Billy Frank was not present. The doctor also gave Corporal Prandy free samples of Phenegran so that the Corporal could see if they were marketable. Finally, and perhaps most importantly, the admitted magnitude of the transaction involving 20,000 amphetamines and $2,400 is inconsistent with the doctor's representation of himself as a reluctant physician selling drugs only out of fear for his life and the lives of his family.

In light of the foregoing, it is found that the weight of the evidence concerning the actual transactions on January 8 and January 12, demonstrates that Dr. Higgins was not coerced into selling Corporal Prandy the drugs.

Moreover, even apart from the transactions themselves other evidence of record belies Dr. Higgins' assertion that he sold the drugs because Billy Frank had threatened his life and safety and the lives and safety of his family. Dr. Higgins' description of his relationship with Billy Frank was for the most part general in nature. The doctor merely testified that Frank came to him as a patient in May or June of 1972 and that Frank began threatening the doctor and his family when the doctor refused to get him extra drugs. Although Dr. Higgins and Mrs. Higgins referred to threatening telephone calls by Frank and certain incidents such as Frank running the doctor's children off the road with his car, none of the specifics of these incidents including the dates they occurred, were given. The alleged relationship between Frank and Dr. Higgins is not sufficiently delineated to serve as a reason, much less as a justification for the drug sales to Corporal Prandy. In addition, although as appears, infra, Dr. Higgins alleged that he cooperated with the police with respect to the burglary, his testimony does not demonstrate that he made a good faith effort to put an end to the alleged threats. Most damaging to the doctor's claim of coercion, however, is the fact that upon being sentenced in Federal Court, when he was asked by the Judge if he had anything to say, he made no mention of the allegedly coercive nature of the sales. Certainly, if Dr. Higgins had sold the drugs as a result of fear and coercion, he would have raised that matter at the moment of his sentencing. The only explanation Dr. Higgins could offer for his failure to advise the Federal Judge of the alleged coercion was that he was not familiar with courts. This Administrative Law Judge finds Dr. Higgins' explanation wholly unconvincing. In view of the doctor's failure to advise the Federal Judge at the time of sentencing, the allegation of coercion appears to be nothing more than a belated afterthought.

Another circumstance which casts serious doubt upon the doctor's credibility and upon his fitness to continue to have a DEA registration is the series of five burglaries in his office and one burglary in his home involving drugs from September 1972 to December 1972. Dr. Higgins contended that he attempted to cooperate with the local police and, in particular, with Chief Thompson with respect to the burglaries. He described certain measures that were taken such as increased door locks and, after the fifth burglary, installation of a burglar alarm system. According to Dr. Higgins, he did not think of getting an office safe because he thought that new locks on the doors and increased police surveillance would be sufficient. The doctor's purported reliance on the police is wholly inconsistent with his statement that in this area it was a well-known fact that the local police take hours to respond to a call and may not come at all. Moreover, although the doctor first stated he took drugs home every night and brought them to the office in small amounts, he later admitted that he had left these drugs in the office overnight until after the fifth burglary. Therefore, despite one burglary after another, each involving the theft of thousands of pills, Dr. Higgins continued to keep the drugs in his office. Furthermore, the doctor's barbiturate record book which, according to his own testimony contained entries made only by himself or by his receptionist, indicates that after each burglary another large purchase of drugs was made which was thereupon soon followed by another burglary. The record book also shows that the doctor's use of barbiturates in his practice for the five months in question was infinitesimal compared with the number of barbiturates that were stolen. There is no indication that Dr. Higgins needed to replace the stolen barbiturates for his medical practice because the extent of his dispensing such drugs to patients remained at a very low level during that period in 1972. Indeed, one is left to wonder why Dr. Higgins ordered such large quantities of drugs in the first place since his practice did not appear to require anywhere near the numbers be bought. It is not, however, necessary for present purposes to determine the responsibility for the burglaries or the precise role Dr. Higgins played with respect to them. In this proceeding it is sufficient to note that at the very least the doctor was extremely careless and negligent with respect to his handling of dangerous drugs and that he has come forward with no satisfactory explanation for his ordering extremely large quantities of drugs and for his keeping them unsecured in his office.

This Administrative Law Judge does not find credible Dr. Higgins' testimony that he finally stopped trusting Chief Thompson in December 1972. Dr. Higgins testified that before meeting Corporal Prandy on January 12, 1973, he tried to call Chief Thompson. This attempt to call Chief Thompson in January is patently inconsistent with the allegation that he had stopped trusting the Chief in December. Similarly, at one point Dr. Higgins testified he stopped trusting Billy Frank in February 1973, whereas in other statements he indicated that Billy Frank had been threatening him and his family since the middle of 1972 and he suspected Billy Frank of being involved in the burglaries which occurred from July to December 1972. In short, Dr. Higgins' testimony is so self-contradictory and confusing that it is entitled to no credence.

Dr. Higgins' lack of fitness to possess a DEA registration is further demonstrated by his failure to comply with pertinent regulations regarding controlled substances. Dr. Higgins admitted that he registered only his home as a place where he dispensed drugs and that the office was not registered as required by section 302(e) of the Act, 21 U.S.C. 822(e) (1970). The doctor's excuse for not complying with this requirement was that he kept only small amounts of drugs at the office, although he subsequently admitted that all the drugs were kept at the office overnight until after the fifth burglary (Tr. 100). In addition, the evidence of record demonstrates that the drugs in the office and home were not kept in locked and substantially constructed cabinets as required by 21 CFR 1301.75 (1973).

Dr. Higgins stated that he was not aware of the regulations regarding physical security (Tr. 83). So too, Dr. Higgins stated that he did not notify the Drug Enforcement Administration of the burglaries as required by 21 CFR 1301.74 (1973), because he did not know that he was supposed to. The doctor's explanation for his failure to fill in the date of receipt of drugs on his copy of the narcotics order form as required by 21 CFR 1305.09(e) (1973), was also that he did not know he was supposed to. Even accepting the doctor's explanation at face value for the foregoing failures to comply with the applicable law and regulations (which as discussed infra, cannot be accepted), by his own account the doctor has demonstrated at the very least an appalling and inexcusable ignorance of his responsibilities in dealing with controlled substances. It was the doctor's responsibility to acquaint himself with his duties under law and to discharge them. He is a physician and he should well know the hazards arising from the misuse of dangerous drugs. Accordingly, even apart from other evidence of record, the doctor's own version of his failure to follow applicable law and regulations, in and of itself, justifies revocation of his registration.

As has already been pointed out, the recommended decision in this matter depends in large measure on an evaluation of credibility. A review of all the evidence taken together leads to the conclusion that Dr. Higgins' testimony is devoid of credibility and cannot be accepted. The transactions between the doctor and Corporal Prandy took place against the background of inordinately large drug purchases by the doctor, inadequate security in the doctor's office, a series of unsolved burglaries of drugs from the doctor's office, and an unsatisfactorily explained and suspicious relationship between the doctor and an individual who was involved with drug trafficking and who at some point became a government informant. When his sales to Corporal Prandy are viewed in the light of the foregoing factors, the claim of coercion by the doctor cannot be accepted. Similarly, when the entire situation is reviewed the doctor's failure to provide adequate security and to perform the other duties required of him under the Act and regulations cannot be explained away by mere ignorance. Indeed, all the doctor's actions taken in concert demonstrate a pattern of activities wholly inconsistent with his responsibilities under the Controlled Substances Act.

Rulings on proposed findings of fact and conclusions of law. Counsel for Dr. Higgins has not filed any proposed Findings of Fact or Conclusions of Law. Counsel for the Drug Enforcement Administration has filed such proposed findings and conclusions and they have been carefully reviewed. As appears from the Findings of Fact and Conclusions of Law, set forth infra, the proposals of the Drug Enforcement Administration have been adopted in part. To the extent the proposals of the Drug Enforcement Administration are inconsistent with the Findings and Conclusions of this Administrative Law Judge, they are rejected.

Findings of fact. 1. Dr. Higgins was convicted on two counts of felony violations of section 401(a)(1) of the Controlled Substances Act, 21 U.S.C. 841(a)(1) (1970).

2. On January 8, 1973, Dr. Higgins voluntarily sold to Corporal Prandy 453 barbiturate capsules for $40 and 700 amphetamines for $150.

3. On January 12, 1973, Dr. Higgins voluntarily sold to Corporal Prandy 20,000 amphetamines for $2400.

4. Between July 1972 and December 1972, Dr. Higgins kept controlled substances in his office overnight which were not locked in substantially constructed cabinets.

5. Between July 1972 and December 1972, substantial quantities of controlled substances were stolen during five burglaries at his office and one burglary at his home.

6. Dr. Higgins did not report the burglaries which occurred between July 1972 and December 1972 to the Drug Enforcement Administration or the Federal Bureau of Investigation.

7. Entries in Dr. Higgins' record book of barbiturates were not made contemporaneously or in chronological sequence and in two instances the record book did not set forth the dates of the burglaries.

8. Dr. Higgins did not register his office as a place where he kept and dispensed controlled substances.

9. Dr. Higgins did not set forth the date of his receipt of controlled substances on the narcotics order form.

Conclusions of law. 1. This Administrative Law Judge has jurisdiction of this matter pursuant to section 304(a)(2) of the Controlled Substances Act, 21 U.S.C. 824(a)(2)(1970).

2. Dr. Higgins' sales of controlled substances to Corporal Prandy on January 8, 1973, and January 12, 1973, violated section 401(a)(1) of the Controlled Substances Act, 21 U.S.C. 841(a)(1)(1970).

3. Dr. Higgins violated section 302(e) of the Controlled Substances Act, 21 U.S.C. 822(e)(1970), by not registering his office as a place where he dispensed controlled substances.

4. Dr. Higgins violated 21 CFR 1301.75 (1973) regarding physical security of controlled substances.

5. Dr. Higgins violated 21 CFR 1301.74 (1973) by not reporting the burglaries of his office and home to the Drug Enforcement Administration.

6. Dr. Higgins violated 21 CFR 1305.09(e) (1973) by not filling in the date of receipt of controlled substances on the narcotics order form.

Recommended Decision. It is the recommended decision of this Administrative Law Judge that pursuant to section 304(a) of the Controlled Substances Act, 21 U.S.C. 824(a)(1970), the Drug Enforcement Administration registration of Dr. Higgins be revoked.

After reviewing the transcript of testimony of the hearing, the exhibits introduced, the Proposed Findings of Fact and Conclusions of Law submitted by Counsel for the Government and the Administrative Law Judge, the Administrator of the Drug Enforcement Administration hereby adopts the Recommended Decision of the Administrative Law Judge.

Therefore, under the authority vested in the Attorney General by section 304 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 824), and delegated to the Administrator by section 0.100, as amended, Title 28, Code of Federal Regulations and Reorganization Plan Number 2 of 1973, the Administrator hereby orders that the Certificate of Registration of Dr. David M. Higgins (DEA Registration AH3470678) be, and hereby is, revoked effective July 23, 1974.

Dated: July 17, 1974.

JOHN R. BARTELS, Jr.,
Administrator,
Drug Enforcement Administration.

[FR Doc.74-16717 Filed 7-22-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[29847]

MONTANA

Notice of Proposed Withdrawal and Reservation of Lands

JULY 15, 1974.

The Department of Transportation, on behalf of the Montana Department of Highways, has filed application, M 29847, for the withdrawal of the lands described below, from location and entry under the mining laws, subject to existing valid claims.

The applicant desires the land for proposed highway construction.

On or before August 22, 1974, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 316 North 26th Street, Billings, Montana 59101.

The Department's regulations (43 CFR 2351.4(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

PRINCIPAL MERIDIAN, MONTANA

DEER LODGE NATIONAL FOREST

T. 6 N., R. 6 W.,
Sec. 24, Lot 2.

The area contains 39.54 acres in Jefferson County, Montana.

KENNETH J. SIRE,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-16731 Filed 7-22-74;8:45 am]

[29832]

MONTANA

Notice of Proposed Withdrawal and Reservation of Lands

JULY 16, 1974.

The Forest Service, United States Department of Agriculture, has filed application, M 29832, for the withdrawal of national forest lands described below from mineral location and entry under the mining laws but not from leasing under the mineral leasing laws, subject to existing valid claims.

The applicant desires the land as a recreation and picnic area and for the protection and preservation of a unique geologic ice cave in the Pryor Mountains south of Billings.

On or before August 22, 1974, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 316 North 26th Street, Billings, Montana 59101.

The Department's regulation (43 CFR 2351.4(c)) provides that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for the purpose other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

PRINCIPAL MERIDIAN, MONTANA

CUSTER NATIONAL FOREST

T. 8 S., R. 27 E., Unsurveyed, but which probably will be when surveyed:
Sec. 3, SW¼SE¼ and W½SE¼SE¼; and
Sec. 10, NW¼NE¼NE¼ and N½NW¼NE¼.

The area described contains 90 acres in Carbon County, Montana.

KENNETH J. SIRE,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-16732 Filed 7-22-74;8:45 am]

[NM 21985]

NEW MEXICO

Notice of Application

JULY 12, 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 lands:

NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 20 S., R. 27 E.,
Sec. 33, S½SE¼;
Sec. 34, SW¼SW¼.
T. 21 S., R. 26 E.,
Sec. 1, Lots 5, 11, 12, 14, 15, N½SE¼ and SE¼SE¼;
Sec. 2, Lots 3, 4, 6, 7 and 8;
Sec. 3, Lot 1.
T. 21 S., R. 27 E.,
Sec. 6, Lot 18;
Sec. 7, Lots 1, 2, 3, E½SW¼.

This pipeline will convey natural gas across 4.394 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, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-16733 Filed 7-22-74;8:45 am]

O&C ADVISORY BOARD

Notice of Meeting

Notice is hereby given in accordance with Public Law 92-463 that the O&C Advisory Board will tour the Cascade Resource Area of the Salem District on August 27 and 28, 1974. The tour will commence at the Bureau of Land Management's Salem District Office, 3550 Liberty Road, South, in Salem, Oregon, at 9 a.m. on August 27, and will end there at about 3:30 p.m. on August 28.

The O&C Advisory Board advises the Bureau of Land Management concerning the management of BLM resources in western Oregon.

The purposes of the tour are to acquaint the roads, recreation, and reforestation committees of the O&C Advisory Board with situations related to the subjects they are studying, and to assess progress in resource management since passage of the O&C Act 37 years earlier, on August 28, 1937. Places included in the tour are the Molalla Road, Walter H. Horning Tree Seed Orchard, Wildwood Recreation Site, and Brightwood Environmental Education Area. The group will stay overnight at Camp Adams near Colton, the base for the Salem District's Youth Conservation Corps.

The tour is open to the public, although visitors will have to arrange for their own transportation, food, and lodging. Interested persons may make presentations at appropriate times during the tour or may file written comments for consideration by the O&C Advisory Board.

Further information about participation in the tour is available from Archie D. Craft, Oregon State Director, Bureau of Land Management, U.S. Department of the Interior, P.O. Box 2965, Portland, OR 97208, phone 503-234-3361, extension 4001. Statements may be filed at that address, and reports of the tour will be available for inspection there and at the Library of Congress by mid-September.

ARCHIE D. CRAFT,
Oregon State Director.

JULY 11, 1974.

[FR Doc.74-16730 Filed 7-22-74;8:45 am]

Office of Hearings and Appeals

[Docket No. M 74-157]

BARNES & TUCKER CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act 1969, 30 U.S.C. 861(c) (1970), Barnes & Tucker Company has filed a petition to modify the application of 30 CFR 75.1405 to its Lancashire Mine Nos. 20, 25, 24B and 24D, Lancaster, Pennsylvania.

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 that:

2. 75.1405-1 of the Regulations issued by the Secretary and pertaining to the above provides: The requirement of 75.1405 with respect to automatic couplers applies only to track haulage cars which are regularly coupled and uncoupled.

3. In February 1974, MESA informed Petitioner that, contrary to earlier practice, 75.1405 would, effective March 30, 1974, be deemed applicable and would be enforced with respect to belt haulage mines and to all vehicles used on track. Said application will result in a diminuation of safety to the miners in Petitioner's mines.

4. Petitioner's mines do not employ a track coal haulage system, but, rather, a belt coal haulage system. Track haulage is limited to transportation of supplies and personnel only.

5. Because of the belt haulage system, Petitioner maintains that having automatic couplers on all of the track equipment is not necessary. Petitioner currently uses link and pin and adapters on some of its equipment which generally enable the miner to insert the pin and use an adapter without physically positioning himself between vehicles.

6. In support of its petition, the Petitioner states that the operation of the subject mines requires a minimal amount of coupling and uncoupling of cars. What little coupling and uncoupling is done, Petitioner asserts is accomplished without the necessity of mine personnel physically positioning themselves between the car units.

7. All the Petitioner's supply cars used for transportation of mine supplies are equipped with automatic couplers. Petitioner's main concern is with having automatic couplers on equipment such as water cars (equipped with means to use adapter), flat trucks (equipped with adapter), compressors, wireman's car, track mounted rock dust car, single unit mantrip car, and sand car. (All can be equipped with adapter when use.)

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 or or before August 22, 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 16, 1974.

[FR Doc.74-16773 Filed 7-22-74;8:45 am]

[Docket No. M 74-153]

CARPENTERTOWN COAL AND COKE CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Carpentertown Coal and Coke Company has filed a petition to modify the application of 30 CFR 75.1405 to its Mahoning Creek Mine No. 2 Templeton, Pennsylvania.

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 that:

1. Section 75.1405-1 of the Regulations issued by the Secretary and pertaining to the above provides: The requirements of 75.1405 with respect to automatic couplers applies only to track haulage cars which are regularly coupled and uncoupled.

2. On May 2, 1974, Mining Enforcement and Safety Administration (MESA) informed Petitioner that, contrary to earlier practice, section 314(f) of the Act would, effective

March 30, 1974, be deemed applicable and would be enforced with respect to belt haulage mines and to all vehicles used on track even if equipped for off track use. Said application will result in a diminution of safety to the miners in Petitioner's mine.

3. Petitioner's mine does not employ a track coal haulage system, but, rather a belt coal haulage system. Track is used for supplies and personnel transport only.

4. Because of the belt system, Petitioner's mine is characterized by entries having a relatively narrower radius of curve, a less uniformly even bottom, and lighter weight rails than mines using a track haulage system.

5. The cumulative effect of the foregoing characteristics on automatic couplers is to make them susceptible to accidental uncoupling, to reduce their reliability, and consequently to increase the probability of derailments.

6. All of Petitioner's supply cars in its mine are equipped with retractable rubber wheels which enable them to be used both on and off track. Because of the fixed position of the wheels, the supply cars have limited maneuverability off track and, as a consequence if equipped with automatic couplers would in almost every instance require a miner to get between vehicles in order to effect the proper alignment for coupling. In addition, off track use of rubber/rail vehicles tends to cause excessive wear on automatic couplers further reducing their reliability.

7. Petitioner's equipment currently uses link-and-pin couplers on its track equipment which generally enable the miner to insert the pin without physically positioning himself between vehicles.

8. Because of the foregoing facts, installation of automatic couplers on all equipment used on track in Petitioner's mine would diminish safety and, in fact, create hazards or the risk of hazards not now present.

9. Petitioner prior to May 2, 1974 was expressly advised by MESA that its mines did not require automatic couplers because they are not track coal haulage systems. As a result, haulage equipment acquired by Petitioner July 31, 1973 and in use since that date, are not so equipped.

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 22, 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 10, 1974.

[FR Doc.74-16767 Filed 7-22-74;8:45 am]

[Docket No. M 74-146]

CRANE BRANCH MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Crane Branch Mining Company has filed a petition to modify the application of 30 CFR 77.1605(k) to its Mine No. 1 located in Harlan, Kentucky.

30 CFR 77.1605(k) provides:

Berms or guards shall be provided on the outer bank of elevated roadways.

Petitioner details its alternate method as follows:

1. A daily inspection of all coal-hauling vehicles shall be made and any defects detected shall be corrected before each vehicle is put into service. A record of the inspection and repair on each vehicle shall be kept and maintained by a supervisory employee.

2. Roadway surfaces shall be kept free of debris, excessive water and snow and ice, and maintained as free as practicable of small ditches (washboard effects).

3. A traffic system shall be put into use for these roads requiring that loaded vehicles shall have the right-of-way on the highwall side of roads regardless of their direction of travel.

4. Warning signs shall be posted designating curves, steep grades where trucks should shift to a lower gear, and where roadways are reduced to one-lane traffic. Stop signs shall be posted where one road intersects another, giving main haulage road traffic the right-of-way. Signs shall also be posted designating passing points.

5. All equipment operators shall be trained in the use of haulage equipment and the safety of vehicles on haulage roads.

6. All haulage vehicles shall have:
(a) Original manufacturer's brakes.
(b) Engine or Jacobs brakes.
(c) Emergency (parking) braking system.

7. Adequate supplies of crushed stone or other suitable materials shall be stored at strategic locations along the haulage roads for use when the road surface becomes slippery.

8. A minimum width of 30 feet shall be provided and maintained along haulage roads and where widths of less than 30 feet are provided and maintained, the roads shall be designated as single-lane roads.

9. On roads that afford only one traffic lane, a minimum width of 16 feet shall be maintained, with passing points provided at intervals of not more than 1,000 feet.

10. Where abrupt drop-offs are present along the outer banks, super-elevation shall be provided to cause the vehicles to gravitate toward the highwall side of the road.

11. All rules of the road (traffic system) shall be posted on the bulletin boards throughout the mine area, and such rules of the road shall be made part of the training and retraining programs.

Petitioner further asserts that its proposed alternative will provide no less than the same measure of protection as afforded by the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 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 15, 1974.

[FR Doc.74-16771 Filed 7-22-74;8:45 am]

[Docket No. M 74-147]

ELKAY MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Elkay Mining Company has filed a petition to modify the application of 30 CFR 75.1405 to its No. 1 Mine, Logan County, West Virginia.

30 CFR 75.1405 provides:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971,, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

30 CFR 75.1405-1 of the regulations, to be read concurrently with § 75.1405, provides 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 area 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.

Petitioner asserts that its proposed alternatives 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 22, 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 16, 1974.

[FR Doc. 74-16772 Filed 7-22-74;8:45 am]

[Docket No. M 74-164]

ISLAND CREEK COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Island Creek Coal Company has filed a petition to modify the application of 30 CFR 75.1405 to its Birch and Summersville 2-A Mines located in Richwood, West Virginia and Tire Hill, Pennsylvania, respectively.

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.

30 CFR 75.1405-1, to be read concurrently with 30 CFR 75.1405, provides that:

The requirement 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. During March, 1974, MESA informed Petitioner that, contrary to earlier practice, 75.1405 would, effective March 30, 1974, be deemed applicable and would be enforced with respect to mines utilizing a track haulage system and to all vehicles used on track even if equipped for off-track use. Said application will result in a diminution of safety to the miners in Petitioner's mines.

2. Petitioner's mines employ a total belt coal haulage system. No coal is hauled via track, and only supplies and personnel are hauled using track equipment.

3. Because of the belt system, Petitioner's mines are characterized by entries having a relatively narrower radius of curve, vertical curves, a less uniformly even bottom and lighter weight rails than mines using a track coal haulage system.

4. The cumulative effect of the foregoing characteristics on automatic couplers is to make them susceptible to accidental uncoupling, to reduce their reliability, and consequently to increase the probability of derailments.

5. Track haulage cars used for transporting supplies and men in Petitioner's mines are not regularly coupled and uncoupled as the majority of all trips are coupled before entering the mine and not uncoupled prior to returning from said trip. Supplies are unloaded directly from the cars while on track.

6. The haulage cars used in Petitioner's mines were manufactured several years ago, and no automatic couplers are available from any manufacturer for use on these cars. There are only six supply cars in use in both mines and the subject mines utilize a common supply yard.

7. Petitioner's equipment currently uses link-and-pin couplers with external rod attachments on its track equipment which enable the miner to insert the pin without physically positioning himself between vehicles. Said system, furthermore, allows closer and more accessible inspection of coupling parts than possible with automatic couplers which would aid in the prevention of coupling failure. A motorman can maneuver the coupling link to the bumper of the locomotive by said rod while remaining in the locomotive.

8. Petitioner states that its training program and safety record using the present coupling system has been excellent in the subject mine. The subject cars have been used since 1962 with the present coupling system and no injury has been incurred by any mine personnel.

9. Because of the foregoing facts, installation of automatic couplers on all equipment used on track in Petitioner's mines would diminish safety and, in fact, create hazards or the risk of hazards not now present.

10. Petitioner prior to March 1974, was expressly advised by MESA that its mines did not require automatic couplers on its equipment used for purposes other than coal haulage. As a result, personnel and supply haulage equipment acquired by Petitioner since March 30, 1971, and in use on that date, are not so equipped.

Petitioner's proposal is supported by a schematic drawing of its proposed modification design.

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 22, 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 15, 1974.

[FR Doc.74-16769 Filed 7-22-74;8:45 am]

[Docket No. M 74-166]

SANDERS COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Sanders Coal Company has filed a petition to modify the application of 30 CFR 75.1405 to its No. 2 Mine located in Dunlap, Tennessee.

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.

1. In the mines which the Petitioner now owns and operates, the rail cars that are being used are one ton capacity wood rail cars that are four (4) feet wide, eight (8) feet long and twenty-four (24) inches high. They are powered by a battery powered three-ton locomotive. These cars are used on a day-to-day basis to transport coal from the Petitioner's mines to the outside. The amount of coal that is extracted from these mines per day will average sixty (60) tons, and the Petitioner employs four (4) other persons besides himself in the operation of these mines.

2. The area in which these cars travel and the area in which the employees work varies in height from a minimum of five (5) feet to a maximum of eight (8) feet, and all places where the cars operate extend a minimum of fourteen (14) feet wide. The rule or regulation that the Petitioner is now attempting to have modified is that one that would require him to have automatic couplers on the above described rail cars.

3. The terrain in which these cars have to proceed is characterized by undulations where the rail track is laid, thereby, requiring the cars to travel over a very unlevel surface. Attempts to devise an automatic coupler for these cars in such terrain have proved impossible and impracticable since there is not devised at this time an automatic coupler that would allow a great deal of vertical play. The problem is characterized by the fact that when one (1) car goes over a rise to sharp descent the car following at the very point of descent will be resting at a level position on the top of a rise while the care ahead will have taken a sharp descent downward, thereby requiring some means of allowing the couplers to adjust to the great variance of vertical levels at which both cars are stationed.

4. The Petitioner has found that the most practical means to deal with this problem has been to devise a coupler whereby one car is equipped with a protruding hook devise as one-half of the coupler and the adjoining car is equipped with a chain link and a large ring which is placed over the hook and acts as a coupler. Accordingly, on such sharp declines as heretofore stated the chain link and the ring allow the car on the decline to maintain its course while the following car is able to maintain a level position before both cars rest on the rail tracks at all times.

5. The use of an automatic coupler, therefore, in this situation would not be necessary to insure safety to the employees who are working these cars. As stated above, there is enough room in the passage ways for an employee to stand beside the rails and effect the coupling of these cars without actually

standing between any two (2) cars. Also, all cars that are coupled are in a stationary position when the coupling takes place, and are never moving at this time.

6. Therefore, Petitioner feels that an alternative method of effecting this coupling without the use of an automatic coupling device, while also assuring the safety of the employees, can be accomplished by a simple device known as a "hand link aligner." The hand link aligner is simply a metal bar thirty seven (37) inches in length, which on one end has a loop-type handle and on the other end has a type of a hook which could be used to effect the coupling. Since the couplers on the above stated cars are located at the center of each car, and would therefore be two (2) feet from either of the outside edges of the cars, the thirty seven (37) inch aligner would provide more than one (1) foot of length past the outside of the cars for the employee to maneuver the coupling device. The employee would merely stand beside or on the outside of the adjoining car, and thereby would accomplish the coupling of the cars. The employee would at no time be endangered, since he would at all times be standing to the side or on the outside of the cars and the rail.

7. The Petitioner feels that the alternate method will at all times guarantee no less than the same measure of protection afforded the miners by the mandatory standard heretofore required.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 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 15, 1974.

[FR Doc.74-16768 Filed 7-22-74;8:45 am]

[Docket No. M 74-145]

UPPER MASON COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Upper Mason Coal Company has filed a petition to modify the application of 30 CFR 77.1605(k) to its Mine No. 1 located in Harlan, Kentucky.

30 CFR 77.1605(k) provides:

Berms or guards shall be provided on the outer bank of elevated roadways.

Petitioner details its alternate method as follows:

1. A daily inspection of all coal-hauling vehicles shall be made and any defects detected shall be corrected before each vehicle is put into service. A record of the inspection and repair on each vehicle shall be kept and maintained by a supervisory employee.

2. Roadway surfaces shall be kept free of debris, excessive water and snow and ice, and maintained as free as practicable of small ditches (washboard effects).

3. A traffic system shall be put into use for these roads requiring that loaded vehicles shall have the right-of-way on the highwall side of roads regardless of their direction of travel.

4. Warning signs shall be posted designating curves, steep grades where trucks should shift to a lower gear, and where roadways are reduced to one-lane traffic. Stop signs shall be posted where one road intersects another, giving main haulage road traffic the right-of-way. Signs shall also be posted designating passing points.

5. All equipment operators shall be trained in the use of haulage equipment and the safety of vehicles on haulage roads.

6. All haulage vehicles shall have:
(a) Original manufacturer's brakes.
(b) Engine or Jacobs brakes.
(c) Emergency (parking) braking system.

7. Adequate supplies of crushed stone or other suitable materials shall be stored at strategic locations along the haulage roads for use when the road surface becomes slippery.

8. A minimum width of 30 feet shall be provided and maintained along haulage roads and where widths of less than 30 feet are provided and maintained, the roads shall be designated as single-lane roads.

9. On roads that afford only one traffic lane, a minimum width of 16 feet shall be maintained, with passing points provided at intervals of not more than 1,000 feet.

10. Where abrupt drop-offs are present along the outer banks, super-elevation shall be provided to cause the vehicles to gravitate toward the highwall side of the road.

11. All rules of the road (traffic system) shall be posted on the bulletin boards throughout the mine area, and such rules of the road shall be made part of the training and retraining programs.

Petitioner further asserts that its proposed alternative will provide no less than the same measure of protection as afforded by the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 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 15, 1974.

[FR Doc.74-16770 Filed 7-22-74;8:45 am]

Office of the Secretary

[INT. DES. 74-76]

USE OF STEEL SHOT FOR HUNTING WATERFOWL

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, the Department of the Interior has prepared a draft environmental statement for the Use of Steel Shot For Hunting Waterfowl in The United States, and invites written comments within 45 days of this notice.

The proposal recommends that in hunting ducks, geese, and swans (Anatidae), and coots (Fulica americana), shot shells loaded with steel or other approved pellets be required in the United States beginning in the years 1976 through 1978 in different flyways.

Copies of the draft statement are available from or for inspection at the following locations:

U.S. Fish and Wildlife Service Regional Offices at—

1500 N.S. Irving Street
Portland, Oregon 97208

517 Gold Avenue, SW.
Albuquerque, New Mexico 87103

Federal Building, Fort Snelling
Twin Cities, Minnesota 55111

17 Executive Park Drive, NE.
Atlanta, Georgia 30329

U.S. Post Office and Courthouse
Boston, Massachusetts 02109

Denver Federal Center
Denver, Colorado 80225

U.S. Fish and Wildlife Service
Office of Environmental Coordination
Department of the Interior—Room 2246
18th and C Streets, NW.
Washington, D.C. 20240

Comments concerning the proposed action should be addressed to the Chief, Office of Environmental Coordination. Please refer to the statement number above.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

JULY 12, 1974.

[FR Doc.74-16806 Filed 7-22-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service (Agricultural Adjustment)

RURAL ENVIRONMENTAL CONSERVATION PROGRAM

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Agricultural Stabilization and Conservation Service, Department of Agriculture, has prepared a final environmental statement on the Rural Environmental Conservation Program, numbered USDA-ASCS-ES (Adm.) 74-1-F.

The Rural Environmental Conservation Program was authorized under sections 7 to 15, 16(a) and 17 of the Soil Conservation and Domestic Allotment Act and Title X of the Agriculture and Consumer Protection Act of 1973 (P. L. 93-86). It provides cost-sharing assistance to farmers and ranchers in establishing measures for soil and water conservation, environmental protection and enhancement, timber production, wildlife improvement and other similar purposes. The program places emphasis on carrying out long-term and enduring type measures under annual or long-term cost-share agreements.

The Forestry Incentives Program phase authorized in the Act provides for sharing with landowners the cost of forest

tree plantings and management, and protection of nonindustrial, private forest lands.

The draft environmental statement was filed with the Council on Environmental Quality on December 26, 1973. Comments were received from the Environmental Protection Agency, Department of the Interior, Department of Commerce, ten national organizations and some sixty State agencies and organizations. These comments were considered in preparing this final statement. The final statement contains 480 pages.

This final statement was filed with the CEQ on June 20, 1974. Copies of the statement have been forwarded to all State Clearinghouses, various conservation and environmental organizations and Federal agencies as outlined in the CEQ guidelines and to those organizations and State agencies which made substantive comments on the draft statement.

Copies of the statement are available for inspection during regular working hours at, Agricultural Stabilization and Conservation Service, USDA, Room 4702 South Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, and at the State office for the Agricultural Stabilization and Conservation Service in each State. A limited number of copies are available upon request to the Washington, D.C. office at a nominal charge of $5.50 per copy.

Any comments concerning the final statement should be addressed to the Director, Environmental Quality and Land Use Division, Agricultural Stabilization and Conservation Service, Room 4091 South Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, to be received by August 15, 1974.

Signed at Washington on July 16, 1974.

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

[FR Doc.74-16821 Filed 7-22-74;8:45 am]

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*
9.15 percent	1 through 2 years.
9.30 percent	3 through 3 years.
9.25 percent	5 through 9 years.
9 percent	10 through 25 years.

Effective date: This notice shall be effective July 23, 1974.

Dated: July 19, 1974.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.74-16872 Filed 7-22-74;8:45 am]

Rural Electrification Administration

REA SPECIFICATIONS FOR RURAL TELEPHONE FACILITIES

Proposed Addendum to REA Forms 511, 511a and 511g, Telephone System Construction Contract

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 USC 901 et seq.), including the amendment thereto enacted by P.L. 93-32, REA proposes to issue File With REA Bulletin 383-1 to announce an addendum to REA Forms 511, 511a and 511g. On issuance of File With REA Bulletin 383-1, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the addendum may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than August 22, 1974. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

A copy of the addendum to REA Forms 511, 511a and 511g may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of the File With REA Bulletin 383-1 announcing the issuance of the addendum is as follows:

FILE WITH REA BULLETIN 383-1

Subject: Addendum to the Telephone System Construction Contract, REA Forms 511, 511a and 511g.

Subsequent to the issuance of the revised Telephone System Construction Contract, REA Form 511, dated November 1973, we have considered it desirable to provide further modifications which have been made necessary merely as a result of the current energy crisis. In addition, there are several corrections and changes that are being made at this time in the assembly units and guide drawings.

In view of the shortage of zinc and the availability of zinc coated steel sheets having the required weight of zinc coating, for buried plant housings, it has been necessary to restrict the use of such housings with the decreased weight of zinc coating, to noncorrosion areas only. Therefore, the BD assembly unit has been revised to again provide for the "C" suffix to designate housings to be used in corrosion areas.

With wood pole stubs in short supply, a concrete post has been developed and accepted by REA as an alternate to wood pole stubs and is produced in 6 foot length. New assembly units in the BA series have been established to cover both wood pole stubs and concrete posts. Wood pole stubs will no longer be included in the Section 1 assembly units.

The conductor bundle bag formerly required for all filled buried wire and cables under the BDF assembly units will, in the future, be also required for all nonfilled buried wires and cables under the revised BD assembly units. There have been several other changes made in both the BD and BDF units to merit your attention.

This addendum consists of the following revised pages which are to be incorporated in plans and specifications prepared for bid after November 1, 1974. Each of the revised sheets in this addendum bears a date of July 1, 1974.

REA form	*Pages*
511	11, 11a, 12, 13, 20, 45, 45a, and 59.
511a	1, 2, 3, 7, 8, 31, and 33.
511a	Drawings 906, 971-1, and 971-2.

Copies of the enclosed sheets are available upon request from the Outside Plant Branch of the Telephone Operations and Standards Division.

Dated: July 16, 1974.

DAVID H. ASKEGAARD,
Acting Administrator.

[FR Doc.74-16751 Filed 7-22-74; 8:45 am]

SOUTH MISSISSIPPI ELECTRIC POWER ASSOCIATION

Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a loan application from South Mississippi Electric Power Association, P.O. Box 2018, Hattiesburg, Mississippi. This loan application will provide financing for the construction of two 180 MW coal fired steam generating units near Purvis, Mississippi, and the construction of approximately 66 miles of 161 kV transmission lines and related terminal facilities.

Additional information may be secured on request, submitted to Mr. David H. Askegaard, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, SW., Washington, D.C., Room 4310, or at the borrower address indicated above.

Final REA action with respect to this matter (including any release of funds) may be taken after thirty (30) days, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 16th day of July, 1974.

DAVID H. ASKEGAARD,
Acting Administrator,
Rural Electrification Administration.

[FR Doc.74-16752 Filed 7-22-74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business

HARVARD UNIVERSITY PURCHASING DEPARTMENT AND MILTON S. HERSHEY MEDICAL CENTER

Consolidated Decision on Applications for Duty-Free Entry of Rotating Anode X-Ray Generators

The following is a consolidated decision on applications for duty-free entry of Rotating Anode X-Ray Generators

pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially Section 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 74–00385–33–90000. Applicant: Harvard University Purchasing Department, 75 Mt. Auburn Street, Cambridge, Mass. 02138. Article: Elliott GX13 Rotating Anode Generator. Manufacturer: Elliott Brothers, United Kingdom. Intended use of article: The article is intended to be used in the determination of the structure of proteins and viruses by x-ray diffraction studies. In addition the article will be used to train predoctoral and postdoctoral students in the techniques of x-ray diffraction.

Application received by Commissioner of Customs: March 15, 1974. Advice submitted by the Department of Health, Education, and Welfare on: June 14, 1974.

Docket number: 74–00396–33–90000. Applicant: The Milton S. Hershey Medical Center, The Pennsylvania State University, 500 University Drive, Hershey, Pa. 17033. Article: Rotating Anode X-ray Diffraction Set. GX6. Manufacturer: Marconi-Elliott Antonic Systems, Ltd., United Kingdom. Intended use of article: The article is intended to be used for studies of the following enzymes and other biologically important specific proteins; 1) creatin kinase, an enzyme responsible for maintenance of ATP levels in muscle; 2) abrin, a protein present in the seeds of the legume abrus precatorius; 3) pig alpha-amylase, an enzyme which hydrolyzes linked glucose conconavalin B, proteins from Jack Bean; and 4) newly isolated protein from fowl liver mitochondria. Application received by Commissioner of Customs: March 26, 1974. Advice submitted by the Department of Health, Education, and Welfare on: June 14, 1974.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, is being manufactured in the United States.

Reasons: Each foreign article provides a focused spot of minimal size and a rotating target for maximum x-ray power. The Department of Health, Education, and Welfare (HEW) advised in its respectively cited memoranda that the capabilities cited above are pertinent to the purposes for which each of the foreign articles is intended to be used. HEW also advised that it knows of no domestic instrument of equivalent scientific value to any of the articles to which the foregoing applications relate for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.74–16760 Filed 7–22–74;8:45 am]

Maritime Administration

FIRST CITY NATIONAL BANK OF HOUSTON

Approval of Applicant as Trustee

Notice is hereby given that First City National Bank of Houston; with offices at 1001 Main Street, Houston, Texas, has been approved as Trustee pursuant to Pub. L. 89–346 and 46 CFR 221.21–221.30.

Dated: July 15, 1974.

BURT KYLE,
Director, Office of Domestic Shipping.

[FR Doc.74–16825 Filed 7–22–74;8:45 am]

National Oceanic and Atmospheric Administration

MARINE POWER AND EQUIPMENT COMPANY, INC.

Receipt of Application for Approval of Transfer of a Fish Processing Vessel to Foreign Control

Notice is hereby given that, on June 4, 1974, the Maritime Administration of the Department of Commerce received an application from the Marine Power and Equipment Company, Inc., 1441 Northlake Way, Seattle, Washington 98103, for the approval of the transfer of a barge to Whitney-Fidalgo Seafoods, Inc., P.O. Box 99008, Seattle, Washington 98199. Such approval is required by sections 9 and 37 of the Shipping Act, 1916, as amended (46 U.S.C. 808, 835), because 98 percent of the stock of Whitney-Fidalgo Seafoods, Inc., is owned by Kyokuyo Company, Ltd., a Japanese corporation, and the contemplated transfer of the barge therefore would be to foreign control. Whitney-Fidalgo has informed the Service that the barge is a World War II-type LST (landing ship, tank), is 315 feet long and weighs 3756 gross tons. If the application is approved, the Company would remove the power plant from the vessel and equip and use it as a floating shrimp/crab processor moored close to shore in Alaskan waters.

The Maritime Administration is the Federal agency responsible for the approval or disapproval of applications submitted pursuant to sections 9 and 37 of the Shipping Act. However, the Maritime Administration customarily solicits the views of the National Marine Fisheries Service before deciding on an application relating to a fishing vessel, and has sought the views of the Service with regard to this application.

Accordingly, the Service solicits the written comments of interested persons in regard to this application. Such comments should be addressed to the Director, National Marine Fisheries Service, Washington, D.C. 20235, on or before August 22, 1974. In addition, the Service will hold a public hearing on the application in Seattle, Washington, at 10 a.m. on Tuesday, August 20, 1974, at which interested persons may present oral or written testimony in relation to the application.

Information as to the location of the hearing in Seattle may be obtained by calling or writing to the Regional Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109, (206) 442–1460, on or after August 12, 1974. Inquiries with regard to this notice may be addressed to Mr. Harry Feehan, Staff Attorney, U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Washington, D.C. 20235, (202) 343–7981.

Dated: July 15, 1974.

JACK W. GEHRINGER,
Acting Director.

[FR Doc.74–16684 Filed 7–22–74;8:45 am]

Office of the Secretary

[Dept. Organization Order 25–5B; Amdt. 1]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Statement of Organization, Functions and Authority

This order, effective July 1, 1974, amends the material appearing at 39 FR 17786 of May 20, 1974.

Department Organization Order 25–5B dated April 25, 1974, is hereby amended as follows:

1. a. SEC. 12. *National Marine Fisheries Service.* Section 12 is amended by inserting pages 9 and 10, dated July 1, 1974 for the undated pages 9 and 10, and by deleting, in pen and ink, the word "Office" at the top of page 11. This change reflects an organizational realignment which consolidates the direction of all NMFS field research activities in the headquarters level Office of Resource Research and Office of Resource Utilization.

b. SEC. 14. *National Weather Service.* Section 14 is amended by inserting pages 13 and 14, dated July 1, 1974 for the undated pages 13 and 14. This change reflects an organizational realignment which groups all NWS-wide service divisions in the new Office of Technical Services, and which consolidates the oceanographic programs of the Office of Oceanography and the Office of Meteorological

Operations into the new Office of Meteorology and Oceanography.

2. Subparagraph 13.08a.(2) is amended by inserting, in pen and ink, the word "and" between the words "Canal" and "the", and by deleting the phrase "and compile and publish charts and related publications."

3. The organization chart attached to this amendment supersedes the organization chart of April 25, 1974 which is attached as Exhibit 1 to DOO 25-5B. A copy of the organization Chart is attached to the original of this document on file in the Office of the Federal Register.

Effective: July 1, 1974.

Approved: July 1, 1974.

GUY W. CHAMBERLIN,
Deputy Assistant Secretary for Administration.

on living marine resources; to provide knowledge and services to foster their efficient and judicious use; and to achieve domestic and international management, use and protection of living marine resources. The Service shall be organized as set forth below.

.01 *Office of the Director.* The Director shall formulate and execute basic policies and manage the Service. He shall be immediately assisted by a Deputy Director.

.02 The Office of Resource Research shall plan, develop and manage research programs designed to better understand living-marine resources and the environmental quality essential for their existence. The Office's activities shall include: biological surveys designed to monitor, assess and predict abundance and availability of living marine resources; collection and documentation of scientific data for protecting access of U.S. citizens to living marine resources; development and interpretation of data for use by managers of resources; and major regional ecological studies where NMFS is assigned the leadership roll. It shall also conduct research on the potential of aquaculture, the assessment and characterization of the living resources, and the improvement of fish detection and harvesting systems.

.03 The Office of Resource Utilization shall plan, develop, evaluate and manage programs: of economic and marketing research including demand and supply projections, cost benefit studies, and foreign trade analysis; of collection, analysis, compilation and dissemination of fisheries statistical and market news information; of financial assistance to the fishing industry in the form of loans, mortgages, loan insurance and subsidies; of microbiological, chemical, and technological research to enhance the quality and utilization of fishery products and the utilization of fishery resources; of voluntary national inspection and certification of fishery products; to improve marketing practices and to alleviate extraordinary short term supply-demand imbalances; and of fishery extension services. The Office shall also be responsible for the management of national research programs in fishery products technology.

.04 The Office of Resource Management shall manage programs concerning: promulgation and enforcement of domestic and international regulations for the protection of marine fisheries and marine mammal resources of the United States; the Pribilof Islands fur seal harvest; the Columbia River Anadromous Fisheries Resources Enhancement; water resources development projects and fisheries environment protection; and State-Federal fisheries management. It shall plan, develop, and evaluate programs to improve the management of fisheries resources so as to achieve the appropriate allocation of these resources among competing users and to protect their environment; establish national guidelines for managing fisheries for biological, economic, and social purposes; provide a mechanism through legislation, coordination, and cooperation for State and the Federal Government to jointly manage resources within these guidelines; and administer a grant-in-aid program to improve the capability of the States to conduct improved biological, social, and economic information required for management of fisheries resources.

.05 The Office of International Fisheries shall be the focal point and have primary staff responsibility for all matters involving international affairs within the purview of the NMFS. This shall include: coordinating all NMFS inputs to other government agencies, industry, other interested constituencies, and foreign and international entities; overseeing the implementation throughout NMFS of NOAA policy decisions in the area of international affairs; responsibility for all international negotiations in which NMFS is involved; acquiring data and providing analysis regarding the status and impacts of foreign fishing efforts, and foreign industry, and governmental attitudes and policies regarding fishing; monitoring and coordinating activities with regard to the U.S. Fisheries Attache Program; and responsibility for the NMFS Foreign Translation Program.

.06 a. The Field Structure shall consist of the following organizational elements:

(1) Five Regional Offices as shown in Exhibit 2. Regional Offices shall act as representatives of the Director with State conservation agencies, recreational interests, the fishing industry, universities, and the general public. Regional Offices shall also plan, organize and mnage regionalized conservation, management, and utilization programs within the geographical area of responsibility. They shall also provide regional input for national plans pertaining to research, utilization, and management programs.

(2) Fisheries Research Centers and Fisheries Utilization Research Centers which shall report to the appropriate Associate Director at the headquarters of NMFS.

b. The Southeast and Northeast Regions shall provide their own administrative support except where it is determined to be more practical and advantageous to NOAA to have the services furnished by other NOAA components. They shall provide such services to other NOAA components as directed. The Northwest, Southwest and Alaska Regions shall obtain administrative support from the Northwest Administrative Service Office at Seattle, Washington. The Fisheries Research Centers and Fisheries Utilization Research Centers shall obtain administrative support from the nearest NMFS Regional Office, the Northwest Administrative Service Office or such NOAA components as is determined to be the most practical and feasible.

b. The Atlantic Marine Center shall provide its own administrative support except where it is determined to be more practical and advantageous to NOAA to have the services furnished by other NOAA components. The Atlantic Marine Center shall provide such services to other NOAA components as directed. The Pacific Marine Center shall obtain its administrative support from the Northwest Administrative Service Office. All other NOS field units shall receive their administrative support from such NOAA components as is determined to be the most practical and feasible.

SEC. 14. National Weather Service. The National Weather Service (NWS) shall observe and report the weather, river, and ocean conditions of the United States and its possessions; issue forecasts and warnings of weather, flood and ocean conditions that affect the Nation's safety, welfare and economy; develop the National Meteorological, Hydrologic and Oceanic Service Systems; develop community preparedness programs; participate in international meteorological, hydrologic, oceanic and climatological activities, including exchange of data and forecasts; and provide forecasts for domestic and international aviation and for shipping on the high seas. The Service shall be organized as set forth below.

.01 Office of the Director. The Director shall formulate and execute basic policies and manage the Service. He shall be immediately assisted by a Deputy Director.

.02 The Office of Meteorology and Oceanography shall have cognizance over the development of requirements, plans and procedures for operation of meteorological and oceanic field services; and serve as the primary channel for coordinating NWS field services operations and for technical aspects of meteorological and oceanic programs.

.03 The Office of Hydrology shall have cognizance over the development of requirements, plans and procedures to provide river and flood forecasts and warnings, and water supply forecasts; conduct research to improve river and flood forecasts and warnings; and analyze and process hydrometeorological

data for use in water resource planning and operational problems.

.04 The Office of Technical Services shall have cognizance over the development of policies and procedures for the acquisition and communication of oceanic, hydrological and meteorological information; and the procurement, test and evaluation, installation and maintenance of all meterological, hydrological, and oceanic equipment.

.05 The Systems Development Office shall plan, design, and develop systems to meet all meteorological, hydrological and oceanic service requirements of the NWS; develop and evaluate techniques and equipment; and translate research results into operationally suitable methods.

.06 The National Meteorological Center shall provide analyses of current weather conditions over the globe and depict the current and anticipated state of the atmosphere for general national and international uses; conduct development programs in numerical weather prediction; and lead in the extension and application of advanced techniques.

.07 The Field Structure shall consist of six regions as shown in Exhibit 3. A region shall consist of a Regional Office managed by a Regional Director, and field offices reporting to the Regional Director.

a. Each region shall provide weather, river and oceanic services within its prescribed geographical area by issuing forecasts and warnings of weather, flood and oceanic conditions, and shall conduct operational and scientific meteorological, hydrological, oceanographic and climatological service programs as are assigned to it.

b. Regional Offices shall provide administrative and technical suport for all NWS components in their respective regions except where it is determined to be more practical and advantageous to NOAA to have the services furnished by other NOAA components. The Regional Offices shall provide such services to other NOAA components as directed.

SEC. 15. *Environmental Data Service.* The Environmental Data Service (EDS) shall acquire, process, archive, analyze, and disseminate worldwide environmental (solid earth, marine, atmospheric, solar, and aeronomy) information, data, and products for use by commerce, industry, the scientific and engineering community, the general public and for Federal, State, and local governments; guide applied research pertinent to the improvement of such services; provide

[FR Doc.74-16757 Filed 7-22-74;8:45 am]

[Dept. Organization Order 25-4B; Amdt. 2]

OFFICE OF MINORITY BUSINESS ENTERPRISES

Statement of Organization, Function and Authority

This order, effective July 1, 1974, further amends the material appearing at 38 FR 27430 of October 3, 1973; and 38 FR 27431 of October 3, 1973.

Department Organization Order 25-4B, issued August 30, 1973, is hereby further amended as follows:

SEC. 3. *Office of the Director.* a. Paragraph .01 is amended to read as follows:

".01 The Director shall formulate policies and programs for, and direct and manage all activities of, OMBE. The Director or his designee shall serve as Chairman of the OMBE Eligibility Review Board."

b. Paragraph .06 is added to read as follows:

".06 The Eligibility Review Board, upon adverse information supplied by the Departmental Office of Investigations and Security, and other sources, shall review the suitability of potential or current grantees and contractors to receive OMBE funds. The Board will be composed of the Assistant Secretary for Administration, or his designee, the General Counsel, or his designee, and the Director of OMBE, or his designee, and a recording Secretary."

Effective: July 1, 1974.

Approved: July 1, 1974.

GUY W. CHAMBERLIN,
Deputy Assistant Secretary for Administration.

[FR Doc.74-16758 Filed 7-22-74;8:45 am]

[Dept. Organization Order 35-4B;]

SOCIAL AND ECONOMIC STATISTICS ADMINISTRATION

Statement of Organization; Functions and Authority

This order, effective July 1, 1974, supersedes the material appearing at 38 FR 30760 of November 7, 1973.

SEC. 1. *Purpose.* .01 This order prescribes the organization and assignment of functions within the Social and Economic Statistics Administration (SESA). Department Organization Order 35-4A prescribes the functions of SESA and the scope of authority of the Administrator, SESA.

.02 This revision reflects the realignments of the functions of the Data User Services Office to the Associate Director for Statistical Standards and Methodology and the retitled Associate Director for Field Operations and User Services. It also reflects the retitling of the Data Collection Centers as Regional Offices.

SEC. 2. *Organization Structure.* The principal organization structure and line of authority shall be as depicted in the attached organization chart (Exhibit 1). A copy of the organization chart is attached to the original of this document on file in the Office of the Federal Register.

SEC. 3. *Office of the Administrator.* .01 The Administrator determines objectives for SESA, establishes policies and programs for achieving those objectives, and exercises overall direction of SESA's activities. The Administrator shall designate another official to carry out these duties in his absence.

.02 The Equal Employment Opportunity Officer designated under the provisions of Section 3 of Department Organization Order 10-5, "Assistant Secretary for Administration," shall provide guidance and assistance to SESA officials in Equal Employment Opportunity matters, shall perform the duties and activities prescribed by subparagraph 2.01e.3. of Department Administrative Order 202-713, "Equal Employment Opportunity," and shall participate in the planning and direction of the EEO program.

SEC. 4. *Associate Administrator for Administration.* The Associate Administrator for Administration shall provide administrative management services, including program review, to components of SESA and advise the Administrator on administrative management. To carry out his responsibilities, the Associate Administrator shall have and direct the following units.

.01 The Administrative Services Division shall provide administrative services to include physical security, property, space and facilities management, procurement control, library, communications, records disposition, files, mail and forms management and related administrative operations.

.02 The Budget Division shall perform budget functions which shall include preparation of official budget estimates and justification, and allocation and control of all funds; and provide computer programming services for the processing of Administrative and Management data.

.03 The Finance Division shall perform financial analysis, maintenance of financial accounts, coordination of payroll and leave audits, and preparation of financial reports.

.04 The Management Information System Staff shall develop and implement an information system, provide ongoing information system maintenance and upgrading, and support management in planning and controlling its programs and projects.

.05 The Management and Organization Division shall conduct studies and perform related activities concerned with improving organization structure and management systems and practices; provide technical support for work measurement programs; perform directives and reports management functions; carry out the staff responsibility for the SESA committee management function; and prepare special analytical reports on management matters.

.06 The Personnel Division shall provide personnel management services, which shall include position classification and pay administration, recruitment and employment, employee training, employee relations and services, labor relations, and related personnel operations. The Division shall also provide assurance of equal opportunity in all employment matters in SESA.

.07 The Program Review Staff shall assist in the overall planning, review and evaluation of SESA's programs. In particular, the Staff shall, in consultation with the Director of the Bureau of Census and the Director of the Bureau of Economic Analysis, develop overall program plans for SESA and coordinate the related work programs of each bureau as will best achieve SESA's program goals; review and evaluate program accomplishments in relation to plans; and serve as the focal point for determining and assessing goals and long range plans for SESA as a whole.

.08 The Publications Services Division shall provide publication, printing and graphic art services, including publications design and distribution planning and control.

SEC. 5. *Bureau of Economic Analysis.*

.01 Office of the Director. a. The Director of the Bureau of Economic Analysis shall develop policies and plans for and direct and manage the operations of the Bureau.

b. The Deputy Director shall assist the Director in all aspects of the management of the Bureau, and perform the duties of the Director during the latter's absence.

.02 *Staff elements.* a. The Chief Statistician shall monitor and improve the data sources and statistical estimating techniques used in the work of the Bureau, and coordinate the planning of requirements of data to be provided by the Bureau of the Census and advise the Director in these fields.

b. The Chief Economist shall analyze economic developments and problems, advise the Director with regard to them, and with regard to the economic research program of the Bureau. The Chief Economist shall also serve as the Editor of the "Survey of Current Business."

.03 The Associate Director for National Economic Accounts shall plan and coordinate the systems of national accounts maintained by the Bureau, including the national income and product, wealth, government, and input-output accounts, and advise the Director in this field. The Associate Director shall have and coordinate the following units:

a. The Government Division shall maintain, improve, and interpret the Federal, State, and local government accounts of the United States within the economic accounting framework; cooperate in the translation of the unified budget into economic accounting terms for publication in the Budget of the United States and the Economic Report of the President; prepare forecasts of Government receipts and expenditures for use in the Bureau's analyses of the economic outlook; and conduct research in the quantitative study of public finance.

b. The Interindustry Economics Division shall maintain, improve, and interpret (1) the input-output accounts of the United States which show the flows of goods and services from each industry to other industries and to final markets in the economy, and the gross national product originating in each industry for given years, and (2) the time series of the gross national product originating in each of the industries of the nation; conduct research in input-output techniques, including regional input-output techniques; and prepare special studies of the economic reprecussions of changes in consumer, investment, foreign, and Government markets on the output of the nation's industries and the incomes originating in them.

c. The National Income and Wealth Division shall maintain, improve, and interpret the national income and product and wealth accounts of the United States, including national income, by type of income, industrial source and legal form, gross national product and its components, personal income and its components, personal income and its disposition, the size distribution of personal income, the sources and uses of savings, and national wealth by type of asset and ownership and do research in the techniques required to interpret the national income, product, and wealth accounts.

.04 The Associate Director for National Analysis and Projections shall plan and coordinate the national economic analysis and projection programs of the Bureau, including the development of econometric models of the United States economy and the preparation of econometric forecasts; monitor econometric techniques used in the Bureau; coordinate Bureau activities which relate to the overall effort of the Government to study the problems of economic growth; and advise the Director in these fields. The Associate Director shall have and coordinate the following units:

a. The Business Outlook Division shall maintain, improve, and interpret data on past, current, and prospective domestic business investments in new plant and equipment; conduct designated surveys required to collect this information; and maintain and improve econometric models designed to forecast short- and long-term changes in economic activity, and to assess the likely impact on economic activity of alternative fiscal, monetary, and other Government economic policies; and study problems relating to the Nation's economic growth.

b. The Current Business Analysis Division shall conduct a continuing study of current business activity; prepare and publish in the "Survey of Current Business" regular interpretations of the business situation; conduct research required for assembling (for publication in the "Survey" and its "Business Statistics Supplement") a detailed and comprehensive set of data produced by the Bureau and other agencies for use in evaluating the business situation; and be responsible for coordinating the press releases of the Bureau.

c. The Statistical Indicators Division shall develop and publish reports such as "Business Conditions Digest", "Defense Indicators", and "Long-Term Economic Growth"; conduct research relating to the system of economic indicators (leading, coincident, and lagging) and to the methods and applications of seasonal and other time series adjustments; conduct analysis relating to the behavior of economic indicators; and provide services relating to the seasonal adjustment of time series.

.05 The Associate Director for Regional Economics shall plan and coordinate the regional economic measurement and analysis program of the Bureau and advise the Director in this field. The Associate Director shall have and coordinate the following units:

a. The Regional Economic Analysis Division shall maintain and improve regional economic projections; conduct research in regional economics, with special attention to the factors determining the levels and rates of growth of regional economic activity; develop analytical techniques for regional economic impact studies; and conduct special analyses of regional economics in cooperation with Government agencies and private groups.

b. The Regional Economic Measurement Division shall maintain and improve the regional economic accounts of the United States including personal income by type of income and industrial source for each of the States, metropolitan areas, and counties of the nation; conduct research in regional economic measurement techniques; and maintain a regional economic information system.

.06 The Associate Director for International Economics shall plan and coordinate the international economic program of the Bureau and advise the Director in this field. The Associate Director shall have and coordinate the following units:

a. The Balance of Payments Division shall maintain, improve, and interpret the balance of payments accounts of the United States and their current and capital components, including detail by foreign geographic area, from the standpoint of throwing light on the effects of the balance of payments on the U.S. economy, and on the role of the United States in the world economy; conduct designated surveys to obtain basic data necessary to construct the balance of payments accounts, including surveys of the foreign transactions of Government agencies; conduct research in the techniques required to interpret the balance of payments accounts; and prepare forecasts of the balance of payments of the United States in cooperation with other agencies.

b. The Foreign Demographic Analysis Division shall conduct specialized studies of the population, manpower, economics, and social systems of foreign countries, involving the compliation and evaluation of relevant data; prepare estimates and projections; and prepare special analytical and interpretive reports and monographs.

c. The International Investment Division shall maintain, improve, and interpret data on United States direct investments abroad, foreign direct investments in the United States, and income flows associated with such investments, including the transactions of foreign affiliates; conduct designated surveys required to obtain this information; conduct research in the techniques required to interpret international investment; and maintain and develop a data system on U.S. direct investments.

.07 The Computer Systems and Services Division shall maintain, coordinate, and improve the use of automatic data processing equipment by the Bureau, including the conduct of feasibility studies; prepare automatic data processing systems and programs; and provide data processing services for the Buerau.

SEC. 6. *Bureau of the Census.*—.01 *Office of the Director.* a. The Director of the Bureau of the Census shall develop policies and plans for, and direct and manage the operations of the Bureau.

b. The Deputy Director shall assist the Director in all aspects of the management of the Bureau, and perform the duties of the Director during the latter's absence.

.02 *Staff Elements.* a. The Congressional Liaison Office shall advise on all Congressional matters related to Census activities and serve as the primary point of coordination for maintaining liaison on such activities with the Congress in collaboration with the Departmental Office of Congressional Relations.

b. The Public Information Office shall, under the policy guidance of the Administrator of SESA and the Director of the Bureau and in liaison with the Departmental Office of Communications (as provided by DOO 15–3), develop public information programs and coordinate and review for clearance the release and distribution of information disseminated by Census.

.03 The Associate Director for Demographic Fields shall plan and direct the social and demographic statistical programs and advise the Director in these fields and shall have and direct the following units:

a. The Office of Demographic Analysis shall provide support in developing social indicators; conduct research on the need for additional indicators; develop data sources; conduct research into possible data gaps; develop recommendations to fill these needs; and develop reports and publications.

b. The Demographic Census staff shall provide overall direction for program planning of demographic censuses; develop overall budget requirements and time schedules; maintain liaison with other divisions for data needs and associated information and materials; develop plans for publication and other data dissemination programs; develop census methodology, including processing procedures, instructions and controls, and computer programming; and organize and conduct pretest research programs.

c. The Demographic Surveys Division shall plan and develop specifications, survey design and methodology for, and provide technical direction for the development of statistical data collected in current and special surveys; plan and develop systems and prepare computer programs for the processing of applicable data on electronic data processing equipment; perform nonmechanical processing for specified current and special surveys; and conduct surveys and methodology studies for other agencies.

d. The Housing Division shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from censuses and from special and current surveys relating to general housing characteristics; and conduct research for and prepare special analytical reports, monographs, and special studies.

e. The International Statistical Programs Center shall plan and conduct the Bureau's foreign consultation and training programs and represent the Bureau in international statistical activities; conduct research on international statistical program of methodology and content and coordinate other research of similar nature in the Bureau; assemble, through foreign publications, exchange data for use by the Government and the public and provide statistical information to foreign governments and international organizations; and prepare analytical studies of information available for inclusion in an international demographic data system and provide consultative services on matters relating to information contained in the system.

f. The Population Division shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from special and current surveys and censuses; prepare estimates and projections of the population; plan and develop systems and prepare computer programs for the processing of population data on electronic data processing equipment; and conduct special studies and publish analytical reports and monographs.

g. The Statistical Methods Division shall develop and coordinate the application of mathematical statistical techniques in the design and conduct of statistical programs in the demographic fields.

.04 The Associate Director for Economic Fields shall plan and direct the economic statistical programs and advise the Director in these fields and shall have and direct the following units:

a. The Agricultural Division shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from surveys or censuses relating to agriculture, agricultural activities and products, equipment and facilities, irrigation and drainage enterprises, and cotton ginning; plan and develop systems and prepare computer programs for the processing of agricultural data on electronic data processing equipment; and conduct research and prepare analytical reports, monographs, and special studies.

b. The Business Division shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from special and current surveys and censuses relating to business enterprises engaged primarily in the distribution of goods and services; plan and develop systems and prepare computer programs for the processing of business data on electronic data processing equipment; perform non-mechanical processing for current Division programs; and conduct research and prepare analytical reports, monographs, and special studies.

c. The Construction Statistics Division shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from current surveys and studies relating to construction activity and from construction industry censuses and surveys relating to the characteristics and operations of firms in the construction industry; plan and develop systems and prepare computer programs for the processing of construction data on electronic data processing equipment; perform non-mechanical processing for current Division programs; and conduct research and prepare special analytical reports, monographs, and studies.

d. The Economic Censuses and Surveys Division shall formulate, develop, and provide direction for the implementation of the overall plans for the collection and processing of the Economic Censuses; provide direction for Census related activities of participating divisions and develop overall Census budget and time schedule; assist in the development of plans for publication and data dissemination of Economic Census data; plan, develop and provide technical direction over assigned surveys; develop classification manuals and systems; conduct research into the application and use of administrative records, including development of a current industrial directory; and plan and develop systems and prepare computer programs for the processing of economic data on electronic data processing equipment.

e. The Foreign Trade Division shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data relating to various aspects of the export and import trade of the United States and foreign trade shipping; plan and develop systems and prepare computer programs for the processing of foreign trade data on electronic data processing equipment; perform non-mechanical processing for current Division programs; conduct research on problems of international comparability of trade statistics; and prepare special reports, monographs and studies.

f. The Governments Division shall formulate and develop overall plans and

programs for the collection of statistical data from special and current surveys and censuses relating to State and local governments; plan and develop systems and prepare computer programs for the processing of Government data on electronic data processing equipment; conduct research on governmental operations and finances; and prepare special analytical reports, monographs, and special studies.

g. The Industry Division shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from special and current surveys and censuses relating to manufacturing, mineral, and related industries; plan and develop systems and prepare computer programs for the processing of industry data on electronic data processing equipment; and conduct research and prepare special analytical reports, monographs, and special studies.

h. The Transportation Division shall formulate and develop overall plans and programs for the collection, processing and dissemination of statistical data from surveys or censuses relating to the transportation industry and various segments thereof, and collaborate, as appropriate, with public and private agencies in the field of transportation on the development and presentation of these data; and plan and develop systems and prepare computer programs for processing transportation data on electronic processing equipment.

.05 The Associate Director for Statistical Standards and Methodology shall plan and direct programs relating the statistical adequacy of proposed collections and the application of appropriate statistical methodology and techniques, programs of geographical services, and programs for the enhancement of the availability and utility of data to meet State and local government needs and advise the Director in these fields. The Associate Director shall have and direct the following units:

a. The Research Center for Measurement Methods shall provide research facilities oriented toward long-range studies in methods of measurement with a view toward obtaining a deeper understanding of the basic problems of social and economic phenomena.

b. The Statistical Research Division shall develop and promote effective use of mathematical, statistical, and psychological methods and techniques in the work of the Bureau; conduct research in these areas; provide guidance to theoretical and applied statisticians and subject matter specialists in the Bureau and other organizations on all aspects of mathematical, statistical, and research problems; and shall perform Departmental review and clearance of proposals of any organization of the Department for requests for information from the public that require the approval of the Office of Management and Budget under DAO 216–8.

c. The Census Use Study shall plan, coordinate, and develop systems that will allow efficient interrelating of Census Data with other local and State data to meet specific needs; explore current uses and future needs for Census and local data; and investigate the benefits of cooperative data collection between the Bureau and other local, State, and Federal agencies and the level of detail and form in which Census data should be made available to local users both in the Government and private sector; develop and analyze programs to allow the rapid conversion of census data into information useful to local communities for analysis; publish reports relating to such programs; and serve as Census liaison to Federal Agencies sponsoring the study.

d. The Geography Division shall plan, coordinate and administer those geographic services needed to facilitate the Bureau's data collection program; develop computer programs, systems, methods and procedures for the cartographic and geographic operations; develop and implement a nationwide program to maintain and update geographic base files; conduct research into geographic concepts and methods; develop plans for the establishment of geographic statistical areas of the United States; and prepare density and other specialized maps and geographic reports for publication.

.06 The Associate Director for Field Operations and User Services shall plan and direct programs of field data collection, non-computer processing operations, and the coordination of the Bureau's user program through both Headquarters and Regional Offices, and advise the Director in these matters. He shall also manage a system for overall Census work scheduling and schedule and coordinate the assignment of manual processing resources in headquarters and decentralized processing locations. The Associate Director shall have and direct the following units:

a. The Data Preparation Division located in Jeffersonville, Indiana, shall carry out non-computer statistical processing operations for assigned current and special surveys or censuses; provide related administrative and logistics services for assigned programs; exercise such authority in personnel and other management areas as is specifically delegated; administer through the Pittsburg, Kansas, field office a personal census service to provide individuals or their authorized representatives information about themselves as reflected by Census records.

b. The Field Division shall plan, organize, coordinate, and carry out the Bureau's field data collection program; maintain and administer a flexible field organization through the Regional Offices and temporary district and other branch or area offices; and provide for the effective deployment of field personnel to assure the efficient conduct of data collection at the local level.

c. The Data User Services Division shall devise, test, and apply techniques of improving access to the Census data base, research new techniques for incorporation into regular Bureau operations and procedures to improve all services to data users; serve as the focal point for the coordination of requests for data tapes, published and unpublished data, maps, etc.; prepare general-purpose statistical compendia such as the Statistical Abstract of the United States and its supplements and coordinate and prepare technical reports that cross subject-matter lines or concern the Bureau as a whole.

.07 The Associate Director for Electronic Data Processing shall plan and direct programs for electronic data processing operations and techniques, and advice the Director in these matters. The Associate Director shall have a direct the following units:

a. The Computer Services Division shall operate and manage the electronic digital computer and mechanical tabulating facilities of the Bureau; and plan and perform associated coordination, scheduling of computer processing, staging, and tape library services.

b. The Systems Software Division shall design tests to measure relevant significant factors of programs during their developmental stages and evaluate the results therefrom; modify existing executive systems to improve efficiency; develop general purpose programs; research new programming languages and techniques; provide support for computer related training; and conduct research and development concerned with new equipment needs, conceptual methods, and systems designs for the various programs of the Bureau.

c. The Engineering Division shall plan and perform engineering services, including research, development, equipment requirements and maintenance activities, to provide and support electromechanical and electronic equipment required for data processing.

.08 The *Regional Offices*. a. The principal field structure of the Bureau of the Census shall consist of twelve Regional Offices, each headed by a Field Director who shall report to the Chief of the Field Division in the Office of the Associate Director for Field Operations and User Services. The location and geographic area covered by each Regional Office shall be as shown in Exhibit 2.

b. Each Regional Office shall carry out assigned field data collection programs, including recurring and special sample surveys of varying sizes and complexity, periodic censuses, and special censuses and surveys.

c. As may be required for a specific census or special survey, temporary district or other subordinate offices shall be established under the Regional Offices.

d. The Seattle Regional Office shall have an Area Office in San Francisco, and the Kansas City Regional Office shall have an Area Office in St. Paul, Minn., which shall carry out assigned field data collection programs.

Effective: July 1, 1974.

Approved: July 1, 1974.

GUY W. CHAMBERLIN,
Deputy Assistant Secretary for Administration.

[FR Doc.74–16759 Filed 7–22–74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[FDAA-437-DR; Document No. NFD-226]

ARKANSAS

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Arkansas, dated June 8, 1974, and amended June 20, 1974, is hereby further amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 8, 1974:

The Counties of:
Hot Springs Madison
Johnson
The City of:
Sparkman

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: July 17, 1974.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.74-16776 Filed 7-22-74;8:45 am]

[FDAA-441-DR; Docket No. NFD-225]

OKLAHOMA

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Oklahoma, dated June 10, 1974, and amended June 12, 1974, June 13, 1974, and June 24, 1974, is hereby further amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 10, 1974:

The County of:
Pittsburg

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: July 17, 1974.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.74-16777 Filed 7-22-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

NATIONAL ADVISORY COUNCIL ON REGIONAL MEDICAL PROGRAMS

Meeting

The Administrator, Health Resources Administration, announces the meeting date and other required information for the following National Advisory body scheduled to assemble the month of August 1974:

Council name	Date, time, place	Type of meeting and/or contact person
National Advisory Council on Regional Medical Programs.	August 8-9, 1974, 9:00 a.m., Parklawn Bldg., Conference Room G/H, 5600 Fishers Lane, Rockville, Md.	Open 9:00-12:00 a.m., August 8; Closed for Grants Review. Contact Mr. Kenneth Baum, Room 11-05, 5600 Fishers Lane, Rockville, Md., Code 301—443-1520.

Purpose: The Council advises and assists the Secretary in the preparation of regulations for, and as to policy matters arising with respect to, the administration of this Program. Reviews applications for grants under Title IX, and recommends to the Secretary with respect to approval of applications for, and the amounts of, grants under this Title.

Agenda: The Council will discuss policy matters and conduct other business, and this portion of the meeting shall be open to the public. The Council will review grant applications, and this portion of the meeting shall be closed to the public, in accordance with the determination by the Administrator, Health Resources Administration, pursuant to Pub. L. 92-463, section 10(d).

Agenda items are subject to change as priorities dictate.

A portion of the meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members or other relevant information should contact the above individual.

Date: July 18, 1974.

KENNETH M. ENDICOTT,
Administrator, Health Resources Administration.

[FR Doc.74-16831 Filed 7-22-74;8:45 am]

REGIONAL MEDICAL PROGRAMS AD HOC REVIEW COMMITTEE

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), the Administrator, Health Resources Administration, announces the meeting date and other required information for the following Committee scheduled to assemble in August 1974:

Committee name	Date, time, place	Type of meeting and/or contact person
Regional Medical Programs Ad Hoc Review Committee.	August 7, 8:30 a.m., Parklawn Bldg., Conference Room G/H, 5600 Fishers Lane, Rockville, Md.	Open—8:30-9:30, August 7, Closed—remainder of meeting. Contact Mrs. Judy Silsbee, Parklawn Bldg., Room 11A-18, 5600 Fishers Lane, Rockville, Md., Code 301-443-4385.

Purpose: The Committee will review applications for grants under Title IX and make recommendations to the National Advisory Council on Regional Medical Programs with respect to the approval and funding of such applications.

Agenda: The Committee will discuss administrative matters and conduct other related business, and this portion of the meeting shall be open to the public. The Committee will review grant applications, and this portion of the meeting shall be closed to the public, in accordance with the determination by the Administrator, Health Resources Administration, pursuant to Pub. L. 92-463, section 10(d).

Agenda items are subject to change as priorities dictate.

A portion of the meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members or other relevant information should contact the above individual.

Date: July 18, 1974.

KENNETH M. ENDICOTT,
Administrator, Health Resources Administration.

[FR Doc.74-16832 Filed 7-22-74;8:45 am]

LONG TERM CARE FOR THE ELDERLY RESEARCH REVIEW AND ADVISORY COMMITTEE AND HEALTH SERVICES RESEARCH TRAINING COMMITTEE

Notice of Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776) the Health Resources Administration announces the renewal by the Secretary, DHEW, on June 28, 1974, with concurrence by the Office of Management and Budget Committee Management Secretariat of the following advisory committees:

Designation: Long Term Care for the Elderly Research Review and Advisory Committee

Purpose: The committee will advise the Secretary, and the Administrator, Health Resources Administration, and make recommendations to the Director, Bureau of Health Services Research and the National Advisory Councils on research grant applications relating to long-term care for the elderly, which will include nursing homes. The committee will survey the status of research activities in the long-term care field, delineating national problems and issues concerning long-term care for consideration by the Director, BHSR, and the Director of the Office of Nursing Home Affairs in the Office of the Assistant Secretary for Health.

Designation: Health Services Research Training Committee.

Purpose: The committee will advise and make recommendations to the Secretary; Administrator, Health Resources Administration; and the Director, Bureau of Health Services Research on health services training. It will perform the initial review of research training

grant applications relating to the programs administered by the Bureau of Health Services Research and will make recommendations to the National Advisory Councils. It will also function as the sole review body for health services research fellowship applications. As scientific leaders, members will survey the status of training in their fields to determine areas in which research training activities should be initiated or expanded.

Authority for both committees will expire June 30, 1976, unless the Secretary formally determines that continuance is in the public interest.

Dated: July 15, 1974.

KENNETH M. ENDICOTT,
Administrator,
Health Resources Administration.

[FR Doc.74-16697 Filed 7-22-74;8:45 am]

Health Services Administration

INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES

Notice of Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776) the Health Services Administration announces the establishment by the Secretary, DHEW, on May 16, 1974, with the concurrence by the Office of Management and Budget Committee Management Secretatriat of the following advisory committee:

Designation: Interagency Committee on Emergency Medical Services.

Purpose: The committee will evaluate the adequacy and technical soundness of all Federal programs and activities which relate to emergency medical services and provide for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities and will make recommendations to the Secretary respecting the administration of the program of grants and contracts under Title XII of the Public Health Service Act, as amended (including the making of regulations for such program).

Authority for this committee will expire May 15, 1976, unless the Secretary formally determines that continuance is in the public interest.

Dated: July 16, 1974.

ANDREW J. CARDINAL,
Associate Administrator for Management, Health Services Administration.

[FR Doc.74-16696 Filed 7-22-74;8:45 am]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

NOTICE OF MEETING

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. Law 92-463) and § 800.6(g) of the Advisory Council's Procedures for the Protection of Historic and Cultural Properties (36 CFR 800) that the regular meeting of the Advisory Council on Historic Preservation will be held on August 7 and 8, 1974, at 10 a.m., in Room 2008, New Executive Office Building, 726 Jackson Place NW., Washington, D.C.

The Advisory Council was established by the National Historic Preservation Act of 1966 (Pub. Law 89-665) to comment upon Federal, federally assisted and federally licensed undertakings having an effect upon properties listed in the National Register of Historic Places and to generally advise the President and Congress on matters relating to historic preservation. The Council's members are the Secretary of the Interior, the Secretary of Housing and Urban Development, the Secretary of the Treasury, the Secretary of Commerce, the Attorney General, the Secretary of Transportation, the Secretary of Agriculture, the Administrator of the General Services Administration, the Secretary of the Smithsonian Institution, the Chairman of the National Trust for Historic Preservation, and ten non-Federal members appointed by the President.

At a special session of the meeting, the Council will, in accordance with section 106 of the National Historic Preservation Act and section 1(3) of Executive Order 11593, "Protection and Enhancement of the Cultural Environment" (36 FR 8921), consider the effect of the proposed construction of Interstate Route H-3 or TH-3, Oahu, Hawaii, by the Federal Highway Administration on Pohaku ka luahine, a property included in the National Register of Historic Places and Moanaloa Valley, a property that the Secretary of the Interior, by publication in the FEDERAL REGISTER of May 8, 1974 (39 FR 16176), has determined may be eligible for listing in the National Register of Historic Places. The Council will receive reports and statements on the undertaking in open session and then formulate its comments in executive session. The executive session will be closed to the public, as it has been determined to fall within exemption 5 of 5 U.S.C. section 552(b) and to be essential to protect the free exchange of internal Council views. The remainder of the meeting will be open to the public and will involve reports of the Council staff on various matters relating to historic preservation.

Written statements on the undertaking and its impact on historic properties should be submitted to the Council by August 6, 1974, to receive consideration. Persons wishing to make oral remarks to the Council should submit statements of position to the Council by the above date.

Agenda and additional information concerning the meeting and the submission of oral and written statements to the Council are available from the Executive Secretary, Advisory Council on Historic Preservation, Suite 430, 1522 K Street NW., Washington, D.C. 20005 (202) 254-3974.

Dated: July 19, 1974.

ROBERT R. GARVEY, Jr.,
Executive Director.

[FR Doc.74-16967 Filed 7-22-74;9:03 am]

ATOMIC ENERGY COMMISSION

[Docket No. PRM-50-10]

STATE OF NEW JERSEY—NUCLEAR ENERGY COUNCIL

Petition of Rule Making

Correction

In FR Doc. 74-15800 appearing at page 25535 in the issue for Thursday, July 11, 1974, the third complete paragraph on page 25536 should be in the same size print as the preceding paragraph and is accordingly set forth below:

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.

REGULATORY GUIDES

Notice of Issuance and Availability

The Atomic Energy Commission has issued revised versions of two regulatory guides in its Regulatory Guide series—6.1 (Rev. 1) and 6.2 (Rev. 1). 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 revised guides, "Leak Testing Radioactive Brachytherapy Sources" and "Integrity and Test Specifications for Selected Brachytherapy Sources," are in Division 6, "Product Guides," of the Regulatory Guide series. The minor revisions were made to reference parts of the regulations that were made effective after the guides were published.

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 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.

(5 U.S.C. 522(a))

Dated at Rockville, Maryland this 15th day of July 1974.

For the Atomic Energy Commission.

LESTER ROGERS,
Director of Regulatory Standards.

[FR Doc.74-16762 Filed 7-22-74;8:45 am]

COMMITTEE OF SENIOR REVIEWERS

Notice of Meeting

JULY 17,1974.

In accordance with the purposes of section 142.b of the Atomic Energy Act of 1954, as amended, the Committee of Senior Reviewers will hold a meeting at 9 a.m. on August 13, 14, and 15, 1974, in Room A-426 of the Administration Building, SM-43, at the Los Alamos Scientific Laboratory, Los Alamos, New Mexico. The purpose of the meeting is to formulate recommendations concerning the level of classification to be applied to information concerning the design and fabrication of atomic weapons. The meeting will be closed to the public.

I have determined in accordance with subsection 10(d) of Public Law 92-463 that the meeting will involve the discussion of information which is classified and comes within exemptions (1) and (3) of 5 U.S.C. 552(b). It is essential to close such meeting to protect such classified material.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-16714 Filed 7-22-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26664]

AIR PANAMA INTERNACIONAL, S.A.

Foreign Air Carrier Permit Renewal; Reassignment of Proceeding

This proceeding is hereby reassigned to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., July 16, 1974.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.74-16687 Filed 7-22-74; 8:45 am]

[Docket 26881 Order 74-7-80]

CONTINENTAL AIR LINES, INC. ET AL.

Order To Show Cause; Family Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 18th day of July, 1974.

Continental Air Lines, Inc. (Continental), Pan American World Airways, Inc. (Pan American), and Trans World Airlines, Inc. (TWA) presently offer family fares between Guam and the Pacific Trust Territories, on the one hand, and Hawaii and the United States mainland, on the other hand.

By Order 74-5-145, the Board suspended student fares proposed by TWA and directed these three carriers to show cause why other student and youth fares in the same general geographical area should not be canceled.[1] On the basis of the facts and information available, the Board tentatively concludes that the present family fares offered by Continental, Pan American, and TWA in the Guam / Micronesia-Hawaii / mainland markets may also be unjustly discriminatory. The Board's recent decision in the Discount Fare Phase of the Domestic Passenger-Fare Investigation, (Docket 21866-5) found that youth and family fares are unjustly discriminatory and ordered their phased cancellation by June 1, 1974.[2] The fares here in question, limited as they are to families, would appear to be inconsistent with this decision. The Board therefore directs all interested parties to show cause why the family fares should not similarly be canceled.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204, 403, and 404 thereof,

It is ordered, That:

1. All interested parties, and particularly Continental Air Lines, Inc., Pan American World Airways, Inc., and Trans World Airlines, Inc., are hereby directed to show cause why the Board should not make final its tentative findings and conclusions herein with respect to their existing family fares and, upon the basis of such findings and conclusions, order the respective carriers to cancel the family fares described in Appendix A[3] hereto. All responses and comments submitted pursuant to this paragraph shall be filed within 20 days after the service of this order; and

2. Copies of this order be served upon Continental Air Lines, Inc., Pan American World Airways, Inc., and Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-16780 Filed 7-22-74;8:45 am]

[1] Pan American and TWA have filed to cancel their student and/or youth fares, except Pan American's Pago Pago fares.

[2] See Order 73-5-2, dated May 1, 1973.

[3] Appendix A filed as part of original document.

[Docket No. 25280; Order 74-7-79; Agreement C.A.B. 24505 R-1—R-5]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Cargo Rate Matters

Agreement adopted by Traffic Conference 2 of the International Air Transport Association relating to cargo rates matters; agreement C.A.B. 24505, R-1 through R-5.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of Traffic Conference 2 of the International Air Transport Association (IATA). The agreement which was adopted at a TC2 Cargo Policy Group Meeting held May 6-10, 1974, at Montreux has been assigned the above C.A.B. agreement number.

Briefly, the agreement would increase cargo rates applicable within TC2 (Europe/Middle East/Africa) by various amounts, ranging up to 8 percent, to account for increased costs. We will herein approve the resolutions governing minimum charges for cargo and general cargo rates which are combinable with rates to/from United States points and thus have indirect application in air transportation as defined by the Act, but will disclaim jurisdiction with respect to air ferry rates for horses, shipper packed unit rates, and specific commodity rates which are not similarly combinable.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14:

1. It is not found that the following resolutions, incorporated in Agreement C.A.B. 24505 as indicated, and which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement C.A.B.	IATA No.	Title	Application
24505:			
R-1	501	Minimum Charges for Cargo (Amending)	2
R-4	552	General Cargo Rates (Amending)	2

2. It is not found that the following resolutions, incorporated in Agreement C.A.B. 24505 as indicated, affect air transportation within the meaning of the Act:

Agreement C.A.B.	IATA No.	Title	Application
24505:			
R-2	515a	Air Ferry Rates for Live Horses and Attendants (Amending)	2
R-3	521c	Shipper Packed Unit Rates (Amending)	2
R-5	590	Specific Commodity Rates Board (Amending)	2

Accordingly, *it is ordered*, That:

1. Those portions of Agreement C.A.B. 24505, described in finding paragraph 1 above, which have indirect application in air transportation as defined by the Act, be and hereby are approved; and

2. Jurisdiction be and hereby is disclaimed with respect to those portions of Agreement C.A.B. 24505 described in finding paragraph 2 above.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-16781 Filed 7-22-74;8:45 am]

[Docket No. 25280; Order 74-7-78; Agreement C.A.B. 24520]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Specific Commodity Rates

Agreement adopted by Traffic Conference 3 of the International Air Transport Association relating to specific commodity rates; Agreement C.A.B. 24520.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of Traffic Conference 3 of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names an additional specific commodity rate, as set forth below, reflecting a reduction from general cargo rates; and was adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated July 9, 1974.

Specific commodity item No.:	*Description and Rate*
9519----	Handicraft, viz, Handloom Textiles, Silver, Brass[1] 45.37 U.K. pence (approximately 119 US cents) per kg., Minimum weight 500 kgs., From Saigon to Guam.

[1] See tariff for complete commodity description.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the condition hereinafter ordered.

Accordingly, *It is ordered*, That:

Agreement C.A.B. 24520 be and hereby is approved, *Provided*, That approval shall not constitute approval of the specific commodity description contained therein for purposes of tariff publication; provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-16782 Filed 7-22-74;8:45 am]

[Docket Nos. 26840, 22859; Order No. 74-7-69]

NORTH CENTRAL AIRLINES, INC.

Domestic Air Freight Rate Investigation; Order of Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 17th day of July 1974.

By tariff revisions bearing a posting date of June 17, 1974, and marked to become effective August 1, 1974, North Central Airlines, Inc. (North Central) proposes the following changes in its bulk general commodity rates:

1. Increase minimum charge from $10 to $12;

2. Increase all general commodity 100- and 1,000-pound rates by 7.5 percent, rounded to the nearest five cents;

3. Increase all general commodity under-100-pound rates by 7.5 percent, rounded to the nearest cent;

4. Cancel 500-pound rates; and

5. Decrease exception rating for human remains from 230 to 210 percent.

In support of the proposal and in answer to the complaint, North Central asserts, inter alia, that (1) unit costs, particularly for labor and fuel, have risen substantially in the 12 months ended March 31, 1974; (2) even with no unit cost increases and a 10 percent increase in ton-miles annually, North Central will still fail to achieve much more than a break-even operation on freight; and (3) the proposed rates are less than fully compensatory under the present cost structure. The carrier further contends that the proposal will add approximately $1 million in revenue for the calendar year 1975.

In support of the proposed cancellation of all 500-pound rates, North Central contends that these rates were established when the carrier operated aircraft of smaller capacity than at present. North Central believes that it is no longer necessary to maintain this weight-break to attract traffic.

A complaint against the North Central proposal was filed by the National Small Shipments Traffic Conference, Inc. (NSSTC) requesting suspension of these increases. The complaint alleges, inter alia, that the carrier has not felt the full effect of rising fuel and labor costs due to schedule cutbacks and employee layoffs, and that the appropriate basis for determining the cost of hauling air freight should be marginal costs, and not fully allocated costs.

The proposed rates and charges come within the scope of the Domestic Air Freight Rate Investigation, Docket 22859, and their lawfulness will be determined in that proceeding. The issue now before the Board is whether to suspend the proposal or to permit it to become effective pending investigation.

The Board has reviewed these proposed rates and charges in the light of industry costs of carrying air freight (including a full return on investment) and including recent fuel price increases, and finds that the proposed rates for the 100-pound and 1,000-pound weight-breaks to be above costs in the following markets:

Denver—Rapid City
Denver—Kansas City
Dayton—Kansas City

Also, the proposed 100-pound rate was found to be above costs in the Kansas City-New York market.

In addition, the proposed cancellation of 500-pound rates means that most shipments formerly moving at 500-pound rates will now move at the substantially higher 100-pound rates. As a result, many 500-pound shipments will be above costs when moving at the new 100-pound rate.

In view of the foregoing, the Board finds that in addition to the aforementioned 100- and 1,000-pound weight-break rates, the cancellation of 500-pound rates in all markets where the newly applicable 100-pound rate is above 500-pound shipment costs, should also be suspended. All rates to be suspended are set forth in detail in Appendix A.[1] The remaining portions of the proposal, including the increased bulk minimum charge per shipment, the reduced exception rating for human remains, and all other rates increases and cancellations, appear sufficiently related to costs that the Board will permit them to become effective.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. Pending hearing and decision by the Board, the provisions described in Appendix A hereto are suspended and their use deferred to and including October 29, 1974, unless otherwise ordered by the Board, and that no change be made therein during the period of suspension except by order or special permission of the Board;

2. Except to the extent granted herein, the complaint of the National Small

[1] Appendix A is filed as part of the original document.

Shipments Traffic Conference, Inc., in Docket 26840, is dismissed; and

3. Copies of the order shall be filed with the tariff and served upon North Central Airlines, Inc., and the National Small Shipments Traffic Conference, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-16779 Filed 7-22-74;8:45 am]

[Docket No. 25709; Order 74-7-75]

PHILIPPINE AIR LINES, INC.

Order Regarding Schedules

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 17th day of July, 1974.

The Board by Order 74-7-51 dated April 22, 1974, effective July 12, 1974, disapproved Philippine Air Lines, Inc.'s schedules insofar as they provide for additional capacity by the substitution of DC-10 aircraft for aircraft presently being utilized in operations to the United States. It now appears that an understanding may be imminent between the Governments of the United States and the Philippines. Accordingly, notwithstanding Order 74-7-51 and pursuant to the provisions of § 213.3(e) of the Board's Economic Regulations, Philippine Air Lines, Inc. is hereby authorized to operate its proposed schedules between San Francisco and Manila via Honolulu with DC-10 aircraft through July 19, 1974.

This Order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-16778 Filed 7-22-74;8:45 am]

COMPTROLLER GENERAL

1974 FEDERAL ELECTION LIMITATIONS ON COMMUNICATIONS MEDIA SPENDING

Certification Requirements for Use of Newspapers, Magazines, and Outdoor Advertising Facilities by or on Behalf of Federal Candidates

This is to give notice that the Supreme Court of the United States has stayed the order of the United States District Court for the District of Columbia against enforcement of the certification requirements of section 104(b) of the Federal Election Campaign Act of 1971 pending final disposition of the case by the court.

On July 9, 1974, the Supreme Court, in Staats v. American Civil Liberties Union, Inc.[1] granted the government's application for a stay pending final disposition of the appeal of the order entered on November 21, 1973, by the U.S. District Court for the District of Columbia.[2] The district court's order declared that section 104(b) of the Federal Election Campaign Act of 1971, Pub. L. 92-225, 47 U.S.C. 803(b), and the regulations promulgated thereunder were unconstitutional under the First Amendment, and granted a permanent injunction prohibiting enforcement of those provisions by the Comptroller General, the Clerk of the House of Representatives, and all those acting in concert with them.

Section 104(b) of the Act provides that no person may charge for the use of any newspaper, magazine, or outdoor advertising facility by or on behalf of any legally qualified candidate for nomination or election to Federal elective office unless the candidate (or a person specifically authorized by him in writing) certifies in writing that payment of the charge will not violate the candidate's spending limitation.

Subpart B of Part 4 of the Comptroller General's Regulations, title 11, Code of Federal Regulations, implements section 104(b) of the Act. Section 4.11 of the regulations, 11 CFR 4.11, contains the implementing regulations prohibiting charges for use of newspapers, magazines, or outdoor advertising facilities without a written certification by the candidate or an authorized individual. Section 4.12 (11 CFR 4.12), sets forth the information required to be contained in a certification and the requirements for a written authorization by the candidate if the candidate has designated another person to make certifications on the candidate's behalf. Section 4.12 also requires every newspaper, magazine, or outdoor advertising business to keep certifications and authorizations submitted by or on behalf of Federal candidates for a period of two years.

Other provisions of Part 4 of the Comptroller General's Regulations cover other aspects of the communications media spending limitations. Section 4.4 of the regulations, 11 CFR 4.4, contains provisions for determining when expenditures are deemed to be made "on behalf of the candidacy" of a Federal candidate. Section 4.5, 11 CFR 4.5, regulates expenditures urging a candidate's defeat or derogating his stand on campaign issues.

Pursuant to the Supreme Court's stay order, the certification requirements of section 104(b) of the Federal Election Campaign Act of 1971 and the Comptroller General's Regulations thereunder are reinstated in effect, pending the outcome of the appeal, and will be enforced by the supervisory officers under the Act. Specifically, these requirements are in effect for the remaining primary and primary runoff elections in 1974 for nomination to the U.S. House of Representatives and Senate and for the general election for those offices in November 1974.

[SEAL] ELMER B. STAATS,
Comptroller General of the United States.

[FR Doc.74-16834 Filed 7-22-74;8:45 am]

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[1] S. Ct. Docket No. 73-1413, A-1250. The Supreme Court noted probable jurisdiction of the appeal on June 10, 1974.

[2] ACLU v. Jennings, Civil Action No. 1967-72, opinion reported at 366 F. Supp. 1041.

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20100; File No. BPCT-4669; FCC 74-685]

FOR CONSTRUCTION PERMIT KTVO, INC.

Memorandum Opinion and Order

In re Application of: KTVO, INC. (KTVO-TV) Kirksville, Missouri.

1. The Commission has before it for consideration (a) the above-captioned application of KTVO, Inc., licensee of commercial television broadcast station KTVO, channel 3, Kirksville, Missouri-Ottumwa, Iowa;[1] and (b) a petition to deny related pleadings filed in this proceeding.[2]

2. Television broadcast station KTVO, channel 3, Kirksville, Missouri-Ottumwa, Iowa, is authorized to operate with effective radiated visual power of 100 kW from an antenna height above average terrain of 1,080 feet at a transmitter site located near Lancaster, Missouri, 25 miles north of Kirksville, Missouri. The present controversy arises from the request of KTVO to relocate its transmitter to a site about 38 miles east of Kirksville, Missouri; to relocate its main studio to a site on U.S. Highway 63, 1.8 miles north of Kirksville, Missouri; to increase its antenna height to 1,981.2 feet above average terrain; and to increase its aural effective radiated power to 15 kW. KTVO places a city-grade signal over Kirksville, Missouri, and a predicted Grade A signal over Ottumwa, Iowa. Operating as proposed, station KTVO would for the first time place a city-grade signal over Quincy, Illinois, and a predicted Grade B signal over the Missouri communities of Hannibal, Moberly, Mexico, and Centralia. KTVO's Grade B signal would also penetrate within 4.5 miles of Columbia, Missouri. A petition to deny has been filed by Channel Seventeen, Inc., licensee of television broadcast station KCBJ-TV, channel 17 (UHF), Columbia, Missouri.

3. KCBJ-TV claims standing in this proceeding as a "party in interest" within the meaning of section 309(d)(1) of the Communications Act of 1934, as amended, on the basis that grant of the application would cause serious economic injury

[1] KTVO is licensed to Kirksville, Missouri, and is authorized to identify as a Kirksville-Ottumwa station.

[2] The related pleadings are: Opposition to Petition to Deny filed December 18, 1973, by KTVO; and Reply to Opposition to Petition to Deny filed January 10, 1974, by KCBJ-TV.

and serious impact on its ability to continue operations as a fledgling UHF television station. We find that petitioner has standing.

4. The applicant alleges that grant of the application will permit a substantially more efficient and effective use of the Kirksville television channel assignment. KTVO alludes to the Commission's policy of encouraging VHF stations to provide the best possible service to the largest number of people. It is contended that the population within the proposed Grade B contour of KTVO is approximately 690,000 people, or about 47 percent larger than the population of approximately 465,000 people within the present Grade B contour of KTVO. It is further contended that KTVO's proposed Grade B signal would extend ABC network programming to 114,000 people located toward the southeast and beyond KTVO's present Grade B contour, people to whom no other Grade B level ABC programming is available. KTVO admits that its proposed changes would produce a Grade B signal that would overlap the Grade B contour of petitioner (KCBJ–TV), but alleges that the overlapped area contains only 75,000 people, or 19 percent of the total populaton of approximately 495,000 people within KCBJ–TV's Grade B contour.

5. Petitioner, KCBJ–TV, alleges that grant of the application would have an adverse impact on UHF television broadcasting in Columbia, Missouri, and adjoining communities.[1] Petitioner contends that KTVO does not presently serve Columbia, Missouri, its Grade B signal falls 40 miles north of Columbia. Under KTVO's proposed changes, KTVO's new coverage would invade the northeast portion of KCBJ–TV's present coverage area. A great number of Missouri counties and cities would be covered for the first time by KTVO, including the cities of Moberly (population—12,988), Mexico (population—11,807), and Centralia (population—3,618). KTVO's proposed Grade B signal would penetrate to within 4.5 miles of Columbia, Missouri, KCBJ–TV's principal city, and overlap a significant porton of KCBJ–TV's city-grade signal. Of the 18 counties presently served by KCBJ–TV with a population of approximately 382,000 persons, six of these counties, containing 42 percent of KCBJ–TV's present service area (159,000 persons), would be reached by KTVO's proposed signal. Petitioner finally alleges that the new market into which KTVO seeks to place its signal is already served by CBS affiliate KHQA–TV, channel 7, Hannibal-Quincy, Illinois. Though applicant is primarily an ABC affiliate, applicant does broadcast some CBS programming and would duplicate some of the programming presently being received by the market.

6. After careful review of the various pleadings filed herein, we believe that the petitioner has raised a substantial and material question of fact as to whether or not the applicant's proposed changes will adversely affect authorized and prospective UHF television broadcast stations in Columbia, Missouri, and adjoining communities. Petitioner is a comparatively new UHF station, having commenced operations on channel 17 in December 1971. As alleged in the pleadings, and confirmed by the Commission's records, petitioner is losing money in an effort to make KCBJ–TV a viable operation. Petitioner presently competes with two commercial VHF television broadcast stations, KOMU–TV, channel 8, in Columbia, and KMOS–TV, channel 13, in Jefferson City, Missouri. Operating as proposed, KTVO's Grade B signal would for the first time overlap 24 percent of petitioner's Grade B contour, would penetrate within 4.5 miles of Columbia, petitioner's city of license, and overlap a portion of petitioner's city-grade signal. It should be noted that both the applicant and petitioner are ABC television network affiliates. It appears that the addition of another VHF signal in the Columbia, Missouri, market would have some effect on the petitioner, especially in view of the fact that the VHF station is an ABC affiliate. The extent of this effect can only be determined by an evidentiary hearing.

7. We believe that under these circumstances, it is necessary to explore in an evidentiary hearing whether the proposed operations of KTVO would have an adverse impact upon the development of UHF television broadcasting in the proposed service area. While the Commission encourages television broadcast stations to operate with maximum facilities in order to make the most efficient use of channel assignments and provide the best possible service to the largest number of persons, we have also expressed our concern with fostering the development of UHF broadcasting. *Gala Broadcasting Company*, 13 RR 2d 105 (1968); *WLCY–TV, Inc.*, 38 F.C.C. 2d 96 (1972). By the hearing ordered herein, a full record will be established which will form a basis for determining the choice between these policies. The burden of proceeding with the introduction of evidence with respect to the UHF impact issue will be placed on the petitioner, and the burden of proof with respect to this issue will be placed on the applicant.

8. We have carefully considered all of the matters raised in the various pleadings and, except as indicated by the issues specified below, we find that the applicant is qualified to construct and operate as proposed and that, except as indicated in the preceding paragraphs hereof, no substantial and material questions of fact have been raised by the pleadings. The Commission, however, is unable to make the statutory finding that a grant of the application would serve the public interest, convenience and necessity, and is of the opinion that the application must be designated for evidentiary hearing on the issues set forth below.

9. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned application is designated for hearing at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether a grant of the application would impair the ability of authorized and prospective UHF television broadcast stations in the area to compete effectively, or would jeopardize, in whole or in part, the continuation of existing UHF television service.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, whether grant of the application would serve the public interest, convenience and necessity.

10. It is further ordered, that Channel Seventeen, Inc., is made party respondent in this proceeding.

11. It is further ordered, That the burden of proceeding with the introduction of evidence with respect to issue 1, herein is hereby placed upon the party respondent, and the burden of proof with respect to issues 1 and 2 is hereby placed upon the applicant.

12. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and the party respondent herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

13. It is further ordered, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice, as required by § 1.594(g) of the rules.

Adopted: June 26, 1974.

Released: July 10, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.74–16710 Filed 7–22–74;8:45 am]

[1] KCBJ–TV also alleges that the proposed changes would result in short spacing with co-channel WCIA, channel 3, Champaign, Illinois, located 181.69 miles from KTVO. This claim is erroneous as WCIA is located in Zone I and § 73.610(b)(1) and (2) of the Commission's rules requires a separation of only 170 miles between co-channel stations when one of the stations is located in Zone I.

FEDERAL POWER COMMISSION

[Docket No. CI66–729, et al.]

SHELL OIL CO. ET AL.

Notice of Applications for Certificates [1]

JULY 16, 1974.

Take notice that each of the Applicants listed herein has filed an applica-

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

tion pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce as described herein, all as more fully described in the respective applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before August 6, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI66-729 A 2-14-66	Shell Oil Co	El Paso Natural Gas Co., West Waha Field, Reeves County, Tex.	16.5	14.65
CI66-887 A 3-23-66	do	El Paso Natural Gas Co., Gomez Field, Pecos County, Tex.	16.5	14.65
CI67-1084 A 2-17-67	do	El Paso Natural Gas Co., Toro Field, Reeves County, Tex.	[1] 16.5	14.65
CI67-1095 A 2-20-67	do	El Paso Natural Gas Co., Hamon Field, Reeves County, Tex.	[1] 16.5	14.65
CI67-1096 A 2-20-67	do	El Paso Natural Gas Co., Lockridge Field, Ward County, Tex.	[1] 16.5	14.65
CI69-67 A 7-17-68	Atlantic Richfield Co	Northern Natural Gas Co., West Waha Field, Reeves County, Tex.	16.5	14.65
CI69-1219 A 6-25-69	Forest Oil Corp	Transwestern Pipeline Co., Barstow Field, Ward County, Tex.	[1] 18.0	14.65
CI70-7 A 7-7-69	Shell Oil Co	do	[1] 18.0	14.65
CI70-176 A 8-22-69	Cities Service Oil Co	do	[1] 16.5	14.65

[1] Subject to upward and downward Btu adjustment.

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[FR Doc.74-16741 Filed 7-22-74;8:45 am]

[Docket No. RP70-29]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Filing of Report on Refund

JULY 16, 1974.

Take notice that on July 1, 1974, Texas Eastern Transmission Corporation (Company) filed with the Commission a report on a refund as ordered by the "Presiding Examiner's Initial Decision on Tracking Rate Filings Reflecting Advance Payments for Gas" dated June 20, 1972, as modified by the Commission's Opinion Nos. 672 and 672-A issued on November 1, 1973 and January 15, 1974, respectively, in Docket Nos. RP70-29, et al.

Submitted by the Company were the following:

1. Summary of refund schedule showing the refund amount, interest (annual rate of 7 percent) and total refund amount to each customer.

2. Copies of detailed refund and interest calculations submitted by Company to Algonquin Gas Transmission Company, which are purportedly representative of the detailed calculations submitted to all of Company's jurisdictional customers.

3. Copies of all releases then received by Company from its customers with respect to the refund.

Any person desiring to comment upon said filings may do so by filing such comments with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10), on or before July 31, 1974. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-16744 Filed 7-22-74;8:45 am]

[Docket No. E-8891]

UNION ELECTRIC CO.

Notice of Filing of Interconnection and Facility Use Appendices

JULY 16, 1974.

Take notice that on July 9, 1974, Union Electric Company tendered for filing under Appendix C of the Interconnection Agreement between Central Illinois Public Service Company, Illinois Power Company, and Union Electric Company a new "Connection Point", designated IP-UE Connection 16—Roxford 4531, dated June 24, 1974, and a new Appendix L dated June 24, 1974 to the Facility Use Agreement between Union Electric Company and Illinois Power Company.

Said Appendices provide for a new connection point between the parties and establish facilities charges to be paid by Illinois Power to Union Electric.

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 should be filed on or before August 1, 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 available for public inspection at the Federal Power Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-16745 Filed 7-22-74;8:45 am]

[Docket No. G-2584, et al.]

MOBIL OIL CORPORATION ET AL.

Certificates of Convenience and Necessity, Rate Schedules, etc.; Correction

JULY 2, 1974.

In the findings and order after statutory hearing issuing certificates of public convenience and necessity, amending orders issuing certificates, permitting and approving abandonment of service, making successor co-respondent, terminating certificates, accepting rate schedules for filing, canceling FPC gas rate schedules, terminating rate proceedings and cancelin Docket Number, issued May 15, 1972, and published in the FEDERAL REGISTER on May 23, 1972, 37 FR 10475, page 10476, line 13: Change "RI71-884" to read "RI 71-484".

Page 10476, Paragraph (12), line 6: Change "RI71-884" to read "RI71-484".

Page 10477, Paragraph (W), line 3: Change "RI71-884" to read "RI71-484".

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-16746 Filed 7-22-74;8:45 am]

[Docket No. E-8789]

DETROIT EDISON CO.

Notice of Filing; Correction

JULY 15, 1974.

In the notice of filing issued July 5, 1974 and published in the FEDERAL REGISTER on July 12, 1974, 39 FR 25699, is hereby rescinded in its entirety.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-16747 Filed 7-22-74;8:45 am]

[Docket No. RP71-125]

NATURAL GAS PIPE LINE COMPANY OF AMERICA

Notice of Extension of Time and Postponement of Hearing

JULY 15, 1974.

On July 8, 1974, Staff Counsel filed a motion to extend the procedural dates fixed by notice issued June 26, 1974, in the above-designated matter. The motion states that Natural Gas Pipe Line Company has no objection to this motion.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Natural's Testimony and Exhibits, July 26, 1974.
Staff's Testimony and Exhibits, August 23, 1974.
Intervener Evidence, August 30, 1974.
Rebuttal Evidence, September 10, 1974.
Hearing, September 17, 1974 (10:00 a.m. EDT).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-16739 Filed 7-22-74;8:45 am]

[Dockets Nos. E-8586 and E-8587]

PUBLIC SERVICE COMPANY OF INDIANA

Order Rejecting Proposed Fuel Clause and Permitting Intervention

JULY 16, 1974.

On January 8, 1974, the Public Service Company of Indiana (PSCI) tendered for filing proposed changes in rates which provided for increased charges and a revised fuel adjustment clause covering thirty-nine full requirements municipals, fifteen full requirements rural electric membership corporations, and five partial requirements municipals. By order issued March 7, 1974, the Commission suspended the proposed changes for the full statutory period except that for those customers (Logansport, Peru, Washington, and Crawsfordville, Indiana) covered by fixed term, fixed rate contracts, a section 206 investigation was instituted to determine whether the rates contained in such contracts are in the public interest. Additionally, ordering paragraph (K) required PSCI to file within thirty days a revised fuel adjustment clause which conformed with Opinion No. 633.[1]

[1] New England Power Company, Docket No. E-7541, 48 FPC 899 (1972).

On April 4, 1974, PSCI filed a revised fuel clause which, according to PSCI, applied to each customer in Docket Nos. E-8586 and E-8587. The proposed revised fuel clause provides: (1) PSCI's own generation fuel adjustments to be multiplied by the ratio of the net output of the utility's fossil fired units to the sum of the net output of all its units plus all purchases of energy with a fuel clause; and (2) a purchased power fuel cost adjustment equal to the difference between the weighted average cost per Kwh of energy purchased from suppliers with a fuel adjustment clause and $.0040193 per Kwh. The $.0040193 per Kwh figure was derived as follows:

Average cost per Kwh of energy purchased (based on 1974 test year period), .0038224.
Loss Ratio (Per Cent), 4.9.
Cost per Kwh Distributed ((average cost) (loss ratio) + (average cost)), .0040193.

Notice of the compliance filing was issued on April 18, 1974, with comments and petitions to intervene due on or before April 30, 1974. On April 30, 1974, the Indiana Municipal Electric Association and several municipalities (Cities)[2] tendered for filing a petition to intervene.

Cities raise the following questions: (1) whether the proposed fuel clause is in conformance with Opinion No. 633 since it includes as items of cost hydro and nuclear power and includes purchased power not subject to a fuel clause; (2) whether the inclusion of operation and maintenance expenses in the fuel cost is proper; and (3) whether the fuel clause should properly account for changes in PSCI's generation mix. Cities request that the proposed fuel clause be rejected or alternatively, that the question of the just and reasonableness of the fuel clause be set for hearing.

Our review of the filing indicates that the proposed fuel clause does not conform with § 35.14 of the Commission's regulations under the Federal Power Act and Opinion No. 633 because: (1) purchased energy as used in the ratio applicable to PSCI's own fuel cost adjustment is restricted to such energy purchased subject to a fuel adjustment clause which results in the imputation of costs to purchased energy not subject to a fuel adjustment clause; and (2) the part of the clause which provides for adjustments in the energy charge based on changes only in the cost of purchased energy covered by a fuel adjustment clause has the potential of passing on non-fuel energy components.

For the foregoing reasons, we shall reject PSCI's proposed compliance filing and require the submission of a conforming clause within thirty days from the date of the issuance of this order. In addition, we note that the compliance filing would have applied to all of the customers originally included in Docket Nos. E-8586 and E-8587. However, as indicated by our order of March 7, the contracts with Crawfordsville, Logansport, Peru, and Washington, Indiana, are fixed rate, fixed term contracts. Under the Mobile-Sierra rule, this Commission cannot amend such contracts to permit the inclusion of a conforming fuel clause except upon the conclusion of an investigative hearing, pursuant to section 206 of the Federal Power Act, wherein the burden of proof required by the rule is met. PSCI should, therefore, refile a conforming fuel clause which is applicable only to the customers not covered by fixed rate, fixed term contracts. The fuel clause provision presently contained in these fixed rate, fixed term contracts must remain unamended until properly changed upon the conclusion of the section 206 investigation instituted in this docket.

The Commission finds:

(1) It is in the public interest and necessary and appropriate to aid in the enforcement of the Federal Power Act that the revised fuel adjustment clause filed by PSCI on April 4, 1974, be rejected.

(2) PSCI should be required to refile within 30 days of the issuance of this order a revised fuel adjustment clause which is in conformance with the Commission's regulations under the Federal Power Act, Opinion No. 633, and the directives of this order, and which would apply only to customers not covered by fixed rate, fixed term contracts.

(3) Good cause exists to permit the intervention of the above-named intervenors.

The Commission orders:

(A) The fuel adjustment clause filed by PSCI on April 4, 1974, is hereby rejected.

(B) Within 30 days of the issuance of this order, PSCI shall file a revised fuel adjustment clause which is in conformance with the Commission's regulations under the Federal Power Act, Commission Opinion No. 633, and the directives of this order, and which would apply only to customers not covered by fixed rate, fixed term contracts.

(C) The parties designated above are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting the rights and interest specifically set forth in the respective petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

[2] Bainbridge, Bargerville, Centerville, Covington, Darlington, Edinburg, Florida, Greendale, Greenfield, Hagerstown, Lawrenceburg Utilities, Lawrenceburg, Lebanon, Linton, Middletown, Montezuma, Paoli, Pendleton, Rising Sun, Rockville, Scottsburg, South Whitley, Thornton, Tipton, Veedersburg, and Waynetown, Indiana.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-16740 Filed 7-22-74;8:45 am]

[Docket No. E-8880]

SOUTHWESTERN ELECTRIC POWER CO.

Notice of Application for Sale of Electric Facility

JULY 16, 1974.

Take notice that on June 27, 1974, Southwestern Electric Power Company (Applicant) of Shreveport, Louisiana filed an application pursuant to section 203 of the Federal Power Act, seeking authorization to sell certain electric facilities valued at $83,124.00 to Wood County Electric Cooperative, Quitman, Texas (Wood County).

Applicant proposes to sell to Wood County, all poles, structures, conductors, transformers, oil circuit breakers, capacitors, and other allied and related facilities situated on land located in Wood County, Texas, about one mile east of Quitman, Texas.

The proposed transaction enables Wood County to convert its service voltage at the Quitman point of delivery on Applicant's transmission system from 12.5 to 69 kv.

Applicant is incorporated under the laws of the State of Delaware with its principal business office at Shreveport, Louisiana, and is engaged in generating, purchasing, transmitting, distributing and selling electric energy in portions of Western Arkansas, Northwestern Louisiana, and Northeastern Texas.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 1, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-16742 Filed 7-22-74;8:45 am]

[Docket No. CP74-331]

TENNESSEE GAS PIPELINE CO. AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

JULY 16, 1974.

Take notice that on June 27, 1974, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), Tenneco Building, Houston, Texas 77002 and TransContinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001 (Applicants) filed in Docket No. CP74-331 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas under an exchange agreement between Applicants dated June 25, 1974, and authorizing Applicants to construct and operate related exchange facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application indicates that Transco intends to construct and operate measuring facilities at the proposed interconnection of Applicants' pipeline systems in Wharton and Waller Counties, Texas, and deliver daily into Tennessee's system up to 225,000[1] Mcf of gas per day and up to a total quantity of 300,000 Mcf of gas per day on a best efforts basis. Further, Tennessee proposes to construct and operate measuring facilities at the proposed interconnection of Applicants' pipeline systems in Acadia Parish, Louisiana, and deliver in return equal volumes of gas to Transco on a simultaneous basis. Applicants state that the proposed gas exchange will be on an Mcf for Mcf no monetary compensation basis.

Applicants state that this exchange will enable Tennessee to make surplus deliverability in its South Louisiana gas supply area available to its Texas System where deliverability is declining. Applicants further state that Transco will realize a savings in compressor fuel to the extent that volumes of gas exchanged will not have to be transported through its system.

The application indicates that Tennessee and Transco will each reimburse the other for fifty percent of the costs involved in the construction of their respective facilities, and the estimated total cost of such facilities is $647,900. Tennessee states that it will initially finance the cost of constructing the proposed facilities from general funds on hand and/or from borrowings under the Company's revolving credit agreements.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 6, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take futher notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-16743 Filed 7-22-74;8:45 am]

[Docket No. E-8886]

COLUMBUS AND SOUTHERN OHIO ELECTRIC CO.

Notice of Filing of Initial Rate Schedule

JULY 16, 1974.

Take notice that on June 28, 1974, Columbus and Southern Ohio Electric Company (Columbus) tendered for filing an initial rate schedule setting forth the rentals and charges that The Cincinnati Gas & Electric Company (Cincinnati) and The Dayton Power and Light Company (Dayton) will pay Columbus for the lease of undivided interests in certain 345 kv electric transmission facilities owned by Columbus.

Copies of the filing and Columbus' letter of transmittal were served upon Cincinnati and Dayton by U.S. Mail, postage prepaid, on June 28, 1974.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 10, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). 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 protestant 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.74-16734 Filed 7-22-74;8:45 am]

[1] All volumes at 14.73 psia.

[Docket No. E-8858]

CONSUMERS POWER CO.

Notice of Filing

JULY 16, 1974.

Take notice that on June 24, 1974, The Detroit Edison Company (DEC) filed with the Federal Power Commission certain materials supplementing The Electric Coordination Agreement dated May 1, 1973 between Consumers Power Company (CPC) and The Detroit Edison Company (designated Consumers Power Company Rate Schedule FPC No. 33 and Detroit Edison Company Rate Schedule FPC No. 17). The filing of June 24, 1974 revises a statement filed with the Federal Power Commission on September 13, 1973, which set forth lists of facilities, investment costs, fixed and annual charges, and certain operating criteria (designated Supplement No. 1 to Consumers Power Company Rate Schedule FPC No. 33 and Supplement No. 1 to Detroit Edison Company Rate Schedule No. 17).

The materials filed with the Commission on June 24, 1974 include the following:

(1) Revisions reflecting changes in fixed charge factors consistent with the cost of money determination by The Michigan Public Service Commission in its most recent rate orders to CPC and DEC;

(2) A Certificate of Concurrence with the filing of Amendment No. 1 to the aforementioned Electric Coordination Agreement; This Amendment changes, as of May 1, 1974, the number used to divide the rate short-term capacity from four to six in the determination of the capacity charge for daily exchanges.

(3) Revisions to exhibits filed with the Federal Power Commission on May 20, 1974 (Docket No. E-8612) (designated Supplement No. 1 to DEC Rate Schedule FPC No. 17); these revisions reflect changes in the underlying data and incorporate the changes referred to in (2) above respecting Amendment No. 1 to The Electric Coordination Agreement.

Applicant further requests that the Federal Power Commission permit the enclosed revisions to become effective on February 1, 1974, and to permit Amendment No. 1 to The Electric Coordination Agreement and the exhibit revisions referred to in (3) above to become effective on May 1, 1974.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 26, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become 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.74-16735 Filed 7-22-74;8:45 am]

[Docket No. E-8889]

EMPIRE DISTRICT ELECTRIC CO.

Notice of Supplemental Rate Agreement

JULY 16, 1974.

Take notice that on July 8, 1974, The Empire District Electric Company (Empire) tendered for filing copies of a Supplementary Agreement amending Rate Schedules FPC No. 79 and FPC No. 84.

Empire states that the Supplementary Agreement is designed to provide an automatic "Fuel Cost Adjustment" for future sales to Sekan Electric Cooperative Association, Inc. Empire requests this Agreement be approved at the earliest possible date.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 1, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party 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.74-16736 Filed 7-22-74;8:45 am]

[Dockets Nos. RP74-19, RP69-2, RP70-25, RP71-27, RP71-28 and RP72-144]

FLORIDA GAS TRANSMISSION CO.

Notice of Further Extension of Time and Postponement of Prehearing Conference and Hearing

JULY 15, 1974.

On July 9, 1974, Florida Gas Transmission Company filed a motion for an extension of the procedural dates fixed by the notice issued June 26, 1974, in the above-designated matter. The motion states that Staff Counsel has no objection to the revised procedural schedule.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Interveners' Evidence, July 23, 1974.
Prehearing Conference, August 8, 1974, (10 a.m. e.d.t.).
Rebuttal Evidence, August 20, 1974.
Hearing, September 4, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-16737 Filed 7-22-74;8:45 am]

[Docket No. E-8890]

MISSOURI POWER & LIGHT CO.

Notice of Proposed New Electric Service Agreement

JULY 16, 1974.

Take notice that Missouri Power & Light Company on July 9, 1974, tendered for filing a proposed electric service agreement with the City of Marceline, Missouri. The proposed agreement would have an effective date of August 1, 1974, and would be identical, with minor modifications, to FPC Rate Schedules No. 41, No. 38, and No. 43 presently on file with the Commission.

Copies of the filing were served upon the City of Marceline.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20425, in accordance with §§ 1.8 and 1.10 of the Commission's rules and practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 29, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-16738 Filed 7-22-74;8:45 am]

[Docket No. CP74-254]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Order Granting Petitions To Intervene, Denying Request for Consolidation, Establishing Procedural Dates and Fixing Date for Formal Hearing

JULY 15, 1974.

On March 29, 1974, Natural Gas Pipeline Company of America (Natural) filed in Docket No. CP74-254 an application, as supplemented May 16, 1974, pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities required to continue to operate its pipeline facilities at authorized levels of delivery capacity during the 1974-1975 winter period, all as more fully set forth in the application in this proceeding.

The deliverability of Natural's existing gas supply is inadequate to support operation of its pipeline at authorized levels of capacity. To assure continued full winter deliveries to existing customers, Natural proposes to construct and operate facilities to (1) increase the peak day and seasonal capacity of its storage fields in Iowa and Illinois by 93,000 Mcf and 9,300,000 Mcf respectively, (2) increase capacity of its main transmission pipeline between its Iowa storage fields

and the terminus of its main transmission system at Joliet, Illinois, and (3) reactivate the development of the St. Peter reservoir in its Columbus City, Iowa Storage field.[1]

To effectuate the proposal herein, Natural proposes to construct and operate:

(1) Approximately 1.0 mile of 6-inch gathering pipeline, wellhead facilities to connect four existing injection-withdrawal wells and other miscellaneous facilities and to inject additional cushion gas at its Columbus City Mt. Simon Storage field in Louisa County, Iowa;

(2) Approximately 2.0 miles of 6-inch and 8-inch gathering pipelines, drill and connect six injection-withdrawal wells, and other miscellaneous facilities and to inject additional cushion gas at its Columbus City St. Peter Storage Field in Louisa County, Iowa.

(3) Approximately 1.0 mile of 6-inch gathering pipeline, wellhead facilities to connect four existing wells, and other miscellaneous facilities and to inject additional cushion gas at its Cairo Mt. Simon Storage field in Louisa County, Iowa;

(4) Approximately 0.8 mile of 8-inch and 12-inch gathering pipeline, drill and connect two injection-withdrawal wells, and other miscellaneous facilities, and to inject additional cushion gas, at its Herscher Northwest Storage field in Kankakee County, Illinois;

(5) Approximately 1.0 mile of 6-inch and 8-inch gathering pipeline, wellhead facilities to connect four existing wells, and other miscellaneous facilities and to inject additional cushion gas, at its Loudon Storage field, in Fayette County, Illinois; and

(6) Approximately 9.1 miles of 36-inch pipeline partially looping its existing pipeline between its Iowa Storage fields and the terminus of its main transmission system at Joliet, Illinois and 3,000 horsepower of compression at Compressor Station No. 110, Henry County, Illinois.

No new supply additions are proposed by this application. Natural will attempt to use existing supplies, through increased storage operations, to meet its authorized delivery requirements during the upcoming 1974–1975 winter season. Natural's proposed storage expansion will offset anticipated supply delivery deficiencies. Approximately 13,110,000 Mcf are required for cushion gas for the expanded storage. Summer curtailments of Natural's customers will provide the gas needed for both cushion gas and expanded storage operation.

No new or increased markets are proposed. The increased storage capability will be used by Natural to meet only existing market requirements.

Natural estimates that the total cost of this project will be $9,381,000. Of this, $4,110,000 is for transmission facilities, and $5,271,000 is for storage. The exact form of financing the cost of the proposed facilities has not been finally determined. Natural at first intends to finance the cost of these facilities, along with other related financial requirements on an interim basis, with funds obtained under lines of credit entered into with several banks, with short-term borrowing from its parent, Peoples Gas Company, and through the issuance of commercial paper. Natural will later permanently finance a part of the interim borrowings with proceeds from the issuance and sale of either first mortgage bonds, debentures, preferred stock or some combination thereof.

The estimated incremental cost of service is $1,882,825, which includes an 8.83 percent rate of return. The facilities proposed will not result in any additional revenues inasmuch as the project is an attempt to maintain service only at existing levels. Estimated system-wide operating expenses, and taxes and revenues for first year operations are $477,158,742 and $578,231,314, respectively. This generates an 8.69 percent rate of return.

After review of the application and consideration of the project's impact on noise levels of the area, terrain, land use, and air quality, the Commission finds that this order does not constitute a major Federal action having any significant effect on the human environment.

After due notice by publication in the FEDERAL REGISTER on April 25, 1974 (39 FR 14638), timely petitions to intervene were filed by Illinois Power Company (Illinois Power), Iowa-Illinois Gas and Electric Company (Iowa-Illinois), Northern Indiana Public Service Company (Northern Indiana), The Peoples Gas Light and Coke Company (Peoples), and North Shore Gas Company (North Shore). These petitioners state that they have interests in this proceeding which may be directly affected and which are not adequately represented by any other party. None of said petitioners requests a formal hearing. On May 7, 1974, Transcontinental Gas Pipe Line Corporation (Transco) filed a timely petition to intervene in the instant proceeding and a motion to consolidate the instant proceeding with the proceeding initiated by Natural's application for a certificate of public convenience and necessity in Docket No. CP74–260, notice of which was published in the FEDERAL REGISTER on May 13, 1974 (39 FR 17133). Transco asserts that it has a direct interest in the outcome of the proceedings in the instant docket and in Docket No. CP74–260 which interest will not be represented adequately by any other party. Transco requests a formal hearing in a consolidated proceeding on the instant application and the application in Docket No. CP74–260. Answers in opposition to Transco's petition to intervene and motion to consolidate were filed by Natural and the petitioners to intervene. As a result of Transco's petition and motion, late petitions to intervene, along with answers in opposition to Transco's filing, were filed by Interstate Power Company, (Interstate), Wisconsin Southern Gas Company, Inc. (Wisconsin Southern), Central Illinois Public Service Company (Central Illinois) and Iowa Power and Light Company (Iowa Power). The late petitioners to intervene assert vital interests in this proceeding and state that they are intervening in view of the new issues raised by Transco in its petition and motion. Natural filed an answer in opposition to Transco's requests on May 22, 1974.

Transco and Natural are involved in a continuing controversy surrounding applications by certain producers to abandon natural gas sales to Transco in the La Gloria Field, Texas, and to sell and deliver such gas to Natural.[2] In Opinion No. 655, the Commission approved abandonment of service to Transco.[3] On appeal, the United States Court of Appeals for the District of Columbia Circuit vacated the Commission's order and remanded the proceeding with directions, inter alia, to conduct a thorough inquiry into the comparative needs of the two pipelines and their customers for the contested gas supply.[4]

A few days after the filing in the instant docket, Natural filed in Docket No. CP74–260 an application for authorization to provide increased service commencing December 1, 1974, to 17 of its customers totaling 47,846 Mcf per day during the winter season. This new service is based upon projected deliveries from gas reserves dedicated to Natural as a result of advance payments made by Natural to Shell Oil Company, for exploration for gas from nine blocks acquired in the December 1970 offshore Louisiana lease sale. The 17 customers of Natural who are to receive the new winter service participated in the funding of the advance payment and, as consideration, have been allocated this new service in proportion to their respective contributions to the advance payment fund. Natural's expansion application states that no new facilities are required for the increased service.

Transco asserts that authorization by the Commission in Docket No. CP74–260 for Natural to expand service to its customers would create needs on Natural's system for additional gas supplies and thereby prejudice Transco's efforts to retain the La Gloria Field gas. Transco states that Natural's two applications are inconsistent in that one is posited on the

[1] Natural initiated the investigation and testing of the St. Peter reservoir pursuant to authorization issued in Docket No. CP68–288 with subsequent development of the reservoir included as a part of Natural's applications in Docket Nos. CP69–164 and CP70–119. Natural deferred further development of the reservoir until completion of an investigation to determine its storage feasibility. Natural has determined that the development of the St. Peter reservoir has now reached a level of storage capacity that would permit Natural to reinstate its original development program for said reservoir.

[2] *Hilda B. Weinert and Jane W. Blumberg, et al.*, Docket Nos. G–2730, *et al.*

[3] 49 FPC 738 (1973).

[4] *Transcontinental Gas Pipe Line Corp.* v. *FPC*, 488 F. 2d 1325 (1973), *cert. denied sub nom. Natural Gas Pipeline Co.* v. *Transcontinental Gas Pipe Line Corp.*, 42 U.S.L.W. 3653 (May 28, 1974).

insufficiency of Natural's gas supply to render authorized levels of service and the other proposes an increase of service to Natural's customers. Transco, in moving for consolidation of the two dockets, requests a formal hearing to resolve the issues it has raised.

The answers in opposition to Transco's petition to intervene and motion to consolidate state that Transco neither has an interest in the proceedings in the instant docket nor will it be affected by the decision of the Commission in these proceedings. They state that Transco is not a customer of Natural and has not participated in the funding for exploration that has resulted in the increased volumes of gas available to Natural. They point out that the storage facilities, for which authorization is requested in the instant docket, are designed to enable Natural to meet existing contract demand and that the volumes of gas being made available to Natural's customers have already been committed as a result of the money expended by such customers for the exploration. They further assert that formal hearing and consolidation of the two dockets will critically delay Natural's plans to provide adequate service to its customers during the coming winter months. Transco's interests, they contend, will be adequately served in the proceeding on remand in Docket Nos. G–2730, et al. Further, they perceive that Transco is filing this petition and motion only to gain a tactical advantage from Natural by forcing a settlement of the La Gloria Field proceeding and that the conflict between Natural and Transco is properly a part of the La Gloria Field proceeding, where such allegations by Transco can be properly decided.

Paragraph (b) of § 1.20 of the Commission's rules of practice and procedure (18 CFR 1.20(b)) provides that the Commission may order consolidation of proceedings for hearing involving a common question of law or fact. There is no evidence that the additional volumes of gas are in any way connected to the development of the storage capacity of Natural. Natural, in its answer to Transco's motion states that the construction of the storage capacity is designed to assure Natural's meeting existing customer demand. It is, therefore, inappropriate to consolidate the proceedings in the instant docket and Docket No. CP74–260, which contemplates additional volumes of gas to be delivered to Natural's customers.

Transco bases its request for a formal hearing on the need to determine whether Natural has adequate supplies, with or without the La Gloria Field gas, to serve the proposed increased quantities to its customers. In view of the fact that the increased quantities do not depend on the La Gloria Field gas but have been contracted for in a completely unrelated arrangement, the Commission does not believe that Transco has presented a sufficient basis to warrant the granting of its motion. However, we do believe that Natural's application in Docket No. CP74–254 should be the subject of an evidentiary hearing for the purpose of developing an official record concerning the overall public convenience and necessity for the proposed construction. Therefore, we will order that a formal public hearing be convened.

The Commission finds:

(1) The late petitioners to intervene are customers of Natural and acceptance of their petitions for filing will not delay the instant proceeding.

(2) Participation by all the petitioners to intervene may be in the public interest.

(3) There is no common question of law or fact raised by the application in the instant proceeding and the proceeding in Docket No. CP74–260.

(4) It is necessary and appropriate that the proceedings in Docket No. CP74–254 be set for formal public hearing.

The Commission orders:

(A) The petitioners to intervene are permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions for leave to intervene: *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order of the Commission entered in this proceeding.

(B) Transco's motion to consolidate this proceeding with the proceeding in Docket No. CP74–260 is denied.

(C) A formal hearing shall be convened in the proceeding in Docket No. CP74–254 in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 on October 1, 1974, at 10 a.m., e.d.t. The Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for the purpose—see Delegation of Authority 18 CFR 3.5(d)—shall preside at the hearing in this proceeding and shall prescribe relevant procedural matters not herein provided.

(D) The direct case of Natural Gas Pipeline Company of America as to all issues raised by its filing in Docket No. CP74–254 as well as issues raised by this order and all intervenors in support thereof shall be filed and served on all parties of record including the Commission Staff on or before September 4, 1974.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74–16630 Filed 7–22–74;8:45 am]

[Docket Nos. E–8217 and E–8137]

NEW ENGLAND POWER SERVICE COMPANY AND BOSTON EDISON CO.

Errata Notice

JULY 11, 1974.

In The Order Accepting Transmission Agreements For Filing Initiating An Investigation Under Section 206 of The Federal Power Act, Granting Waiver Of The Notice Requirements And Consolidating Proceedings issued June 17, 1974 and Published in the FEDERAL REGISTER on June 24, 1974, 39 FR 22465, the caption reads as follows:

New England Power Service Company and Boston Edison Company, Docket No. E–8217.

Please change to read as follows:

New England Power Service Company, Docket No. E–8217, and Boston Edison Company, Docket No. E–8137.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–16632 Filed 7–22–74;8:45 am]

[Docket No. RP74–80]

NORTHERN NATURAL GAS CO.

Order Granting in Part and Denying in Part Application for Rehearing and Amending Prior Order

JULY 15, 1974.

On June 17, 1974, Northern Natural Gas Company (Northern) filed an Application for Rehearing, Reconsideration and Clarification of our order issued May 20, 1974, herein suspending and setting for hearing revised tariff sheets tendered by Northern on April 11, 1974.

Northern alleges that our May 20, 1974, order improperly disallowed the depreciation rate increase resulting from Northern's proposal to utilize the unit-of-production method for computing depreciation. Northern states that in Section VII(f) of the Docket Nos. RP71–107, et al., Rate Settlement, approved by Commission Order dated January 4, 1974, Northern agreed that any portion of its next general rate increase represented by proposed increases in the Section VII depreciation rate will not be collected and retained by Northern prior to December 27, 1974. In its April 11, 1974, filing Northern proposes to credit the customers' bills for the billing months of November and December, 1974, by a unit amount reflecting the increase in depreciation expense above that provided by Section VII of this Agreement. By the provisions of section VII(f) of the Agreement Northern can file for a general rate increase prior to December 27, 1974 and such increase in rates may include an increase in the depreciation rates higher than those set forth in section VII as long as the portion of the increase represented by increases in depreciation is not collected and retained prior to December 27, 1974. Northern's April 11, 1974, filing is consistent with section VII of the Agreement because Northern will not collect and retain its increased depreciation rate prior to December 27, 1974. Accordingly, we shall grant rehearing, in part, to eliminate the requirement in ordering paragraph (H) of our May 20, 1974 order, that Northern file substitute tariff sheets reflecting the depreciation rates prescribed in section VII(f) of the Docket Nos. RP71–107, et al., Rate Settlement.

Northern also alleges that in our May 20, 1974 order we erred in denying their request to extend the advance payment tracking provisions set forth in section V of the Docket Nos. RP71–107, et al., Rate Settlement. Northern states that the one-a-year advance payment tracking filing has been demonstrated to be in the public interest. Northern asserts that its advance payment tracker should not be rejected without a hearing and requests that it be approved for continuance on an interim basis pending hearing and decision in this docket. However, as we stated in our May 20, 1974 order, § 154.38(d) (2), (4) and (5) of the regulations provide that no permanent automatic rate adjustment provision shall be permitted for natural gas companies except for purchased gas and research and development expenditures. We have only permitted advance payment tracking provisions when they are part of an approved rate settlement agreement wherein the Commission has reviewed all the pipeline's costs, including advance payments, and revenues and has determined that an advance payment tracking provision is proper for the period the settlement remains in effect; i.e., until the next section 4 rate increase becomes effective, subject to refund.[1] Under Northern's proposal, the Commission would not be able to review advance payments costs along with other costs associated with jurisdictional service. Moreover, the Commission found in Order No. 499, *supra.*, that permitting the inclusion of permanent advance payment tracking provisions in a pipeline's tariff was not necessary to insure the recovery by the pipeline of costs associated with its advance payments program. Accordingly, we find that our May 20, 1974 order properly denied Northern's request for an extension of its advance payment tracking authority.

Northern objects to our requirement in ordering paragraph (F) of the May 20, 1974, order that Northern file substitute tariff sheets which reflect a cost for Montana gas which does not exceed the unit cost derived by use of an annual delivered volume of 41 Bcf if the Commission does not grant Northern's Petition to Amend the Commission Order Accompanying Opinion No. 618 before October 27, 1974. Northern asserts that the Commission would not be able to render a decision on the Petition to Amend prior to October 27, 1974, the end of the suspension period, thereby making this condition unreasonable and inequitable. We note, however, that on June 18, 1974, we issued an Order Denying Motion To Consolidate And Petition To Amend in Docket Nos. CP70–69, et al., which denied Northern's Petition To Amend The Commission Order Accompanying Opinion No. 618. Since the Commission has already rendered its decision on the Petition to Amend on a date well before October 27, 1974, Northern's argument on this point is rendered moot.

Northern requests that we clarify our intent with respect to rate design and refunds. We stated in our May 20, 1974, order that Northern shall have the burden to justify any jurisdictional commodity rate levels which reflect less than 75 percent of allocated fixed costs. This is in accordance with the Order Approving Rate Settlement, issued by the Commission on January 4, 1974, in Docket Nos. RP71–107 (Phase II) and RP72–127. In its April 11, 1974, filing Northern proposes to collect its total cost of service by recovering 32 percent of its allocated fixed costs from its demand revenues and 68 percent from its commodity revenues. Northern asserts that it should not be exposed to undercollections should the Commission determine that commodity rate levels should reflect 75 percent of allocated fixed costs. Northern requests that any variance in the demand-commodity ratio of Northern's filed rates in relation to that ultimately required by the Commission will be made prospectively only, or, in the alternative, that any required refunds will be made from total revenues collected rather than on the basis of the revenues collected from the demand and commodity components of the rates, considered separately.

When we indicated in our May 20, 1974, order that Northern would have the burden of justifying any jurisdictional commodity rate levels reflecting less than 75 percent of allocated fixed costs, we did not intend to require Northern to meet a burden of proof higher than that required of any pipeline seeking to prove the justness and reasonableness of its proposed method of cost classification, cost allocation, and rate design in a Section 4 rate proceeding. Rather we intended to direct Northern's attention and for that matter the attention of all parties including our staff in their respective exidentiary presentations, to the propriety of Northern's proposed method of cost classification, cost allocation, and rate design versus the *United* 75–25 formula or any alternate formulas which may more closely reflect and implement this Commission's stated objectives in this area.[2] We note further that the Commission has full authority to put into effect a method of cost classification, cost allocation, and rate design which is found to be just and reasonable as of the date proposed rates are allowed to become effective after a suspension period.[3] It would not be appropriate for us to grant Northern's request that we limit or waive this authority before facts relevant to Northern's proposed cost classification, cost allocation, and rate design have been fully developed in an evidentiary record.

The Commission finds:

(1) Good cause exists to grant Northern's application for rehearing in part and to modify our May 20, 1974, order to eliminate the requirement that Northern file substitute tariff sheets reflecting the depreciation rates prescribed in Section VII(f) of the Docket Nos. RP71–107, et al., Rate Settlement.

(2) Except as noted in Paragraph 1 above, Northern's application for rehearing of our May 20, 1974, order presents no new facts or principles of law which were not considered in our previous order, or which now having been considered, warrant any modification of that order.

The Commission orders:

(A) Northern's application for rehearing is granted, in part, and our May 20, 1974, order is amended to eliminate the requirement that Northern file substitute tariff sheets reflecting the depreciation rates prescribed in section VII(f) of the Docket Nos. RP71–107, et al., Rate Settlement.

(B) Except as provided in Ordering Paragraph A above, Northern's application for rehearing of the May 20, 1974 order is denied.

(C) The Commission Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74–16631 Filed 7–22–74;8:45 am]

[Docket No. E–8833]

OTOE-MISSOURIA TRIBE OF INDIANS

Extension of Time

JULY 15, 1974.

In the matter of Otoe-Missouria Tribe of Indians c/o Kenneth Black, Chairman Otoe-Missouria Tribal Council, Francis M. Ward, Dewey W. Dailey, Joe Young, Jr., Levi Moncooyea, Rueben Kent, Nina Kent, Ella Brown, Batiste D. Young, Marlene Kent, Complainants, v. Oklahoma Gas and Electric Company, Respondent.

On July 5, 1974, Oklahoma Gas and Electric Company filed a motion for an extension of time within which to answer the complaint filed on May 31, 1974, by the Otoe-Missouria Tribe of Indians, et al.

Upon consideration, notice is hereby given that the time is extended to and including August 12, 1974, within which answers may be filed to the above complaint.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–16633 Filed 7–22–74;8:45 am]

[Docket No. E–8887]

PUBLIC SERVICE COMPANY OF NEW MEXICO

Tariff Change and Notice of Agreement

JULY 16, 1974.

Take notice that the Public Service Company of New Mexico (Company), on

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[1] Order No. 499, ____ FPC ____ issued December 29, 1973, in Docket No. RM74–4; *Southern Natural Gas Company*, ____ FPC ____ issued April 13, 1973, in Docket No. RP72–91, *et al.*; *Florida Gas Transmission Company*, ____ FPC ____ issued May 29, 1974, in Docket No. RP74–78.

[2] See: *Michigan Wisconsin Pipe Line Company*, ____ FPC ____ issued June 25, 1974, in Docket No. RP73–102.

[3] *Federal Power Commission* v. *Tennessee Gas Transmission Co., et al.*, 371 U.S. 145 (1962).

July 3, 1974, tendered for filing proposed changes in its F.P.C. Electric Tariff Rate Schedule No. 10, Supplements 1 through 4. The proposed changes would increase revenues from jurisdictional sales and services to the United States Atomic Energy Commission by $265,768.00 based on the 12 month period ending December 31, 1972.

The Company estimates its rate of return on its F.P.C. Rate Schedule No. 10, Supplements 1 through 4 in 1972 was 4.768. It states that this rate of return is below its embedded cost of debt and is inadequate to attract capital required by the Company on reasonable terms. The Company requests that the tariff change be made effective as of January 1, 1974. Copies of the filing were served upon the public utility's jurisdictional customer being served under this rate schedule.

Also take notice that the Company, on July 3, 1974, tendered for filing an agreement to provide power transmission service for the United States Atomic Energy Commission at Los Alamos, New Mexico.

This wheeling agreement was initiated to provide United States Atomic Energy Commission with a wheeling service to receive the United States Bureau of Reclamation, Colorado River Storage Project Power and Energy. The Company proposes that the wheeling agreement become effective as of April 1, 1974, and, therefore, requests a waiver of the notice requirements. Copies of the filing were served upon the public utilities jurisdictional customers being served under this agreement.

Any person desiring to be heard or to protest said applications 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 31, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 74-16634 Filed 7-22-74;8:45 am]

[Docket No. E-8514]

SOUTHERN SERVICES, INC.

Extension of Time and Postponement of Hearing

JULY 15, 1974.

On July 8, 1974, Southern Services, Inc., filed a motion for an extension of the procedural dates fixed by order issued May 8, 1974, in the above-designated matter. The motion states that neither the interveners nor Staff Counsel oppose the request.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

Service of evidence by company, August 16, 1974.
Service of evidence by intervener, September 3, 1974.
Service of evidence by staff, September 20, 1974.
Service of company rebuttal, October 21, 1974.
Hearing, November 12, 1974.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-16635 Filed 7-22-74;8:45 am]

[Docket Nos. CP74-33 and CI68-226]

TRANSCONTINENTAL GAS PIPE LINE CORP. AND SOHIO PETROLEUM COMPANY (OPERATOR), ET AL.

Order Consolidating Proceedings, Granting Interventions, Establishing Procedural Dates and Fixing Date for Formal Hearing

JULY 15, 1974.

On August 6, 1973, Transcontinental Gas Pipe Line Corporation (Transco) filed in Docket No. CP74-33 an application, as supplemented December 14, 1973 and February 11, 1974, pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of the Cockfield "D" reservoir and associated facilities in Washington Field, St. Landry Parish, Louisiana, as a storage reservoir and the construction and operation of certain facilities necessary therefor.

Transco states that the Washington Field contains gas producing wells connected to its pipeline system and that it has contracted with Sohio Petroleum Company (Sohio) and Gulf Oil Corporation (Gulf) to acquire their leasehold interests in the Cockfield "B" and "D" reservoirs and certain of their facilities. It is estimated that on January 1, 1974, the remaining reserves in the Cockfield "B" reservoir will have been 3.2 million Mcf of gas, which Transco will transfer to the Cockfield "D" reservoir, which is estimated to have contained on that date 22 million Mcf of gas. Transco proposes to develop the Cockfield "D" reservoir as a storage reservoir with a total inventory of 120 million Mcf of gas, of which 60 million Mcf will be base gas and the other 60 million Mcf will be top storage gas. Transco states that the proposed storage reservoir will be used to provide protection for high priority markets of its customers in the winter seasons.

Sohio filed, on September 24, 1973, for itself and for Gulf, an application pursuant to section 7(c) of the Natural Gas Act to amend the order granting certificate authorization in Docket No. CI68-226, Opinion No. 598-A (46 FPC 633), by deleting therefrom authorization for sales to Transco from the Cockfield "B" and "D" reservoirs in order to implement the conversion of these reservoirs into gas storage facilities.

To develop the Cockfield "D" reservoir Transco proposes to drill an additional 59 wells, construct and operate approximately 15.6 miles of various size field pipeline, and construct and operate a 44,000 horsepower compressor station. Transco also proposes to construct and operate approximately 1.36 miles of 36-inch pipeline to connect the storage field to its main transmission system.

The total estimated cost of the proposal is $78.5 million, which is proposed to be financed initially from temporary bank loans and company funds, with permanent financing to be arranged as part of an overall financing program. The total cost includes approximately $7,840,000 for gas leaseholds and rights, $3,325,000 for existing injection/withdrawal and observation wells, and $2,307,000 for recoverable native gas. The recoverable native gas has been valued at 23.2 cents per Mcf. The cost of the additional volumes of injected base gas has been estimated at the system cost of purchased gas plus a transportation charge of 13.9 cents per Mcf, which it proposes to include in its capitalized cost of base gas.

Essentially, the proposed project replaces the existing operation of the subject field, which is now in its final stages of production. Construction of the subject facilities would occur over a four year period and would impose demands on the environment similar to those of the present operations. The short-term use of the environment for the construction and operation of the proposed project would not significantly affect the maintenance and enhancement of the long-term productivity of the area. In view of the fact that Transco would be utilizing a depleted gas field with existing rights-of-way and well sites, this project does not constitute a major Federal action significantly affecting the environment.

After due notice in Docket No. CP74-33 by publication in the FEDERAL REGISTER on August 22, 1973 (38 FR 22577), timely petitions to intervene were filed by Elizabethtown Gas Company, Sohio Petroleum Company, United Natural Gas Company, Consolidated Edison Company of New York, Inc., Columbia Gas Transmission Corporation, Consolidated Gas Supply Corporation, Philadelphia Gas Works, Commonwealth Natural Gas Corporation, Philadelphia Electric Company, Atlanta Gas Light Compnay (which also filed a supplement to its petition to intervene), and The Brooklyn Union Gas Company. Late petitions to intervene were filed by Public Service Electric and Gas Company, Long Island Lighting Company, South Jersey Gas Company, Penn Fuel Gas, Inc., and UGI Corporation. Each petitioner asserts that it has an interest which may be directly and substantially affected in this proceeding, which interest is not adequately represented by any other party. No petitioner requests a formal hearing. No notices of intervention, protests to the granting of the application, or further petitions to intervene have been filed.

After due notice in Docket No. CI68-226 by publication in the FEDERAL REGISTER on October 26, 1973 (38 FR 29649),

no notices of intervention, protests to the granting of the application, or petitions to intervene have been filed.

The hearing into Transco's storage field development proposal shall include consideration of source of natural gas supply for base and top storage gas, storage field losses, fuel usage, effect on projected seasonal delivery volume patterns, cost of facilities, cost of service, effect on Transco's tariffs and rates, technical feasibility and testing program, financeability of project (including base gas), appropriateness of inclusion of a transportation cost of stored gas in rate base, projected schedule of development of storage capacities and deliverabilities, storage field geology and reservoir studies and any other matter requiring development on the record related to public convenience and necessity of this proposal.

The Commission finds:

(1) Since participation by the aforesaid petitioners will not delay the instant proceeding, good cause exists for accepting their late petitions to intervene.

(2) Participation by the aforesaid petitioners in this proceeding may be in the public interest.

(3) It is necessary and appropriate that the proceedings in Docket Nos. CP 73–33 and CI68–226 be consolidated and set for formal hearing.

The Commission orders:

(A) The aforesaid petitioners are permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however,* That participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in the said petitions to intervene; and *Provided, further,* That the admission of such interveners shall not be construed as recognition by the Commission that they or any one of them might be aggrieved because of any order of the Commission entered in this proceeding.

(B) A formal hearing shall be convened in the proceedings in Docket Nos. CP74–33 and CI68–226 in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 on September 11, 1974, at 10 a.m. (e.d.t.). The Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for the purpose—see Delegation of Authority 18 CFR 3.5(d)—shall preside at the hearing in this proceeding and shall prescribe relevant procedural matters not herein provided.

(C) The direct case of Transcontinental Gas Pipe Line Corporation and Sohio Petroleum Company (Operator), et al., as to all issues raised by their filings in the subject dockets as well as issues raised in this order, and all intervenors in support thereof, shall be filed and served on all parties of record, including the Office of Administrative Law Judges and Commission Staff, on or before August 19, 1974.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc. 74–16636 Filed 7–22–74;8:45 am]

[Docket Nos. RP74–83 and RP74–20]

UNITED GAS PIPE LINE CO.

Order Granting Untimely Petition To Intervene

JULY 15, 1974.

By order of May 16, 1974, the Commission accepted for filing and suspended an increase in jurisdictional rates proposed by United Gas Pipe Line Company in Docket No. RP74–83 and consolidated the proceeding with that instituted in Docket No. RP74–20. A number of interventions have been permitted.

On June 13, 1974, the Brooklyn Union Gas Company (Brooklyn Union) filed an untimely petition to intervene. We believe that the participation of Brooklyn Union in this proceeding may be in the public interest and we shall accordingly grant the untimely petition to intervene.

The Commission finds:

The participation of Brooklyn Union in this proceeding may be in the public interest.

The Commission orders:

(A) Brooklyn Union is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *Provided, however,* That the participation of such intervenor shall be limited to matters affecting rights and interests specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be considered as recognition by the Commission that it might be aggrieved because of any order or orders issued by the Commission in this proceeding.

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

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–16637 Filed 7–22–74;8:45 am]

[Docket No. ID–1598]

WILLIS S. WHITE, JR.

Supplemental Application

JULY 16, 1974.

Take notice that on June 5, 1974, Willis S. White, Jr. (Applicant) filed a supplemental application with the Federal Power Commission, pursuant to section 305(b) of the Federal Power Act, seeking authority to hold the following position:

Director, Indiana & Michigan Electric Company, Electric Utility.

Indiana & Michigan is a wholly-owned subsidiary of American Electric Power engaging in the generation, purchase, transmission and distribution of electric energy to the public and supplying of electric energy at wholesale to other electric utility companies and municipalities. It serves 241 communities and over 366,000 customers in a 7,740 square mile area in northern and eastern Indiana and the southwestern part of Michigan, having an estimated population of 1,506,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 31, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–16638 Filed 7–22–74;8:45 am]

FEDERAL RESERVE SYSTEM

BANKSHARES OF INDIANA INC.

Proposed Acquisition of Goodwin Brothers Leasing, Inc.

Bankshares of Indiana Inc., Merrillville, Indiana, 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 all of the voting shares of Goodwin Brothers Leasing, Inc., Lexington, Kentucky. Notice of the application was published on: (1) May 24, 1974, in The Commercial Appeal, a newspaper circulated in Memphis, Tennessee; (2) May 24, 1974, in The Courier-Journal and in The Louisville Times, newspapers circulated in Louisville, Kentucky; (3) May 31, 1974, in The Nashville Banner, a newspaper circulated in Nashville, Tennessee; (4) on May 31, 1974, in the Lexington Herald, a newspaper circulated in Lexington, Kentucky.

Applicant states that the proposed subsidiary would engage in the activities of leasing real and personal property on a full pay out basis; and making or acquiring for its own account or for the account of others loans or other extensions of credit (secured for real or personal property), such as would be made by a commercial finance company. 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 Chicago.

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 12, 1974.

Board of Governors of the Federal Reserve System, July 15, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-16662 Filed 7-22-74;8:45 am]

BROWARD BANCSHARES, INC.

Acquisition of Bank

Broward Bancshares, Inc., Fort Lauderdale, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Broward National Bank of Boynton Beach, Boynton Beach, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 6, 1974.

Board of Governors of the Federal Reserve System, July 12, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc. 74-16654 Filed 7-22-74;8:45 am]

GENERAL BANCSHARES CORP.

Order Approving Acquisition of Bank

General Bancshares Corporation, St. Louis, Missouri, a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Central Bank of Clayton ("Bank"), Clayton, Missouri, 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 seventh largest multibank holding company in Missouri, controls six banks in Missouri[1] with aggregate deposits of approximately $338 million, representing 2.3 percent of total commercial bank deposits in the State.[2] Since Bank is a proposed new bank, its acquisition would neither eliminate any existing competition nor immediately increase Applicant's share of commercial bank deposits.

Bank will be located in Clayton, Missouri, the county seat and financial center of St. Louis County, in the St. Louis banking market.[3] While Applicant controls six banking subsidiaries in that market and is the fourth largest banking organization therein, Applicant controls only 4.8 per cent of the total market deposits. None of Applicant's subsidiaries derives a significant amount of business from Clayton. Moreover, under the circumstances of this case, the formation of a new bank is viewed as an attempt to provide additional banking services to a growing area and, from the facts of record, is not regarded as an attempt by Applicant to preempt a banking site in the market before there is a need for a bank. Accordingly, the Board regards competitive considerations as consistent with approval of the application.

In the course of its review of this application, the Board has also considered whether Bank's affiliation with Applicant would be in violation of the Missouri statute prohibiting branch banking.[4] The Board notes that, in litigation over the issuance of a charter for Bank by the Missouri Commissioner of Finance, the Missouri Court of Appeals, relying on *Whitney National Bank* v *Bank of New Orleans & Trust Co.*, 379 U.S. 411 (1965) and *Nealley* v *Brown*, 284 A. 2d 480 (Mo. 1971), concluding that the State Banking Board of Missouri lacked jurisdiction to determine, in a chartering procedure, whether granting of a charter would constitute unlawful branch banking; that this Board has exclusive jurisdiction to determine initially whether a bank holding company acquisition plan violates State law; and that, should the Missouri Commissioner of Finance believe that a violation of Missouri branching laws would result, he should grant the charter with a warning that he would oppose the plan before this Board.[5] The Commissioner has interposed no objection to this application, although his views were expressly solicited by the Board. On June 10, 1974, application to appeal the decision of the Missouri Court of Appeals to the Supreme Court of Missouri was denied.

In its consideration of the branching issue, the Board notes the following facts. The name of each of Applicant's subsidiary banks is dissimilar to the names of its other subsidiary banks, as is the name of Bank. Applicant will not, by advertising or other means, cause the public to identify Bank and any of Applicant's other subsidiary banks as one institution. Furthermore, the facts of record indicate that Bank will be a separate corporation, with its own separate capital stock, separate reserve requirements, and a separate lending limit based on its own capital stock and surplus; Bank will be managed by its own full-time salaried officers, who will not be eligible to participate in the profit-sharing plans or other fringe benefits of Applicant's other subsidiary banks; Bank's board of directors will be predominantly separate and independent from the boards of Applicant and of Applicant's subsidiaries; and Bank will maintain its own separate books of account, issue its own distinctive checks with its own unique routing symbol, and use its own stationery, deposit, and loan forms. Neither its assets nor obligations will be commingled with those of Applicant or Applicant's other subsidiary banks. Bank will not incur joint or several liability to customers of Applicant's other banks. It will obtain and be assessed for its own deposit insurance from the Federal Deposit Insurance Corporation, and will be subject to separate examination by bank supervisory authorities. Applicant states that no officers or employees of its other banking subsidiaries will perform services directly for customers only of Bank, nor exercise any managerial supervision over the business of Bank. Applicant represents further that it will purchase Bank's shares through use of its own capital resources and a non-affiliated bank line of credit. Finally, Applicant states that money deposited at Bank will not be credited to the account of a depositor at any other banking subsidiary of Applicant and, conversely, any money deposited at any other banking subsidiary of Applicant will not be credited to the account of a depositor at Bank. Loan payments due Bank will not be accepted by any of Applicant's other subsidiary banks, and payments due Applicant's other banks will not be accepted at Bank. Most of Bank's correspondent banking relationships will be with banks not affiliated

[1] Applicant, prior to the enactment of the Act in 1956, controlled and continues to control three banks in Illinois and one bank in Tennessee.

[2] All banking data are as of December 31, 1973.

[3] The St. Louis banking market includes the city of St. Louis, all of St. Louis County, portions of St. Charles and Jefferson Counties in Missouri, and portions of Madison and St. Clair Counties in Illinois.

[4] *R. S. Mo.* § 362.105-1(1) (1969).

[5] *Central Bank of Clayton* v *State Banking Board of Missouri*. No. 34959 (Mo. Ct. of App., March 12, 1974).

with Applicant. Applicant has been engaged in the ownership and operation of banks since its formation in 1946 and, through a predecessor corporation since 1923.

On the basis of the above and other facts of record, the Board concludes, that Applicant is a "traditionally recognized bank holding company which, with its own capital, invests in or buys the stock of banks", *Whitney National Bank* v. *Bank of New Orleans & Trust Co.*, 323 F. 2d 290 (D.C. Cir. 1963), rev'd on other grounds, 379 U.S. 411 (1965), that Bank will be operated and maintained as a distinct financial entity, and that, upon consummation of the proposed acquisition, a unitary operation will not exist between Bank and any of Applicant's other banking subsidiaries in contravention of Missouri's branching law.

The financial condition, management, and prospects of Applicant and its subsidiary banks are regarded as satisfactory. As a new bank, Bank has no operating financial history; however, its proposed capitalization and management are satisfactory and prospects of the Bank appear favorable in view of its location in a prosperous area. The Board concludes that the banking factors are consistent with approval. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval since Bank will constitute an additional source of full banking services in the Clayton area and will provide longer banking hours than do other banks presently located in Clayton. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, and (c) Central Bank of Clayton, Clayton, Missouri, 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 St. Louis pursuant to delegated authority.

By order of the Board of Governors,[6] effective July 12, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-16655 Filed 7-22-74;8:45 am]

GENERAL SERVICES ADMINISTRATION

[FPMR Temp. Reg. A-9; Supp. 1]

MILEAGE ALLOWANCES AND OFFICIAL GOVERNMENT TRAVEL

Extension of Expiration Date

Subject. Mileage allowance for use of privately owned conveyances and factors affecting selection of travel mode for official Government travel.

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation A-9.

2. *Effective date.* This regulation is effective upon publication in the Federal Register.

3. *Expiration date.* This regulation expires January 31, 1975, unless sooner superseded or canceled.

4. *Revised date.* The expiration date in paragraph 3 of FPMR Temporary Regulation A-9 is extended to January 31, 1975. This extension will provide additional time for assessing the impact of the continuing energy problem and for the resolution of legislative action on pending proposals to establish a higher range of mileage allowances for the use of privately owned conveyances.

DWIGHT A. INK,
Acting Administrator of General Services.

JULY 16, 1974.

[FR Doc.74-16766 Filed 7-22-74;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services on Wednesday, July 31, 1974 from 10 am to 4 pm at 26 Federal Plaza, New York, NY in Room 2408. This meeting will be for the purpose of considering Architect/Engineering firms to provide A/E services for a proposed Open End, Fixed Price Contract for one year within a 50-mile radius of New York City.

The meeting will be closed to the public in accordance with the provisions set forth in section 10(d) of Pub. L. 92-463.

GERALD J. TURETSKY,
Regional Administrator.

[FR Doc.74-16880 Filed 7-22-74;8:45 am]

OFFICE OF ECONOMIC STABILIZATION

FOOD INDUSTRY WAGE AND SALARY COMMITTEE

Notice of Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given that the Food Industry Wage and Salary Committee, established by the Cost of Living Council and continued under authority of section 8 of E.O. 11788 and Treasury Department Order No. 233, will meet Thursday, August 1, 1974. The meeting will be open to the public on a first-come, first-served basis at 10:00 a.m., in Conference Room 7206, 2000 M Street, NW., Washington, D.C.

The agenda will consist of discussion of food industry wage and salary cases pending before the Office of Economic Stabilization.

The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business.

Dated: July 18, 1974.

JAMES A. WILKINSON,
Advisory Committee Manager.

[FR Doc.74-16826 Filed 7-22-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on July 18, 1974 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529).

NEW FORMS

DEPARTMENT OF COMMERCE

National Bureau of Standards: Dental Service Utilization Consumer Questionnaire, Form NBS-779, Annual, Caywood, Households Nationwide.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration: Blood Donor Questionnaire, Form FDA BB 0715, Single Time, Caywood, American National Red Cross registered blood donors.

Health Services Administration: Migrant Health Center Reporting Requirements, Form HSABCHS 0530, Quarterly, HRD/Reese, Migrant Health Centers.

REVISIONS

None.

EXTENSIONS

None.

VELMA N. BALDWIN,
Assistant to the Administrator for Administration.

[FR Doc.74-16944 Filed 7-22-74;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on July 17, 1974 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency

[6] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan, Bucher, Holland, and Wallich. Absent and not voting: Chairman Burns.

sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503, (202-395-4529).

NEW FORMS

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration:
Recreational Vehicle Informaton Request, Form ____, Single Time, Caywood, Recreational Vehicle Operators in Transit.
Request for Data Needed for the Report to Congress on Urban Railroad Relocation, Form ____, Single Time, Lowry, State Highway Departments.
Trucking Industry Survey, Form ____, Single Time, Caywood, Over-the-road Drivers & Truck Operators.

REVISIONS

None.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION & WELFARE

Alcohol, Drug Abuse & Mental Health Administration: Alcoholic Treatment Center Questionnaire, Form NIMH-1009, Single Time, HRD/Reese, Alcohols in treatment & Data Coordinator.

DEPARTMENT OF HOUSING & URBAN DEVELOPMENT

Housing Management:
Notice of Property Transfer & Application for Insurance Benefits, Form FHA 1025, Occasional CVAD, Applicants.
Mortgagee's Application for Partial Settlement, Form FHA 1752, Occasional, CVAD, Mortgagees.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.74-16842 Filed 7-22-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 18495]

OHIO EDISON COMPANY AND PENNSYLVANIA POWER CO.

Notice of Proposed Agreement With County Authority for Construction of Pollution Control Equipment Financed by Sale of Revenue Bonds; Request for Exception From Competitive Bidding

JULY 15, 1974.

Notice is hereby given that Ohio Edison Company ("Ohio Edison"), 47 North Main Street, Akron, Ohio 44308, a registered holding company, and its electric utility subsidiary, Pennsylvania Power Company ("Pennsylvania"), 1 East Washington Street, New Castle, Pennsylvania 16103, have filed an application-declaration and amendments thereto with this Commission designating sections 6(a), 7, and 12(d) of the Public Utility Holding Company Act of 1935 ("Act"), and Rules 44(b)(3) and Rules 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Ohio Edison, Pennsylvania Power Company ("Pennsylvania"), The Cleveland Electric Illuminating Company, Duquesne Light Company and The Toledo Edison Company (collectively referred to as the "CAPCO companies") are joining in the construction of two nuclear-fueled generating units, Beaver Valley Power Station Units Nos. 1 and 2, to be located at a new plant on the Ohio River near Shippingport, Pennsylvania, which will be owned by them as tenants in common, except that The Cleveland Electric Illuminating Company and The Toledo Edison Company will not share in the ownership of Unit No. 1. Under present allocations, Ohio Edison will own 35 percent of Unit No. 1 and 35.6 percent of Unit No. 2 and Pennsylvania will own 17.5 percent of Unit No. 1 and 6.28 percent of Unit No. 2.

The CAPCO companies presently propose to provide the Beaver Valley Power Station with certain pollution control and waste disposal equipment and facilities ("The Project") for its operation. Under the Pennsylvania Industrial and Commercial Development Authority Law, the Beaver County Industrial Development Authority (the "Authority") is authorized to enter into agreements providing for the construction and financing by it of industrial development projects and the sale thereof to industrial occupants. The CAPCO companies have entered into such an agreement (the "Agreement") with the Authority with respect to the construction and financing of the pollution control and waste disposal equipment and facilities at the Beaver Valley Power Station. Under the Agreement the CAPCO companies will transfer to the Authority their respective interests in the Project, subject to the liens of their respective first mortgage indentures, and will be reimbursed for their cost of acquiring and constructing the property so transferred. During the course of construction of the various portions of the Project, title thereto will be in the Authority. Upon the completion of each such portion, title to that portion will vest in the CAPCO companies.

In order to finance the Project, the Authority will issue and sell, separately in respect of each of the CAPCO companies and upon the request of that company, the Authority's Pollution Control Revenue Bonds (the "Bonds"). The total cost of the Project is presently estimated to be $180,000,000, including the costs related to the issuance of the Bonds. The Bonds in respect of each Company will be issued under a separate trust indenture (the "Indenture") between the Authority and a corporate trustee to be approved by that company and may be sold in one or more series, at such time, in such amounts, at such interest rates and for such prices as may be approved by that company and the proceeds from the sale thereof will be deposited in and disbursed from a construction fund for the costs of the Project.

At the present time the approximate maximum amount of Bonds that are expected to be issued and sold in respect of Ohio Edison's and Pennsylvania's respective portions of the Project are $65,000,000 and $21,000,000, respectively. It is expected that these amounts of Bonds will be issued in several series of varying principal amounts. The proceeds from the sale of the Bonds in respect of each of the CAPCO companies will be placed in a separate sub-account in a construction fund administered by an independent escrow agent and will be disbursed for that company's share of the costs of the Project, including interest on the Bonds, in the manner specified in the Agreement and allowed by the Indenture. It is presently contemplated that the first series of Bonds in respect of Ohio Edison's and Pennsylvania's respective portions of the Project will total $11,000,000 and $5,500,000, respectively, and will not be redeemable at the option of the Authority for ten years, except upon the direction of Ohio Edison or Pennsylvania, as the case may be, upon the happening of certain extraordinary events as set forth in the Indenture, in respect of the particular company involved which result in that company ceasing to own an interest and to participate in the operation of the Beaver Valley Power Station. If such cessation of interest and participation relates only to Unit No. 1 or only to Unit No. 2, such redemption may not be for more than a specified portion of the Bonds issued in respect of the company involved. The first series of Bonds are expected to be marketed pursuant to arrangements between the Authority and Goldman, Sachs & Co. The CAPCO companies will not be parties to any agreements evidencing such arrangements.

Concurrently, with the issuance and delivery by the Authority of each series of Bonds in respect to Ohio Edison's or Pennsylvania's portion of the Project, that company will execute and deliver its pollution control note payable directly to the Trustee and that company will thereby become entitled to ownership of its portion of the Project and, as provided in the Agreement, to the related sub-account in the construction fund held by the escrow agent. The installments of principal due and payable on such note will correspond in date and amount to the stated maturities and mandatory sinking fund payments on the series of Bonds with respect to which the note was delivered. Interest on such note will be at the rates and will be payable at times corresponding to the rates of interest and times of payment thereof on such Bonds. Since this interest rate can be expected to be substantially lower than the interest rate on comparable taxable long-term bonds, it is expected that Ohio Edison and Pennsylvania will

realize substantial savings in connection with the authority requested herein over the interest cost they each would otherwise incur by financing their interests in the Project through the issuance of taxable bonds. Ohio Edison and Pennsylvania have been advised that tax-exempt bonds have historically carried an annual interest rate approximately one and one-half percent lower than comparable taxable long-term bonds.

The general form of notes that will be delivered by the companies provided that the amounts due thereunder must be paid whether or not the Project is completed or performs satisfactorily and whether or not the Project is damaged or destroyed. Although the Authority will be the issuer of each series of Bonds, as required for purposes of exemption of the interest thereon from federal income taxation, the credit of the Authority will not be pledged to the payment on the Bonds. In case of both Ohio Edison and Pennsylvania, the pollution control note that will be delivered to the Trustee will be secured by a second lien on the particular company's interest in the Project. The companies will issue their respective pollution control notes from time to time during the period of construction of the Project. Such construction is expected to be completed by May 1979.

It is proposed that on the basis of a 30 year final maturity date, the Bonds will contain provisions by serial maturities and mandatory sinking funds, which in the aggregate, will retire at least twenty-five percent of the original issue by their final maturity date.

The application-declaration states that the fees, commissions and expenses relating to the issuance of the pollution control notes that will be incurred by Ohio Edison and Pennsylvania are estimated to be $7,000 and $2,000, respectively. It is stated that the Public Utilities Commission of Ohio has jurisdiction over the proposed issuance of pollution control notes by Ohio Edison and that the Pennsylvania Public Utility Commission has jurisdiction over the proposed issuance of pollution control notes by Pennsylvania. No other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Ohio Edison and Pennsylvania further request exception from the competitive bidding requirements of Rule 50 under the Act, pursuant to paragraph (c)(5) thereof, in respect of the issuance of the pollution control notes, stating that such requirements are inappropriate under the circumstances described herein, inasmuch as the pollution control notes will be issued for the acquisition of property by the issuer and the interest rates thereon are to be determined by an issuance of securities which is not subject to the provisions of the Act.

Notice is further given that any interested person may, not later than August 6, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive 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.74-16701 Filed 7-22-74;8:45 am]

[Rel. No. 18496]

GENERAL PUBLIC UTILITIES CORP.

Notice of Post-Effective Amendment Regarding Proposed Cash Capital Contributions to Subsidiary Companies

JULY 15, 1974.

Notice is hereby given that General Public Utilities Corporation ("GPU"), 80 Pine Street, New York, New York 10005, a registered holding company, has filed a post-effective amendment to its declaration previously filed in this proceeding pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, as now amended, for a complete statement of the proposed transaction.

By order dated April 2, 1974 (Holding Company Act Release No. 18358), the Commission authorized GPU to make cash capital contributions to its public utility subsidiary companies in 1974 in an aggregate amount not to exceed $125,100,000, the respective amounts of such contributions to each subsidiary being as follows:

Jersey Central Power & Light Company ("Jersey Central")	$35,000,000
Metropolitan Edison Company ("Met Ed")	60,000,000
Pennsylvania Electric Company ("Penelec")	30,000,000
Waterford Electric Light Company ("Waterford")	100,000
	$125,100,000

Through June 28, 1974, GPU had contributed $46,500,000 of these amounts, $12,000,000 to Jersey Central and $34,500,000 to Met Ed.

It is now proposed that GPU be permitted to vary the respective amounts of the balance of such proposed contributions (but within the same aggregate amount) between its subsidiaries with no subsidiary receiving more than $100,000,000 of the total. The amount to be given to each subsidiary will be affected by their earnings and internal cash generation, rates of expenditures for construction, indenture and charter restrictions on the sale of funded debt and preferred stock and actual ability to sell such securities. The aggregate amount of the contributions and the use thereof by its public utility subsidiaries (construction programs, repayment of long-term debt and sinking fund purposes) and all other aspects of the proposed transaction would remain unchanged.

No fees or expenses are to be incurred in connection with the proposed transaction, and no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than August 6, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended by the post-effective amendment, may be permitted to bcome 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.74-16702 Filed 7-22-74;8:45 am]

[Rel. No. 18500]

OHIO EDISON CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding and Issue of Bonds for Sinking Fund Purposes

JULY 16, 1974.

Notice is hereby given that Ohio Edison Company ("Ohio Edison"), 47 North Main Street, Akron, Ohio 44308, a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Ohio Edison proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to $150,000,000 principal amount of First Mortgage Bonds __ Percent Series due 2004 (the "new Bonds") to mature in not less than 5 and not more than 30 years. Ohio Edison will sell the new Bonds at competitive bidding for a price to Ohio Edison of not less than 100 percent (unless Ohio Edison shall authorize a lower percentage not less than 99 percent), or more than 102¾ percent of the principal amount thereof and accrued interest. The new Bonds are proposed to be issued under Ohio Edison's Indenture dated as of August 1, 1930, to Bankers Trust Company, as Trustee, as heretofore amended and supplemented and as proposed to be amended and supplemented by a Twenty-third Supplemental Indenture to be dated as of the first day of the calendar month in which the new Bonds are issued.

The funds received from such issue are required during 1974 for the acquisition of property, the construction, completed, extension, renewal or improvement of Ohio Edison's facilities, or for the improvement of its service, or for the repayment of unsecured short-term debt incurred by Ohio Edison (estimated to amount to $38,000,000 at the time of such issue) for, or for the reimbursement of its treasury for expenditures made for such purposes.

Ohio Edison also requests authority for the authentication and issue on or about November 1, 1974, upon the basis of property additions under Article V of the Mortgage, of an aggregate of up to $1,091,000 principal amount of its First Mortgage Bonds, 3¼ percent Series of 1955 due 1985, for sinking fund purposes.

Ohio Edison states that the issuance of the additional Sinking Fund Bonds is exempted from the provisions of Rule 50 by reason of subparagraph (a)(4) thereof inasmuch as no money will be realized by Ohio Edison upon such issuance or by reason of a sale.

The fees and expenses to be paid by Ohio Edison in connection with the issue and sale of First Mortgage Bonds will be supplied by amendment. The fees, commissions and expenses paid or incurred in connection with the proposed Sinking Fund Bonds are estimated to total $1,100, including legal fees of $1,000.

The declaration states that the issuance of the new Bonds and of the additional Sinking Fund Bonds is subject to the jurisdiction of the Public Utilities Commission of Ohio, and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than August 6, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended, or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive 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.74-16703 Filed 7-22-74;8:45 am]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Proposed Amendment to Option Plan

Notice is hereby given that the Chicago Board Options Exchange, Inc. (CBOE) has filed a proposed amendment to its Options Plan pursuant to Rule 9b-1 under the Securities Exchange Act of 1934 (17 CFR 240.9b-1).

The main thrust of the new proposal (Rule 4.17) would be to prohibit members from entering orders for opening purchase transactions and opening writing transactions (subject to the exceptions discussed below) in any series of options as to which, as of the last previous trading day's close, (i) the market price of the underlying stock was more than 5 points below the exercise price and (ii) the option premium was less than one-half point.

The proposed rule would prohibit the entry of orders for opening transactions but not the effecting of transactions pursuant to orders that had previously been entered on the floor of the Exchange. CBOE stated that there are three principal reasons for this. First, since the restrictions will come into play automatically based on price movements of the underlying stock and the option series, a transactions ban could impose hardship on investors who had placed their orders earlier and were unable to have them executed. Second, the prohibitions would not require floor brokers and board brokers to undertake the time-consuming task of rechecking their open orders whenever the restrictions either came into play or were removed. Third, the prohibition would not raise questions as to the priority of orders pending while restrictions are in effect.

As with restrictions that CBOE previously imposed under Rule 4.16, covered writing transactions and certain Market Makers' transactions would be exempt from the restrictions of the new rule (paragraph (b)(1) and (3)). These exemptions, CBOE stated, are necessary to facilitate a continuous and orderly secondary market in which closing transactions may occur. The covered writing exemption has been expanded to include transactions that are covered by a convertible or exchangeable security, or by an option of the same class, in addition to the underlying stock.

The proposed rule would also contain an exemption for spread orders in respect of the same number of shares of the same class (paragraph (b)(2)).[1] This exemption, CBOE explained, is designed not only to avoid any unnecessary restriction that might adversely affect the liquidity of the Exchange's secondary market; more importantly, spreads serve the purpose of arbitrage transactions in maintaining appropriate price relationships between options series. Thus, the spread exemption will tend to assure that the price of a restricted option series will continue to be determined by the free market.

Paragraph (c) of the rule is intended to introduce an appropriate degree of flexibility in its operation, at least at the outset when unforeseen situations may arise. It contemplates possible variations to be allowed on the floor without delay, in respect of individual transactions; however, all rulings permitting such variations and the reasons therefor must be reported in writing before the end of the next day. Paragraph (c) also permits exceptions or modifications in respect of an entire series, for any part of the day or a longer period, after appropriate announcement on the floor.

[1] Consideration was given to exempting spread orders in a manner that would permit "variable" spreading. However, in the interest of simplicity of administration, the proposed exemption is limited to one-for-one spreads.

Paragraph (d) of the proposed rule is designed to avoid retroactive impact on options series that are outstanding at its effective date. It is anticipated that the CBOE Board will continue to follow its prior practice under Rule 4.16–i.e., to impose restrictions selectively from time to time under the standards of that rule—with respect to such series.[2]

The proposed amendment will become effective on August 22, 1974, or upon such earlier date as the Commission may allow unless the Commission shall disapprove the change in whole or in part as being inconsistent with the public interest or the protection of investors.

All interested persons are invited to submit their views and comments on the proposed amendment to CBOE's plan either before or after it has become effective. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file number 10–54. The proposed amendment is, and all such comments will be, available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street, NW., Washington, D.C.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

JULY 12, 1974.

[FR Doc.74–16808 Filed 7–22–74;8:45 am]

BROKER-DEALER MODEL COMPLIANCE PROGRAM ADVISORY COMMITTEE

Notice of Extension of Charter

Pursuant to section 9 of the Federal Advisory Committee Act, the Securities and Exchange Commission on January 26, 1973 established the Broker-Dealer Model Compliance Program Advisory Committee. The amended charter of that committee was to expire on July 1, 1974, but pursuant to the terms of that charter the Commission has determined that it would be appropriate in the public interest in connection with duties imposed on the Commission by law to extend the charter of the Committee until December 31, 1974.

The objective of the Advisory Committee is to advise the Commission in the development of a model compliance program to serve as an industry guide for the broker-dealer community. Assisted by the committee's recommendations the Commission proposes to publish a guide to broker-dealer compliance with the federal securities laws in order to advise broker-dealers of the standards to which they should adhere if investor confidence in the fairness of the market place is to be warranted and sustained. The committee's recommendations are not expected to lead to the expansion of Commission rules governing broker-dealers but, instead, to suggest how best to inform broker-dealers as to existing requirements and how they may comply with them. Accordingly, the committee is to submit to the Commission recommendations on a model compliance program for a broker-dealer's regulatory responsibilities and obligations to customers as well as supervision of its personnel.

The committee has been meeting regularly since its inception last year in order to complete its work by July 1, 1974, as provided in its charter but the preparation of its recommendations to the Commission, however, has taken longer than originally was expected. In view of the importance of broker-dealer compliance guidelines to the investment community the Commission now proposes to extend the committee's charter an additional six months to permit the committee to complete its operations.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

JUNE 19, 1974.

[FR Doc.74–16809 Filed 7–22–74;8:45 am]

[Rel. No. 8427]

HORNBLOWER GROWTH FUND, INC.

Notice of Filing of Application

JULY 17, 1974.

Notice is hereby given that The Hornblower Growth Fund, Inc. ("Applicant"), 8 Hanover Street, New York, New York 10004, a non-diversified, open-end management investment company registered under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of representations contained therein, which are summarized below.

Applicant was organized as a Maryland corporation on March 12, 1969, under the name of The Acorn Growth Fund, Inc. The name was changed to the Alpine Growth Fund, Inc. on July 3, 1969. Applicant adopted its present name on May 5, 1970. Applicant registered under the Act on November 24, 1969.

The application states that Applicant is not an investment company under the terms of section 3(c)(1) of the Act in that Applicant is an issuer whose outstanding securities are beneficially owned by less than one hundred persons and because Applicant is not making, nor does it presently plan to make, a public offering of its securities. In addition, no company owns 10 percent or more of the outstanding voting securities of Applicant.

The application states that Applicant presently has 38 shareholders, is losing shareholders due to redemptions and does not have a live prospectus by which to sell additional shares. Furthermore, it is stated that the principal reason for the formation of Applicant was to provide an investment vehicle for advised clients of Applicant's adviser, the Hornblower Asset Management Corporation. No offering to the general public was ever made.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than August 12, 1974 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein 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.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–16810 Filed 7–22–74;8:45 am]

[Rel. No. 8428]

NATIONAL AVIATION CORP.

Notice of Filing of Application for an Order

JULY 17, 1974.

Notice is hereby given that National Aviation Corporation ("Applicant"), 630 Fifth Avenue, New York, New York 10020, a non-diversified, closed-end, management investment company registered under the Investment Company Act of 1940 (the "Act"), has filed an application pursuant to section 17(b) of

[2] Nothing in the new rule would prohibit the Board from imposing trading restrictions under Rule 4.16 from time to time on any series of options, but it is anticipated that, after Rule 4.17 becomes effective, out-of-the-money options of series thereafter created will be dealt with primarily under the new rule.

the Act for an order of the Commission exempting from the provisions of section 17(a) of the Act the sale by Iomec, Inc. ("Iomec") to Applicant of 100,000 shares of common stock of Iomex in a proposed private placement transaction, and pursuant to section 17(d) of the Act and Rule 17d–1 thereunder for an order of the Commission permitting the acquisition by Applicant of the above-described securities of Iomec, a company in which affiliated persons of Applicant have interests. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Iomec, a Delaware corporation engaged in the business of designing, manufacturing and selling peripheral equipment for minicomputers, proposes to issue and sell, in a private placement financing transaction, approximately 1,000,000 shares of its common stock at a price of $1 per share. The Subscription Agreement for these shares is conditioned on Iomec's obtaining, within 90 days after the signing, a $4,500,000 loan or line of credit from Wells Fargo Bank N.A. and subscriptions for approximately 1,000,000 shares of common stock.

Applicant owns 53,808 shares of the common stock of Iomec, approximately 2.4 percent of the Iomec shares outstanding, and holds warrants to purchase 12,500 share of common stock at a price of $7 per share. The common stock and warrants were acquired by Applicant in July of 1972 when Applicant converted its Iomec 6 percent convertible subordinated debentures, acquired in early 1971, into common stock of Iomec at a conversion price of $5 per share. Applicant has agreed, subject to Commission approval, to participate in Iomec's proposed private placement by purchasing 100,000 shares of Iomec common stock. At the present time, the participants in the proposed private placement consist of 23 investors, including Applicant. All Iomec stockholders who held over 10,000 shares of common stock or who held Iomec debentures or warrants were solicited to participate in the private placement transaction. Except for two investors who were solicited to participate in the private placement after the departure of one of the original participants, Iomec stockholders who held less than 10,000 shares were not approached to participate in the private placement.

T. F. Walkowicz ("Walkowicz"), Chairman of the Board, President and Chief Executive Officer of Applicant and a former director of Iomec, owns 2,539 shares of Iomec common stock, approximately 0.1 percent of the outstanding common stock, which he acquired in 1973 upon his withdrawal from Venrock Associates, a venture capital group.

Howard Buhse ("Buhse"), a Director and Chairman of the Executive Committee of Applicant, owns 4,775 shares of Iomec common stock, approximately 0.2 percent of the outstanding common stock, which he purchased from Hornblower & Weeks—Hemphill, Noyes when that firm incorporated in October of 1972. Buhse is also a trustee and a beneficiary of the EDPR Shareholders' Retention Trust (the "Trust"). The Trust was established in connection with the acquisition of EDP Resources, Inc. ("EDP"), a New York corporation engaged in the business of leasing electronic data processing equipment, by Greyhound Computer Corporation. The Trust holds a three-year option to purchase EDP's common stock holdings in Iomec which amount to approximately 12 percent of Iomec's outstanding voting stock. Since the option held by the Trust grants to the optionee the present right to vote the shares subject to the option, the Trust has voting power over approximately 12 percent of Iomec's outstanding voting stock. In his role as a trustee of the Trust, Buhse shares with the other two trustees the power to vote this interest. Buhse also has a beneficial interest of approximately 2 percent in the Trust. If the Trust exercised its option for the purchase of 277,000 Iomec shares and distributed those shares to the Trust beneficiaries, Buhse would receive approximately 2 percent of such shares, or about 5,500 Iomec shares.

Section 17(a) of the Act provides, in pertinent part, that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, knowlingly to sell any security or other property to such registered company. Section 17(b) of the Act provides that the Commission, upon application, may exempt a proposed transaction from the provisions of section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and the proposed transaction is consistent with the policy of each investment company concerned and with the general purposes of the Act.

Section 2(a)(3) of the Act defines an affiliated person of another person to include any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of such other person; any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; and any officer, director, partner, copartner of such other person. Under this definition, Iomec may be deemed to be an affiliated person of Buhse. Since Buhse is an affiliated person of Applicant, Iomec, as an affiliate of an affiliate of Applicant, may, in the absence of an exemption, be deemed prohibited by section 17(a) of the Act from selling any securities to Applicant.

Rule 17d–1, adopted by the Commission pursuant to section 17(d) of the Act, provides, in pertinent part, that no affiliated person of any registered investment company and no affiliated person of such a person, acting as principal, shall participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement in which such registered company is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by an order. A joint enterprise or other joint arrangement as used in this rule is any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company and any affiliated person of such registered investment company, or any affiliated person of such a person, have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking. In passing upon such application, the Commission will consider whether the participation of such registered company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Walkowicz and Buhse, affiliates of Applicant, may, by reason of their ownership of shares of Iomec, be deemed participants with Applicant in Income. The Trust, an affiliate of an affiliate of Applicant, may also be deemed a participant with Applicant in Iomec in view of its option to purchase Iomec shares from EDP.

Applicant asserts that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of Applicant and with the general purposes of the Act. In support of this assertion, Applicant states that the purchase price of $1 per share was fixed by the Board of Directors of Iomec after unsuccessful attempts to fix a higher purchase price per share; that the purchase price of $1 per share was the result of extended arms length discussion and negotiation between potential investors and Iomec. Applicant further states that its Board of Directors has independently determined that the acquisition of additional Iomec shares would be beneficial to Applicant and its shareholders; that the offering price of $1 per share compares favorably with the cost basis of approximately $5 per share for the shares now held by Applicant; and that Applicant desires to protect its present investment in Iomec by helping Iomec overcome its present financial difficulties.

Applicant further asserts that Applicant's participation in the private offering is consistent with the provisions, policies and purposes of the Act and that such participation is not on a basis less advantageous than that of other participants in Iomec. In support thereof, Applicant states that Applicant's additional investment in Iomec will enable it to enlarge its percentage ownership, from 2.4 percent to 4.7 percent, in a company

which Applicant considers to have a favorable future; that this will be done on a cost basis that lowers Applicant's average cost share; that the Trust was precluded from participating in the proposed private offering because it has no assets other than the aforementioned option to purchase certain securities from EDP; and that Iomec did not solicit stockholders who held less than 10,000 shares of Iomec, such as Buhse and Walkowicz, because of the private placement nature of the proposed financing.

Notice is hereby given that any interested person may, not later than August 12, 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 reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission 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 the Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following August 12, 1974, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–16811 Filed 7–22–74;8:45 am]

[Rel. No. 18497]

OHIO EDISON CO.

Notice of Proposed Acquisition of Utility Assets in Cities of Norwalk, Salem, and Akron, Ohio

JULY 15, 1974.

Notice is hereby given that Ohio Edison Company ("Ohio Edison"), 47 North Main Street, Akron, Ohio 44308, a registered holding company and an electric utility company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 9(a)(1) and 10 of the Act as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Ohio Edison, pursuant to two contracts, both dated November 2, 1973, proposes to purchase the electric distribution facilities presently being used in two mobile home parks in Norwalk, Ohio, to distribute and submeter electric energy purchased from Ohio Edison. One contract provides for payment of $2,104 to Mrs. Meryl Hurst for her distribution facilities in her mobile home park known as Hurst Mobile Home Court. The other contract provides for payment of $8,023 to Mr. F. Willard Olcott for his distribution facilities in his mobile home park known as Olcott Trailer Court on the date of the contract but now known as Willow Brook Place. Both contracts provide for continued attachment of security lights to the poles to be sold to Ohio Edison and for conveyance to Ohio Edison of the necessary easements for facilities to serve customers in the respective parks. The prices were based on Ohio Edison's estimate of the present value to Ohio Edison of the property to be purchased. The original cost of the property is not known.

The property in the Hurst mobile home park is presently being used to serve 10 customers. The property in the Olcott mobile home park is presently being used to serve 33 customers. Upon acquisition of the property, Ohio Edison will serve these customers under its rates schedules as provided by law. Based on sales of approximately 213,400 KWH during the period June, 1973 through May, 1974, the operating revenue to Ohio Edison was approximately $75,283. The operating revenue would have been approximately $8,460 more if Ohio Edison had served customers directly in the mobile home parks. Costs will be comparable to those incurred in and resulting from Ohio Edison's other similar operations.

Ohio Edison also proposes to acquire from the City of Salem, Ohio ("Salem") its street lighting system. Ohio Edison, pursuant to the advertisement inviting bids for Salem's lighting system, submitted a bid which was accepted. Ohio Edison bid $235,580 plus an amount equal to the cost of net additions after December 24, 1973, the date of the inventory on which its offer was predicated. Ohio Edison has no knowledge of the original cost of the system and is advised that Salem does not maintain such cost records of the property.

The street lighting facilities being acquired from Salem will be operated as part of Ohio Edison's integrated electric system under rates agreed to in a contract dated April 4, 1974 entered into by Ohio Edison and Salem pursuant to an ordinance. Ohio Edison is presently serving customers at retail in Salem.

Based on sales of approximately 1,478,640 KWH during the period May, 1973 through April, 1974, the operating revenue to Ohio Edison for sale of energy for street lighting was approximately $27,234. The operating revenue would have been $42,097 more for the same period if Ohio Edison had already acquired the street lighting facilities from Salem. Costs will be comparable to those incurred in and resulting from Ohio Edison's other similar operations.

The City of Akron, Ohio ("Akron") is constructing underground ducts for electrical circuits along with sewer and water line, street and sidewalk construction and canal redevelopment in Opportunity Park, an urban renewal area in Akron. The construction is being done by Akron contractors strictly in accordance with Ohio Edison's requirements for ducts, manholes, conduit, etc., that would accommodate the installation of electrical circuits and facilities of Ohio Edison when construction is completed and Ohio Edison has agreed to reimburse Akron for the share of the projects cost representing work done on the facilities Ohio Edison would use in return for Akron's agreement to convey the facilities to Ohio Edison upon completion of the work.

The total estimated cost of the work to be done by Akron for the account of Ohio Edison is not expected to exceed $2,256,965.27 and that as the work is completed, Akron will convey said work free and clear of all encumbrances to Ohio Edison in return for payment by Ohio Edison of the agreed cost of the work so conveyed.

The property to be acquired is located in the service area of Ohio Edison and is to be and in fact is in part presently being used to serve customers of Ohio Edison as part of its integrated electric system.

The property to be acquired will be recorded on the books of Ohio Edison on the basis of the original cost thereof (to the extent such original cost can be determined from records or estimated) and the difference, if any, between the purchase price of such property and such original cost will be treated in accordance with the accounting regulations and orders of the regulatory commissions having jurisdiction, namely, the Federal Power Commission and the Public Utilities Commission of Ohio. Except to the extent of such accounting jurisdiction, no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

The fees and expenses incurred by Ohio Edison in connection with the proposed transactions are estimated at $3,800, including legal fees of $1,000.

Notice is further given that any interested person may, not later than August 8, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after

said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive 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.74-16812 Filed 7-22-74;8:45 am]

[File No. 500-1]

WESTERN GENERAL CORP.

Notice of Suspension of Trading

JULY 12, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Western General 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 1:00 P.M. (e.d.t.) on July 12, 1974 through midnight (e.d.t.) on July 21, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-16813 Filed 7-22-74;8:45 am]

[File No. 500-1]

ROYAL PROPERTIES INC.

Notice of Suspension of Trading

JULY 16, 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 17, 1974 through July 26, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-16814 Filed 7-22-74;8:45 am]

[File No. 500-1]

CANADIAN JAVELIN, LTD.

Notice of Suspension of Trading

JULY 16, 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 17, 1974 through July 26, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-16815 Filed 7-22-74;8:45 am]

[File No. 500-1]

UNAC INTERNATIONAL, INC.

Notice of Suspension of Trading

JULY 12, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of UNAC 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 3:30 p.m. (e.d.t.) on July 12, 1974 through midnight (e.d.t.) on July 21, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-16817 Filed 7-22-74;8:45 am]

[File No. 500-1]

WINNER INDUSTRIES, INC.

Notice of Suspension of Trading

JULY 16, 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 17, 1974 through July 26, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-16816 Filed 7-22-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 1084]

MINNESOTA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of June, because of the effects of a certain disaster, damage resulted to property located in the State of Minnesota;

Whereas, the Small Business Administration has investigated and received reports of other investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended:

Now, therefore, as Acting Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provision of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in the Village of Raymond, Kandiyohi County, and adjacent affected areas, suffered damage or destruction resulting from a fire which occurred on or about June 4, 1974. Adjacent areas include only counties within the state for which the declaration is made and do not extend beyond state lines.

Office: Small Business Administration, District Office, Plymouth Building, 12 South Sixth Street, Minneapolis, Minnesota 55402.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to September 12, 1974.

Dated: July 12, 1974.

LOUIS F. LAUN, *Acting Administrator.*

[FR Doc.74-16764 Filed 7-22-74;8:45 am]

[Notice of Disaster Loan Area 1083]

OHIO

Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Ohio as a major disaster area following heavy rains and flooding during the period June 22 through June 25, 1974, applications for disaster relief loans will be accepted by the Small Business Administration from disaster victims in the following County:

Warren, and adjacent affected areas. Adjacent areas include only counties within the state for which the declaration is made and do not extend beyond state lines.

Applications may be filed at the:

Small Business Administration
District Office
34 North High Street
Columbus, Ohio 43215

and at such temporary offices as are established. Such addresses will be announced locally.

Applications for disaster loans under this announcement must be filed not later than September 9, 1974.

Dated: July 15, 1974.

LOUIS F. LAUN,
Acting Administrator.

[FR Doc.74-16765 Filed 7-22-74;8:45 am]

TARIFF COMMISSION

[337-31]

ELECTRONIC PIANOS

Notice of Hearing

Notice is hereby given that the United States Tariff Commission will hold a public hearing in connection with investigation No. 337-31, Electronic Pianos, on August 15, 1974, at 10 a.m., E.d.t., in the Hearing Room of the United States Tariff Commission Building, 8th and E Streets, NW., Washington, D.C., for the purpose of according complainant and all interested parties the opportunity (1) to define the industry affected by imported electronic pianos allegedly covered by the claim(s) in U.S. Patent Nos. 3,038,363 and 2,949,053 owned by complainant; (2) to present evidence as to whether there is domestic production of electronic pianos allegedly covered by the claim(s) in these two patents; and (3) in the event there is domestic production under the claim(s) in these two patents, (a) to present evidence as to whether the imported electronic pianos are covered by the same claim(s); and (b) to present evidence as to the alleged effect or tendency of these imported electronic pianos to substantially injure the industry referred to in item (1) above.

Requests from interested parties for appearances at the hearing should be received by the Secretary of the Tariff Commission, in writing, at his office in Washington, D.C. 20436, not later than noon, Thursday, August 8, 1974.

Notice of the institution of the investigation was published in the FEDERAL REGISTER on September 22, 1972 (37 FR 20289).

Issued: July 17, 1974.

By Order of the Commission.

[SEAL] G. PATRICK HENRY,
Acting Secretary.

[FR Doc.74-16691 Filed 7-22-74;8:45 am]

[TEA-W 237]

CLAUDIA FOOTWEAR, INC.

Workers' Petition for a Determination

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the workers and former workers of Claudia Footwear, Inc., Wood, Pa., a subsidiary of Kass Footwear Corp., New York, N.Y., the United States Tariff Commission, on July 16, 1974, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in items 700.55, 700.60, 700.70 and 700.80 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: July 17, 1974.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.74-16692 Filed 7-22-74;8:45 am]

URBAN REINVESTMENT TASK FORCE

NEIGHBORHOOD HOUSING SERVICES AND PRESERVATION PROJECTS

The Urban Reinvestment Task Force is a joint effort co-directed by James T. Lynn, Secretary of Housing and Urban Development and Thomas R. Bomar, Chairman of the Federal Home Loan Bank Board. A small staff, headed by Staff Director William A. Whiteside of the Federal Home Loan Bank Board, is located in Washington, D.C. Total funding for the end of fiscal year 1974 and fiscal year 1975 is $2.75 million. The Task Force funds come from a HUD demonstration grant and cover administrative support and dissemination efforts by the Task Force and modest grants to programs.

The Task Force will be involved in two separate programs, described in detail below. Both programs are designed to produce residential rehabilitation, including home improvement lending and mortgage lending on existing housing, in a neighborhood context.

A major thrust is the establishment of Neighborhood Housing Services (NHS) programs. In most cases, cities chosen for NHS programs will be those whose programs can be developed from the beginning with Task Force assistance.

The second type of program will assist and monitor selected Neighborhood Preservation Project (NPP) which are operational and which involve partnerships of neighborhood residents, private financial institutions, and local government, but which differ from the NHS programs. In contrast to NHS programs, which will be established with the help of the Task Force, NPP programs must demonstrate that they have programs in operation or are at the point of commencing operations.

NEIGHBORHOOD HOUSING SERVICES (NHS)

Important features of a Neighborhood Housing Services program are:

1. A neighborhood in which the housing stock is basically sound but beginning to show signs of deterioration, and where there is a high degree of home ownership.

2. Neighborhood residents who want to preserve their neighborhood and improve their homes, and are willing to put their effort into establishing and operating an NHS.

3. A local government which agrees to reinvest in the neighborhood by making necessary improvements in public amenities and by conducting an appropriate housing code compliance program coordinated with NHS activities.

4. A group of financial institutions who agree to reinvest in the neighborhood by making loans to all homeowners who qualify for market rate loans by meeting each institution's underwriting criteria. Participating financial institutions normally make tax-deductible contributions to the NHS to meet its operating costs.

5. A "High-Risk" Revolving Loan Fund which stands ready to make loans at flexible rates and terms to residents who do not meet commercial credit standards. Funds for the revolving loan fund are normally contributed by foundations, local corporate sources, etc. Matching grants at varying ratios may be provided by the Urban Reinvestment Task Force.

6. Finally, an NHS organization, a state-chartered private, non-profit corporation. Each NHS has a board of directors of which a majority are community residents with significant representation from the financial institutions. A staff of two or three persons carries out NHS' work of financial counseling, assistance with rehabilitation specifications and bids, careful monitoring of contractors, administration of the revolving loan fund, and liaison with city agencies and financial institutions.

SELECTION OF LOCALITIES FOR NEIGHBORHOOD HOUSING SERVICES (NHS) PROGRAMS

The Urban Reinvestment Task Force will select approximately fifteen to twenty communities to serve as demonstration areas. Pilot projects will be selected on a non-discriminatory basis to cover a wide geographical distribution and reflect a variety of settings, and to test the NHS concept and determine those situations in which it can be most helpful as a neighborhood preservation tool.

Demonstrations will be conducted in communities with varied populations and

economic bases. An effort will be made to include a portion of at least one urbanized county location which would not necessarily be considered a city.

A. Criteria For A Successful Program

Before agreeing to enter into a development contract, the Task Force must assure itself that the basic elements for a successful NHS program exist. Each community will have a different mix, with greater strengths in some areas than in others. In determining whether a particular community's mix can produce a viable program, the following elements will be considered:

1. Local government capacity to participate with a sensitive and appropriate code compliance program, appropriate planning and zoning activities, public service improvements, and pubic works expenditures;

2. Potential financial institution leadership for NHS;

3. Willingness of financial institutions to join together in a cooperative program;

4. Foundation/industrial/civil resources;

5. Interest of Federal, state, and other agencies in assisting and/or cooperating;

6. Potential leadership from any sector.

B. Developmental Program

In assisting a locality to create a Neighborhood Housing Services program, the Urban Reinvestment Task Force will enter into a contract with a local entity to conduct a careful developmental program lasting six to eight months. The cost to the local entity of this developmental program is in the range of $20,000 to $30,000. This covers the cost of a local full time staff person hired by the Task Force for six to eight months and supervisory staff; it also covers a series of workshops, including travel for participants to an operating NHS in another city. The workshops are designed to bring together leaders of financial institutions, city department heads and key persons from the community to design an effective program for that locality.

The goal of this developmental program is the establishment of an NHS as an independent, local, non-profit corporation.

Only upon completion of a successful developmental program will the Task-Force consider making a matching grant to the NHS to stimulate the development of a High Risk Revolving Loan Fund.

When the NHS has been organized, funded, and staffed, the Task Force's catalytic role is finished and the NHS is expected to function as a totally private, locally controlled organization.

C. Criteria for Grant

Before a grant can be made to the High Risk Revolving Loan Fund of an NHS, the following elements must be in place:

1. Neighborhood involvement;

2. City public works, services and code enforcement commitments;

3. Financial institutions' commitment to provide operating funds for two years;

4. Financial institutions' commitment to make "bankable" loans in target area(s) selected;

5. Foundation/industry/government funding plan for High Risk Revolving Loan Fund;

6. Private, non-profit NHS corporation with a board of directors representing neighborhood and financial institutions and with a competent, full-time staff.

D. Commitments and Prior Negotiations

Prior to formation of the Task Force, the Federal Home Loan Bank Board staff was in various stages of negotiation with several cities, and in some cases had made commitments to carry out development programs under certain conditions. The Task Force will honor these commitments and take into consideration the length and seriousness of these negotiations in the selection and timing of NHS developmental programs.

NEIGHBORHOOD PRESERVATION PROJECTS (NPP)

The Urban Reinvestment Task Force will also be involved in the developmental funding of five to ten selected projects, called Neighborhood Preservation Projects (NPP).

The Task Force will spend considerable staff time examining such projects to determine their replicability in other cities. Those programs selected will receive modest grants toward data collection, documentation and the project itself. They are to assist the Task Force in determining which programs are best suited for implementation elsewhere.

SELECTION OF NEIGHBORHOOD PRESERVATION PROJECTS

1. The project must involve a partnership of neighborhood residents, private lenders, and local government;

2. The plan must be operational;

3. The program must be limited to a specific neighborhood(s), and must either have shown or will soon show a demonstrated success in upgrading that/those neighborhood(s);

4. The program must be designed to meet a need that would not be met spontaneously without the program;

5. Lenders must be involved at the policy level, not merely with an agreement to make loans;

6. The project must be capable of producing sound loans;

7. The project must be innovative, and differ in significant ways from NHS programs;

8. The project sponsors must be willing to provide information which can be analyzed by the Task Force or its participating agencies to judge the effectiveness of the project. Sponsors must also be willing to offer their services to assist others who may wish to replicate their project.

MICHAEL WESTGATE,
Assistant Director for Administration.

APPLICATION PROCEDURE

Local entities are encouraged to submit to the Urban Reinvestment Task Force materials supporting their readiness to be considered for either:

1. Services of the Task Force in development of a Neighborhood Housing Services (NHS) or

2. Review and Funding of a Neighborhood Preservation Project (NPP).

The Task Force will review materials submitted (including, in the case of NHS applications, any history of prior negotiations with the FHLBB) and select promising submissions for field review.

In the case of NHS programs, contracts will provide for Task Force services and may provide for grants if conditions contained in the contract are met at the conclusion of the developmental process.

In the case of Neighborhood Preservation Projects, the contracts will specify a developmental grant and particular reporting and monitoring activities to be carried out in determining the effectiveness and replicability of the project.

Cities or other jurisdictions or non-public entities wishing to be considered for participation in an NHS program or an NPP program should submit a formal application to the Urban Reinvestment Task Force by October 15, 1974. Top ranking applicants can expect field visits and further dialogue.

There is no printed application form. Local entities wishing to apply for assistance should include information which addresses the points enumerated under NHS or NPP above.

Following meetings between Task Force staff and representatives of applying entities, proposals will be ranked according to their promise as demonstrations, and contracts will be entered into with the top ranking local entities, subject to availability of Task Force resources. Grants will be in the range of $30,000 to $100,000.

Proposals should be submitted to:

Urban Reinvestment Task Force, 101 Indiana Avenue NW, Washington, D.C. 20552.

[FR Doc.74-16707 Filed 7-22-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateways

JULY 17, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before July 29, 1974. A copy

must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC–17868 (Sub-No. E15), filed May 31, 1974. Applicant: H. E. BRINKERHOFF & SONS TRANSPORTATION CO., 1001 South 14th Street, Harrisburg, Pa. 17104. Applicant's representative: Thomas R. Kingsley, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Virginia in and east of Westmoreland, Essex, King and Queen, King William, Hanover, Henrico, Chesterfield, Dinwiddie, and Brunswick Counties, on the one hand, and, on the other, points in Michigan. The purpose of this filing is to eliminate the gateway of Wilmington, Del., and Harrisburg, Pa.

No. MC–29079 (Sub-No. E1), filed May 21, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 395, Kokomo, Ind. 46901. Applicant's representative: Edward K. Wheeler, Southern Building, 15th and A Streets NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring the use of special equipment), between the points in Chicago, Ill., commercial zone, Crete, Steger, South Chicago Heights, Chicago Heights, Glenwood, Matteson, and Flossmoor, Ill., on the one hand, and, on the other, points in Ohio in and east of U.S. Highway 25 from the Ohio-Michigan State line to Findlay, thence on and east of U.S. Highway 68 to the Ohio-Kentucky State line. The purpose of this filing is to eliminate the gateway of Chicago, Ill., Kokomo and Portage, Ind., and Toledo, Ohio.

No. MC–29079 (Sub-No. E2), filed May 21, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 395, Kokomo, Ind. 46901. Applicant's representative: Edward K. Wheeler, 15th and H Streets NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring the use of special equipment), between points in the Chicago, Ill., commercial zone, Crete, Steger, South Chicago Heights, Chicago Heights, Glenwood, Matteson, and Flossmoor, Ill., on the hand, and, on the other, points in New York on and west of U.S. Highway 62, points in Pennsylvania on and west of U.S. Highway 219, and points in West Virginia on and north of U.S. Highway 40. The purpose of this filing is to eliminate the gateway of Chicago, Ill., Portage and Kokomo, Ind., Toledo and Columbus, Ohio.

No. MC–29079 (Sub-No. E3), filed May 21, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 395, Kokomo, Ind. 46901. Applicant's representative: Edward K. Wheeler, 15th and H Streets, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring the use of special equipment), between points in New York on and west of U.S. Highway 62, points in Pennsylvania and west of U.S. Highway 219 and points in West Virginia on and north of U.S. Highway 40, on the one hand, and, on the other, Kokomo, Ind. The purpose of this filing is to eliminate the gateway of Columbiana, Ohio.

No. MC–29079 (Sub-No. E4), filed May 21, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 395, Kokomo, Ind. 46901. Applicant's representative: Edward K. Wheeler, 15th and H Streets, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring the use of special equipment), between Toledo, Ohio, on the one hand, and, on the other, points in Pennsylvania on and west of U.S. Highway 219 (except points in Erie and Crawford Counties), and points in West Virginia on and north of U.S. Highway 40. The purpose of this filing is to eliminate the gateway of Columbiana, Ohio.

No. MC–29079 (Sub-No. E5), filed May 21, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 395, Kokomo, Ind. 46901. Applicant's representative: Edward K. Wheeler, 15th and H Streets NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring the use of special equipment), between Portage, Ind., on the one hand, and, on the other, points in New York on and west of U.S. Highway 62, points in Pennsylvania on and west of U.S. Highway 219 and points in West Virginia on and north of U.S. Highway 40. The purpose of this filing is to eliminate the gateway of Kokomo, Ind., and Toledo and Columbiana, Ohio.

No. MC–29079 (Sub-No. E7), filed May 21, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 395, Kokomo, Ind. 46901. Applicant's representative: Edward K. Wheeler, 15th and H Streets NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dies, die parts, die checking fixtures, die models, hand jigs, tools, patterns, and templates*, when moving in connection with dies, from points in New York on and west of U.S. Highway 62, points in Pennsylvania on and west of U.S. Highway 219 and points in West Virginia on and north of U.S. Highway 40 to points in Michigan on and south of a line beginning at Ludington, and extending along U.S. Highway 10 to junction business route U.S. Highway 10 to Midland, thence along Michigan Highway 20 to Saginaw River thence along the Saginaw River to Saginaw Bay except from (1) Silver Creek N.Y., to Ann Arbor, Detroit, Sturgis, Willow Run, and Ypsilanti, Mich., (2) Westfield, N.Y., to Ann Arbor, Coldwater, Detroit, Jackson, Lansing, Pontiac, Sturgis, Willow Run, and Ypsilanti, Mich., and (3) Erie, Pa., to Ann Arbor, Battle Creek, Coldwater, Detroit, Grand Rapids, Jackson, Kalamazoo, Lansing, Pontiac, Port Huron, St. Joseph, Sturgis, Willow Run, and Ypsilanti, Mich. The purpose of this filing is to eliminate the gateways of Toledo and Columbiana, Ohio.

No. MC–29079 (Sub-No. E8), filed May 21, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 395, Kokomo, Ind. 46901. Applicant's representative: Edward K. Wheeler, 15th and H Streets NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dies, and die parts, die checking fixtures, die models, hand jigs, tools, patterns, and templates*, when moving in connection with dies, from (1) Alton, Ill., to Cleveland, Elyria, Jefferson, Maple Heights, Maumee, and Toledo, Ohio; (2) from Bradley, Ill., to Canton, Cleveland, and Toledo, Ohio; (3) from Crystal Lake, Ill., to Toledo, Ohio; (4) from Danville, Ill., to Bedford, Cleveland, Parma, and Valley View, Ohio; (5) from Granite City, Ill., to Amherst, Ohio; (6) from Kankakee, Ill., to Sandusky, Ohio; (7) from Madison, Ill., to Coshocton, Ohio; (8) from Pekin, Ill., to Lorain, Ohio; (9) from Peoria, Ill., to Cleveland, Elyria, Lorain, Toledo, Wooster, and Youngstown, Ohio; (10) from Peru, Ill., to Ashtabula, Cleveland, Elyria, and Wooster, Ohio; (11) from Rockford, Ill., to Mansfield and Marion, Ohio; (12) from St. Louis, Mo., to Akron, Cleveland, Jefferson, Lorain, Maple Heights, Miles, and Youngstown, Ohio; and (13) from Streator, Ill., to Cleveland, Massillon, and Milan, Ohio. The purpose of this filing is to eliminate the gateways of Portage, Ind., and Toledo, Ohio.

No. MC–29079 (Sub-No. E9), filed May 21, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 395, Kokomo, Ind. 46901. Applicant's representative: Edward K. Wheeler,

15th and H Streets NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dies, and die parts, die checking fixtures, die models, hand jigs, tools, patterns, and templates*, when moving in connection with dies, (1) from Elyria, Ohio, to East Moline and Moline, Ill.; (2) from Martins Ferry, Ohio, to East Moline, Rockford, and Silvis, Ill.; (3) from Massillon, Ohio, to Rockford, Ill.; (4) from McDonald, Ohio, to Quincy, Ill.; (5) from Salem, Ohio, to East Moline, Ill.; (6) from Steubenville, Ohio, to Moline, Ill.; (7) from Warren, Ohio, to Clayton, Ill.; (8) from Yorkville, Ohio, to Freeport and Rockford, Ill.; and (9) from Youngstown, Ohio, to Freeport, Ill. The purpose of this filing is to eliminate the gateways of Detroit, Mich., and Portage and Kokomo, Ind.

No. MC–29079 (Sub-No. E10), filed May 21, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 395, Kokomo, Ind. 46901. Applicant's representative: Edward K. Wheeler, 15th and H Streets NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dies, and die parts, die checking fixtures, die models, hand jigs, tools, patterns, and templates*, when moving in connection with dies, from points in Illinois and St. Louis, Mo., to points in Michigan south of a line beginning at Ludington, and extending along U.S. Highway 10 to junction business route U.S. Highway 10 to Midland, thence along Michigan Highway 20 to Saginaw River thence along Saginaw River to Saginaw Bay. The purpose of this filing is to eliminate the gateways of Chicago, Ill., and Portage, Ind.

No. MC–29079 (Sub-No. E11), filed May 21, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 395, Kokomo, Ind. 46901. Applicant's representative: Edward K. Wheeler, 15th and H Streets NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dies, and die parts, die checking fixtures, die models, hand jigs, tools, patterns, and templates* when moving in connection with dies, from Detroit, Gibraltar, and Kelsey Hayes Company, Romulus Township, Mich., to points in Illinois and St. Louis, Mo. The purpose of this filing is to eliminate the gateways of Portage and Kokomo, Ind.

No. MC–29079 (Sub-No. E12), filed May 21, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 395, Kokomo, Ind. 46901. Applicant's representative: Edward K. Wheeler, 15th and H Streets NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron, steel, and iron and steel products* (except those commodities of such size or weight as require the use of special equipment), from Detroit, Gibraltar and Kelsey Hayes Company at Romulus Township, Mich., to Louisville, Ky. The purpose of this filing is to eliminate the gateway of Kokomo, Ind.

No. MC–29079 (Sub-No. E13), filed May 21, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 395, Kokomo, Ind. 46901. Applicant's representative: Edward K. Wheeler, 15th and H Streets NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dies, and die parts, die checking fixtures, die models, hand jigs, tools, patterns, and templates*, when moving in connection with dies, between St. Louis, Mo., and points in Illinois, on the one hand, and, on the other, Erie, Pa. The purpose of this filing is to eliminate the gateway of Kokomo, Ind.

No. MC–29079 (Sub-No. E14), filed May 21, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 395, Kokomo, Ind. 46901. Applicant's representative: Edward K. Wheeler, 15th and H Streets NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractories*, between points in Audrain, Callaway, and Montgomery Counties, Mo. on the one hand, and, on the other, points in the Louisville, Ky., commercial zone. The purpose of this filing is to eliminate the gateway of Kokomo, Ind.

No. MC–29079 (Sub-No. E15), filed May 21, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 395, Kokomo, Ind. 46901. Applicant's representative: Edward K. Wheeler, 15th and H Streets NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractories*, between points in Audrain, Callaway, and Montgomery Counties, Mo., on the one hand, and, on the other, points in New York on and west of U.S. Highway 62. The purpose of this filing is to eliminate the gateway of Columbiana, Ohio.

No. MC–29079 (Sub-No. E16), filed May 21, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 395, Kokomo, Ind. 46901. Applicant's representative: Edward K. Wheeler, 15th and H Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dies, and die parts, die checking fixtures, die models, hand jigs, tools, patterns, and templates* when moving in connection with dies, (1) between Clarion, Pa., on the one hand, and, on the other, Galesburg, and Savanna, Ill.; (2) between Du Bois, Pa., on the one hand, and, on the other, Dixon, Freeport, Quincy, and Savanna, Ill.; (3) between Greensburg, Pa., on the one hand, and, on the other, Aurora, Deerfield, Elgin, Galesburg, Glen Ellyn, La Salle, Rockford, Waukegan, and Woodstock, Ill.; (4) between Indiana, Pa., on the one hand, and, on the other, De Kalb, Dixon, Fox Lake, Freeport, Galesburg, La Salle, Rockford, Savanna, Waukegan, and Woodstock, Ill.; (5) between Johnstown, Pa., on the one hand, and, on the other, Aurora, Chicago, Deerfield, De Kalb, Dixon, Elgin, Fox Lake, Freeport, Galesburg, Glen Ellyn, La Salle, Rockford, Savanna, Waukegan, and Woodstock, Ill.; between Kane, Pa., on the one hand, and, on the other, Freeport, Galesburg, Quincy, and Savanna, Ill.; (6) between New Castle, Pa., on the one hand, and, on the other, Savanna, Ill.; (7) between Pittsburgh, Pa., on the one hand, and, on the other, De Kalb, Dixon, Fox Lake, Freeport, Rockford, Savanna, and Woodstock, Ill.; (8) between Punxsutawney, Pa., on the one hand, and, on the other, Dixon, Freeport, Galesburg, and Savanna, Ill.; (9) between Rochester, Pa., on the one hand, and, on the other, Dixon, Freeport, Rockford, and Savanna, Ill.; (10) between Somerset, Pa., on the one hand, and, on the other, Aurora, Chicago, Deerfield, De Kalb, Dixon, Elgin, Fox Lake, Freeport, Galesburg, Glen Ellyn, La Salle, Rockford, Savanna, Waukegan, and Woodstock, Ill.; (11) between Uniontown, Pa., on the one hand, and, on the other, Aurora, De Kalb, Dixon, Rockford, Savanna, and Woodstock, Ill.; (12) between Warren, Pa., on the one hand, and, on the other, Marion, Ill.; and (13) between Washington, Pa., on the one hand, and, on the other, Savanna, Ill. The purpose of this filing is to eliminate the gateways of Columbiana, Ohio, Detroit, Mich., and Portage and Kokomo, Ind.

No. MC–29079 (Sub-No. E17), filed May 21, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 395, Kokomo, Ind. 46901. Applicant's representative: Edward K. Wheeler, 15th and H Streets NW., Washington, D.C. 20005. Authority sought to operate as a *common carriers*, by motor vehicle, over irregular routes, transporting: *Building and roofing materials* (except iron and steel and except in bulk), from the plant site and facilities of Certain-Teed Products Corporation in the St. Louis, Mo.-East St. Louis, Ill., commercial zone to points in that part of Michigan south of Mason, Lake, Osceola, Clare, Gladwin, and Arenac Counties, and Saginaw Bay, Mich. The purpose of this filing is to eliminate the gateway of Portage, Ind.

No. MC–29079 (Sub-No. E18), filed May 21, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 395, Kokomo, Ind. 46901. Applicant's representative: Edward K. Wheeler, 15th and H Streets NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dies, and die parts, die checking fixtures, die models, hand jigs, tools, patterns, and templates*, when moving in connection with dies, from Detroit, and Kelsey Hayes Company, at Romulus, Mich., to points in New York on and west of U.S. Highway 62 (except points on Lake Erie between Angola and the State line), points in

Pennsylvania on and west of U.S. Highway 219 (except points located in Erie County), and points in West Virginia on and north of U.S. Highway 40; and (2) *iron and steel articles*, as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from Gilraltar, Mich., to the destination territories described in (1) above. The purpose of this filing is to eliminate the gateway of Columbiana, Ohio.

No. MC–2079 (Sub-No. E19), filed May 21, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 395, Kokomo, Ind. 46901. Applicant's representative: Edward K. Wheeler, 15th and H Streets, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Iron and steel articles*, as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (except commodities which, by reason of their size or weight requires the use of special equipment or special handling), from the plant site and warehouses of the Kankakee Electric Steel Company, Swanson Manufacturing Company and Jones & McKnight, Inc., at Kankakee, Ill., to points in New York on and west of U.S. Highway 62, points in Pennsylvania on and west of U.S. Highway 219 and points in West Virginia on and north of U.S. Highway 40, and Louisville, Ky. The purpose of this filing is to eliminate the gateways of Kokomo, Ind., and Columbiana, Ohio.

No. MC 29079 (Sub-No. E20), filed May 21, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 395, Kokomo, Ind. 46901. Applicant's representative: Edward K. Wheeler, 15th and H Streets, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from the plant site of Jones & Laughlin Steel Company in Putnam, Ill., to points in New York west of U.S. Highway 62, points in Pennsylvania west of U.S. Highway 219 and points in West Virginia north of U.S. Highway 40; and (2) *materials, equipment, and supplies* used in the manufacture and processing of iron and steel articles, from the destination territories described in (1) above, to the origin plant site described in (1) above. The purpose of this filing is to eliminate the gateway of Columbiana, Ohio.

No. MC–43683 (Sub-No. E3), filed June 3, 1974. Applicant: BAKER DRIVEAWAY CO., INC., 3999 East South Boulevard, Bloomfield Hills, Mich. 48013. Applicant's representative: William O. Bridge (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles, trucks and chassis, new, used, unfinished, and/or wrecked*, restricted to subsequent or secondary movements, (1) between points in Connecticut, Massachusetts, and Rhode Island, on the one hand, and, on the other, St. Louis, Mo., and points in St. Louis County, Mo., and points in Illinois north of U.S. Highway 36, Indiana, Michigan, Ohio, and those on Butler, Beaver, Crawford, Erie, Lawrence, McKean, Mercer, Venango, and Warren Counties, Pa.; (2) between points in New Jersey, one the one hand, and, on the other, St. Louis, Mo., and points in Illinois (north of U.S. Highway 36), Indiana, Michigan, Ohio, and those in Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, and Wyoming Counties, New York; (3) between points in New York (east of U.S. Highway 11), on the one hand, and, on the other, St. Louis, Mo., and points in St. Louis County, Mo., and points in Illinois, north of U.S. Highway 36, Indiana, Michigan, Ohio, and those in Erie and Crawford Counties, Pa. The purpose of this filing is to eliminate the gateways of Buffalo, N.Y., or Erie, Pa.

No. MC–46219 (Sub-No. E45), filed May 14, 1974. Applicant: STERNBERGER MOTOR CORPORATION, 45–55 Pearson Street, Long Island City, N.Y. 11101. Applicant's representative: James E. Wilson, 1032 Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in New Hampshire to points in Pennsylvania (except points in Erie, McKean, Potter, Tioga, Bradford, Susquehanna, Lackawanna, Wyoming, Wayne, and Pike Counties), and points in New Jersey (except points in Sussex County), and points in Wood, Jackson, Mason, Putnam, Kanawha, Boone, Lincoln, Logan, Mingo, Wayne, and Cabell Counties, W. Va., and points in Maryland, Delaware, Ohio, Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Jamestown and New York, N.Y., and Warren and Philadelphia, Pa.

No. MC–79999 (Sub-No. E1), filed May 15, 1974. Applicant: E. JACK WALTON TRUCKING COMPANY, P.O. Box 9776, Houston, Tex. 77015. Applicant's representative: Joe G. Fender, 802 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, materials, supplies, and equipment* incidental to, or used in the construction, development, operations, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, and of petroleum refineries and gasoline plants; (2) *pipe, pipe line materials, machinery, and equipment* incidental to, or used, in the construction, repairing, or dismantling of gas, gasoline, oil, and water pipe lines, including the stringing of pipe; and (3) *earth-drilling machinery and equipment and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, (1) from points in that part of Kansas on, south, and west of a line beginning at the Kansas-Oklahoma State line, thence along U.S. Highway 83 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Kansas-Colorado State line, to points in that part of Mississippi on and south of a line beginning at the Mississippi-Alabama State line, thence along U.S. Highway 98 to Tylertown, thence along Mississippi Highway 27 to the Mississippi-Louisiana State line; (2) from points in that part of New Mexico on and south of a line beginning at the New Mexico-Arizona State line, thence along U.S. Highway 60 to Interstate Highway 25, thence along Interstate Highway 25 to junction U.S. Highway 380, thence along U.S. Highway 380 to the New Mexico-Texas State line, to points in that part of Mississippi on and south of Interstate Highway 10; and (3) from points in that part of Texas on, south, and east of a line beginning at El Paso, thence along Interstate Highway 10, to Ft. Stockton, thence along U.S. Highway 290 to Houston, thence along Interstate Highway 45 to Galveston, to points in Mississippi; restricted in (1), (2), and (3) above to the transportation of the above-described commodities which are iron and steel articles. The purpose of this filing is to eliminate the gateway of Baytown, Tex.

No. MC–95540 (Sub-No. E253), filed May 5, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, dairy products, and articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Denver, Colo., to points in Alabama. The purpose of this filing is to eliminate the gateway of points in Iowa in the Omaha, Nebr., commercial zone.

No. MC–95540 (Sub-No. E255), filed May 5, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, dairy products, and articles distributed by meat packinghouses*, as described in

Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Denver, Colo., to points in North Carolina. The purpose of this filing is to eliminate the gateway of points in Iowa in the Omaha, Nebr., commercial zone.

No. MC–95540 (Sub-No. E259), filed May 5, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, dairy products and articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Denver, Colo., to points in Tennessee (except Memphis and points in its commercial zone). The purpose of this filing is to eliminate the gateway of points in Iowa in the Omaha, Nebr., commercial zone.

No. MC–95540 (Sub-No. E264), filed May 3, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Tifton, Ga., to points in Minnesota. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC–95540 (Sub-No. E266), filed May 3, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned preserved or prepared meats, edible meat products, edible meat by-products, dairy products, and edible articles distributed by meat packinghouses*, as defined by the Commission, from Dothan, Ala., to points in Rhode Island. The purpose of this filing is to eliminate the gateway of Bridgeton, N.J.

No. MC–95540 (Sub-No. E267), filed May 3, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Tifton, Ga., to points in Oklahoma. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC–95540 (Sub-No. E269), filed May 3, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Tifton, Ga., to points in Wisconsin. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC–95540 (Sub-No. E270), filed May 3, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned preserved or prepared meats, edible meat products, edible meat by-products, dairy products, and edible articles distributed by meat packinghouses*, as defined by the Commission, from Dothan, Ala., to points in Connecticut. The purpose of this filing is to eliminate the gateway of Bridgeton, N.J.

No. MC–95540 (Sub-No. E272), filed May 3, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Hastings, Nebr., to points in South Carolina. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC–95540 (Sub-No. E273), filed May 3, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Tifton, Ga., to points in Iowa. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC–95540 (Sub-No. E275), filed May 3, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in California to points in New Jersey (except Newark, North Bergen, Bridgeton, and those points in the New York, N.Y., commercial zone). The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC–95540 (Sub-No. E278), filed May 3, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Tifton, Ga., to points in Nebraska. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC–95540 (Sub-No. E279), filed May 3, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Orangeburg, S.C. to points in Texas. RESTRICTION: The service authorized immediately above is subject to the condition that such commodities as do not require refrigeration shall be transported only in mixed truckloads with commodities requiring refrigeration. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–95540 (Sub-No. E280), filed May 3, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* from Tifton, Ga., to points in Minnesota. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC–107403 (Sub-No. E1), filed June 4, 1974. Applicant: MATLACK, INC., 10 West Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John E. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-flammable liquid chemicals*, in bulk, in tank vehicles, from points in Mason, Putnam, Kanawha, Boone, Logan, Mingo, Wayne, Cabell, and Lincoln Counties, W. Va., to points in Maryland. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC–107403 (Sub-No. E2), filed June 4, 1974. Applicant: MATLACK, INC., 10 West Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John E. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-flammable liquid chemicals*, in bulk, in tank vehicles, from points in West Virginia to points in New York. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC–107403 (Sub-No. E3), filed June 4, 1974. Applicant: MATLACK, INC., 10 West Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John E. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals*, in

bulk, in tank vehicles, from points in Ohio on and north of a line beginning at the Indiana-Ohio State line, and extending along U.S. Highway 30 to its junction with U.S. Highway 30S, thence along U.S. Highway 30S to its junction with U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-Pennsylvania State line to points in New York (except those on Long Island). The purpose of this filing is to eliminate the gateways of Cleveland and Painesville, Ohio.

No. MC–107403 (Sub-No. E4), filed June 4, 1974. Applicant: MATLACK, INC., 10 West Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John E. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petrochemicals), in bulk, in tank vehicles, from Baton Rouge, La., to points in West Virginia. The purpose of this filing is to eliminate the gateways of Ashland, Ky., Southport, Ohio, and Pittsburgh, Pa.

No. MC–107403 (Sub-No. E5), filed June 4, 1974. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John E. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Naval stores*, in bulk, in tank vehicles, from Oakdale, La., to points in Iowa. The purpose of this filing is to eliminate the gateways of DeRidder, La., and the plant site of Baird Chemicals Industries, Inc., located at or near Mapleton, Ill.

No. MC–107403 (Sub-No. E6), filed June 4, 1974. Applicant: MATLACK INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John E. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Naval stores*, in bulk, in tank vehicles, from DeRidder, La., to points in Iowa. The purpose of this filing is to eliminate the gateway of the plant site of Baird Chemicals Industries, Inc., located at or near Mapleton, Ill.

No. MC–107403 (Sub-No. E7), filed June 4, 1974. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John E. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petroleum and coal tar products), in bulk in tank vehicles, from points in Delaware to points in North Carolina. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC–107403 (Sub-No. E8), filed June 4, 1974. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John E. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry coal tar products*, in bulk, in tank vehicles, from points in Pennsylvania (within 150 miles of Monongahela, Pa.) to points in Tennessee west of U.S. Highway 127. The purpose of this filing is to eliminate the gateway of Lanesville, Ohio, and Indianapolis, Ind.

No. MC–107423 (Sub-No. E9), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-flammable liquids*, in bulk, from points in Connecticut, Massachusetts, and Rhode Island, to points in Maryland within 100 miles of Philadelphia, Pa. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC–107403 (Sub-No. E10), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petroleum wax*, in bulk, in tank vehicles, from points in Connecticut, Massachusetts, and Rhode Island, to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, South Carolina, Tennessee, and West Virginia (except those in West Virginia north of a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 250 to Elkins, and thence along U.S. Highway 33 to the Ohio River). The purpose of this filing is to eliminate the gateway of Philadlephia, Pa.

No. MC–107403 (Sub-No. E11), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, in bulk, in tank vehicles, from points in Connecticut, Massachusetts, and Rhode Island, to points in Alabama, Florida, Georgia, North Carolina, Tennessee, South Carolina, Kansas, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, and Wisconsin. The purpose of this filing is to eliminate the gateway of Newark, N.J.

No. MC–107403 (Sub-No. E32), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and fertilizer ingredients*, in bulk, in tank vehicles, from points in Virginia (except Alexandria, Chesapeake, and Hopewell and points in Warren, Clarke, Loudoun, and Frederick Counties), to points in Indiana. The purpose of this filing is to eliminate the gateways of Morgantown, W. Va., and Riverview, Ohio.

No. MC–107403 (Sub-No. E33), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from points in York County, Va., to points in Connecticut, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and New York. The purpose of this filing is to eliminate the gateway of the plant site of the Tidewater Oil Company Refinery at or near Delaware City, Del.

No. MC–107403 (Sub-No. E34), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from points in York County, Pa., to points in that part of Pennsylvania on and east of U.S. Highway 220 (except those on, south, and east of a line beginning at Philadelphia, Pa., and extending along U.S. Highway 422 to Harrisburg, and thence along U.S. Highway 11 to the Pennsylvania-Maryland State line). The purpose of this filing is to eliminate the gateways of Baltimore, Md., and Chambersburg, Pa.

No. MC–107403 (Sub-No. E35), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Yorktown, Va., to points in New Jersey. The purpose of this filing is to eliminate the gateways of Baltimore, Md., and Philadelphia, Pa.

No. MC–107403 (Sub-No. E36), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* (except petrochemicals), as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from points in York County, Va., to points in Ohio, Illinois, Indiana, Wisconsin, and Michigan. The purpose of this filing is to eliminate the gateway of Congo, W. Va.

No. MC–107403 Sub-No. E37), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except gasoline, fuel oil, benzene, and kerosene), in bulk, in tank vehicles, from Hopewell, Va., to points in Maine, Massachusetts, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateway of Newark, N.J.

No. MC–107403 (Sub-No. E38), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-flammable liquid chemicals* (except petroleum and petroleum products other than medicinal petroleum products and liquid wax, and not including road oil, coal tar, and coal tar products), from Hopewell, Va., to points in Connecticut and Rhode Island. The purpose of this filing is to eliminate the gateway of Newark, N.J.

No. MC–107403 (Sub-No. E39), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, as defined in the *Maxwell Co., Extension-Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles, from Hopewell, Va., to points in Ohio, Indiana, Illinois, Iowa, Michigan, and Missouri. The purpose of this filing is to eliminate the gateways of Uniontown, Pa., and Natrium, W. Va.

No. MC–107403 (Sub-No. E40), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Hopewell, Va., to points in Minnesota and Nebraska. The purpose of this filing is to eliminate the gateways of Natrium, W. Va., Uniontown, Pa., and the plant sites of Baird Chemicals Industries, Inc., located at or near Mapleton, Ill.

No. MC–107403 (Sub-No. E41), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except such oils and greases which may be included in the term chemicals), from Hopewell, Va., to points in Wisconsin. The purpose of this filing is to eliminate the gateways of Uniontown, Pa., Natrium, W. Va., and the plant site of the B. F. Goodrich Company, in Milan Township (Allen County), Ind. (approximately 13 miles east of Fort Wayne, Ind.)

No. MC–107403 (Sub-No. E42), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup*, in bulk, in tank vehicles, from Richmond, Va., to points in New Jersey and Pennsylvania and New York (within 100 miles of Columbus Circle). The purpose of this filing is to eliminate the gateway of Baltimore, Md.

No. MC–107403 (Sub-No. E43), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium sulphate*, in bulk, in tank vehicles, from Front Royal, Va., to points in Ohio. The purpose of this filing is to eliminate the gateways of Cumberland, Md., and Pittsburgh, Pa.

No. MC–107403 (Sub-No. E44), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium sulphate*, in bulk, in vehicles specially designed for the transportation of dry bulk commodities, and in bulk shipping containers which require the use of special equipment for loading and unloading, and returned empty containers used in the transportation of such commodities, from Front Royal, Va., to points in Indiana and Michigan. The purpose of this filing is to eliminate the gateways of Cumberland, Md., and Zanesville, Ohio.

No. MC–107403 (Sub-No. E45), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and fertilizer ingredients*, in bulk, in tank vehicles, from points in Virginia (except Alexandria, Chesapeake, and Hopewell, and points in Warren, Clarke, Loudoun, and Frederick Counties), to points in Ohio. The purpose of this filing is to eliminate the gateways of Morgantown, W. Va., and Pittsburgh, Pa.

No. MC–107403 (Sub-No. E46), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup*, in bulk, in tank vehicles, from Richmond, Va., to points in Connecticut, Maine, Massachusetts, New Hampshire, Vermont, and Rhode Island. The purpose of this filing is to eliminate the gateways of Baltimore, Md., Philadelphia, Pa., and Newark, N.J.

No. MC–107403 (Sub-No. E47), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium sulphate*, in bulk, in tank vehicles, from Front Royal, Va., to points in New York. The purpose of this filing is to eliminate the gateways of Cumberland, Md., and Lewiston, Md.

No. MC–107403 (Sub-No. E48), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastics*, in bulk, in tank vehicles, from Springfield, Mass., to points in Arkansas, Nebraska, Oklahoma, and Kansas. The purpose of this filing is to eliminate the gateway of Circleville, Ohio.

No. MC–107403 (Sub-No. E49), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Boston, Mass., to points in Ohio. The purpose of this filing is to eliminate the gateway of Albany, N.Y.

No. MC–107403 (Sub-No. E50), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastics*, synthetic, in bulk, in tank vehicles, from Springfield, Mass., to points in Florida, Kentucky, and Louisiana. The purpose of this filing is to eliminate the gateway of Delaware City, Del.

No. MC–107403 (Sub-No. E51), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except petrochemicals), in bulk, in tank vehicles, from Boston, Mass., to points in Illinois, Indiana, Kentucky, Tennessee, and Wisconsin. The purpose of this filing is to eliminate the gateways of Albany, N.Y., East Liverpool, Ohio, and Congo, W. Va.

No. MC–107403 (Sub-No. E52), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes,

transporting: *Petroleum products,* as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, in bulk, in tank vehicles, from Boston, Mass., to points in Michigan in and south of Oceana, Newaygo, Mecosta, Isabella, Midland, Bay, Tuscola, and Huron Counties. The purpose of this filing is to eliminate the gateways of Albany, N.Y., and Toledo, Ohio.

No. MC–107403 (Sub-No. E53), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Non-flammable liquids* (except petroleum and petroleum products other than medicinal petroleum products, and liquid wax, and not including gasoline, fuel oil, benzene, kerosene, raw milk, wire, cider, vinegar, milk, road oil, coal tar, and coal tar products), from points in Maryland to points in Maine, Massachusetts, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa., and Newark, N.J.

No. MC–107403 (Sub-No. E54), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Non-flammable liquids* (except milk, coal tar, tar products, wine, cider, vinegar, road oil, coal tar, and coal tar products, petroleum and petroleum products other than medicinal petroleum products, and liquid wax), from points in Maryland, within 100 miles of Philadelphia, Pa., to points in Connecticut and Rhode Island. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC–107403 (Sub-No. E55), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products,* as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 (except asphalt and except those commodities listed in said appendix which are also listed as chemicals in Appendix XV of the same report), in bulk, in tank vehicles, from points in Maryland, within 150 miles of Monongahela, Pa., to points in Niagara, Orleans, Monroe, Wayne, Livingston, Wyoming, Erie, Chautauqua, Cattaraugus, and Allegany Counties, N.Y. The purpose of this filing is to eliminate the gateway of Petrolia, Pa.

No. MC–107403 (Sub-No. E56), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry chemicals,* in bulk, in tank vehicles, from Elkton and Baltimore, Md., and Claymont, Del., to points in Illinois and Wisconsin. The purpose of this filing is to eliminate the gateway of Camden, N.J., Johnstown, Pa., Zanesville, Ohio, and the plant site of the B. F. Goodrich Company in Milan Township (Allen County), Ind. (approximately 13 miles east of Fort Wayne, Ind.).

No. MC–107403 (Sub-No. E57), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry chemicals,* in bulk, in tank vehicles, from Elkton and Baltimore, Md., Claymont, Del., to points in Michigan. The purpose of this filing is to eliminate the gateways of Camden, N.J., Johnstown, Pa., and Wooster, Ohio.

No. MC–107403 (Sub-No. E58), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore, Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry chemicals,* in bulk, in tank vehicles, from Elkton and Baltimore, Md., to points in Indiana and Kentucky. The purpose of this filing is to eliminate the gateways of Camden, N.J., Johnstown, Pa., and Zanesville, Ohio.

No. MC–107403 (Sub-No. E59), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry chemicals,* in bulk, in tank vehicles, from Elkton and Baltimore, Md., and Claymon, Del., to points in Ohio. The purpose of this filing is to eliminate the gateways of Camden, N.J., Johnstown, Pa., and Pittsburgh, Pa.

No. MC–107403 (Sub-No. E60), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry chemicals,* in bulk, in tank vehicles, from Baltimore and Elkton, Md., and Claymont, Del., to points in Maine (except points in Aroostock County), and New Hampshire. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa., Elizabeth, N.J., and Springfield, Mass.

No. MC–107403 (Sub-No. E62), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry chemicals,* in bulk, in tank vehicles, from Baltimore and Elkton, Md., and Claymont, Del., to points in Vermont and Massachusetts. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., and Elizabeth, N.J.

No. MC–107403 (Sub-No. E63), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry chemicals,* in bulk, in tank vehicles, from points in Maryland within 150 miles of Monongahela, Pa., to points in Indiana, Kentucky, and Michigan. The purpose of this filing is to eliminate the gateway of Zanesville, Ohio.

No. MC–107403 (Sub-No. E64), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry plastics,* in bulk, in tank vehicles, from points in Maryland within 150 miles of Monongahela, Pa., to points in Arkansas, Iowa, Kansas, Missouri, Nebraska, and Oklahoma. The purpose of this filing is to eliminate the gateways of Pittsburgh, Pa., and Circleville, Ohio.

No. MC–107403 (Sub-No. E65), filed May 29, 1974. Applicant: MATLACK, Inc., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operats as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Non-flammable liquid chemicals* (except petroleum products, and coal tar products), in bulk, from points in Maryland to points in Minnesota and Nebraska. The purpose of this filing is to eliminate the gateways of Chambersburg, Pa., Natrium, W. Va., and the plant site of Baird Chemicals Industries, Inc., located at or near Mapleton, Ill.

No. MC–107403 (Sub-No. E66), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Non-flammable liquid chemicals* (except petroleum products and coal tar products), in bulk, from points in Maryland to points in Wisconsin. The purpose of this filing is to eliminate the gateways of Chambersburg, Pa., Natrium, W. Va., and the plant site of the B. F. Goodrich Company in Milan Township (Allen County), Ind. (approximately 13 miles east of Fort Wayne, Ind.).

No. MC–107403 (Sub-No. E67), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes,

transporting: *Non-flammable liquid chemicals* (except petroleum and coal tar products), from points in Maryland to points in Kentucky. The purpose of this filing is to eliminate the gateways of Chambersburg, Pa., Natrium, W. Va., and Ironton, Ohio.

No. MC–107403 (Sub-No. E73), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except petrochemicals), in bulk, in tank vehicles, from points in Maryland within 150 miles of Monongahela, Pa., to points in Ohio, Indiana, Illinois, Wisconsin, Michigan, and Kentucky. The purpose of this filing is to eliminate the gateway of Congo, W. Va.

No. MC–107403 (Sub-No. E74), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, in tank vehicles, from points in Maryland within 150 miles of Monongahela, Pa., to points in Ohio (except points within 150 miles of Monongahela, Pa.).

No. MC–107403 (Sub-No. E75), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, in tank vehicles, from points in Maryland within 150 miles of Monongahela, Pa., to points in Illinois and Wisconsin. The purpose of this filing is to eliminate the gateways of Zanesville, Ohio, and the plant site of the B. F. Goodrich Company in Milan Township (Allen County, Ind., approximately 13 miles east of Fort Wayne, Ind.).

No. MC–107403 (Sub-No. E76), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except petrochemicals), in bulk, from Baltimore, Md., to points in Ohio, Indiana, Illinois, Wisconsin, Michigan, and Kentucky. The purpose of this filing is to eliminate the gateways of Chambersburg, Pa., and Congo, W. Va.

No. MC–107403 (Sub-No. E77), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except calcium chloride), in bulk, in tank vehicles, from points in Maryland within 150 miles of Monongahela, Pa., to points in Maine, Massachusetts, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateways of Lewistown, Pa., and Solvay, N.Y.

No. MC–107064 (Sub-No. E40), filed May 21, 1974. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, from points in New Mexico to points in New Hampshire. The purpose of this filing is to eliminate the gateway of points in Ector County, Tex.

No. MC–107064 (Sub-No. E42), filed May 21, 1974. Applcant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, from points in New Mexico to points in Rhode Island. The purpose of this filing is to eliminate the gateway of points in Ector County, Tex.

No. MC–107064 (Sub-No. E56), filed May 21, 1974. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, from points in New Mexico to points in South Carolina. The purpose of this filing is to eliminate the gateway of points in Ector County, Tex.

No. MC–107064 (Sub-No. E57), filed May 21, 1974. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, from points in New Mexico, to points in North Carolina. The purpose of this filing is to eliminate the gateway of points in Ector County, Tex.

No. MC–107064 (Sub-No. E58), filed May 21, 1974. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, from points in New Mexico, to points in Georgia. The purpose of this filing is to eliminate the gateway of points in Ector County, Tex.

No. MC–107064 (Sub-No. E61), filed May 21, 1974. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, from points in New Mexico to points in Maine. The purpose of this filing is to eliminate the gateway of points in Ector County, Tex.

No. MC–107064 (Sub-No. E63), filed May 21, 1974. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, from points in New Mexico to points in Florida. The purpose of this filing is to eliminate the gateway of points in Ector County, Tex.

No. MC–107496 (Sub-No. E251), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check, Attorney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, fertilizers, and fertilizer ingredients*, in bulk, from the plantsite of United States Steel Corporation, Chemical Division, at or near Tilton, Ill., to points in South Dakota. The purpose of this filing is to eliminate the gateway of Ft. Madison, Iowa.

No. MC–107496 (Sub-No. E252), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from Madison, Wis., to points in Kansas. The purpose of this filing is to eliminate the gateway of the plant or distribution terminal sites of Dundee Cement Company, located at or near Rock Island, Ill.

No. MC–107496 (Sub-No. E253), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check, Attorney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal oils*, in bulk, in tank vehicles, from Douglas and Bayfield Counties, Wis., to points in Missouri. The purpose of this filing is to eliminate the gateway of Minneapolis and Austin, Minn.

No. MC–107496 (Sub-No. E345), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, from Muscantine, Iowa, to points in Tennessee. The purpose of this filing is to eliminate the gateway of Troy Grove, Ill.

No. MC–107496 (Sub-No. E346), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid*

chemicals derived from petroleum, in bulk, in tank vehicles, from points in Iowa on and west of U.S. Highway 69 to points in Illinois. The purpose of this filing is to eliminate the gateway of the plant site of the Hawkeye Chemical Co., at or near Clinton, Iowa.

No. MC–107496 (Sub-No. E347), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry resins and plastics*, in bulk, in tank vehicles, from Burlington, Iowa, to points in Ohio. The purpose of this filing is to eliminate the gateway of the plant site of Cowles Chemical Company at or near Joliet, Ill.

No. MC–107496 (Sub-No. E348), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Peoria, Ill., and points within 10 miles thereof to points in Houston, Fillmore, Mower, Freeborn, Fairbault, Blue Earth, Wauseca, Steele, Dodge, Olmstead, and Winona Counties, Minn. The purpose of this filing is to eliminate the gateway of Burlington, Iowa, and Clear Lake, Iowa, points within 10 miles thereof.

No. MC–107496 (Sub-No. E349), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrazine mix*, in bulk, in tank vehicles, from the Lewis Research Center near Cleveland, Ohio, to points in Wyoming (except points north of U.S. Highway 20 and east of Wyoming Highway 59). The purpose of this filing is to eliminate the gateway of the Rocky Mountain Arsenal near Denver, Colo.

No. MC–107496 (Sub-No. E350), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrochloric acid and caustic soda*, in bulk, in tank vehicles, from Wichita, Kans., to points in Utah. The purpose of this filing is to eliminate the gateway of Denver, Colo.

No. MC–107496 (Sub-No. E351), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Carrolltown, Mo., to points in Illinois north of U.S. Highway 24. The purpose of this filing is to eliminate the gateway of Ft. Madison, Iowa.

No. MC–107496 (Sub-No. E352), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Sugar Creek, Mo., and Kansas City, Kans., to points in Wisconsin north of La Crosse, Monroe, Juneau, Adams, Waushara, Winnebago, Calumet, and Manitowoc Counties, Wis. The purpose of this filing is to eliminate the gateways of Warren County, Iowa, Clear Lake, Iowa, and points within 10 miles thereof, and the Williams Brothers Pipeline Terminal at Rochester, Minn.

No. MC–107496 (Sub-No. E353), filed filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from the plant site of the Missouri Portland Cement Company at Kansas City, Mo., to points in Indiana on and north of U.S. Highway 24. The purpose of this filing is to eliminate the gateway of Bartonville, Ill.

No. MC–107496 (Sub-No. E354), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions*, in bulk, in tank vehicles, from Warsaw, Ind., to points in Iowa. The purpose of this filing is to eliminate the gateway of the plant site of Amoco Chemical Corporation located approximately six miles southwest of Joliet, Ill.

No. MC–107496 (Sub-No. E355), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions*, in bulk, in tank vehicles, from the plant site and stsorage facility of the Borden Chemical Company, Smith Douglass Division, at or near Logansport, Ind., to points in Iowa. The purpose of this filing is to eliminate the gateway of Peru, Ill.

No. MC–107496 (Sub-No. E356), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrochloric acid and caustic soda*, in bulk, in tank vehicles, from Wichita, Kans., to points in Wyoming. The purpose of this filing is to eliminate the gateway of Denver, Colo.

No. MC–107496 (Sub-No. E357), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrochloric acid and caustic soda*, in bulk, in tank vehicles, from Wichita, Kans., to points in California. The purpose of this filing is to eliminate the gateway of Denver, Colo.

No. MC–107496 (Sub-No. E364), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, nitrogen fertilizer solution, and aqua ammonia*, in bulk, in tank vehicles, from Tonkawa, Okla., to points in Wisconsin. The purpose of this filing is to eliminate the gateway of Military, Kans.

No. MC–107496 (Sub-No. E365), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from the plant or distribution terminal sites of Dundee Cement Company, located at or near Rock Island, Ill., to points in North Dakota. The purpose of this filing is to eliminate the gateway of the plantsite of the Northwestern States Portland Cement Company at Mason City, Iowa.

No. MC–107496 (Sub-No. E366), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Resin plasticizers*, in bulk, in tank vehicles, from the plant site of Archer Daniels Midland Co., at or near Decatur, Ill., to points in Arizona. The purpose of this filing is to eliminate the gateway of Denver, Colo.

No. MC–107496 (Sub-No. E367), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from the plant or distribution terminal sites of Dundee Cement Company, located at or near Rock Island, Ill., and Bartonville, Ill., to points in Mississippi. The purpose of this filing is to

eliminate the gateway of Memphis, Tenn.

No. MC–107496 (Sub-No. E368), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry facings*, in bulk, from Cicero, Ill., to points in West Virginia. The purpose of this filing is to eliminate the gateway of Highland, Ind.

No. MC–107496 (Sub-No. E369), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry facings*, in bulk, from Cicero, Ill., to points in Kentucky. The purpose of this filing is to eliminate the gateway of Highland, Ind.

No. MC–107496 (Sub-No. E370), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from the plant or distribution terminal sites of Dundee Cement Company, located at or near St. Louis, Mo., to points in Oklahoma. The purpose of this filing is to eliminate the gateway of Bartonville, Ill.

No. MC–107496 (Sub-No. E375), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals derived from petroleum*, in bulk, in tank vehicles, from points in Iowa (except those south of U.S. Highway 34 and east of U.S. Highway 69), to points in Indiana. The purpose of this filing is to eliminate the gateway of the plant site of Hawkeye Chemical Co., at or near Clinton, Iowa.

No. MC–107496 (Sub-No. E382), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except those derived from petroleum and except liquid oxygen, liquid hydrogen, and liquid nitrogen), in bulk, in tank vehicles, from Denver, Colo., to points in Indiana. The purpose of this filing is to eliminate the gateway of the plant site of the Apple River Chemical Company at or near Niota, Ill.

No. MC–107496 (Sub-No. E384), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except those derived from petroleum and except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank or hopper-type vehicles from Denver, Colo., to points in Minnesota. The purpose of this filing is to eliminate the gateway of Fremont, Nebr.

No. MC–107496 (Sub-No. E385), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals*, in bulk, in tank vehicles, from Denver, Colo., to points in Minnesota. The purpose of this filing is to eliminate the gateway of Fremont, Nebr.

No. MC–107496 (Sub-No. E420), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals*, in bulk, in tank vehicles, from Fulton, Ill., and points within 5 miles thereof, to points in Wisconsin. The purpose of this filing is to eliminate the gateway of the plant site of the Hawkeye Chemical Co., at or near Clinton, Iowa.

No. MC–107496 (Sub-No. E421), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except those derived from petroleum and except liquid oxygen, liquid hydrogen, and liquid nitrogen), in bulk, from the plant site of Ashland Chemical Company, Division of Ashland Oil & Refining Company, at or near Mapleton, Ill., to points in California. The purpose of this filing is to eliminate the gateway of Denver, Colo.

No. MC–107496 (Sub-No. E422), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregregular routes, transporting: *Liquid petrochemicals*, in bulk, in tank vehicles, from Fulton, Ill., and points within 5 miles thereof to points in Nebraska. The purpose of this filing is to eliminate the gateway of the plant site of the Hawkeye Chemical Company at or near Clinton, Iowa.

No. MC–107496 (Sub-No. E423), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonedible animal oils*, in bulk, in tank vehicles, from points in North Dakota to points in Kentucky. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC–107496 (Sub-No. E424), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal oils*, in bulk, in tank vehicles, from points in North Dakota to points in Illinois (except points west of U.S. Highway 51 and north of Illinois Highway 92, Chicago, Ill., the plant site of Anderson Clayton Co., near Jacksonville, Ill., and the plant site of Humko Co., near Champaign, Ill. The purpose of this filing is to eliminate the gateway of Minneapolis and Austin, Minn.

No. MC–107496 (Sub-No. E425), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal oils*, in bulk, in tank vehicles, from points in North Dakota to points in Iowa (except points west of U.S. Highway 71). The purpose of this filing is to eliminate the gateways of Minneapolis and Austin, Minn.

No. MC–107496 (Sub-No. E426), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, fertilizers, and fertilizer ingredients*, in bulk, from the plant site of United States Steel Corporation, Chemical Division, at or near Tilton, Ill., to points in Nebraska. The purpose of this filing is to eliminate the gateway of Ft. Madison, Iowa.

No. MC–107496 (Sub-No. E427), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from Seneca, Ill., to points in South Dakota. Th purpose of this filing is to eliminate the gateway of Ft. Madison, Iowa.

No. MC–107496 (Sub-No. E428), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer, dry fertilizer materials, dry urea, and dry*

ammonium nitrate, in bulk, from the plant site of the Stauffer Chemical Co. (formerly the Des Plaines Chemical Company), at or near Morris, Ill., to points in Oklahoma. The purpose of this filing is to eliminate the gateway of Clinton, Iowa.

No. MC–107496 (Sub-No. E429), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the plant site of Amoco Chemicals Corporation located approximately six miles southwest of Joliet, Ill., to points in North Dakota. The purpose of this filing is to eliminate the gateway of the plant site of International Minerals and Chemical Corporation, at or near Welcome, Minn.

No. MC–107496 (Sub-No. E430), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions* from Mount Pulaski, Ill., to points in South Dakota. The purpose of this filing is to eliminate the gateway of Eldora, Iowa.

No. MC–107496 (Sub-No. E431), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals*, in bulk, in tank vehicles, from Fulton, Ill., and points within 5 miles of Fulton to points in Michigan. The purpose of this filing is to eliminate the gateway of the plant site of the Hawkeye Chemical Company at or near Clinton, Iowa.

No. MC–107496 (Sub-No. E432), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals*, in bulk, in tank vehicles, from Fulton, Ill., and points within 5 miles thereof to points in Indiana. The purpose of this filing is to eliminate the gateway of the plant site of the Hawkeye Chemical Co., at or near Clinton, Iowa.

No. MC–107496 (Sub-No. E433), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals*, in bulk, in tank vehicles, from Fulton, Ill., and points within 5 miles thereof to points in Kentucky. The purpose of this filing is to eliminate the gateway of the plant site of the Hawkeye Chemical Co., at or near Clinton, Iowa.

No. MC–107496 (Sub-No. E434), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia and liquid fertilizer solutions*, in bulk, in tank vehicles, from the site of the plant of the Texaco, Inc., about 2 miles north of Lockport, Ill., to points in Colorado. The purpose of this filing is to eliminate the gateway of La Platte, Nebr.

No. MC–107496 (Sub-No. E435), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions*, from Mt. Pulaski, Ill., to points in Nebraska. The purpose of this filing is to eliminate the gateway of Eldora, Iowa.

No. MC–107496 (Sub-No. E436), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from Marsailles, Ill., to points in North Dakota. The purpose of this filing is to eliminate the gateway of International Minerals and Chemicals Corporation at or near Welcome, Minn.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–16805 Filed 7–22–74;8:45 am]

[Notice No. 128]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

JULY 23, 1974.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before August 12, 1974. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–75119. By order of July 15, 1974, the Motor Carrier Board approved the transfer to Butler Refrigerated Delivery, Inc., Pittsburgh, Pa., of the operating rights in Certificate No. MC–27897 issued November 9, 1950, to Walter G. Kampas, doing business as Kampas Brothers, Pittsburgh, Pa., authorizing the transportation of packinghouse products and printed advertising matter, from Pittsburgh, Pa., to points in that part of Pennsylvania bounded by a line beginning at the Ohio-Pennsylvania State line near New Bedford, Pa., and extending along U.S. Highway 422 to Indiana, Pa., thence along U.S. Highway 119 to Uniontown, Pa., thence along U.S. Highway 40 to the Pennsylvania-West Virginia State line, thence along the Pennsylvania-West Virginia and Pennsylvania-Ohio State lines to point of beginning, including all points on the indicated portions of the highways specified. Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219, attorney for applicants.

No. MC–FC–75188. By order entered July 16, 1974, the Motor Carrier Board approved the transfer to Donalyn, Inc., of the operating rights set forth in Permit No. MC–86014, issued June 10, 1970, to Lyle G. Langfitt, doing business as Langfitt Delivery Service, Clinton, Iowa, authorizing the transportation of such merchandise as is dealt in by chain, retail, and mail-order department stores, from Clinton, Iowa, to points in Illinois within 50 miles of Clinton, Iowa; and damaged, rejected, or returned shipments of the commodities specified hereinabove, from points in Illinois within 50 miles of Clinton, Iowa, to Clinton, Iowa. George W. Pillers, Jr., Executive Plaza Building, Clinton, Iowa 52732, attorney for applicants.

No. MC–FC–75255. By order of July 16, 1974, the Motor Carrier Board approved the transfer to Hudson Valley Express, Inc., Jersey City, N.J., of the operating rights in Certificate No. MC–74134 issued September 13, 1965, to Roxy Garment Del., Inc., Jersey City, N.J., authorizing the transportation of ladies' and children's wearing apparel and piece goods, between New York, N.Y., and Clinton, N.J., serving all intermediate points (except Bernardsville, N.J.), and the off-route points of Flemington, High Bridge, and Summit, N.J., and between New York, N.Y., and Long Branch, N.J., serving all intermediate points and the off-route points of Flemington, High Bridge, and Summit, N.J. George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306, registered practitioner for applicants.

No. MC–FC–75256. By order of July 10, 1974, the Motor Carrier Board approved the transfer to George J. Summers, Upton, Mass., of a portion of the operating

rights in Certificate No. MC-93620 issued August 1, 1956, to Sterling Transport Co., Inc., Northboro, Mass., authorizing the transportation of liquid petroleum products, except asphalt and bituminous road-building materials, in tank vehicles, from Tiverton, R.I., to Worcester, Mass., serving specified intermediate and off route points. Harold G. Danner, 17 Hillcrest Road, Canton, Mass. 02021, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-16800 Filed 7-22-74;8:45 am]

[Notice No. 100]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 15, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 33037 (Sub-No. 18 TA), filed July 3, 1974. Applicant: STUDER TRUCK LINE, INC., Beattie, Kans. 66406. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urea*, in bulk or in bags, from the plant site and storage facilities of Cooperative Farm Chemicals Association at or near Lawrence, Kans., to points in Colorado, Iowa, Nebraska, Missouri, Oklahoma, Texas, Illinois, Minnesota, North Dakota, South Dakota, and Wyoming, for 180 days. SUPPORTING SHIPPER: Farmland Industries, Inc., P.O. Box 7305, Kansas City, Mo. 64116. SEND PROTESTS TO: Thomas P. O'Hara, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 234 Federal Building, Topeka, Kans. 66603.

No. MC 35831 (Sub-No. 7 TA), filed July 2, 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 products*, from the plantsite and facilities of Hefner Precast Products, at or near Cleburne, Tex., to points in Louisiana and Oklahoma, for 180 days. SUPPORTING SHIPPER: Hefner Precast Products, 600 S. Hillsboro, Cleburne, Tex. 76645. SEND PROTESTS TO: H. C. Morrison, Sr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 9A27 Federal Bldg., 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 51146 (Sub-No. 382 TA), filed July 5, 1974. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. Du Jardin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, (1) from the facilities of the Larsen Company at Fond du Lac, Wis., to St. Louis, Mo.; Akron, Bellefontaine, Cleveland, Lima, Toledo, and Youngstown, Ohio; and Detroit, Grand Rapids, Lansing, and Plymouth, Mich.; (2) from the facilities of the Larsen Company at Cambria, Wis., to Lima, Toledo, and Cleveland, Ohio; and Detroit, Grand Rapids, Lansing, and Plymouth, Mich.; (3) from the facilities of the Larsen Company at Hortonville, Wis., to Toledo, Ohio, and Grand Rapids, Mich.; (4) from the facilities of the Larsen Company at Fort Atkinson, Wis., to Detroit, Grand Rapids, and Lansing, Mich.; and (5) from the facilities of the Larsen Company at Cedar Grove, Wis., to Toledo and Cleveland, Ohio; and Grand Rapids, Mich., for 180 days. SUPPORTING SHIPPER: The Larsen Company, 520 North Broadway, Green Bay, Wis. 54303. SEND PROTESTS TO: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 52460 (Sub-No. 154 TA), filed June 17, 1974. Applicant: ELLEX TRANSPORTATION, INC., 1420 West 35th Street, P.O. Box 9637, Tulsa, Okla. 74107. Applicant's representative: Steve B. McCommas (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite of and storage facilities utilized by American Beef Packers, Inc., at or near Cactus, Tex. (Moore County), to points in Alabama, Arkansas, Florida, Kansas, Georgia, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma, North Carolina, South Carolina, and Tennessee, restricted to traffic originating at and destined to the named points, for 180 days. SUPPORTING SHIPPER: American Beef Packers, Inc., Ralph L. McGee, Gen. T.M., 7000 West Center Road, Omaha, Nebr. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240 Old P.O. Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC-53965 (Sub-No. 97 TA), filed July 1, 1974. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, Salina, Kans. 67401. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plant site of and storage facilities utilized by American Beef Packers, Inc., at or near Cactus, Tex. (Moore County), to points in Arkansas, Colorado, Iowa, Kansas, Kentucky, Missouri (including St. Louis, Mo., and East St. Louis Ill., Commercial Zone), Nebraska, Oklahoma, and Tennessee, for 180 days. RESTRICTION: Restricted to traffic originating at and destined to the named points. SUPPORTING SHIPPER: American Beef Packers, Inc., 7000 West Center Road, Omaha, Nebr. 68124. SEND PROTESTS TO: Thomas P. O'Hara, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 234 Federal Building, Topeka, Kans. 66603.

No. MC 59117 (Sub-No. 42 TA), filed July 3, 1974. Applicant: ELLIOTT TRUCK LINE, INC., 101 East Excelsior, P.O. Box 1, Vinita, Okla. 74301. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urea*, in bags or bulk, from the plantsite and storage facilities of Cooperative Farm Chemicals Association at or near Lawrence, Kans., to points in Arkansas, Oklahoma, and Texas, for 180 days. SUPPORTING SHIPPER: Farmland Industries, Inc., Charles D. Rosas, Supervisor, Transportation Service, P.O. Box 7305, Kansas City, Mo. 64116. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 240, Old P.O. Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 65285 (Sub-No. 17 TA), filed July 3, 1974. Applicant: HILMER LINDBURG AND L. D. LINDBURG, doing business as LINDBURG TRUCK LINE, P.O. Box 156, Mackey, Idaho 83251. Applicant's representative: Dennis M. Olsen, 485 E Street, Idaho Falls, Idaho 83401. Authority sought to operate as a

common carrier, by motor vehicle, over irregular routes, transporting: *Ore, ore samples, and ore concentrates*, from points in Custer County, Idaho, to points in Jefferson County, Colo., for 180 days. SUPPORTING SHIPPER: Tuscarora Mining Corporation, P.O. Box 62, Clayton, Idaho 83227. SEND PROTESTS TO: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 550 West Fort, Box 07, Boise, Idaho 83724.

No. MC 107403 (Sub-No. 907 TA), filed July 5, 1974. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lead battery plates*, for recycling, in bulk, in dump vehicles, from Canton, Ohio, to Middletown, N.Y., for 90 days. SUPPORTING SHIPPER: Don L. Payne, Traffic Manager, Quemetco, Inc., RD 2, Ballard Road, Middletown, N.Y. 10940. SEND PROTESTS TO: District Supervisor Ross A. Davis, Interstate Commerce Commission, Bureau of Operations, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 107515 (Sub-No. 931 TA), filed June 27, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Bruce E. Mitchell, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30316. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (excluding commodities in bulk, in tank vehicles), from the plantsite and warehouse facilities of Swift and Company, Chattanooga, Tenn., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, and South Carolina, for 180 days. SUPPORTING SHIPPER: Swift Edible Oil Company, 4608 Kirkland Avenue, Chattanooga, Tenn. 37410. SEND PROTESTS TO: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 110525 (Sub-No. 1103 TA), filed June 26, 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: *Petroleum wax*, in bulk, in tank vehicles, from Houston, Tex., to Cincinnati, Ohio, for 180 days. SUPPORTING SHIPPER: Drake Petroleum Company, 6231 North Pulaski Road, Chicago, Ill. 60646. SEND PROTESTS TO: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Building, Room 3238, 600 Arch Street, Philadelphia, Pa. 19106.

No. MC 111729 (Sub-No. 452 TA), filed July 5, 1974. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Whole human blood and blood derivatives*, between Milwaukee, Wis., and Chicago, Ill., and (2) *processed and/or cured meat specimens* for the purpose of laboratory testing, and *supplies* related thereto, from Wagner, S. Dak., to Sioux City, Iowa, for 180 days. SUPPORTING SHIPPERS: (1) Interstate Blood Bank, Inc., 2126 West Fond du Lac Avenue, Milwaukee, Wis. 53205, and (2) Yankton Sioux Industries, 301 North Fifth Street, Minneapolis, Minn. 55043. SEND PROTESTS TO: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 115331 (Sub-No. 371 TA), filed July 5, 1974. Applicant: TRUCK TRANSPORT, INCORPORATED, 29 Clayton Hills Lane, St. Louis, Mo. 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Magnetic strips or stripping*, between Marietta, Ohio, and New Ulm, Minn., for 180 days. SUPPORTING SHIPPER: The B. F. Goodrich Company, 500 S. Main Street, Akron, Ohio 44318. SEND PROTESTS TO: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 115495 (Sub-No. 26 TA) (CORRECTION), filed June 25, 1974, published in the FEDERAL REGISTER in Notice No. 97, dated July 8, 1974, and republished as corrected this issue. Applicant: UNITED PARCEL SERVICE, INC., 300 N. Second Street, St. Charles, Ill. 60174. Applicant's representative: James A. Rogers, 643 West 43rd Street, New York, N.Y. 10036.

NOTE.—The purpose of this republication is to correct the MC number to No. MC 115495 (Sub-No. 26 TA), in lieu of No. MC 13426 (Sub-No. 26 TA), which was published in the FEDERAL REGISTER in error. The rest of the application will remain the same.

No. MC 115654 (Sub-No. 30 TA), filed July 3, 1974. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 1193, Nashville, Tenn. 37202. Applicant's representative: Walter Harwood, P.O. Box 15214, Nashville, Tenn. 37215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, imitation cream and imitation fruit drinks, ice cream, ice cream products, and water ices, ice mixes, water ice bars, sherbet, frozen desserts, and delicatessen products*, and returned shipments said commodities (except in bulk), in vehicles equipped with mechanical refrigeration, from the warehouse facilities of and/or used by The Kroger Company at Nashville, Tenn., to points in Georgia on and north of U.S. Highway 80, restricted to traffic shipped by The Kroger Company and consigned to retail and wholesale outlets of The Kroger Company, for 150 days. SUPPORTING SHIPPER: The Kroger Company, 1240 State Avenue, Cincinnati, Ohio 45204. SEND PROTESTS TO: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 803, 1808 West End Building, Nashville, Tenn. 37203.

No. MC 118202 Sub-No. 40 TA), filed July 3, 1974. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 503, Winona, Minn. 55987. Applicant's representative: Stanley C. Olsen, Jr., 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsite of Western Potato Service, Inc., at or near Grand Forks, N. Dak., to points in Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Arkansas, and Colorado, for 180 days. SUPPORTING SHIPPER: Western Potato Service, Inc., Highway 2 West, Grand Forks, N. Dak. 58201. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 119789 (Sub-No. 210 TA), filed July 2, 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: *Transformers*, restricted against the transportation of commodities which because of size or weight require the use of special equipment, from Nacogdoches, Tex., to points in Nebraska, Kansas, Iowa, Minnesota, Missouri, Oklahoma, Arkansas, Louisiana, Kentucky, Tennessee, North Carolina, South Carolina, Mississippi, Georgia, Alabama, and Florida, for 180 days. SUPPORTING SHIPPER: McGraw-Edison Co., P.O. Box 440, Canonsburg, Pa. 15317. SEND PROTESTS TO: District Supervisor Gerald T. Holland, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 123744 (Sub-No. 15 TA), filed July 5, 1974. Applicant: BUTLER TRUCKING COMPANY, a Corporation, P.O. Box 88, Woodland, Pa. 16881. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude clay*, in bulk, and in containers on trailers owned by steamship lines, from Dixonville, Indiana County, Pa., to

Baltimore, Md., for 180 days. SUPPORTING SHIPPER: Swank Refractories Company, 101 Swank Court, Johnstown, Pa. 15901. SEND PROTESTS TO: District Supervisor James C. Donaldson, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 123778 (Sub-No. 24 TA), filed July 2, 1974. Applicant: JALT CORP., doing business as UNITED NEWSPAPER DELIVERY SERVICE, 75 Cutters Lane, Woodbridge, N.J. 07095. Applicant's representative: Morton E. Kiel, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magazines and advertising matter* shipped with magazines, from Old Saybrook, Conn., to points in New Jersey, that part of New York on and south of New York Highway 5 between Syracuse and Schenectady and the New York-Vermont State line, and on and east of U.S. Highway 11 between Syracuse and the New York-Pennsylvania State line, that part of Pennsylvania on and east of U.S. Highway 15, Wilmington, Del., Baltimore, Md., and the District of Columbia, for 180 days. SUPPORTING SHIPPER: U.S. News & World Report, 350 Dennison Avenue, Dayton, Ohio 45401, Att: L. Max Burris, Traffic Manager. SEND PROTESTS TO: District Supervisor Robert S. H. Vance, Interstate Commerce Commission, Bureau of Operations, 9 Clinton St., Newark, N.J. 07102.

No. MC 129486 (Sub-No. 6 TA), filed July 5, 1974. Applicant: PAGE TRUCKING COMPANY, INC., P.O. Box 14, Hines, Minn. 55647. Applicant's representative: Charles E. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Spices*, ground, mixed, and blended, from Grand Forks, N. Dak., to points in Missouri, Illinois, Minnesota, Kentucky, Ohio, Indiana, Kansas, Tennessee, Georgia, Alabama, Florida, and Texas, for 180 days. SUPPORTING SHIPPER: Baltimore Spice Company, P.O. Box 1354, Grand Forks, N. Dak. 58201. SEND PROTESTS TO: Joseph H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC-133095 (Sub-No. 63 TA), filed July 2, 1974. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: Rocky Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol and alcoholic beverages* (except in bulk), from Detroit, Mich., to Harahan, La., for 180 days: SUPPORTING SHIPPER: Glazer's Wholesale Drug Company, Inc., P.O. Box 1768, Dallas, Tex. 75221. SEND PROTESTS TO: H. C. Morrison, Sr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 9A27, Federal Building, 819 Taylor St., Fort Worth, Tex. 76102.

No. MC-134408 (Sub-No. 3 TA), filed July 3, 1974. Applicant: SARCHFIELD TRANSFER, LTD., Box 84 Simonds Road, Hartland, New Brunswick, Canada. Applicant's representative: William D. Pinansky, 443 Congress Street, Portland, Maine 04112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fencing:* (1) from ports of entry on the United States/Canada boundary line at or near Houlton, Calais, Vanceboro and Madawaska, Maine, to points in North Carolina, South Carolina, Georgia, Florida, West Virginia, and Ohio, and (2) from port of entry on the United States/Canada boundary line at or near Madawaska, Maine, to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia, for 90 days. SUPPORTING SHIPPERS: H. S. Gill & Sons, Ltd., 69 City View Ave., Fredericton, New Brunswick, Canada and Berion, Inc., Notre-Dame du Lac, Temiscouata, Quebec, Canada. SEND PROTESTS TO: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Portland, Maine 04112.

No. MC 135032 (Sub-No. 9 TA), filed July 3, 1974. Applicant: HIAWATHA PRODUCE COMPANY, a Corporation, 3850 Fourth Street, Winona, Minn. 55987. Applicant's representative: F. H. Kroeger, 1745 University Avenue, St. Paul, Minn. 55104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from the plantsites and warehouse facilities utilized by Associated Milk Producers, Inc., at Blair, Portage, Fremont, and Madison, Wis., to points in Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, for 180 days. SUPPORTING SHIPPER: Associated Milk Producers, Inc., P.O. Box 61, Mason City, Iowa. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 136230 (Sub-No. 3 TA), filed July 2, 1974. Applicant: INTERSTATE WAREHOUSING CORPORATION, doing business as INTERMODAL CONTAINER EXPRESS, 9805 North Main Street, Jacksonville, Fla. 32218. Applicant's representative: John O. Moseley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen citrus concentrate*, in 55-pound drums, in refrigerated marine containers, from Orlando, Fla., to Charleston, S.C., thence subsequent movement by water, for 180 days. SUPPORTING SHIPPER: Southern Gold International, Inc., Suite 1414, CNA Tower, 255 South Orange Avenue, Orlando, Fla. 32801. SEND PROTESTS TO: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 W. Bay Street, Jacksonville, Fla. 32202.

No. MC 138512 (Sub-No. 6 TA), filed July 2, 1974. Applicant: ROLAND's TRANSPORTATION SERVICES, INCORPORATED, doing business as WISCONSIN PROVISIONS EXPRESS, 3383 East Layton Avenue, Cudahy, Wis. 53110. Applicant's representative: Roland J. Kissinger (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products*, and *materials, equipment, and supplies* used in the manufacture or display of cheese and cheese products (except commodities in bulk): (a) from Green Bay and Menasha, Wis., to points in Missouri and Illinois (except points in the Chicago, Ill., Commercial Zone, as defined by the Commission), restricted to traffic moving at the same time, in the same vehicle to points in both Illinois and Missouri; (b) from Green Bay, Wis., to points in Illinois (except points in the Chicago, Ill., Commercial Zone, as defined by the Commission) and points in Indiana on and south of U.S. Highway 40, and points in Kentucky and Tennessee, restricted to traffic moving at the same time, in the same vehicle to both a point or points in Illinois and a point or points in either Indiana, Kentucky, or Tennessee; and (c) between points in Utah, on the one hand, and, on the other, Chicago and Chicago Heights, Ill., all restricted to traffic originating at or destined to a plantsite of or storage facility utilized by the L. D. Schreiber Cheese Co., Inc., for 180 days. SUPPORTING SHIPPER: L. D. Schreiber Cheese Co., Inc., 246 North Main Street, Green Bay, Wis. 54305 (Robert Buchberger, Traffic Manager). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 138970 (Sub-No. 2 TA), filed July 2, 1974. Applicant: HAYWARD TRANSPORTATION, INC., Main Street, Fairlee, Vt. 05045. Applicant's representative: Frederick T. O'Sullivan, 622 Lowell Street, Peabody, Mass. 01960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and gravel*, between points in Grafton County, N.H., on the one hand, and, on the other, points in Windham, Windsor, and Orange Counties, Vt., for 180 days. SUPPORTING SHIPPER: J. Hill, doing business as Hill's Ready-Mix Concrete, P.O. Box 1, Thetford, Vt. 05043 and Pike Industries, Inc., P.O. Box 678, Laconia, N.H. 03246. SEND PROTESTS TO: District Supervisor Paul D. Collins, Interstate Commerce

Commission, Bureau of Operations, P.O. Box 548, 87 State Street, Montpelier, Vt. 05602.

No. MC 139089 (Sub-No. 2 TA), filed July 3, 1974. Applicant: FREEPORT TRANSPORT, INCORPORATED, P.O. Box 1275, Freeport Center, Clearfield, Utah 84016. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated aluminum articles* used in the construction of electrical transmission towers, from Ogden, Utah, to points in North Dakota, Minnesota, and Louisiana, for 180 days. SUPPORTING SHIPPER: R. W. Taylor Steel Co., 226 West 20th Street, P.O. Box 1271, Ogden, Utah 84402. SEND PROTEST TO: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 139732 (Sub-No. 2 TA), filed July 3, 1974. Applicant: DELMAR R. SHANER, 1273 Magnolia Road NW., Magnolia, Ohio 44643. Applicant's representative: Richard H. Brandon, 79 E. State Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural limestone*, in bulk, in dump vehicles, from the facilities of Basic, Incorporated, at Maple Grove, Ohio, to points in Marshall and Ohio Counties, W. Va., and Washington and Westmoreland Counties, Pa., for 180 days. SUPPORTING SHIPPER: Basic, Incorporated, 845 Hanna Building, Cleveland, Ohio 44115. SEND PROTESTS TO: Joseph A. Niggemyer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 416 Old Post Office Building, Wheeling, W. Va. 26003.

No. MC 139908 (Sub-No. 1 TA), filed July 5, 1974. Applicant: CLETUS D. CRIMMINS, doing business as CRIMMINS TRANSFER COMPANY, P.O. Box 519B, RR #3, 5020 8th Avenue, E. Moline, Ill. 61244. Applicant's representatives: Thomas D. Donis, 107 Middle Road, Muscatine, Iowa 52761. and F. G. Milder, 412 E. Seventh St., Muscatine, Iowa 52761. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household goods and unaccompanied baggage*, restricted to the transportation of shipments having a prior or subsequent movement in containers beyond the points authorized, between (1) points in Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Fayette, Floyd, Franklin, Grundy, Hardin, Howard, Mitchell, Winneshiek, and Worth Counties, Iowa; (2) between points in Allamakee, Clayton, Delaware, Dubuque, Jackson, and Jones Counties, Iowa, and Stephenson, Carroll, Witeside, and Jo Daviess Counties, Ill.; (3) between points in Appanoose, Benton, Davis, Iowa, Jasper, Jefferson, Johnson, Keokuk, Linn, Lucas, Mahaska, Marion, Marshall, Monroe, Poweshiek, Tama, Van Buren, Wapello, Washington, and Wayne Counties, Iowa; and (4) between points in Cedar, Clinton, Des Moines, Henry, Lee, Louisa, Muscatine, and Scott Counties, Iowa, and points in Henry, Rock Island, Mercer, Knox, Warren, and Henderson Counties, Ill., for 180 days. SUPPORTING SHIPPER: Curtis L. Wagner, Jr., Department of Defense, Regulatory Law Office, Office of The Judge Advocate General, Department of the Army, Washington, D.C. 20310. SEND PROTESTS TO: District Supervisor Richard K. Shullaw, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 139931 (Sub-No. 1 TA), filed July 3, 1974. Applicant: MARVIN STROBEL, doing business as RICHMOND TRUCK LINE, P.O. Box 162, Richmond, Kans. 66080. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urea*, in bulk or in bags, from the plant site and storage facilities of Cooperative Farm Chemicals Association at or near Lawrence, Kans., to points in Colorado, Iowa, Nebraska, Missouri, South Dakota, Oklahoma, Texas, and Arkansas, for 180 days. SUPPORTING SHIPPER: Farmland Industries, Inc., P.O. Box 7305, Kansas City, Mo. 64116. SEND PROTESTS TO: Thomas P. O'Hara, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 234 Federal Building, Topeka, Kans. 66603.

No. MC 139947 TA, filed July 2, 1974. Applicant: BUFFALO TRUCKING, INC., 411 E. Frye Road (P.O. Box 640), Chandler, Ariz. 85224. Applicant's representative: Gene Tackett (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, roofing products, and commodities* used in the construction or application of roofing or roofs, from Barstow, Camarillo, Corona, Long Beach, Los Angeles, Oakland, Riverside, San Francisco, San Leandro, Santa Clara, South Gate, and Wilmington, Calif., to points in Arizona, for 180 days. SUPPORTING SHIPPERS: (1) Southwest Roofing Supply, 3151 W. Osborn, Phoenix, Ariz. 85017, and (2) A & H Supply Co. Inc., 1702 East Jackson Street, Phoenix, Ariz. 85034. SEND PROTESTS TO: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, 3427 Federal Building, 230 N. First Avenue, Phoenix, Ariz. 85025.

No. MC139948 TA, filed July 2, 1974. Applicant: ATCO INDUSTRIES, LTD., 1243 McKnight Blvd. NE., Calgary, Alberta, Canada. Applicant's representative: Joe Gerbase, 100 Transwestern Bldg., Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Modular buildings, collapsible buildings, and accessories*, from the United States-Canada boundary line between Alaska and the Yukon, to points in Alaska, for 180 days. SUPPORTING SHIPPER: Atco Structures Ltd., 5115 Crowchild Trail SW., Calgary, Alberta, Canada. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 222, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 139949 TA, filed July 5, 1974. Applicant: MARVIN JESCHKE, 606 Ridgeway Drive, Box 186, Denison, Iowa 51442. Applicant's representative: Robert Pollock, Vail, Iowa 51465. Authority sought to operate as a *contract carrier*, by motor vehicles, over irregular routes, transporting: *Crushed automobile bodies, junk motors, and other scrap metals, ferrous and non-ferrous scrap metals*, from points in Iowa and points in Nebraska on and east of U.S. Highway 81, east of Illinois, to Chicago, north in Minnesota to St. Paul and Minneapolis, south in Kansas and Missouri to Kansas City, and southeast to St. Louis, for 180 days. SUPPORTING SHIPPER: Pollock Equipment Co., Robert Pollock, Partner, Vail, Iowa 51465. SEND PROTESTS TO: District Supervisor Carroll Russell, Interstate Commerce Commission, Bureau of Operations, Suite 620 Union Pacific Plaza, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 139950 TA, filed July 2, 1974. Applicant: HUGH D. BROWN TRUCKING, 137 South Stine Road, Bakersfield, Calif. 93309. Applicant's representative: Hugh D. Brown (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Waste paper*, baled or banded, on pallets or in Sea Vans, transported on its own wheels, from Bakersfield and San Diego, Calif., to points in the Los Angeles Harbor Commercial Zone, Calif., for 180 days. SUPPORTING SHIPPER: Pioneer Paper Stock Division, Container Corporation of America, 705 W. 182nd St. (P.O. Box 269), Gardena, Calif. 90247. SEND PROTESTS TO: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-16794 Filed 7-22-74;8:45 am]

[Notice No. 101]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 16, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of

April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 730 (Sub-No. 368 TA), filed July 8, 1974. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Corporation, 1417 Clay Street, Oakland, Calif. 94612. Applicant's representative: Alfred G. Krebs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission), serving Des Moines, Iowa, and points within the Des Moines Commercial Zone as off-route points in connection with carrier's authorized regular route operations, for 180 days.

NOTE.—Applicant states that it has been serving the Des Moines Commercial Zone since January, 1973, under an interpretation of the Commission's Superhighways Rules, Title 49 CFR 1042. Applicant intends to tack with other authority held by it under MC 730 and Subs.

SUPPORTING SHIPPERS: There are approximately 17 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 5227 (Sub-No. 14 TA), filed July 8, 1974. Applicant: ECONOMY MOVERS, INC., Box 201, Mead, Nebr. 68041. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel bars*, from the plantsite and warehouse facilities of Jones & Laughlin Steel Corporation at or near Hammond, Ind., to Clearfield, Utah, for 180 days. SUPPORTING SHIPPER: Jerry D. Stafford, Traffic Manager, Jones & Laughlin Steel Corporation, 141 West 141st Street, Hammond, Ind. SEND PROTESTS TO: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building & Court House, Lincoln, Nebr. 68508.

No. MC 5470 (Sub-No. 96 TA), filed July 8, 1974. Applicant: TAJON, INC., R.D. 5, Mercer, Pa. 16137. Applicant's representative: Don Cross, 918 16th Street NW., 700 World Center Bldg., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum pitch*, in dump vehicles, from Perth Amboy, N.J., to Massena, N.Y., for 180 days. SUPPORTING SHIPPER: Witco Chemical Corporation, 277 Park Avenue, New York, N.Y. 10017. SEND PROTESTS TO: John J. England, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Bldg., 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 57798 (Sub-No. 3 TA), filed July 2, 1974. Applicant: FURNESS EQUIPMENT CORP., 42 Central Avenue, Fredonia, N.Y. 14063. Applicant's representative: Harold L. Furness (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee, Wis., to points in Allegany, Cattaraugus, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Onondaga, Stueben, Wayne, and Wyoming Counties, N.Y., for 180 days. SUPPORTING SHIPPER: Miller Brewing Company, 4000 West State Street, Milwaukee, Wis. 53208. SEND PROTESTS TO: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 612 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 59640 (Sub-No. 41 TA), filed July 3, 1974. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Cranford, N.J. 07106. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk), between the storage facilities of Supermarkets General Corporation at Philadelphia, Pa., on the one hand, and, on the other, New York, N.Y., and points in Nassau, Suffolk, Westchester, and Rockland Counties, N.Y.; points in Fairfield, New Haven, and Hartford Counties, Conn.; points in New Castle and Kent Counties, Del.; points in Hampden County, Mass.; and points in New Jersey (except those in Warren, Salem, Hunterdon, and Cape May Counties), restricted to a transportation service to be performed under a continuing contract, or contracts with Supermarkets General Corporation, for 180 days.

NOTE.—The authority sought herein is only to permit applicant to serve the storage facilities of Supermarkets General Corporation at Philadelphia in the area and to the stores it is now authorized to serve from shipper's Woodbridge, N.J., storage facilities.

SUPPORTING SHIPPER: Supermarkets General Corporation, 301 Blair Road, Woodbridge, N.J. 07095, Att: Arthur J. Keefe. SEND PROTESTS TO: District Supervisor Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 76449 (Sub-No. 24 TA), filed July 2, 1974. Applicant: NELSON'S EXPRESS, INC., 675 North Market Street, Millersburg, Pa. 17061. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 N. Third Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass and glass products*, in truckload shipments having prior or subsequent transportation via railroad trailer or flat car service, between the plantsite of PPG Industries, Inc., located in South Middleton Township, Cumberland County, Pa., on the one hand, and, on the other, railroad sidings at Harrisburg, Pa., for 180 days. SUPPORTING SHIPPER: PPG Industries, Inc., One Gateway Center, Pittsburgh, Pa. 15222. SEND PROTESTS TO: Robert P. Amerine, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 278 Federal Bldg., P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 95084 (Sub-No. 105 TA), filed July 3, 1974. Applicant: HOVE TRUCK LINE, Stanhope, Iowa 50246. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from East Alton, Ill., to Perry, Iowa, restricted to traffic destined to Wiese Corporation at Perry, Iowa, for 180 days. SUPPORTING SHIPPER: Wiese Corporation, P.O. Box 39, Perry, Iowa 50020. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 961 TA), filed July 3, 1974. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphate*, in bulk, in tank vehicles, from Lawrence, Kans., to Morrisville, Pa., for 150 days. SUPPORTING SHIPPER: FMC Corporation, 633 Third Avenue, New York, N.Y. 10017. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 112627 (Sub-No. 21 TA) (CORRECTION), filed June 13, 1974, published in the FEDERAL REGISTER issue of July 9, 1974, and republished as corrected

this issue. Applicant: OWENS BROS., INC., Box 247, Dansville, N.Y. 14437. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580.

NOTE.—The purpose of this republication is to show the applicant correct sub number as No. MC 112627 (Sub-No. 21 TA), in lieu of No. MC 112627 (Sub-No. 20 TA), which was published in the FEDERAL REGISTER in error. The rest of the application will remain the same.

No. MC 114533 (Sub-No. 301 TA), filed July 5, 1974. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, Ill. 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Business of office machine parts, supplies, devices, and units,* between St. Louis, Mo., on the one hand, and, on the other, Champaign, Decatur, Quincy, and Springfield, Ill., restricted against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor to one consignee on any one day, for 180 days. SUPPORTING SHIPPER: International Business Machines Corporation, P.O. Box 10, Princeton, N.J. 08540. SEND PROTESTS TO: District Supervisor Robert G. Anderson, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn, Chicago, Ill. 60606.

No. MC 115904 (Sub-No. 36 TA), filed July 3, 1974. Applicant: LOUIS GROVER, 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed auto bodies, scrap auto engines, and transmissions,* from points in Wyoming, Colorado, and Montana, to Spokane and Seattle, Wash.; Portland and Eugene, Oreg.; Las Vegas, Nev.; Phoenix and Tempe, Ariz.; Salt Lake City and Provo, Utah; Los Angeles, Long Beach, Etiwanda, Oakland, and National City, Calif., for 180 days. SUPPORTING SHIPPER: Auto Recyclers Corp., 2216 S. Xenia Circle, Englewood, Colo. 80110. SEND PROTESTS TO: District Supervisor C. W. Campbell, Interstate Commerce Commission, Bureau of Operations, 550 West Fort Street, Box 07, Boise, Idaho 83724.

No. MC 117940 (Sub-No. 137 TA), filed July 3, 1974. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning and washing compounds,* liquid or dry; *buffing or polishing compounds; textile softeners; grease or oil, lubricating; deodorants or disinfectants* (except commodities in bulk), from Joliet, Ill., to Minneapolis-St. Paul, Minn., Commercial Zone, for 180 days. SUPPORTING SHIPPER: Economics Laboratory Inc., Osborn Bldg., St. Paul, Minn. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 123640 (Sub-No. 13 TA), filed July 3, 1974. Applicant: SUMMIT CITY ENTERPRISES, INC., 3200 Maumee Avenue, Fort Wayne, Ind. 46803. Applicant's representative: Irving Klein, 280 Broadway, New York, N.Y. 10007. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities,* sold, dealt in, or used by chain or department stores, under continuing contract with W. T. Grant Company only, between Fort Wayne, Ind., on the one hand, and, on the other, points in Tennessee, for 150 days. SUPPORTING SHIPPER: W. T. Grant Company, 6930 Gettysburg Pike, Ft. Wayne, Ind. 46818. SEND PROTESTS TO: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 W. Wayne Street, Room 204, Ft. Wayne, Ind. 46802.

No. MC 127115 (Sub-No. 9 TA) (CORRECTION), filed May 24, 1974, published in the FEDERAL REGISTER issue of June 17, 1974, and republished as corrected this issue. Applicant: MILLERS TRANSPORT, INC., 510 West 4th North Street, Hyrum, Utah 84319. Applicant's representative: Harry D. Pugsley, Suite 400, 315 East 2nd South, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foam and cellular expanded plastics, rubber, and related accessories,* from Compton, City of Commerce, and Hayward, Calif., and Portland, Oreg., to points in Utah and Idaho south of Idaho County, and to Reno and Elko, Nev., for 180 days.

NOTE.—The purpose of this republication is to correct the origin point to Hayward, Calif., in lieu of Oakland, which was published in the FEDERAL REGISTER in error. The rest of the application will remain the same.

No. MC 127705 (Sub-No. 43 TA), filed July 8, 1974. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, Ind. 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: *Glass containers and closures therefor,* from Keyser, W. Va., to Atlantic City, Jersey City, New Brunswick, Paterson, Newark, and Pensauken, N.J.; Brooklyn, Elmsford, Jericho, Manhattan, New Windsor, New York City, Newburgh, Rochester, and Syracuse, N.Y.; Johnstown, McKees Rock, Palmerton, Pittsburgh, Philadelphia, and Pittston, Pa., for 180 days. SUPPORTING SHIPPER: Chattanooga Glass Co., Bobby G. Wood, Traffic Consultant, 400 W. 45th, Chattanooga, Tenn. 37410. SEND PROTESTS TO: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 W. Wayne Street, Room 204, Fort Wayne, Ind. 46802.

No. MC 128007 (Sub-No. 65 TA), filed July 1, 1974. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, Kans. 66762. Applicant's representative: Clyde N. Christey, 641 Harrison, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urea,* in bulk or in bags, from the plantsite and storage facilties of Cooperative Farm Chemicals Association at or near Lawrence, Kans., to points in Colorado, Iowa, Nebraska, Missouri, Texas, Oklahoma, Illinois, Minnesota, North Dakota, South Dakota, Wyoming, and Arkansas, for 180 days. SUPPORTING SHIPPER: Farmland Industries, Inc., P.O. Box 7305, Kansas City, Mo. 64116. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 128652 (Sub-No. 10 TA), filed July 3, 1974. Applicant: LARSON TRANSFER & STORAGE CO., INC., 9500 Bloomington Freeway, Minneapolis, Minn. 55431. Applicant's representative: F. H. Kroeger, 1745 University Avenue, St. Paul, Minn. 55104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts, materials, and supplies* used in the manufacture of lawn or garden maintenance equipment, including snowblowers and attachments for the abovenamed commodities, between Minneapolis-St. Paul, Minn., on the one hand, and, on the other, Windom, Minn., on shipments having a prior or subsequent movement by air-freight, for 180 days. RESTRICTION: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts with Toro Manufacturing Corporation at Bloomington, Minn. SUPPORTING SHIPPER: Toro Manufacturing Corporation, 8111 Lyndale Avenue South, Bloomington, Minn. 55420. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 136376 (Sub-No. 6 TA), filed July 1, 1974. Applicant: MONT R. LYNCH, doing business as LYNCH TRUCKING, P.O. Box 712, Billings, Mont. 59103. Applicant's representative: J. F. Meglen, P.O. Box 1581, Billings, Mont. 59103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carpeting and floor covering and installation materials and accessories,* from points in Georgia, to points in Montana; and (2) *Adhesives* used in conjunction with the installation of carpeting and linoleum (except in bulk) from Chicago, Ill., and the commercial zone thereof, to

points in Montana, for 180 days. SUPPORTING SHIPPERS: Pierce Flooring, 3007 Montana Ave., Billings, Mont. 59101; Sumner's House of Carpet, 216 W. Lewis, Livingston, Mont. 59047; and Heidema's Modern Flooring, 713 Main Street, Billings, Mont. 59101. SEND PROTESTS TO: Paul J. Labane, District Superivsor, Interstate Commerce Commission, Bureau of Operations, Rm. 222 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 138164 (Sub-No. 2 TA), filed July 5, 1974. Applicant: CAN-AM MARINE TRANSIT LTD., a Corporation, P.O. Box 790, Hudson Heights, Quebec, Canada JOP 1HO. Applicant's representative: J. P. Vermette, 250 Napoleon Provost Street, Repentigny, Quebec, Canada J6A 1H5. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sailboats*, from the Ports of Entry on the International Boundary line between the United States and Canada located at or near Champlain, N.Y., and Highgate Springs, Vt., to Charleston, S.C.; Savannah, Ga.; Atlanta, Ga.; Fort Lauderdale, Fort Myers, Miami, Orlando, and St. Petersburg, Fla., restricted to traffic having an immediate prior movement in foreign commerce originating in the Province of Quebec, Canada, for 180 days. SUPPORTING SHIPPER: Tanzer Industries Ltd., P.O. 105, Dorion (Montreal), Quebec, Canada. SEND PROTESTS TO: District Supervisor Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, P.O. Box 548, Montpelier, Vt. 05602.

No. MC 138164 (Sub-No. 3 TA), filed July 5, 1974. Applicant: CAN-AM MARINE TRANSIT LTD., a Corporation, P.O. Box 790, Hudson Heights, Quebec, Canada JOP 1HO. Applicant's representative: J. P. Vermette, 250 Napoleon Provost Street, Repentigny, Quebec, Canada J6A 1H5. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sailboats*, from the Ports of Entry on the International Boundary line between the United States and Canada in New York, Vermont, and Maine, to points in Alabama, Florida, Georgia, Mississippi, South Carolina, Tennessee, and West Virginia, restricted to traffic having an immediate prior movement in foreign commerce originating in the province of Quebec, Canada, for 180 days. SUPPORTING SHIPPER: Tanzer Industries Ltd., P.O. Box 105, Dorion (Montreal), Quebec, Canada. SEND PROTESTS TO: District Supervisor Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, P.O. Box 548, Montpelier, Vt. 05602.

No. MC 138750 (Sub-No. 4 TA), filed July 1, 1974. Applicant: W. F. BARTHELME, doing business as W. F. BARTHELME DIST. CO., 1602 North Broadway, Pittsburg, Kans. 66762. Applicant's representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, Kans. 67202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Green hides*, in containers, from Dodge City and Garden City, Kans., to Amarillo, Tex. for 180 days. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 139899 (Sub-No. 1 TA), filed July 2, 1974. Applicant: AELROD L. SCHAEFER, doing business as AL'S MOBILE FEED SERVICE, 285 Milwaukee Street, Platteville, Wis. 53818. Applicant's representative: John L. Bruemmer, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, bag and bulk, in special auger-equipped vehicles, originating from Allied Mills plant site Iowa City, Iowa, to points in Richland, Crawford, Grant, Dane, Rock, Sauk, and Iowa Counties, Wis., restricted to shipments originating at said plant site, for 180 days. SUPPORTING SHIPPER: Allied Mills, Inc., 110 North Wacker Drive, Chicago, Ill. 60606. SEND PROTESTS TO: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 139193 (Sub-No. 13 TA), filed July 1, 1974. Applicant: ROBERTS & OAKE, INC., 208 S. LaSalle Street, Chicago, Ill. 60604. Applicant's representative: Jacob P. Billig, 1126 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, and meat by-products*, as defined by the Commission 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 liquid commodities in bulk), from Sioux City, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, Virginia, and the District of Columbia; and (2) *Such commodities* as are used by meat packers in the conduct of their business, from points in the destination states described in (1) above, to Sioux City, Iowa, restricted to traffic transported under contracts with John Morrell & Co., for 180 days. SUPPORTING SHIPPER: Robert L. Lee, Manager, Rates & Services,, John Morrell & Co., 208 S. LaSalle Street, Chicago, Ill. 60604. SEND PROTESTS TO: W. J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

MOTOR CARRIERS OF PASSENGERS

No. MC-139933 (Sub-No. 1 TA), filed July 4, 1974. Applicant: TOP LIMOUSINE, INC., Philadelphia International Airport, Philadelphia, Pa. 19153. Applicant's representative: Francis P. Desmond, 115 East 5th Street, Chester, Pa. 19013. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, limited to not more than eleven (11) passengers in any one vehicle, not including the driver, (1) between the Philadelphia International Airport at Philadelphia, Pa., on the one hand, and, on the other, Atlantic City, N.J., serving no intermediate points, and (2) from the Philadelphia International Airport over city streets and the Walt Whitman Bridge, thence over bridge access roads to the Atlantic City Expressway to Atlantic City, N.J., and return over the same route, for 180 days. SUPPORTING SHIPPERS: (A) Four Seasons Motel, 2200 Pacific Ave., Atlantic City, N.J. 08401; (B) Pageant Motor Inn., Mississippi & Pacific Ave., Atlantic City, N.J. 08401; (C) Sivad Bio Research Co., 730 Shelburne Ave., Absecon, N.J. 08201; (D) Howard Johnson Motor Lodge, Pacific & Tennessee Ave., Atlantic City, N.J. 08401; and (E) Holiday Inn of Atlantic City, Broadwalk at Missouri Ave., Atlantic City, N.J. 08401. SEND PROTESTS TO: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Building, Room 3238, 600 Arch Street, Philadelphia, Pa. 19106.

By The Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-16803 Filed 7-22-74;8:45 am]

[Notice No. 102]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 16, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 C.F.R. 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the

Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 730 (Sub-No. 369 TA), filed July 9, 1974. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Corporation, 1417 Clay Street, Oakland, Calif. 94612. Applicant's representative: R. N. Cooledge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lignin liquor and denatured alcohol*, in bulk, in tank vehicles, from Bellingham, Wash., to points in the United States (except Alaska, California, Hawaii, Oregon, and Washington), for 180 days. SUPPORTING SHIPPER: Georgia-Pacific Corporation, Bellingham Division, P.O. Box 1236, Bellingham, Wash. 98225. SEND PROTESTS TO: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 730 (Sub-No. 370 TA), filed July 9, 1974. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Corporation, 1417 Clay Street, Oakland, Calif. 94612. Applicant's representative: R. N. Cooledge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cooking oil*, in bulk, in tank vehicles, from Portland, Oreg., to Albuquerque, N. Mex., for 180 days. SUPPORTING SHIPPER: Palmco, Inc., 12005 N. Burgard, Portland, Oreg. 97203. SEND PROTESTS TO: District Supervisor A. J. Rodriguez, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 26739 (Sub-No. 79 TA), filed July 8, 1974. Applicant: CROUCH FREIGHT SYSTEMS, INC., Highway 36 West, P.O. Box 1059, St. Joseph, Mo. 64502. Applicant's representative: Roland Rice, 1111 E Street NW., Suite 618, Washington, D.C. 20004, or Martin Rosen, 140 Montgomery Street, San Francisco, Calif. 94104. 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 commodities requiring special equipment), between Topeka, Kans., and Lawton, Okla., serving all intermediate points between Wichita, Kans., and Lawton, Okla., including Wichita, Kans., and the off-route points of Coldwater, Kans.; Burns Flat, Hinton, and Lindsay, Okla.; and the plantsites of Kingfisher County Feedyards and Bermuda King, Inc., which are located approximately five (5) miles east of Okarchee, Okla.: From Topeka, Kans., over Interstate Highway 35 to its junction with U.S. Highway 160; thence over U.S. Highway 160 to its junction with U.S. Highway 281; thence over U.S. Highway 281 to its junction with U.S. Highway 64; thence over U.S. Highway 64 to its junction with Oklahoma Highway 8; thence over Oklahoma Highway 8 to its junction with U.S. Highway 60; thence over U.S. Highway 60 to its junction with Oklahoma Highway 58 near Fairview; thence over Oklahoma Highway 58 to its junction with Oklahoma Highway 51; thence over Oklahoma Highway 51 to its junction with U.S. Highway 81; thence over U.S. Highway 81 to its junction with U.S. Highway 62; thence over U.S. Highways 62 and 281 to Lawton, Okla., and return over the same route, for 180 days.

NOTE.—Applicant requests authority to serve the commercial zones of all points and applicant also requests authority to tack and/or interline at Topeka, Coldwater, and Wichita, Kans., and Fairview and Lawton, Okla.

SUPPORTING SHIPPERS: There are approximately 63 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Thomas P. O'Hara, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 234 Federal Building, Topeka, Kans. 66603.

No. MC 43475 (Sub-No. 61 TA), filed July 9, 1974. Applicant: GLENDENNING MOTORWAYS, INC., 1665 West County Road C, St. Paul, Minn. 55113. Applicant's representative: James L. Nelson, 325 Cedar Street, St. Paul, Minn. 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (carrots, sausage, corn, peas, squash, etc.), from the storage facilities of Western Potato Service, Inc., at or near Grand Forks, N. Dak., to points in Minnesota, Wisconsin, and Illinois, restricted to traffic originating at said facilities, for 180 days. SUPPORTING SHIPPER: Western Potato Service, Inc., Highway 2 West, Grand Forks, N. Dak. 58201. SEND PROTESTS TO: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 51518 (Sub-No. 7 TA), filed July 8, 1974. Applicant: EDWARD VESELY AND FRANCES VESELY, doing business as VESELY BROTHERS, "THE MOVERS", P.O. Box 455, Fayette City, Pa. 15438. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise, equipment, and supplies* sold, used, distributed, or dealt in by a manufacturer of cosmetics (except in bulk), from Butler, Pa., to points in Armstrong, Beaver, Butler, Centre, Clarion, Elk, Clearfield, Crawford, Erie, Forest, Indiana, Jefferson, McKean, Lawrence, Mercer, Venango, and Warren Counties, Pa., for 180 days. SUPPORTING SHIPPER: Amway Corporation, 7575 East Fulton Road, Ada, Mich. 49301. SEND PROTESTS TO: Joseph A. Niggemyer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 416 Old Post Office Bldg., Wheeling, W. Va. 26003.

No. MC 107403 (Sub-No. 908 TA), filed July 8, 1974. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic lube oil*, in bulk, in water-carrier supplied containers, from Louisiana, Mo., to New Orleans, La., for 180 days. SUPPORTING SHIPPER: Mr. D. G. Watts, Pricing Manager, Division, Sea-Land Service, Inc. P.O. Box 26044 or 2700 France Road, New Orleans, La. 70186. SEND PROTESTS TO: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 111981 (Sub-No. 20 TA), filed July 10, 1974. Applicant: ROBIDEAU'S EXPRESS, INC., 2701 S. Front Street, Philadelphia, Pa. 19148. Applicant's representative: Vincent D'Anella, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and food products*, in vehicles equipped with mechanical refrigeration, between the facilities of Clearfield Cheese Co., Inc., in Curwensville, Clearfield County, Pa., on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, New York, Virginia, and the District of Columbia, for 180 days. SUPPORTING SHIPPER: Clearfield Cheese Co., Inc., P.O. Box 120, Curwensville, Pa. 16833. SEND PROTESTS TO: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3238, 600 Arch Street, Philadelphia, Pa. 19106.

No. MC 118959 (Sub-No. 115 TA), filed July 9, 1974. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, Mo. 63701. Applicant's representative: William P. Jackson, Jr., 919 18th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard boxes*, knocked down, other than corrugated, from the facilities of Georgia-Pacific Corporation at or near Aurora, Ill., to points in Missouri, Tennessee, Kansas, Arkansas, Kentucky, Indiana, Pennsylvania, Michigan, Ohio, Wisconsin, Minnesota, and Iowa, for 180 days. SUPPORTING SHIPPER: Georgia-Pacific Corporation, 3815 N. Carnation, Franklin Park, Ill. 60301. SEND PROTESTS TO: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 126851 (Sub-No. 4 TA), filed July 5, 1974. Applicant: C. H. HOOKER TRUCKING CO., 1475 Roanoke Avenue,

Uhrichsville, Ohio 44683. 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: *Such articles* as are used in the repair, construction, or assembly of railroad cars, between Dennison, Ohio, and Imperial, Pa., on the one hand, and, on the other, points in the United States (except Hawaii), for 180 days. SUPPORTING SHIPPERS: Briggs & Turivas, Inc., Box 27, Imperial, Pa. 15126, and Depeca Corporation, Dennison, Ohio 44621. SEND PROTESTS TO: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 220 Federal Building & U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 127306 (Sub-No. 5 TA), filed July 5, 1974. Applicant: M. W. McCURDY & CO., INC., 401 Nora's Lane, Houston, Tex. 77009. Applicant's representative: M. W. McCurdy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* exempt from economic regulation under Sections 203 (b) (6) of the Act, when transported in mixed loads with bananas, from Mobile, Ala., to points in Alabama, Arizona, Arkansas, California, Colorado, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, Ohio, Oklahoma, Tennessee, and Texas, restricted to the transportation of traffic having an immediate prior movement by water, for 180 days. SUPPORTING SHIPPER: Del Monte Banana Company, 1201 Brickell Avenue, Miami, Fla. 33101. SEND PROTESTS TO: District Supervisor John F. Mensing, Interstate Commerce Commission, Bureau of Operations, 515 Rusk Avenue, Room 8610 Federal Building, Houston, Tex. 77002.

No. MC 135248 (Sub-No. 12 TA), filed July 8, 1974. Applicant: WILLIAM H. DEES, doing business as DEES TRANSPORTATION, P.O. Box 446, Worland, Wyo. 82401. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, Wyo. 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-alcoholic beverages*, from Salt Lake City, Utah, to Cody, Casper, and Rock Springs, Wyo., for 180 days. SUPPORTING SHIPPERS: Rock Springs Coca Cola Company, 320 Hickory St., Rock Springs, Wyo. 82901, and Wyo. Coca Cola Bottling Company, P.O. Box 875, Casper, Wyo. 82601. SEND PROTESTS TO: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Bureau of Operations, Rm 1006, Federal Bldg. & Post Office, 100 East B Street, Casper, Wyo. 82601.

No. MC 135328 (Sub-No. 4 TA), filed July 8, 1974. Applicant: MARVIN E. YATES, doing business as YATES TRUCKING CO., Route 1, Box 131–B, Klamath Falls, Oreg. 97601. Applicant's representative: Lawrence V. Smart, Jr., 419 NW. 23rd Avenue, Portland, Oreg. 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood residuals*, from points in Baker County, Oreg., to the Boise Cascade mill at or near Wallula, Wash., for 180 days. SUPPORTING SHIPPER: Ellingson Lumber Co., P.O. Box 549, Baker, Oreg. 97814. SEND PROTESTS TO: District Supervisor A. E. Odoms, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 138313 (Sub-No. 13 TA), filed July 9, 1974. Applicant: MACK E. BURGESS, doing business as BUILDERS TRANSPORT, 409 14th St. SW., Great Falls, Mont. 59505. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed auto bodies* in straight shipments or mixed shipments with scrap auto engine blocks and transmissions, from points in Montana, to Spokane, Seattle, Tacoma, and Kent, Wash.; Portland, Oreg.; Salt Lake City, and Provo, Utah; San Francisco, Oakland, Los Angeles, and the Los Angeles commercial zone, Calif., for 180 days. SUPPORTING SHIPPER: Carl Weissman and Sons, Inc., 300 Third Avenue S., Great Falls, Mont. 59405. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 222 U.S. Post Office Bldg., Billings, Mont. 59101.

By The Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–16804 Filed 7–22–74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

JULY 18, 1974.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before August 7, 1974.

FSA No. 42849—Liquefied Petroleum Gas from Kevin, Montana. Filed by Trans-Continental Freight Bureau, Agent (No. 488), for interested rail carriers. Rates on gas, liquefied petroleum, in tank-car loads, as described in the application, from Kevin, Montana, to points in western trunk-line and southwestern territories.

Grounds for relief—Market competition, modified short-line distance formula, and grouping.

Tariff—Supplement 296 to Trans-Continental Freight Bureau, Agent, tariff 14–P, I.C.C. No. 1785. Rates are published to become effective on August 15, 1974.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–16802 Filed 7–22–74; 8:45 am]

[Special Permission Order No. 74–2525]

MOTOR COMMON CARRIERS

Emergency Fuel Surcharge for Line-Haul Transportation

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 17th day of July, 1974.

It appearing, That in response to an emergency situation threatening the commerce of the nation, Special Permission Order No. 74–2525 was entered;

It further appearing, That as disclosed in a report and order entered on July 8, 1974 and served July 10, 1974, in Ex Parte No. MC–92, Investigation of Impact of Rising Costs on Motor Common Carriers, I.C.C. a need for the continuation of a separately stated fuel surcharge for motor common carriers no longer exists;

It is ordered, That the above entitled Special Permission Order entered on February 7, 1974 and amended on February 8, 1974 providing that the special permission would remain in effect until further ordered by the Commission be, and it is hereby, further amended to provide that the special permission shall expire on August 26, 1974.

And it is further ordered, That use of authority conveyed by Special Permission Order 74–2525 during the period between date of service of this order and the expiration date of the Special Permission Order be, and it is hereby, prohibited.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–16795 Filed 7–22–74;8:45 am]

[Ex Parte No. MC–92; First Supp. Order]

MOTOR COMMON CARRIERS

Investigation of Impact of Rising Costs

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 17th day of July, 1974.

Upon consideration of the record in this proceeding and the report and order dated July 8, 1974, served July 10, 1974, and a petition for clarification filed on July 12, 1974 by the National Tank Truck Carriers, Inc.

It appearing, That petitioner seeking clarification actually understands that the report and order "require a carrier to pass on the same amount to the owner-operator as was passed on before [for fuel]";

It is ordered, That the petition for clarification be, and it is hereby, denied.

It is further ordered, That the surcharge published under the authority of Special Permission Order 74–2525, not voluntarily canceled on or before August 26, 1974 be, and they are hereby, declared void and canceled by this order on the day of expiration of Special Permission Order 74–2525.

And it is further ordered, That all tariff schedules filed to replace the surcharges published under the authority of Special Permission Order 74–2525 be, and they are hereby, made subject to the following condition:

That no owner-operator shall receive less compensation for fuel than he was formerly receiving from the certificated carrier under the surcharge published under the authority of Special Permission No. 74–2525.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–16796 Filed 7–22–74;8:45 am]

[Third Rev. Exemption No. 75; Ex Parte No. 241; Rule 19]

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, ET AL.

Exemption Under Mandatory Car Service Rules

In the matter of the Atchison, Topeka, and Santa Fe Railway Company, Burlington Northern, Inc.,[1] Chicago and North Western Transportation Company,[1] Chicago, Rock Island and Pacific Railroad Company, Fort Worth and Denver Railway Company, Missouri Pacific Railroad Company, and St. Louis-San Francisco Railway Company.

It appearing, that there is a massive harvest of wheat in progress in the states of Colorado,[1] Kansas, Missouri, and Nebraska[1 2] that present supplies of plain boxcars owned by the railroads serving these states are inadequate to move the newly harvested grain to terminal elevators for safe storage; that use of available plain boxcars owned by other carriers for movements of this grain will substantially augment the car supplies of the railroads named herein.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the railroads named herein, and their short line connections, are hereby authorized to use and to accept from shippers shipments of grain originating at stations located in Colorado,[1] Kansas, Missouri and Nebraska[1 2] when loaded into plain 40-ft. narrow-door boxcars of various ownerships without regard to the requirements of Car Service Rule 2.

Exception: This exemption shall not apply to plain boxcars owned by railroads named above nor to cars subject to an order of this Commission requiring return to car owner nor to cars subject to a Car Relocation Directive issued by the Association of American Railroads.[1]

Effective July 1, 1974.

Expires 11:59, July 20, 1974.

Issued at Washington, D.C., June 26, 1974.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[FR Doc.74–16798 Filed 7–22–74;8:45 am]

[1] Addition.
[2] Oklahoma and Texas eliminated.

[Fourth Rev. Exemption No. 75, Ex Parte No. 241, Rule 19]

BURLINGTON NORTHERN INC., ET AL.

Exemption Under Mandatory Car Service Rules Ex Parte No. 241

In the matter of Burlington Northern Inc., Chicago and North Western Transportation Company, Chicago, Milwaukee, St. Paul and Pacific Railroad Company,[1] Chicago, Rock Island and Pacific Railroad Company, and Missouri Pacific Railroad Company.

It appearing, That there is a massive harvest of wheat in progress in the states of Kansas, Nebraska and South Dakota[1 2] that present supplies of plain boxcars owned by the railroads serving these states are inadequate to move the newly harvested grain to terminal elevators for safe storage; that use of available plain boxcars owned by other carriers for movements of this grain will substantially augment the car supplies of the railroads named herein.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the railroads named herein, and their short line connections, are hereby authorized to use and to accept from shippers shipments of grain originating at stations located in Kansas, Nebraska, and South Dakota[1 2] when loaded into plain 40-ft. narrow-door boxcars of various ownerships without regard to the requirements of Car Service Rule 2.

Exception: This exemption shall not apply to plain boxcars owned by railroads named above nor to cars subject to an order of this Commission requiring return to car owner nor to cars subject to a Car Relocation Directive issued by the Association of American Railroads.

Effective July 9, 1974.

Expires 11:59 p.m., July 31, 1974.

Issued at Washington, D.C., July 9, 1974.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[FR Doc.74–16799 Filed 7–22–74;8:45 am]

[1] Addition.
[2] Colorado and Missouri eliminated.

[Notice No. 553]

ASSIGNMENT OF HEARINGS

JULY 18, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after July 23, 1974.

MC 2226 Sub 104, Red Arrow Freight Lines, Inc., now being assigned hearing September 30, 1974 (2 wks.), at the South Park Inn, 3201 Loop 289 South (at Indiana Avenue, Lubbock, Tex., now being assigned continued hearing October 15, 1974 (1 wk.), at the Quality Inn, 2200 South Interstate Highway 35, Austin, Tex.

MC 135007 Sub 41, American Transport, Inc., now being assigned hearing September 11, 1974, in Room 235 Federal Bldg. & U.S. Courthouse, 85 Marconi Blvd., Columbus, Ohio.

MC 134599 Sub-97, Interstate Contract Carrier Corp., now being assigned October 1, 1974 (1 day), at Boston, Mass., in a hearing room to be later designated.

MC 139561, Hud Bus Lines, Inc., now being assigned October 2, 1974 (3 days), at Boston, Mass., in a hearing room to be later designated.

MC–F–11995, H. P. Welch Co. and Maislin Transport Ltd.—Purchase (Portion)—The National Transportation Co., now being assigned October 7, 1974 (1 week), at Boston, Mass., in a hearing room to be later designated.

MC 139053 Sub-2, Hiram E. Blue, Jr. Trucking Co., now being assigned October 16, 1974 (3 days), at Jackson, Miss., in a hearing room to be later designated.

MC 121060 Sub-28, Arrow Truck Lines, Inc., now being assigned October 21, 1974 (1 week), at New Orleans, La., in a hearing room to be later designated.

MC 123389 Sub 18, Crouse Cartage Company, now being assigned hearing October 2, 1974 (3 days), at Chicago, Ill., in a hearing room to be later designated.

MC 107295 Sub 699, Pre-Fab Transit Co., now being assigned hearing September 26, 1974 (2 days), at Chicago Ill., in a hearing room to be later designated.

MC 139084 Sub 1, Big Valley Supply & Enterprises Ltd., now being assigned hearing September 24, 1974 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 139325 Sub 1, P–N–J Kornacker, Inc., dba Kornacker Trucking Co., now being assigned hearing September 30, 1974, at Chicago, Ill., in a hearing room to be later designated.

MC 139326, W. A. Wagner, Inc., now being assigned September 10, 1974 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 128383 (Sub-42), Pinto Trucking Service, Inc., now being assigned September 12, 1974, at Chicago, Ill., in a hearing room to be later designated.

MC 106644 Sub-Nos. 171 & 173, Superior Trucking Company, Inc., now being assigned September 16, 1974 (1 week) at Chicago, Ill., in a hearing room to be later designated.

MC 84687 Sub 2, Veterans Truck Line, Inc., continued to August 5, 1974 (3 days), in Room 301A, City Hall 200 East Wells Street, Milwaukee, Wisconsin.

MC–99208 Sub 12, Skyline Transportation, Inc., now being assigned hearing October 4, 1974 (4 days), at Memphis, Tenn. in a room to be later designated.

MC-108676 Sub 58, A. J. Metler Hauling & Rigging, Inc., now being assigned hearing October 7, 1974 (1 day), at Memphis, Tenn. in a hearing room to be later designated.

MC-127834 Sub 99, Cherokee Hauling and Rigging, Inc., now being assigned hearing October 8, 1974 (2 days), at Memphis, Tenn., in a hearing room to be later designated.

MC-136064 Sub 1, Rollin'Petroleum, Ltd., now being assigned hearing October 10, 1974 (2 days), at Memphis, Tenn., in a hearing room to be later designated.

No. 35366, The Atchison, Topeka and Santa Fe Railway Co., et al., now being assigned for a reconvened pre-hearing conference on October 15, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-16801 Filed 7-22-74;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ENERGY FORECASTING ADVISORY COMMITTEE

Notice of Establishment

This notice is published in accordance with the provisions of section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). Following consultation with the Office of Management and Budget, notice is hereby given that it is in the public interest, in connection with the performance of the duties imposed on the Federal Energy Administration by law, to establish the Energy Forecasting Advisory Committee.

A description of the nature and purpose of this Committee is contained in its Charter which is published below.

Dated: July 22, 1974.

JOHN C. SAWHILL,
Administrator.

CHARTER

ENERGY FORECASTING ADVISORY COMMITTEE

A. *Establishment.*

The Administrator, Federal Energy Administration, having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to deal with energy forecasting matters is in the public interest in connection with duties imposed on the Federal Energy Administration by law, hereby establishes the Energy Forecasting Advisory Committee pursuant to the Federal Advisory Committee Act (Public Law 92-463).

B. *Duties, Functions, and Administrative Provisions.*

1. *Objectives and scopes.* The objective of the Energy Forecasting Advisory Committee is to advise the Administrator, Federal Energy Administration (FEA), with respect to methodologies which will augment and improve forecasts of energy supply and demand.

2. *Committee Tenure.* In view of the goals and purposes of the Committee, it will be expected to continue beyond the foreseeable future. However, its continuation will be subject to biennial review and renewal as required by Section 14 of Pub. L. 92-463.

3. *Official to whom Committee Reports.* The Committee will report to the Administrator, Federal Energy Administration.

4. *Support services.* Necessary support for the Committee will be furnished by the Federal Energy Administration.

5. *Committee duties.* The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

6. *Estimated annual cost.* The estimated annual operating costs for the Committee are $20,000.00 and involve approximately one-half man-years of staff support.

7. *Meetings.* The Committee will meet approximately two times a year.

8. *Termination date.* The Committee will terminate two years from date of this Charter, unless prior to that date renewal action is taken by the Administrator, FEA, as described in Paragraph 2 above.

Because of the short time in which we must prepare the Project Independence Report and the technical input to this report, which will be provided by the Energy Forecasting Advisory Committee, and the transfer from FEO to FEA effective June 27, 1974, the Office of Management and Budget has waived the two week waiting period between publication of notice and filing of Charter.

Dated: July 22, 1974.

JOHN C. SAWHILL,
Administrator.

[FR Doc.74-17001 Filed 7-22-74;11:53 am]

ENERGY FORECASTING ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given that the Energy Forecasting Advisory Committee will meet August 2, 1974, at 10 a.m., Room 3000-B, 12th & Pennsylvania Avenue, NW., Washington, D.C.

The Committee was established to advise the Administrator, Federal Energy Administration (FEA), with respect to methodologies which will augment and improve forecasts of energy supply and demand.

The agenda for the meeting is as follows:

1. Introduction and General Remarks
2. Goals and Organization of "Project Independence Blueprint"
3. Quantitative Analysis for Project Independence
4. Briefing and Review of FEA's Current Forecasting Methodologies with a Presentation of Recent Results

The meeting is open to the public; however, space and facilities are limited.

The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting.

Further information concerning this meeting may be obtained from George Lady, Federal Energy Administration, Washington, D.C., phone number (202) 961-8425.

Minutes of the meeting will be made available for public inspection at the Federal Energy Administration, Washington, D.C.

Because of the administrative workload in transferring FEO to FEA there is an Office of Management & Budget waiver of seven days for the notice of meeting.

Issued at Washington, D.C. on July 22, 1974.

JOHN C. SAWHILL,
Administrator.

[FR Doc.74-17002 Filed 7-22-74;11:53 am]

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TUESDAY, JULY 23, 1974
WASHINGTON, D.C.

Volume 39 ■ Number 142

PART II

CONSUMER PRODUCT SAFETY COMMISSION

■

ADJUDICATIVE PROCEEDINGS

Proposed and Interim Rules of Practice

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1025]

ADJUDICATIVE PROCEEDINGS

Proposed and Interim Rules of Practice

The Consumer Product Safety Commission in this document proposes rules of practice for adjudicative proceedings under the Consumer Product Safety Act and the Flammable Fabrics Act. Until final rules of practice are issued, the proposed rules will serve as interim rules of practice for adjudicative proceedings before the Commission.

Although notice and comment are not required for rules of agency procedure or practice (5 U.S.C. 553(b)), the Commission has decided to solicit public comment on these rules. Comments will be received on or before August 22, 1974.

The rules apply to adjudicative proceedings under sections 15 and 17 of the Consumer Product Act (15 U.S.C. 2064, 2066) and sections 3 and 8(b) of the Flammable Fabrics Act (15 U.S.C. 1092, 1097(b)). The Federal Trade Commission rules of practice (16 CFR Parts 2 through 4) will continue to apply to adjudicative proceedings which have been instituted and consent agreements which are in negotiation under the Flammable Fabrics Act prior to July 23, 1974. However, as to any adjudicative proceedings or negotiations of consent agreements under the Flammable Fabrics Act instituted hereafter, all existing rules and regulations issued by the Federal Trade Commission applicable to adjudicative proceedings under the Flammable Fabrics Act are superseded by these proposed and interim rules, pursuant to section 30(e)(2) of the Consumer Product Safety Act (15 U.S.C. 2079(e)(2)).

The proposed rules do not provide for specific pre-adjudicative procedures. However, if the staff cannot reach a settlement within a short time following the discovery of an alleged violation of the Flammable Fabrics Act or after finding action is necessary under the Consumer Product Safety Act, the staff will request that the Commission make a finding that there is reason to believe an adjudicatory proceeding should be initiated.

It is the Commission's policy that delay in the settlement process will be avoided and adjudicative proceedings will be initiated, in appropriate cases, without extensive delay in the pre-adjudicative process.

The proposed rules provide at § 1025.31 that proceedings begin by the issuance and service on the respondent of a notice of enforcement. Notice to the public of the issues to be heard and the time and place selected for a prehearing conference or hearing will be published in the FEDERAL REGISTER shortly after service of the notice of enforcement.

It is the policy of the Commission to allow intervention in adjudicative proceedings to the greatest extent practicable. Section 1025.33 of the proposed rules provides that any person desiring to intervene shall file a written application to intervene setting forth the nature of the interest asserted and that the intervention will not unduly delay the proceeding. Intervention may be limited, in the interest of time and orderliness, to a written or oral statement of position, the filing of proposed findings of fact and conclusions of law to the Presiding Officer, and a brief on appeal to the Commission. If the intervenor establishes that the intervenor will be directly affected by the final order to be issued in the proceeding, the full range of litigating rights may be permitted. Under both the Flammable Fabrics Act and the Consumer Product Safety Act, if the Presiding Officer determines that the intervenor is a member of a class of parties who share an identity of interest, the Presiding Officer may limit such intervention in the hearing to participation through a single representative.

The Commission concludes that the proposed rules should be published as a proposal so that the public can comment on the rules and that the proposed rules should serve as interim rules or practice for applicable adjudicative proceedings.

Accordingly, under the provisions of the Consumer Product Safety Act (sec. 15 and sec. 17, Pub. L. 92-573, 86 Stat. 1221, 1223; 15 U.S.C. 2064, 2066) and the Flammable Fabrics Act (sec. 5, Pub. L. 90-189, 81 Stat. 570; 15 U.S.C. 1194), the Consumer Product Safety Commission proposes 16 CFR Part 1025 as follows:

PART 1025—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

Subpart A—Scope of Rules—Nature of Adjudicative Proceedings

Sec.
1025.1 Scope of the rules.
1025.2 Nature of adjudicative proceedings.
1025.3 Presiding Officers.
1025.4 Enforcement Counsel.

Subpart B—Appearances, Form, Execution, and Service of Documents

1025.11 Who may make appearances.
1025.12 Authority for representation.
1025.13 Written appearances.
1025.14 Attorneys.
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1025.18 Form and filing of documents.
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Subpart C—Pleadings

1025.31 Commencement of proceedings.
1025.32 Answer.
1025.33 Intervention.
1025.34 Joinder of proceedings.
1025.35 Amendments and supplemental pleadings.

Subpart D—Prehearing Procedures; Motions; Interlocutory Appeals; Summary Judgment

1025.41 Prehearing conferences.
1025.42 Motions.
1025.43 Interlocutory appeals.
1025.44 Summary judgment.

Subpart E—Discovery; Compulsory Process

Sec.
1025.51 Discovery and production of documents.
1025.52 Depositions and written interrogatories.
1025.53 Subpoenas.
1025.54 Rulings on applications for compulsory process.
1025.55 Applications for subpoenas for records of the Commission and for appearance of Commission employees.
1025.56 Applications for appearance of other government officials.
1025.57 Consequences of failure to comply with orders.
1025.58 Orders requiring witnesses to testify or provide other information and granting immunity.

Subpart F—Hearings

1025.61 General rules.
1025.62 Powers and duties of Presiding Officers.
1025.63 Evidence.
1025.64 Record.
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Subpart G—Decision

1025.71 Initial decision.
1025.72 Appeal from initial decision.
1025.73 Review of initial decision in absence of appeal.
1025.74 Decision on appeal or review.
1025.75 Reconsideration.
1025.76 Effective date of final order.

Subpart H—Reopening of Proceedings

1025.81 Authority.
1025.82 Reopening.

AUTHORITY: Sec. 15, 17, Pub. L. 92-573, 86 Stat. 1221, 1223 (15 U.S.C. 2064, 2066); sec. 5, Pub. L. 90-189, 81 Stat. 570 (15 U.S.C. 1194).

Subpart A—Scope of Rules—Nature of Adjudicative Proceedings

§ 1025.1 Scope of the rules.

The rules in this part govern procedure in adjudicative proceedings. It is the policy of the Commission that adjudicative proceedings shall be conducted impartially, thoroughly, and expeditiously, with due regard to the rights and interests of all persons affected and in locations chosen with due regard to the convenience of all parties. The Commission believes that administrative adjudicative proceedings should be an expeditious manner of settling disputes. Delay does not benefit the public or any party. Therefore, in the conduct of such proceedings, the Presiding Officer and all parties and their representatives shall make every effort at each stage of a proceeding to avoid unnecessary delay.

§ 1025.2 Nature of adjudicative proceedings.

Adjudicative proceedings are those formal proceedings relating to the provisions of sections 15 (c), (d), and (f) and 17(b) of the Consumer Product Safety Act, and sections 3 and 8(b) of the Flammable Fabrics Act, which are required by statute to be determined on the record after opportunity for a public hearing. The hearings shall be conducted in accordance with Title 5, United States Code, sections 551 through 559 and these rules.

§ 1025.3 Presiding Officers.

Adjudicative hearings on any matter before the Commission will be conducted by a duly designated member or members thereof, or an Administrative Law Judge assigned by the Chief Administrative Law Judge and qualified under Title 5, United States Code, Section 3105. The person(s) so designated shall be known as the Presiding Officer.

§ 1025.4 Enforcement Counsel.

The term "Enforcement Counsel" means counsel for the Commission staff.

Subpart B—Appearances, Form, Execution, and Service of Documents

§ 1025.11 Who may make appearances.

A party may appear in person or by an officer, partner, or regular employee of the party, or by or with counsel or other duly qualified representative, in any proceeding under the regulations in this part. A party may offer testimony, produce and examine witnesses, and be heard upon brief and at oral argument if oral argument is granted, except as provided in § 1025.33. Any person compelled to appear in a proceeding pursuant to subpoena may be accompanied, represented, and advised by counsel or other representative and may purchase a transcript of his or her testimony.

§ 1025.12 Authority for representation.

Any individual acting in a representative capacity in any adjudicative proceeding may be required by the Presiding Officer or the Commission to show his or her authority to act in such capacity.

§ 1025.13 Written appearances.

Persons who appear in any proceeding shall file a written notation of appearance with the Secretary of the Commission or deliver a written notation of appearance to the reporter at hearing, stating for whom the appearance is made and the name and address of the person making the appearance. The written appearance shall be made a part of the record.

§ 1025.14 Attorneys.

Attorneys who are admitted to practice before the Federal courts or before the courts of any State or territory of the United States may practice before the Commission. An attorney's own representation that the attorney is in good standing before any of such courts shall be sufficient proof thereof.

§ 1025.15 Persons not attorneys.

(a) Any person who is not an attorney may be admitted to practice in an adjudicative proceeding if that person is a citizen of the United States and files proof to the satisfaction of the Presiding Officer that he or she possesses the necessary legal, technical, or other qualifications to render valuable service in the proceeding and is otherwise competent to advise and assist in the presentation of matters in the proceeding. Applications by persons not attorneys for admission to appear in a proceeding shall be submitted to the Secretary of the Commission, setting forth in detail applicant's qualifications to appear in the proceeding.

(b) No person who is not an attorney or whose application has not been approved shall be permitted to appear in a proceeding. However, this provision shall not apply to any person who appears before the Commission on his or her own behalf or on behalf of any corporation, partnership, or association of which the person is a partner, officer, or regular employee.

§ 1025.16 Qualifications and standards of conduct.

(a) The Commission expects all persons appearing in proceedings before the Commission or a Presiding Officer to act with integrity, ethically and respectfully. It is the policy of the Commission that business transacted before and with the Commission shall be in good faith.

(b) In order to maintain orderly proceedings, the Commission or the Presiding Officer may exclude parties and their representatives for refusal to comply with directions, continued use of dilatory tactics, or refusal to adhere to reasonable standards of orderly and ethical conduct.

(c) In order to deal with representations, both oral and written, before the Commission or a Presiding Officer which are not in good faith, fair, complete, and accurate, the Commission or the Presiding Officer may disregard any submissions which fail to meet these requirements. Some examples of a violation of good faith, fairness, completeness and accuracy are disregarding leading authority, misciting or misstating the holding of a case and failing to state that the case cited is cited for its dissenting opinion or that such case has been subsequently reversed. Further, the Commission or Presiding Officer may also exclude parties and their representatives for a failure to adhere to these requirements.

(d) A ruling to exclude parties or their representatives is immediately appealable to the Commission in accordance with § 1025.43. If, after such appeal, the representative of a party is excluded, the hearings shall, at the request of the party, be suspended for a reasonable time so that the party may obtain another representative.

§ 1025.17 Restrictions as to former members and employees.

(a) Except as specifically authorized by the Commission, no former member or employee of the Commission shall appear as counsel or representative or otherwise participate through any form of professional consultation or assistance in any proceeding or investigation, formal or informal, which was pending in any manner in the Commission while such former member or employee served with the Commission.

(b) In cases to which paragraph (a) of this section is applicable, a former member or employee of the Commission may request authorization to appear or participate in a proceeding or investigation by filing with the Secretary of the Commission a written application therefor, disclosing the following relevant information:

(1) The nature and extent of the former member's or employee's participation in, knowledge of, and connection with the proceeding or investigation during his or her service with the Commission;

(2) Whether the files of the proceeding or investigation came to his or her attention;

(3) Whether he or she was employed in the same bureau, division, or administrative unit in which the proceeding or investigation is or has been pending;

(4) Whether he or she worked directly or in close association with Commission personnel assigned to the proceeding or investigation and, if so, with whom and in what capacity; and

(5) Whether during service with the Commission, he or she was engaged in any matter concerning the individual, company, or industry involved in the proceeding or investigation.

(c) The requested authorization will not be given in any case:

(1) Where it appears that the former member or employee during service with the Commission participated personally and substantially in the proceeding or investigation; or

(2) Where the application is filed within one (1) year after termination of the former member's or employee's service with the Commission and it appears that within a period of one (1) year prior to the termination of service the former member or employee was officially responsible for the proceeding or investigation; or

(3) Where the Commission is not satisfied that the appearance or participation will not involve any actual or apparent impropriety.

(d) In any case in which a former member or employee of the Commission is or would be prohibited under this section from appearing or participating in a Commission proceeding or investigation, any partner or legal or business associate of such former member or employee shall likewise be so prohibited, unless:

(1) Such partner or legal or business associate files with the Commission an affidavit that, in connection with the subject matter, the services of the disqualified former member or employee will not be utilized in any respect and the matter will not be discussed with him or her in any manner, and that the disqualified former member or employee shall not share, directly, or indirectly, in any fees or retainers received for services rendered in connection with such proceeding or investigation;

(2) The disqualified former member or employee files an affidavit stating that he or she will not participate in the matter in any manner, and will not discuss it with any person involved in the matter; and

(3) Upon the basis of such affidavits, the Commission finds that the appearance or participation by the partner or associate would not involve any actual or apparent impropriety.

§ 1025.18 Form and filing of documents.

(a) *Filing.* Except as otherwise provided, all documents submitted to the Commission or a Presiding Officer shall be addressed to and filed with the Secretary of the Commission.

(b) *Title.* Documents shall clearly show the file or docket number and title of the action in connection with which they are filed.

(c) *Copies.* Ten (10) copies of a notice of intention to appeal and of all briefs shall be filed; ten (10) copies of all other documents shall be filed, with the exception of notices of appearance and reports of compliance, as to which only two (2) copies of each need be filed.

(d) *Signature* (1) One (1) copy of each document filed shall be signed by a representative of record for the party, or in the case of parties not represented, by the party, or by a partner, officer or regular employee of any corporation, partnership, or association, who files an appearance on behalf of the party.

(2) Signing a document constitutes a representation by the signer that the signer has read it, that to the best of the signer's knowledge, information, and belief, the statements made in it are true, and that it is not filed for delay. If a document is not signed or is signed with intent to defeat the purpose of these rules it may be stricken and the proceeding may go forward as though the document had not been filed.

(e) *Form.* (1) Documents filed under regulations in this part may be reprocessed by printing or by any other process provided copies are clear and legible. All documents shall be dated and shall contain the address of the signatory.

(2) If printed, documents should be on opaque and unglazed paper not more than seven (7) inches by ten (10) inches, nor less than six and one-eighth (6⅛) inches by nine and one-quarter (9¼) inches. The type shall be clear (never smaller than pica or ten (10) point type) and adequately leaded.

(3) If typewritten, the impression shall be on only one side of the paper and shall be double spaced, except that quotations shall be single spaced and indented. The documents should be on paper not less than eight (8) inches nor more than eight and one-half (8½) inches by not less than ten and one-half (10½) inches nor more than eleven (11) inches.

(4) All documents must be bound on the left side. The left margin of each page must be at least one and one-half (1½) inches and the right margin at least one (1) inch.

§ 1025.19 Time.

(a) *Computation.* Computation of any period of time under these rules shall begin with the first business day following that on which the act, event, or development initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday, or national holiday, or other day on which the office of the Commission is closed, the period shall run until the end of the next following business day. When such period of time is seven (7) days or less, each of the Saturdays, Sundays, and such holidays shall be excluded from the computation.

(b) *Extensions.* For good cause shown, the Presiding Officer may extend any time limit prescribed or allowed by these rules or by order of the Commission or the Presiding Officer except those governing the filing of interlocutory appeals and initial decisions and those expressly requiring Commission action. Except as otherwise provided by law, the Commission, for good cause shown, may extend any time limit prescribed by these rules or by order of the Commission or the Presiding Officer.

(c) *Reductions.* Except as prohibited by law, for good cause, the Presiding Officer or the Commission, with respect to matters pending before them, may reduce any time limit prescribed in the rules in this part.

§ 1025.20 Service.

(a) *Service by the Commission.* (1) Service of notices of enforcement, orders, and other processes of the Commission may be effected as follows:

(i) *By registered or certified mail.* A copy of the document shall be addressed to the person, partnership, corporation or unincorporated association to be served at his, her or its residence or principal office or place of business, registered or certified, and mailed; or

(ii) *By delivery to an individual.* A copy of the document may be delivered to the person to be served; or to a member of the partnership to be served; or the president, secretary, or other executive officer, or a director of the corporation or unincorporated association to be served; or to an agent authorized by appointment or by law to receive service; or

(iii) *By delivery to an address.* A copy of the document may be left at the principal office or place of business of the person, partnership, corporation, unincorporated association, or authorized agent; or it may be left at the residence of the person or of a member of the partnership or of an executive officer or director of the corporation or unincorporated association to be served. Provided, that such copy of the document must be left with some person of suitable age and discretion.

(iv) *Service on a representative.* When a party has appeared by an attorney or other representative, service upon such attorney or other representative will be deemed service upon the party.

(2) Documents other than notices of enforcement, orders, and other processes of the Commission, the service of which starts the running of prescribed periods of time provided or allowed by any of these rules or by any order of the Commission or the Presiding Officer for the performance of some act or the occurrence of some event or development, shall be served in the same manner as notices of enforcement, orders, and other processes of the Commission.

(3) All other documents may be similarly served, or they may be served by ordinary first-class mail.

(b) *By other parties.* Service of documents by parties other than the Commission shall be made by delivering copies thereof as follows: By personal delivery or delivery by first-class mail properly addressed with postage prepaid. When a party has appeared by attorney or other representative, service upon such attorney or other representative will be deemed service upon the party. All documents served by mail should be mailed in sufficient time to reach the parties on the date on which the original is due to be filed.

(c) *Certificate of service.* The original of every document filed with the Commission and required to be served upon all parties to a proceeding shall be accompanied by a certificate of service signed by the party making service, stating that such service has been made upon each party to the proceeding. Certificates of service may be in substantially the following form:

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by mailing, postage prepaid (or by delivering in person) a copy to each such party.

Dated at ———— this ——— day of ————, 19—

(Signature) ————————

For ————————

(d) *Date of service.* The date of service of documents shall be the day when the matter served is deposited in the United States mail, shown by the postmark thereon, or is delivered in person, as the case may be.

§ 1025.21 Fees.

(a) *Deponents and witnesses.* Any person compelled to appear in person in response to subpoena shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

(b) *Responsiblity.* The fees and mileage referred to in this section shall be paid by the party at whose instance deponents or witnesses appear.

§ 1025.22 Ex parte communication.

(a) It is essential in cases to be determined after notice and hearing and upon a record, or in any other cases which the Commission by order may designate, that the judicial character of the Commission be recognized and protected. As a consequence, from the time of the filing of any pleading, which can be acted on by the Commission only after notice and opportunity for hearing, no ex parte communications are to constitute or be considered part of the record on which the final decision is to be predicated.

(b) It is improper for any person interested in a case before the Commission to attempt to sway the judgment of the Commission by undertaking directly

or indirectly to bring pressure or influence to bear upon the Commission, its staff, or the Presiding Officer assigned to the proceeding. It is improper for such interested persons or any member of the Commission's staff or the Presiding Officer to directly or indirectly give statements to the press by paid advertisments or otherwise, designed to influence the Commission's judgment in the matter. Other than by representatives of record who shall serve copies thereof on all other parties to the proceeding, it is improper for any person to solicit communications to the Commission or any of its members, its staff or the Presiding Officer in any matter.

(c) Requests for expeditious treatment of matters pending with the Commission are improper except when forwarded from parties to a proceeding and served upon all other parties thereto.

(d) Written or oral communications involving any substantive or procedural issue in a matter subject to public hearing, directed to a member of the Commission, its staff, or the Presiding Officer in the matter, from any individual in private or public life shall be deemed a private communication in respect to the merits of the case. These communications, unless otherwise provided for by law or a published rule of the Commission, are deemed ex parte communications and are not to be considered part of any record or the basis for any official action by the Commission, members of its staff or the Presiding Officer. Provided, however, that this prohibition shall not be determined to apply to the usual informal communications between representatives, including discussions directed toward the development of a stipulation or settlement between parties and communications which merely inquire as to the status of a proceeding without discussing issues or expressing points of view.

(e) Any written prohibited communication received by a member of the commission, its staff, or the Presiding Officer shall be made public by placing it in the correspondence file of the docket which is available for public inspection and will not be considered by the Commission or the Presiding Officer as part of the record for decision. If the ex parte communication is received orally, a memorandum setting forth the substance of the conversation shall be made and filed in the correspondence section of the appropriate public docket.

§ 1025.23 Official Docket.

(a) The official docket in adjudicatory proceedings will be maintained in the Office of the Chief Administrative Law Judge.

(b) Fees for production or disclosure of records shall be levied by the Secretary of the Commission or by the delegate of the Secretary, as prescribed in the Commission's Procedures for disclosure or Production of information under the Freedom of Information Act.

Subpart C—Pleadings

§ 1025.31 Commencement of proceedings.

(a) *Notice of institution of an enforcement proceeding, hereafter designated as "Notice of Enforcement".* An adjudicative proceeding is commenced by the issuance and service upon respondent of a notice of enforcement by the Commission staff with the approval of the Commission. In proceedings arising under the Flammable Fabrics Act, the notice of enforcement will constitute the complaint required by the Federal Trade Commission Act.

(b) *Form of Notice of Enforcement.* The staff's notice of enforcement shall contain the following:

(1) Recital of the legal authority and justification for instituting the proceeding, with specific designation of the statutory provisions which may have been violated;

(2) A clear and concise factual statement sufficient to inform each respondent with reasonable definiteness of the type of acts or practices alleged to be in violation of the law;

(3) An attached copy of each of the principal items of written evidence which together the staff considers to constitute a prima facie case; and

(4) Where practical, a form of order which the staff has reason to believe should issue if the facts are found to be as alleged in the notice of enforcement.

(c) *Notice to the public.* Notice of the issues to be heard, the time and place selected for a prehearing conference, or hearing, if no conference is deemed necessary by the Commission or the Presiding Officer, the time to be at least ten (10) days after the due date for service of respondent's answer, shall be published in the FEDERAL REGISTER within a short time subsequent to the service of the notice of enforcement. The notice to the public shall also state the legal authority and justification for instituting the proceeding.

§ 1025.32 Answer.

(a) *Time for filing.* A respondent shall have twenty (20) days after service of the notice of enforcement within which to file an answer thereto.

(b) *Content of answer.* An answer shall conform to the following:

(1) *If allegations of the notice of enforcement are contested.* An answer in which the allegations of a notice of enforcement are contested shall contain:

(i) A concise statement of the facts constituting each ground of defense;

(ii) Specific admission, denial or explanation of each fact alleged in the notice of enforcement or, if the respondent is without knowledge thereof, a statement to that effect. Allegations in the notice of enforcement not thus answered shall be deemed to have been admitted.

(2) *If allegations of notice of enforcement are admitted.* If the respondent elects not to contest the allegations of fact set forth in the notice of enforcement, the answer shall consist of a statement that the respondent admits all of the material allegations to be true. Such an answer shall constitute a waiver of hearing as to the facts alleged in the notice of enforcement and together with the said notice will provide a record basis upon which the Presiding Officer may issue an initial decision containing an appropriate order disposing of the proceeding.

(c) *Default.* Failure of the respondent to file an answer within the time provided, unless extended, shall be deemed to constitute a waiver of the right to appear and contest the allegations of the notice of enforcement and to authorize the Presiding Officer without further notice to the respondent, to find the facts to be as alleged in the notice of enforcement and to enter an initial decision containing such findings of fact and conclusions of law, and to issue an order disposing of the proceeding.

§ 1025.33 Intervention.

Any individual, partnership, unincorporated association, or corporation desiring to intervene in an adjudicatory proceeding shall file a written application with the Secretary of the Commission in the form of a petition setting forth the nature of the interest asserted and that such intervention will not unduly delay the proceeding. The Presiding Officer, or the Commission, in the interest of time and orderliness, may, by order, limit the intervention to a written or oral statement of position, the filing of proposed findings of fact and conclusions of law to the Presiding Officer, and a brief on appeal to the Commission. However if the intervenor establishes that the intervenor will be directly affected by the final order to be issued in the proceeding, the full range of litigating rights, including but not limited to presentation of affirmative evidence, cross-examination and rebuttal, may be permitted. In the event the Presiding Officer, in the course of a hearing held under these rules, determines that the intervenor is a member of a class of parties who share an identity of interest, the Presiding Officer may limit such intervention in the hearing to participation through a single representative.

§ 1025.34 Joinder of proceedings.

(a) Two or more matters which have been scheduled for adjudicative proceedings, and which involve similar issues, may be consolidated for the purpose of hearing. A petition for joinder may be filed by any party to such proceedings not later than fifteen (15) days prior to the hearing and may by order be granted, within the discretion of the Presiding Officer or the Commission, to such extent and upon such terms as may be deemed proper. Such consolidation may also be ordered upon the initiative of the Presiding Officer or the Commission.

§ 1025.35 Amendments and supplemental pleadings.

If and whenever determination of a controversy on the merits will be facilitated thereby, the Presiding Officer may allow appropriate amendments and supplemental pleadings which do not substantially broaden the issues in the proceeding.

Subpart D—Prehearing Procedures; Motions; Interlocutory Appeals; Summary Judgment

§ 1025.41 Prehearing conferences.

(a) *When appropriate.* The Commission or the Presiding Officer, by notice duly published in the FEDERAL REGISTER, and notice to all parties, may direct representatives of all parties to attend a prehearing conference to consider any or all of the following:

(1) Petitions for leave to intervene;

(2) Petitions for consolidation of proceedings to be heard;

(3) Identification, simplification and clarification of the issues;

(4) Necessity or desirability of amendments to pleadings, subject, however, to the provisions of § 1025.35;

(5) Stipulations, admissions of fact and of the contents and authenticity of documents;

(6) Requests for discovery and production of evidence considered to be generally relevant and material to the issues in the proceeding;

(7) Limitation of number of witnesses, particularly the avoidance of duplicate expert witnesses;

(8) Matters of which official notice will be taken and matters which may be resolved by reliance upon the Commission's substantive standards, regulations, or consumer product safety rules;

(9) Disclosure of the names of witnesses and of documents or other physical exhibits which will be introduced in evidence in the course of the proceeding;

(10) Consideration of offers of settlement; and

(11) Establishment of schedule for exchange of prepared testimony and exhibits, and date, time and place of hearing, with due regard to the convenience of the parties.

(b) *Subpoenas.* Additional prehearing conferences may be convened for the purpose of accepting returns on subpoenas duces tecum issued pursuant to the provisions of § 1025.53(b) or for other reasons, within the discretion of the Presiding Officer.

(c) *Reporting.* In the discretion of the Presiding Officer, prehearing conferences may be stenographically reported as provided in § 1025.64(a), and, whether reported or not, shall be open to the public.

(d) *Order.* If appropriate, the Presiding Officer may enter an order which recites the rulings and agreements reached at the conference. The prehearing conference order, or in lieu thereof, the rulings stenographically reported at the prehearing conference, shall control the subsequent course of the proceeding, unless modified to prevent manifest injustice.

(e) *Opportunity for agreement of parties and settlement of case.* Where time, the nature of the proceeding, and the public interest permit, all interested parties shall have the opportunity for submission to the Presiding Officer of offers of settlement or proposals of adjustment, without prejudice to the rights of the parties, for the Commission's consideration. The Presiding Officer need not be present at any negotiation of such nature. The Presiding Officer need not approve or disapprove such offer of settlement or proposal of adjustment. No agreement, offer, or proposal shall be admissible in evidence over the objection of any party in any hearing on the matter. When any settlement does not dispose of the whole proceeding, the remaining issues shall be determined in accordance with Title 5, United States Code, sections 556 and 557 and these rules.

§ 1025.42 Motions.

(a) *Presentation and disposition.* During the time a proceeding is before a Presiding Officer, all motions, whether oral or written, except those filed under § 1025.62(f), shall be addressed to the Presiding Officer, who shall rule upon them unless the Presiding Officer finds that a prompt decision by the Commission is necessary to prevent unusual delay, expense, or detriment to the public interest, in which case the Presiding Officer shall certify the motion to the Commission, with or without recommendation.

(b) *Written motions.* All written motions shall state the particular order, ruling, or action desired and the grounds therefor. All written motions shall be filed with the Secretary of the Commission and served on all parties, and all motions addressed to the Commission shall be in writing.

(c) *Answers.* Within ten (10) days after service of any written motion or petition or within such longer or shorter time as may be designated by the Presiding Officer or the Commission, the opposing party shall answer or shall be deemed to have consented to the granting of the relief asked for in the motion. The moving party shall have no right to reply, except as permitted by the Presiding Officer or the Commission.

(d) *Rulings on motions for dismissal.* When a motion to dismiss a notice of enforcement or motion for other relief is granted, with the result that the proceeding before the Presiding Officer is terminated, the Presiding Officer shall issue an order thereon in accordance with the provisions of § 1025.71. If such a motion is granted as to all issues of the notice of enforcement in regard to some, but not all, of the respondents, or is granted as to any part of the charges in regard to any or all of the respondents, the Presiding Officer shall enter an order on the record and consider the remaining issues in the initial decision. When a motion to dismiss is made at the close of the evidence offered in support of the notice of enforcement based upon an alleged failure to establish a prima facie case, the Presiding Officer may elect to defer ruling thereon until the close of the case.

§ 1025.43 Interlocutory appeals.

(a) *General.* Rulings of the Presiding Officer on motions may not be appealed to the Commission prior to appeal from the initial decision, except in unusual and exceptional circumstances.

(b) *Appeals.* (1) The Commission may, in its discretion, entertain interlocutory appeals where a ruling of the Presiding Officer:

(i) Requires the production of Commission records claimed to be confidential or the appearance of a supervisory official or employee of the Commission pursuant to § 1025.55;

(ii) Requires the appearance of other government officials pursuant to § 1025.56;

(iii) Suspends an attorney from participation in a particular proceeding pursuant to §§ 1025.16 and 1025.62(b); or

(iv) Denies or unduly limits an application for intervention pursuant to the provisions of § 1025.33.

(2) Appeal from such a ruling may be sought by filing with the Commission a petition for review, not to exceed fifteen (15) pages, including appendices, etc., within five (5) days after notice of the Presiding Officer's ruling. An answer thereto may be filed within five (5) days after service of the Presiding Officer's ruling. Answers thereto may be filed within five (5) days after service of the petition for review. The Commission may thereupon, in its discretion, entertain or deny review. Commission review, if granted, will be confined to the petition and answer thereto, without oral argument or further briefs, unless otherwise ordered by the Commission.

(c) *Petitions for review.* Except as provided in paragraph (b) of this section, petitions for review of a ruling by Presiding Officer may be allowed only upon request made to the Presiding Officer and a determination by the Presiding Officer in writing, with justification in support thereof, that the ruling involves a controlling question of law or policy as to which there is substantial ground for differences of opinion and that an immediate appeal from the ruling may materially advance the ultimate termination of the litigation or that subsequent review will be an inadequate remedy. Petitions for review may be filed in writing not to exceed fifteen (15) pages, including appendices etc., within five (5) days after service of the Presiding Officer's ruling. Answers thereto may be filed within five (5) days after service of the petition for review. The Commission may thereupon, in its discretion, entertain or deny review. Commission review, if granted, will be confined to the petition and answer thereto, without oral argument or further briefs, unless otherwise ordered by the Commission.

(d) *Proceedings not stayed.* A petition for review and appeal hereunder shall not stay proceedings before the Presiding Officer unless the Presiding Officer or the Commission shall so order.

§ 1025.44 Summary judgment.

(a) Any party to an adjudicatory proceeding may move with or without supporting affidavits for a summary judgment in its favor upon all or any part of the issues being adjudicated. Enforcement Counsel may so move at any time after thirty (30) days following issuance of the notice of enforcement and any party respondent may so move at any time after issuance of said notice. Any such motion by any party, however, must be filed at least twenty (20) days before the date fixed for the adjudicatory hearing.

(b) Any other party may, within ten (10) days after service of the motion, file an answer thereto supported by opposing affidavits. The Presiding Officer may, in his or her discretion, set the matter for oral argument and call for the submission of briefs or memoranda. An order granting summary judgment may be issued if the pleadings and any depositions, answers to interrogatories, admissions on file, and affidavits show that there is no genuine issue as to any material fact and that the moving party is entitled to summary judgment as a matter of law. A summary judgment shall constitute the initial decision of the Presiding Officer and may be rendered on the issue of violation alone, although there remains a genuine issue as to the nature and extent of relief.

Subpart E—Discovery; Compulsory Process

§ 1025.51 Discovery and production of documents.

Upon request of any party showing good cause therefor, at the prehearing conference or otherwise upon notice to all other parties, the Presiding Officer may direct any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things, not privileged, which constitute or contain evidence relating to any matter, not privileged, which is relevant to the subject matter involved in the pending proceeding, and which are in the party's possession, custody or control. The order shall specify the time, place, and manner of making the inspection and taking the copies and photographs and may prescribe such terms and conditions as are just. In lieu of such inspections, the material may be produced in exhibit form and served upon all parties to a formal proceeding. Such exhibits may also, upon request of any party, be offered in evidence at a hearing.

§ 1025.52 Depositions and written interrogatories.

(a) *When justified.* At any time after issue has been joined, the Presiding Officer, in his or her discretion, may, upon application of any party, order the taking of a deposition, the production of documents or the service of written interrogatories upon the deponent. Such order may be entered upon a showing that the deposition or written interrogatories are necessary for purposes of preparing the case for hearing. Such order may also be entered in extraordinary circumstances to preserve relevant evidence upon a showing that there is substantial reason to believe that such evidence could not be presented through a witness at the hearing. Depositions may be taken orally before any person having power to administer oaths who may be designated by the Presiding Officer. Answers to written interrogatories and cross-interrogatories shall be duly subscribed and verified by the deponent.

(b) *Form of application.* Any party desiring to take a deposition or serve written interrogatories upon an opponent shall make application in writing to the Presiding Officer, setting forth the justification therefor, the time when, the place where, and the name and address of the officer before whom the deposition is desired. The application shall include also the name and address of each proposed deponent and the subject matter concerning which each is expected to depose and a proposed form of order to be issued by the Presiding Officer. Such application should be served upon the representative of the deponent or the deponent if a representative has not entered an appearance.

(c) *Ruling on application.* Such order as the Presiding Officer may issue for taking a deposition shall state the circumstances warranting its being taken, and shall designate the time when, the place where, and the officer before whom it will be taken, and shall show the name and address of each person expected to appear and the subject matter with regard to which each is expected to depose. The time designated shall allow not less than five (5) days from date of service of the order when the deposition is to be taken within the United States, and not less than fifteen (15) days when the disposition is to be taken elsewhere. The order may provide that the application may be satisfied by the service of responses to written interrogatories.

(d) *Taking of deposition.* Each deponent shall be duly sworn, and subject to the provisions of § 1025.33, any party shall have the right to cross-examine. Objections to questions or documents shall be in short form, stating the grounds of objections relied upon. The questions propounded and the answers thereto, together with all objections made (but not including argument or debate), shall be reduced to writing and certified by the officer before whom the deposition was taken. Thereafter, the officer shall forward the deposition and one (1) copy thereof to the party at whose instance the deposition was taken, and shall forward one (1) copy thereof to the representative of each other party who was present or represented at the taking of the deposition.

(e) *Deposition to preserve evidence.* A deposition taken to preserve relevant evidence which any party intends to offer in evidence may be corrected in the manner provided by § 1025.64(b). Any such deposition shall, in addition to the other required procedures, be read to or by the deponent and subscribed to by the deponent if the party intending to offer it in evidence so notifies the officer before whom the deposition was taken.

(f) *Offering deposition in evidence.* Subject to appropriate rulings on such objections to the questions and answers as were noted at the time the deposition was taken or as may be valid when it is offered, a deposition taken to preserve relevant evidence, or any part thereof, may be offered in evidence against any party who was present or represented at the taking of the deposition or who had due notice thereof, if the Presiding Officer finds:

(1) That the deponent is dead;

(2) That the deponent is out of the United States or is located at such a distance that the deponent's attendance would be impractical, unless it appears that the absence of the deponent was procured by the party offering the deposition;

(3) That the deponent is unable to attend or testify because of age, sickness, infirmity, or imprisonment;

(4) That the party offering the deposition has been unable to procure the attendance of the deponent by subpoena; or

(5) That such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

§ 1025.53 Subpoenas.

(a) *Subpoenas ad testificandum.* Subpoenas ad testificandum requiring a person to appear and depose or testify at the taking of a deposition or at an adjudicative hearing may be duly served by any party or representative with one copy to be provided to the Presiding Officer and the original to be presented to the official reporter at the hearing.

(b) *Subpoenas duces tecum.* (1) Application for issuance of a subpoena requiring a person to appear and depose or testify and to produce specified documents, papers, books, or other physical exhibits at the making of a deposition, or at an adjudicative hearing, shall be made in writing to the Presiding Officer with service upon the witness or the representative of the witness if an appearance has been entered and shall specify as exactly as possible the material to be produced, showing the general relevancy of the material and the reasonableness of the scope of the subpoena. Any motion to limit or quash such subpoena shall be filed within ten (10) days after service thereof, or within such other time as the Presiding Officer may allow.

(2) Subpoenas duces tecum may be used by any party for purposes of discovery or for obtaining documents, papers, books or other physical exhibits for use in evidence, or for both purposes. When used for discovery purposes, a subpoena may require a person to produce and permit the inspection and copying of nonprivileged documents, papers,

books or other physical exhibits which constitute or contain evidence relevant to the subject matter involved and which are in the possession, custody, or control of such person.

§ 1025.54 Rulings on applications for compulsory process.

Applications for orders requiring the taking of depositions pursuant to the provisions of § 1025.52 and applications for the issuance of subpoenas pursuant to the provisions of § 1025.53 (other than as provided in §§ 1025.55 and 1025.56) shall be ruled upon by the Presiding Officer or, in the event the Presiding Officer is not available, by the Chief Administrative Law Judge, or such other Administrative Law Judge as the Chief Administrative Law Judge may designate.

§ 1025.55 Applications for subpoenas for records of the Commission and for appearance of Commission employees.

(a) *Form.* An application for issuance of a subpoena requiring the production of documents, papers, books, physical exhibits, or other material in the records of the Consumer Product Safety Commission, or for the issuance of a subpoena requiring the appearance of an official or employee of the Commission, shall be made in the form of a written motion filed in accordance with the provisions of § 1025.42 (a) and (b).

(b) *Content.* The motion shall specify as exactly as possible the material to be produced, the nature of the information to be disclosed, or the expected testimony of the Commission official or employee, and shall contain a statement showing the general relevancy of the material, information, or testimony, and the reasonableness of the scope of the application, together with a showing that such material, information, or testimony is not available from other sources by voluntary methods or pursuant to § 1025.54.

(c) *Rulings.* Such applications (in the form of written motions) shall be ruled upon by the Presiding Officer or, in the event the Presiding Officer is not available, by the Chief Administrative Law Judge or such other Administrative Law Judge as the Chief Administrative Law Judge may designate. To the extent that the motion is granted, the Presiding Officer shall provide such terms and conditions for the production of the material, the disclosure of the information, or the appearance of the Commission official or employee, as may appear necessary and appropriate for the protection of the public interest.

§ 1025.56 Applications for appearance of other government officials.

(a) *Form.* An application by any party for the issuance of a subpoena returnable to an official or employee of any governmental agency in an official capacity, other than to an official or employee of the Consumer Product Safety Commission, shall be made in the form of a written motion filed in accordance with the provisions of § 1025.42(a).

(b) *Content and disposition.* The motion shall contain a statement of the necessity for and the relevancy of the expected testimony or the specified material and shall be ruled upon by the Presiding Officer.

§ 1025.57 Consequences of failure to comply with orders.

(a) If a party or an official or agent of a party fails to comply with an order including, but not limited to, an order for the taking of a deposition, written interrogatories, the production of documents, or an order to comply with a subpoena, the Presiding Officer or the Commission, or both, for the purpose of permitting resolution of relevant issues and disposition of the proceeding without unnecessary delay despite such failure, may take such action in regard thereto as is just, including but not limited to the following:

(1) Infer that the admission, testimony, documents or other evidence would have been adverse to the party;

(2) Rule that for the purposes of the proceeding, the matter or matters concerning which the order or subpoena was issued be taken as established adversely to the party;

(3) Rule that the party may not introduce into evidence or otherwise rely, in support of any claim or defense, upon testimony, by such party, officer, or agent, or the documents or other evidence;

(4) Rule that the party may not be heard to object to introduction and use of secondary evidence to show what the withheld admission, testimony, documents, or other evidence would have shown; and

(5) Rule that a pleading, or part of a pleading, or a motion or other submission by the party, concerning which the order or subpoena was issued, be stricken, or that decision on the pleadings be rendered against the party, or both.

(b) Any such action may be taken by written or oral order issued in the course of the proceeding or by inclusion in an initial decision of the Presiding Officer or an order or opinion of the Commission. The parties may seek and Presiding Officers may grant such of the foregoing means of relief or other appropriate relief as may be sufficient to compensate for the lack of withheld testimony, documents, or other evidence. If in the Presiding Officer's opinion such relief would not be sufficient, the Presiding Officer should certify to the Commission a request that court enforcement of the subpoena or desposition be sought.

§ 1025.58 Orders requiring witnesses to testify or provide other information and granting immunity.

(a) Where Enforcement Counsel desires the issuance of an order requiring a witness or deponent to testify or provide other information upon being granted immunity from prosecution under Title 18, United States code, section 6002, Enforcement Counsel may apply to the Presiding Officer for an appropriate order upon a showing:

(1) That the testimony or other information sought from a witness or deponent, or prospective witness or deponent, may be necessary to the public interest; and

(2) That such individual has refused or is likely to refuse to testify or provide such information on the basis of that individual's privilege against self-incrimination. Upon application to and approval by the Attorney General of the United States, the Presiding Officer is authorized to issue an order requiring the witness or deponent to testify or provide other information and to grant immunity from prosecution when the witness or deponent has invoked the privilege against self-incrimination and it cannot be determined that such privilege was improperly invoked.

(b) Requests by counsel other than Enforcement Counsel for an order requiring a witness to testify or provide other information and granting immunity under Title 18, United States Code, section 6002, may be made to the Presiding Officer upon notice to opposing parties. When such requests are made, the Presiding Officer is authorized to determine:

(1) That the testimony or other information sought from a witness or deponent, or prospective witness or deponent, may be necessary to the public interest; and

(2) That such individual has refused or is likely to refuse to testify or provide such information on the basis of the privilege against self-incrimination, and, upon making such determinations, to request through the Commission's General Counsel, approval by the Attorney General for the issuance of an order requiring a witness to testify or provide other information and granting immunity and, after the Attorney General (or his designee) has granted such approval, to issue such order when the witness or deponent has invoked the privilege against self-incrimination and it cannot be determined that such privilege was improperly invoked.

Subpart F—Hearings

§ 1025.61 General rules.

(a) *Public hearings.* All hearings in adjudicative proceedings shall be public unless otherwise ordered by the Commission or the Presiding Officer.

(b) *Expedition.* Hearings shall proceed with all reasonable expedition, and insofar as practicable and with due regard to the convenience of the parties, shall be held at one place and shall continue, except for unusual circumstances, without suspension until concluded.

(c) *Rights of parties.* Every party shall have the right of due and timely notice and every party, except those intervenors whose rights may be limited by order issued under § 1025.33, shall have the right to conduct such cross-examination as may be required for a full and true disclosure of the facts, presentation of oral or written evidence, objection, motion, argument, and all other rights essential to a fair hearing.

(d) *Adverse witnesses.* An adverse party, or an officer, agent, or employee thereof, and any witness who appears to be hostile, unwilling, or evasive, may be interrogated by leading questions and may also be contradicted and impeached by the party calling him or her.

§ 1025.62 Powers and duties of Presiding Officers.

(a) *General.* Presiding Officers shall have the duty to conduct full, fair and impartial hearings, to take appropriate action to avoid unnecessary delay in the disposition of proceedings, and to maintain order. They shall have all powers necessary to that end, including the following powers:

(1) To administer oaths and affirmations;

(2) To issue subpoenas;

(3) To take or to cause depositions to be taken;

(4) To rule upon offers of proof and receive relevant, competent, and probative evidence;

(5) To regulate the course of the hearings and the conduct of the parties and their representatives therein;

(6) To hold conferences for simplification of the issues, settlement of the proceedings, or any other proper purposes;

(7) To consider and rule, orally or in writing, upon all procedural and other motions appropriate in an adjudicative proceeding, including motions to open defaults;

(8) To issue initial decisions, rulings and orders, as appropriate;

(9) To certify questions to the Commission for its determination; and

(10) To take any action authorized by the rules in this part or in conformance with the provisions of Title 5, United States Code, sections 551 through 559.

(b) *Exclusion of parties by Presiding Officer.* The Presiding Officer shall have the authority, for good cause stated on the record, to exclude from participation in a particular proceeding any party and/or representative who shall violate the requirements of § 1025.16. Any party and/or representative so excluded may appeal to the Commission in accordance with the provisions of § 1025.43. If the representative of a party is excluded, the hearing shall be suspended for a reasonable time so that the party may obtain another representative.

(c) *Substitution of Presiding Officer.* In the event of the substitution of a new Presiding Officer for the one originally designated, any motion predicated upon such substitution shall be made within five (5) days thereafter.

(d) *Interference.* In the performance of their adjudicative functions, Administrative Law Judges shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for the Commission, and all directions by the Commission to Administrative Law Judges concerning any adjudicative proceeding shall appear on and be made a part of the record.

(e) *Disqualification of Presiding Officers.* (1) When Presiding Officers deem themselves disqualified to preside in a particular proceeding, they shall withdraw therefrom by notice on the record and shall notify the Chief Administrative Law Judge of such withdrawal.

(2) Whenever any party shall deem the Presiding Officer for any reason to be disqualified to preside, or to continue to preside, in a particular proceeding, such party may file with the Secretary of the Commission a motion to disqualify and remove by affidavits setting forth the alleged grounds for disqualification. Copy of the motion shall be served by the Commission on the Presiding Officer whose removal is sought, and the Presiding Officer shall have ten (10) days from such service within which to reply. If the Presiding Officer does not disqualify himself or herself within ten (10) days, then the Commission shall promptly determine the validity of the grounds alleged, either directly or on the report of another Presiding Officer appointed to conduct a hearing for that purpose.

§ 1025.63 Evidence.

(a) *Burden of proof.* Enforcement Counsel shall have the burden of proof to sustain the violations alleged in the notice of enforcement, but the proponent of any factual proposition shall be required to sustain the burden of proof with respect thereto.

(b) *Admissibility.* Relevant, material, and reliable evidence shall be admitted. Irrelevant, immaterial, unreliable, cumulative and unduly repetitious evidence shall be excluded. Immaterial or irrelevant parts of an otherwise admissible document shall be segregated and excluded so far as practicable.

(c) *Information obtained in investigations.* Enforcement Counsel may disclose documents, papers, books, physical exhibits, or other materials or information obtained by the Commission staff which are not privileged under the Commission's procedures under the Freedom of Information Act.

(d) *Official notice.* When any decision of a Presiding Officer or the Commission rests, in whole or in part, upon the taking of official notice of a material fact not appearing in evidence or on the record, an opportunity to disprove such noticed fact shall be granted any party making timely motion therefor.

(e) *Objections.* Objections to evidence shall be timely interposed. They shall briefly include the grounds relied upon, but argument or debate on objections need not be transcribed and included in the record, except in the discretion of the Presiding Officer. Rulings on all objections shall appear in the record.

(f) *Exceptions.* Formal exception to an adverse ruling is not required.

(g) *Offer of proof.* When an objection to a question propounded to a witness is sustained, the examining party may make a specific offer of what the party expects to prove by the answer of the witness, orally or in writing. Written offers of proof, adequately marked for identification, shall be retained in the record so as to be available for consideration by any reviewing authority.

§ 1025.64 Record.

(a) *Reporting and transcription.* Hearings shall be stenographically reported and transcribed by the official reporter of the Commission under the supervision of the Presiding Officer and the original transcript shall be a part of the record and the sole official transcript. Copies of transcripts are available from the reporter at a cost not to exceed the maximum rates fixed by contract between the Commission and the reporter. In accordance with section 11 of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. Appendix I) copies of transcripts may be made by members of the public or by Commission personnel, when available, at the Office of the Secretary at reproduction costs set forth in the Commission's procedures under the Freedom of Information Act.

(b) *Corrections.* Corrections of the official transcript may be made only when they involve errors affecting substance and then only in the manner herein provided. Corrections may be ordered by the Presiding Officer or agreed to in a written stipulation signed by all parties and their representatives. Where the parties are in disagreement, the Presiding Officer shall determine the corrections to be made and so order. Corrections may be interlineated in the official transcript so as not to obliterate the original text.

§ 1025.65 *In camera* orders.

(a) *Definition.* Except as hereinafter provided, documents and testimony made subject to *in camera* orders are not made a part of the public record, but are kept confidential, and only Enforcement Counsel, respondents, their representatives, and authorized Commission personnel concerned with Commission and judicial review shall have access thereto. The right of the Presiding Officer, the Commission, and reviewing courts to disclose *in camera* data to the extent necessary for the proper disposition of the proceeding is specifically reserved.

(b) *In camera treatment of documents and testimony.* Presiding Officers shall have authority, but only in those unusual and exceptional circumstances when good cause is found on the record, to order documents or oral testimony offered in evidence, whether admitted or rejected, to be placed *in camera.* The order shall specify the date on which *in camera* treatment expires and shall include:

(1) A description of the documents and testimony;

(2) Full statement of the reasons for granting *in camera* treatment; and

(3) Full statement of the reasons for the date on which *in camera* treatment expires.

(c) *Disclosure of in camera information.* Any party desiring to disclose *in camera* documents or testimony to experts, consultants, prospective witness,

or witnesses, in connection with the preparation and preservation of the party's case shall make application to the Presiding Officer setting forth the justification therefor. In unusual and exceptional circumstances the Presiding Officer may grant such application for good cause found and may enter an order protecting the rights of the affected parties and preventing unnecessary public disclosure of information. *In camera* documents and the transcript of testimony subject to an *in camera* order shall be segregated from the public record and filed in a sealed envelope, bearing the title and docket number of the proceeding, the notation "*In Camera* Record under § 1025.65" and the date on which *in camera* treatment expires.

(d) *Release of in camera information.* *In camera* documents and testimony shall constitute a part of the confidential records of the Commission, and shall be subject to the provisions of the Commission's procedures under the Freedom of Information Act.

(e) *Briefing of in camera information.* In the submission of proposed findings, briefs, or other papers, all parties shall make a good faith attempt to refrain from disclosing the specific details of *in camera* documents and testimony. This shall not preclude references in such proposed findings, briefs, or other papers to such documents or testimony including generalized statements based on their contents. To the extent that parties consider it necessary to include specific details of in camera data in their presentations, such data shall be incorporated in separate proposed findings, briefs, or other papers marked "confidential," which shall be placed *in camera* and become a part of the *in camera* record.

§ 1025.66 Proposed findings, conclusions, and order.

Within a reasonable time after the close of reception of the evidence, established by the Presiding Officer, but not to exceed thirty (30) days except in unusual circumstances, the parties may, simultaneously, file proposed findings of fact, conclusions of law, and rule or order, together with reasons therefor and briefs in support thereof. Such proposals shall be in writing, shall be served upon all parties, and shall contain adequate references to the record and authorities relied on. Replies to the proposed findings shall be served within fifteen (15) days thereafter unless otherwise established by the Presiding Officer. The parties may waive either or both submissions.

Subpart G—Decision

§ 1025.71 Initial decision.

(a) *When filed and when effective.* The Presiding Officer shall endeavor to file an initial decision within sixty (60) days after service of the replies to the proposed findings or after the closing of the record, if proposed findings have been waived. The initial decision shall become the decision of the Commission thirty (30) days after service thereof on the parties or thirty (30) days after the filing of notice of appeal, whichever shall be later, unless in the interim a party filing such a notice shall have perfected an appeal by filing an appeal brief, or unless the Commission shall have issued an order placing the case on its own docket for review or staying the effective date of the decision.

(b) *Content.* The initial decision should be based upon a consideration of the entire record and it should be supported by reliable, probative, and substantial evidence. It should include a statement of:

(1) Findings and conclusions, as well as the reasons or basis therefor, upon the material issues of fact, law, or discretion presented on the record, and

(2) An appropriate rule or order.

(c) *By whom made.* The initial decision shall be made and filed by the Presiding Officer who presided over the hearings, except when the Presiding Officer shall have become unavailable to the Commission.

(d) *Reopening of proceeding by Presiding Officer; termination of jurisdiction.* (1) At any time prior to the filing of the initial decision, the Presiding Officer may reopen the proceeding for the reception of further evidence.

(2) Except for the correction of clerical errors, the jurisdiction of the Presiding Officer is terminated upon the filing of the initial decision, unless and until the proceeding is remanded to the Presiding Officer by the Commission.

§ 1025.72 Appeal from initial decision.

(a) *Who may file; notice of intention.* Enforcement Counsel and respondent may appeal an initial decision to the Commission. Provided, that within ten (10) days after completion of service of the initial decision such party files a notice of intention to appeal. Intervenors may file an appeal brief if an appeal is first noticed by Enforcement Counsel or respondent, or, if none is filed, an intervenor may petition the Commission for the privilege of filing an appeal brief.

(b) *Appeal brief.* The appeal shall be in the form of a brief, filed within thirty (30) days after completion of service of the initial decision, duly served upon all parties. The appeal brief shall contain, in the order indicated, the following:

(1) A subject index of the matters in the brief, with page references, and a table of cases (alphabetically arranged), textbooks, statutes, and other material cited, with page references thereto;

(2) A concise statement of the case;

(3) A specification of the position urged;

(4) The argument, presenting clearly the points of fact and law relied upon in support of the position taken on each question, with specific page references to the record and the legal or other material replied upon; and

(5) A proposed form of rule or order for the Commission's consideration in lieu of the rule or order contained in the initial decision.

(c) *Answering brief.* Within thirty (30) days after service of the appeal brief upon all parties, such parties may file an answering brief which shall also contain a subject index, with page references, and a table of cases (alphabetically arranged), textbooks, statutes, and other material cited, with page references thereto. It shall present clearly the points of fact and law relied upon in support of the position taken on each question, with specific page references to the record and legal or other material relied upon.

(d) *Reply brief.* Reply briefs shall be limited to rebuttal of matters in answering briefs and will be received if filed and served within seven (7) days after receipt of the answering brief or on the day preceding the oral argument, whichever comes first. No answer to a reply brief will be permitted.

(e) *Length of briefs.* No brief in excess of sixty (60) pages, including any appendices, shall be filed without leave of the Commission.

(f) *Oral argument.* Oral arguments will be held in all cases on appeal to the Commission, unless the Commission otherwise orders upon its own initiative or upon request of any party made at the time of filing the party's brief. Oral arguments before the Commission shall be reported stenographically, unless otherwise ordered, and a member of the Commission absent from an oral argument may participate in the consideration and decision of the appeal in any case in which the oral argument is stenographically reported. The purpose of oral argument is to emphasize and clarify the written argument in the briefs and to answer questions of the Commission.

§ 1025.73 Review of initial decision in absence of appeal.

The Commission may, by order, place a case on its own docket for review. Such order will set forth the scope of the review and the issues which will be considered and will make provisions for the filing of briefs if deemed appropriate by the Commission.

§ 1025.74 Decision on appeal or review.

(a) Upon appeal from or review of an initial decision, the Commission will consider such parts of the record as are cited or as may be necessary to resolve the issues presented and, in addition, will, to the extent necessary or desirable, exercise all the powers which it could have exercised if it had made the initial decision.

(b) In rendering its decision, the Commission will adopt, modify, or set aside the findings, conclusions, and rule or order contained in the initial decision, and will include in the decision a statement of the reasons or bases for its action and any concurring and dissenting opinions.

(c) In those cases where the Commission believes that it should have further information or additional views of the parties as to the form and content of the

rule or order to be issued, the Commission, in its discretion, may withhold final action pending the receipt of such additional information or views.

§ 1025.75 Reconsideration.

Within twenty (20) days after completion of service of a Commission decision, the Enforcement Counsel or respondent may file with the Commission a petition for reconsideration of such decision, setting forth the relief desired and the grounds in support thereof. Any petition filed under this subsection must be confined to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before the Commission. Any party desiring to oppose such a petition shall file an answer thereto within ten (10) days after service upon the party of the petition. The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order or to toll the running of any statutory time period affecting such decision or order unless specifically so ordered by the Commission.

§ 1025.76 Effective date of final order.

An order of the Commission becomes final upon the expiration of twenty (20) days after its issuance, or, if a petition for reconsideration is filed, ten (10) days after Commission action upon such petition. Any respondent against whom an order has been issued who is not in full compliance with such order on and after the date the order becomes final is in violation of such order, and is subject to an immediate action for the civil or criminal penalties provided for in the applicable Act.

Subpart H—Reopening of Proceedings

§ 1025.81 Authority.

Except while pending in a United States court of appeals on a petition for review (after the transcript of the record has been filed) or in the United States Supreme Court, a proceeding may be reopened by the Commission at any time. Such a reopening may be either on the Commission's own initiative or on the request of any party to the proceeding.

§ 1025.82 Reopening.

(a) *Before statutory review.* At any time prior to the expiration of the time allowed for filing a petition for review or prior to the filing of the transcript of the record of a proceeding in a United States court of appeals pursuant to a petition for review, the Commission may upon its own initiative and without prior notice to the parties reopen the proceeding and enter a new decision modifying or setting aside the whole or any part of the findings as to the facts, conclusions, rule, order, or opinion issued by the Commission in such proceeding.

(b) *After decision has become final.* (1) Whenever the Commission is of the opinion that changed conditions of fact or law or the public interest may require that a Commission decision containing a rule or order which has become effective, or an order which has become final by reason of court affirmance or expiration of the statutory period for court review without a petition for review having been filed, or a Commission decision containing an order dismissing a proceeding, should be altered, modified, or set aside in whole or in part, the Commission will serve upon each person subject to such decision an order to show cause, stating the changes it proposes to make in the decision and the reasons they are deemed necessary. Within thirty (30) days after service of such order to show cause, any person served may file an answer thereto. Any person not responding to the order within the time allowed may be deemed to have consented to the proposed changes.

(2) Whenever any person subject to a decision containing a rule or order which has become effective, or an order which has become final, is of the opinion that changed conditions of fact or law require that said rule or order be altered, modified, or set aside, or that the public interest so requires, such person may file with the Commission a petition requesting a reopening of the proceeding for that purpose. The petition shall state the changes desired, the grounds therefor, and shall include, when available, such supporting evidence and argument as will in the absence of a contest provide the basis for a Commission decision on the petition. Within thirty (30) days after service of such petition, Enforcement Counsel shall file an answer.

(3) Whenever an order to show cause or petition to reopen is not opposed, or if opposed but the pleadings do not raise issues of fact to be resolved, the Commission, in its discretion, may decide the matter on the order to show cause or petition and answer thereto, or it may serve upon the parties a notice of hearing, setting forth the date when the case will be heard. Such hearing will be limited to the filing of briefs but may include oral argument when deemed necessary by the Commission. When the pleadings raise substantial factual issues, the Commission will direct such hearings as it deem appropriate, including hearings for the receipt of evidence by it or by a Presiding Officer. Unless otherwise ordered and insofar as practicable, such hearings before a Presiding Officer to receive evidence shall be conducted in accordance with the rules in this part. Upon conclusion of hearings before the Presiding Officer, the record and the Presiding Officer's recommendations shall be certified to the Commission for final disposition of the matter.

Comments on and views in response to this notice should be sent preferably with 5 copies, to the Secretary, Consumer Product Safety Commission, Room 1025, 1750 K Street, NW., Washington, D.C. 20207. Comments will be considered only if they are received by August 22, 1974. Late filed comments will not be considered. All comments timely received may be viewed in the Office of the Secretary during normal working hours, Monday through Friday.

Dated: July 12, 1974.

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

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PART III



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

■

MILK IN INDIANA MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1049]

[Docket No. AO-319-A23]

MILK IN THE INDIANA MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreements and the order regulating the handling of milk in the Indiana marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Indianapolis, Indiana, on April 30, 1974, pursuant to notice thereof issued on April 12, 1974 (39 FR 13280).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Associate Administrator on June 14, 1974 (39 FR 21154), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under "6. The advertising and promotion assessment as an adjustment to the uniform price.", the fifth paragraph is changed and two paragraphs are added immediately following it.

2. Under "7. Computing interest on overdue accounts.", the third paragraph is changed, a paragraph is added immediately following it, and a new paragraph is added immediately following the sixth paragraph.

The material issues on the record of the hearing relate to:

1. Expansion of the marketing area.
2. Designating a cooperative as the handler on bulk tank milk.
3. Partial payment to cooperatives.
4. Shrinkage allowance on producer deliveries.
5. Offsetting payments due from a handler against payments due the handler.
6. Including the advertising and promotion assessment as an adjustment to the uniform price.
7. Computing interest on overdue accounts.
8. Conforming changes.
9. Need for emergency action.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Expansion of the marketing area.* The Indiana marketing area, now comprised of 60 Indiana counties, should be expanded to include the four Indiana counties of Jefferson, Jennings, Ripley and Switzerland. Route disposition in the four counties is from one unregulated plant, from Indiana order pool plants, and from plants regulated by other orders. The handling of milk in the enlarged marketing area is in the current of interstate commerce and directly burdens, obstructs or affects interstate commerce in milk and its products.

The four-county area, which is in southeastern Indiana, attaches to the present Indiana marketing area on the north, the Ohio Valley (OV) marketing area on the east, and the Louisville-Lexington-Evansville (LLE) marketing area on the south. The 1970 census population of the four counties is 74,000. For each county the population is: Jefferson 27,000, Jennings 20,000, Ripley 21,000 and Switzerland 6,000.

Expansion of the marketing area was proposed by an Indiana order handler, the principal distributor in the four-county area. Testimony in support of the proposal was also given on behalf of 19 Indiana order handlers and by the order's principal producer association. They claim that regulated handlers are at a disadvantage in competing for sales with the unregulated distributor in the four-county area, primarily because the latter is not subject to the minimum pricing provisions of an order.

The unregulated distributor, whose plant is in Madison (Jefferson County), Indiana, stated that he would not be averse to regulation if he had to pay no more than his competitors for milk. About 85 to 90 percent of the route disposition from his plant is in the four counties proposed to be added to the marketing area.

The principal distribution in the four-county area is from plants regulated by the Indiana order. Weighted on the basis of population in each county with the estimated percentage of each handler's sales in each county, 67 percent of the distribution in the four counties is by six Indiana order handlers, 22 percent by the presently unregulated distributor, 10 percent by two LLE handlers and 1 percent by an OV handler. With the expansion of the marketing area, as adopted in this decision, the presently unregulated distributor will be a fully regulated handler under the order. This will result in 89 percent of the total distribution in the four-county area accounted for by Indiana order regulated handlers.

The presently unregulated distributor, who is basically a Class I operation, receives milk from 14 dairy farmers. He pays 7 of these on the basis of the LLE uniform price and 7 based on the OV uniform price. In the fall and winter months, when their deliveries are insufficient for his Class I needs, he obtains supplemental supplies from other sources, primarily from a LLE regulated plant.

The unregulated distributor's Class I utilization, about 95 percent of his total receipts from all sources in the fall and winter months, is substantially higher than that reflected in the Indiana uniform price and in the comparable uniform prices for the LLE and OV orders. Class I utilization of producer milk in 1973 was 72 percent for the Indiana order, 73 percent for LLE, and 67 percent for OV.

To the extent that he has a higher Class I utilization and does not purchase milk on a class-use basis, the presently unregulated distributor has a competitive advantage over the Indiana handlers. The latter are required to pay for their milk purchases according to its use. Including the four counties in the Indiana marketing area, as adopted in this decision, will tend to insure the maintenance of orderly marketing conditions by requiring all distributors to pay not less than the applicable Federal order price for Class I milk sold in these counties.

From a careful review of the record evidence it is concluded that the provisions of the existing order, as hereinafter proposed to be amended, are equally appropriate for the extended marketing area and they are adopted for the identical reasons advanced in the decision on which they were adopted for the existing marketing area.

2. *Designating a cooperative as the handler on bulk tank milk.* A cooperative must be held the handler for milk of producers it receives for its account from their farms in a tank truck operated by, or under control of, the cooperative for delivery to a pool plant of another person, unless the cooperative and the operator of the pool plant agree through notice filed with the market administrator that the plant operator will pay for the milk on the basis of weights and butterfat tests determined at the farm. In addition, a cooperative must continue to be the handler for the milk of producers it diverts for its account.

The principal cooperative in the market proposed the provision here adopted for designating a cooperative as a handler on bulk tank milk. It contended that such a provision is necessary to establish accountability for the milk that is picked up at two or more producers' farms in the same tank truck and intermingled with the milk of other producers at a reload station before being delivered to a pool plant. There was no opposition to the cooperative's proposal.

Practically all, if not all, milk produced for the Indiana market is handled through farm bulk tanks and moved to the market in tank trucks. Milk of any producer when commingled in a tank truck with that of other producers is indistinguishable from such other milk. The amount of a producer's milk placed in a tank truck, and the butterfat content thereof, can be determined only by measurement at the farm and from milk samples taken at the farm. After the milk has been pumped from the farm tank into the tank truck and commingled with the milk of other producers there is no opportunity to measure, sample, or reject the milk of the individual producers.

When milk is picked up at the farm by a tank truck owned or operated by a cooperative, or by a person under contract to, or otherwise under the control of, such cooperative for delivery to

a pool plant, it is the cooperative that determines the weight and butterfat content of each producer's milk. Frequently, the plant operator will not know the identity of the individual producer whose milk he receives, and will know only the aggregate amount of milk received. In such cases, the cooperative obviously must become the responsible handler for milk as it leaves the farm.

Since many pool plant operators purchase all their producer milk on the basis of farm weights and tests, it can be expected that the arrangements to receive milk marketed by the cooperative on the basis of farm weights and tests will continue to predominate in the market. When milk is received at the pool plant on such basis, it is accounted for as a receipt at such plant directly from producers.

Whether a pool plant operator will pay a cooperative for farm bulk tank milk according to the weights and tests taken at the farm or those made at the plant to which the milk is delivered is a matter to be determined in advance by agreement between the cooperative and the plant operator. When the farm bulk tank milk from producers' farms is intermingled at a reload point with other milk before being moved to a pool plant(s), it is not generally practicable for a pool plant operator to purchase the milk of such producers on the basis of farm weights and tests. A similar situation exists when the milk from producers' farms that is picked up in the same tank truck is delivered to two or more pool plants.

When a pool plant operator receives milk from a cooperative on the basis of its scale weight at the plant, the cooperative must ascertain and account for the weights and butterfat tests of milk at producers' farms. The cooperative's monetary obligation to the pool, however, on such milk for which it is the bulk tank handler will be only on the difference in the amounts of milk and butterfat as measured at the farm and those recorded at the receiving plant. These amounts usually will be shrinkage and will be priced in accordance with its value under the shrinkage provisions. The milk delivered to the pool plant appropriately should be treated as a transfer from the cooperative to the pool plant operator.

The order should specify, however, that milk received at a pool plant from a cooperative bulk tank handler shall be paid for at the uniform price. This will simplify the accounting for such milk by pool plant operator and will facilitate billing by the market administrator of adjustments resulting from changes in the classification of such milk after audit.

Payments into and out of the producer-settlement fund will be between the pool plant operator and the market administrator. This will establish directly the responsibility of accounting for milk and for its payment. When settlement is made through the cooperative (i.e., when a handler settles with the cooperative at class prices and the cooperative pays into or receives payment from the producer-settlement fund) a third party is unnecessarily involved in the transaction. Removing the cooperative as a party to such transactions will minimize the problems of financial responsibility, enforcement, and subsequent audit adjustments that may arise.

A pool plant operator now pays the administrative assessment on all milk delivered to his plant from producers' farms, including that delivered from the farm in a tank truck operated by, or under control of, a cooperative. Designating the cooperative as the handler on farm bulk tank milk, as adopted in this decision, provides no basis for changing the responsibility of the pool plant operator in this regard. However, the order language should be modified to state explicitly that the administrative assessment on all milk delivered to a pool plant from producers' farms, including that received from a cooperative bulk tank handler, is the obligation of the pool plant operator.

A cooperative may pick up milk of nonmember producers on bulk tank routes under its control. The provisions adopted, which accommodate substantial flexibility in the arrangements under which cooperatives sell to pool plant operators, make it possible for a cooperative to pick up the milk of nonmember producers for delivery to pool plants, and for the pool plant operator to pay such nonmember producers for their milk. The cooperative's responsibility for such milk will depend on the terms of the arrangements for its delivery to pool plants. At the same time, the provisions will enable the cooperative to act as the marketing agent for a nonmember producer who, although he has not become a member, has contracted with the cooperative to act as the marketing agent for his milk. In this circumstance, the cooperative may collect payment from pool plant operators for a nonmember producer who authorized such collection.

The Capper-Volstead Act provides the criteria by which cooperatives are determined to be qualified cooperatives under the Agricultural Marketing Agreement Act. This amendment to the order is consistent with that provision of the Capper-Volstead Act that recognizes that cooperatives may "deal in the products of nonmembers" and limits such dealings to amounts not greater in value than such as are "handled by it for members."

When a cooperative diverts the milk of a nonmember producer as producer milk from a pool plant, it must be the handler for such milk, unless the operator of the plant from which the milk is diverted agrees with the cooperative to account for such milk. Here the cooperative performs the complete handling function and in such capacity is responsible for order obligations applicable to such milk.

The potential of a cooperative to be the handler on nonmember producer milk raises the question whether, in paying a nonmember producer, a cooperative may reblend proceeds due such nonmember with those due its member producers. If the nonmember signed a contract with the cooperative authorizing it to market his milk, collect payment therefor, and reimburse him on the same basis as though he were a member, the cooperative could pay such nonmember on the same basis it pays its member producers.

In the absence of a written contract containing the terms set forth above, the cooperative would be required to pay a nonmember producer, for whose milk it is the handler, not less than the uniform price (subject only to authorized deductions) announced by the market administrator for the month.

3. *Partial payment to cooperatives.* For milk received during the first 15 days of the month from a cooperative, either directly from producers' farms or from a cooperative's plant, a pool plant operator should pay the cooperative at least 2 days prior to the last day of the month for milk received during the first 15 days of the month at not less than the preceding month's Class III price.

The required partial payment by pool plant operators to cooperatives, now applicable only to producer milk, is payable by the 26th of the month for milk received during the first 15 days of the month. The only change applicable to producer milk provided in this decision is that the partial payment would be payable at least 2 days prior to the last day, instead of by the 26th day, of the month.

The partial payment provision changes adopted in this decision were proposed by the major cooperative. It claimed that too frequently there is insufficient time to assemble weights and tests for all producers for the first 15 days of the month and obtain other information needed to prepare invoices, and get them to the handlers in time to pay the cooperative by the 26th. Conditions in the Indiana market are further aggravated in this regard when the producer and handler data needed to prepare invoices must be mailed to a central office of a cooperative at a distant city outside the marketing area and the invoices to the handler for payment must be mailed to a corporate main office at another distant city outside the marketing area.

Extending the time for partial payments from the 26th to 2 days prior to the last day of the month for milk received during the first 15 days of the month gives reasonable recognition to the time necessary to effectuate the payment. Failure to make the change under present conditions in this market would be impracticable. Absent the change, handlers would, through no fault of their own, be unable to comply with the order by making the partial payment when due in some months.

Pool plant operators must now pay by the 10th day of the following month

for plant milk purchased from a cooperative during the month at not less than the class prices for such milk. No partial payment is now required on plant milk purchased from a cooperative. The cooperative spokesman contended that there is no less justification for requiring a partial payment by a pool plant operator for plant milk than for milk delivered to the pool plant from producers' farms. Without such a provision a pool plant operator purchasing plant milk would, in effect, have an advantage over his competitors who receive milk directly from producers' farms and who are required to make partial payments on such milk.

Pool plant operators now make a partial payment for all milk received from producers' farms, including that delivered in a tank truck operated by, or under control of, the cooperative. Such milk, as adopted in this decision, is considered producer milk received by the cooperative at the location of the pool plant to which delivered and as an interhandler transfer to the pool plant operator. This decision in no way, however, changes the plant operator's obligation for a partial payment on such milk.

4. *Shrinkage allowance on producer deliveries.* Designating a cooperative as the handler for bulk tank milk, as adopted in this decision, necessitates changing the shrinkage provisions to accord producer milk of a cooperative bulk tank handler the same treatment as any other producer milk.

A maximum Class III shrinkage of 1.5 percent is now allowed the transferee-plant on the skim milk and butterfat in bulk fluid milk products received from another plant. Since milk delivered by a cooperative bulk tank handler to a pool plant will be considered an interhandler transfer, the transferee-plant should be allowed Class III shrinkage up to 1.5 percent, the same as an interplant transfer. However, when a pool plant operator agrees to accept milk from a cooperative bulk tank handler on the basis of weights and butterfat tests determined at the farm, the Class III shrinkage allowed the pool plant should be 2 percent of such receipts, as on all other milk delivered to a plant directly from producers' farms.

When a pool plant operator is not purchasing milk from a cooperative bulk tank handler on the basis of the weights and butterfat tests at the farm, the cooperative would be responsible for pooling the differences between the farm weights and tests and those accounted for as received at pool plants. A Class III shrinkage allowance of 0.5 percent is provided to cover such differences, the same as allowed a transferor-plant on shipments to another plant.

In connection with designating a cooperative as the handler on bulk tank milk, it was suggested that shrinkage resulting from milk of producers destroyed or lost under extraordinary circumstances (e.g., milk lost from an overturned tank truck) be classified in the lowest price class.

Losses of milk and milk products in a vehicular accident, flood, fire, or similar catastrophe beyond their control may be experienced by cooperative bulk tank handlers and other handlers. To the extent that the quantities involved can be verified from records kept by the handler and satisfactory to the market administrator, a Class III classification should be provided for such losses.

A Class III classification is now provided for the skim milk and butterfat in milk products dumped by a handler if the market administrator is notified in advance of such dumping and is given the opportunity to verify it. When milk is lost by a handler in a truck accident or in a comparable situation beyond his control it is not possible to give advance notice to the market administrator. However, the quantities of milk and milk products lost or destroyed can generally be established in a reasonable manner. The quantities of milk lost in a truck accident, for example, can frequently be verified from shipping invoices or from farm pickup records.

Milk lost under circumstances beyond the control of the handler obviously would not provide any return to him except as covered by insurance. Nevertheless, producers should not be involved and should be remunerated for all milk the handler has received from them.

It is not intended that this provision shall be applicable to milk lost through faulty pipe connections, open or leaking valves, broken hoses, contamination and similar accidents which must be considered normal business hazards. Milk lost in such manner is part of the normal shrinkage experienced in any milk operation and such losses are adequately provided for under the shrinkage provisions. However, the shrinkage provisions cannot be expected to accommodate losses from truck accidents, flood, fire, and similar catastrophes. Providing a Class III classification for verified amounts of skim milk and butterfat in milk and milk products lost under such circumstances, as adopted herein, is a reasonable basis for handling such losses.

5. *Offsetting payments due from a handler against payments due the handler.* Any payments due the market administrator from a handler should be offset against a payment due the handler from the producer-settlement fund.

The order now provides for offsetting payments due from a handler against payment due the handler from the producer-settlement fund. However, it neither expressly precludes nor explicitly provides that the amounts due the market administrator for other purposes may offset payments due from the producer-settlement fund. The language herein adopted will clarify this by stating specifically that the payment due a handler from the producer-settlement fund shall be reduced by any amount he owes the producer-settlement fund and for administrative assessments, marketing service deductions, audit adjustments, and interest charges on unpaid obligations.

The change here adopted was proposed by the major cooperative in the market and was unopposed at the hearing. It will contribute to orderly marketing by facilitating the collection of monies due from handlers and will avoid unnecessary and duplicate transactions. Additionally, it will provide a practicable means for collecting money from a handler who is delinquent in any payments due the market administrator.

6. *The advertising and promotion assessment as an adjustment to the uniform price.* A handler proposal to remove the 5-cent per hundredweight advertising and promotion deduction for the uniform price computation, and apply it instead as a deduction from the uniform price in paying producers, should not be adopted.

There is some overlapping of the supply areas for the Indiana order and for 6 nearby orders (Chicago Regional, Southern Illinois, Central Illinois, Ohio Valley, Southern Michigan, and Louisville-Lexington-Evansville), none of which provide for an advertising and promotion assessment. Handlers contended that under the present arrangement in the Indiana order, whereby the 5-cent advertising and promotion assessment is reflected in the uniform price, the announced uniform price for Indiana is not comparable with those announced for the 6 nearby orders with no advertising and promotion assessment.

The advertising and promotion program is a voluntary producer program. After the inclusion of such a program in an order, each producer decides whether he will contribute to the cost of its operation. The responsibility for operating the program and the costs of operating it are borne entirely by producers. Handlers are not involved in any way in the advertising and promotion program.

The change proposed was not supported by producers. In fact, they expressed no dissatisfaction with the way in which the 5-cent per hundredweight advertising and promotion deduction is now provided for under the order. Moreover, adopting the handler proposal would have no effect on either the prices the order requires handlers to pay producers for their milk or on the net price returned to producers. Accordingly, no purpose would be served by changing any order provisions affecting the advertising and promotion program at this time.

Exceptions filed on behalf of proponent handlers urged a more in-depth analysis of the procurement facts for the Indiana marketing area. Exceptors reiterated their position taken at the hearing that "the procedure provided by the order of a reduction in the computation of the announced uniform price for the 5-cent advertising and promotion set-aside results in an inaccurate, unfair and not a totally honest blend price representative of the total value handlers paid for producer milk on a classified use basis".

The procedure whereby the mandatory deduction of advertising and promotion

monies is made from the gross pool proceeds before the computation of the uniform price is specifically authorized by the statute and is universally followed under all Federal milk orders providing advertising and promotion programs. For the identical reasons set forth above in the denial of the proposed order modification, the exceptions are denied.

7. *Computing interest on overdue accounts.* The date when interest charges begin on unpaid obligations to the market administrator should not be changed.

A handler must now pay interest on payments owed the producer-settlement fund, for administration expense, and for marketing service deductions beginning on the 6th day after such payments are due. This provision became applicable in the order effective April 1, 1973.

Handlers proposed that interest on unpaid obligations be computed beginning the 8th day after such obligations are due. They claimed that an additional 2 days are needed because their billings from the market administrator are frequently delayed because of routine delays in mail deliveries. This is substantially the same basis on which the provision to charge interest beginning 6 days after the due date was adopted.

Handlers asserted that as many as 3 days may elapse between the time a billing mailed from the market administrator's office is received by a handler and another 3 days may elapse between the time the payment mailed by an handler is rceived by the market administrator. No actual instances were cited to establish that it takes 3 days each way for mailings between the market administrator and handlers. Neither was any other data presented to substantiate that this accurately reflects the actual experience. Assuming, nevertheless, that as many as 3 days elapse between the time a letter is mailed and the time it is received, the 6-day period of grace now allowed before interest is charged on overdue accounts provides adequately for such a situation.

Handlers are billed by the market administrator immediately following completion of the monthly uniform price computation. The date the uniform price is computed depends on when handlers' monthly reports are received. When reports are late, the uniform price announcement is delayed.

Handler reports are due on or before the 8th of the month for the preceding month and the market administrator must announce the uniform price no later than the 14th. Payments by handlers to the producer-settlement fund and for order administration expenses and marketing service deductions are due on or before the 15th of the month.

If the reports for all handlers are filed when due, it can be expected the market administrator will complete the uniform price computation and bill handlers before the 14th of the month. This would allow sufficient time for handlers to make payments to the market administrator when due, by the 15th of the month. Of course, when reports are filed late, it necessarily delays the date when the billings are issued to handlers. There is no indication, however, that billings to handlers have ever been issued so late as to make it impossible for the handlers to pay the market administrator within 6 days after their due dates.

In support of their request for an additional 2 days before interest is charged on overdue accounts, handlers referred to a number of other orders with provisions different from the Indiana order in this regard. Some of these orders charge no interest until the first day of the month following the due date and some allow no period of grace before charging interest. The provisions in these other orders were derived from record evidence of the hearing applicable to each order. They were deemed appropriate under the conditions in the applicable order market and cannot be considered a basis for effecting the requested change in the Indiana order.

The purpose of interest charges is to insure the prompt payment of amounts due the market administrator, which is necessary to achieve efficient administration of the order. Extending the period of grace for making such payments an additional 2 days, as proposed by handlers, would be inconsistent with this purpose.

8. *Conforming changes.* The definition changes provided in this decision require changes in other sections of the order involving such definitions. The affected provisions have been redrafted to reflect the changes. Except as heretofore noted, these changes do not affect the application or impact of the order.

It is not expected that any order amendment resulting from this decision will become effective before August 1, 1974. Accordingly, the attached order language of this decision is coordinated with that in the amended Indiana order issued April 29, 1974, to be effective August 1, 1974.

9. *Need for emergency action.* The notice of hearing provided for evidence to be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision on the proposal to designate a cooperative association as the handler on farm bulk tank milk. At the hearing, proponent urged prompt action on this proposal. However, no testimony was presented to justify omission of the recommended decision and the opportunity to file exceptions thereto. The proposal for taking emergency action is therefore denied.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held;

(d) All milk and milk products handled by handlers, as defined in the tentative marketing agreement and the order as hereby proposed to be amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1049.85 of the aforesaid tentative marketing agreement and the order as proposed to be amended.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a marketing agreement[1] regulating the handling of milk, and an ORDER amending the order regulating the handling of milk in the Indiana marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement,[1] be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

REFERENDUM ORDER TO DETERMINE PRODUCER APPROVAL; DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF REFERENDUM AGENT

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 et seq.), to determine whether the issuance of the attached order as amended and as hereby proposed to be amended, regulating the handling of milk in the Indiana marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during the representative period were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be May 1974.

The agent of the Secretary to conduct such referendum is hereby designated to be M. C. Jenkins.

Signed at Washington, D.C. on: July 17, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

ORDER[2] AMENDING THE ORDER, REGULATING THE HANDLING OF MILK IN THE INDIANA MARKETING AREA

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Indiana marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1049.85.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Indiana marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Associate Administrator on June 14, 1974, and published in the FEDERAL REGISTER on June 19, 1974 (39 FR 21154), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein, subject to a modification in § 1049.31. The entire order, as amended herein, is published herewith.

PART 1049—MILK IN INDIANA MARKETING AREA

Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1049.1 General provisions.

DEFINITIONS

Sec.
1049.2 Indiana marketing area.
1049.3 Route disposition.
1049.4 [Reserved]
1049.5 Distributing plant.
1049.6 Supply plant.
1049.7 Pool plant.
1049.8 Nonpool plant.
1049.9 Handler.
1049.10 Producer-handler.
1049.11 [Reserved]
1049.12 Producer.
1049.13 Producer milk.
1049.14 Other source milk.
1049.15 Fluid milk product.
1049.16 Fluid cream product.
1049.17 Filled milk.
1049.18 Cooperative association.

HANDLER REPORTS

1049.30 Reports of receipts and utilization.
1049.31 Payroll reports.
1049.32 Other reports.

CLASSIFICATION OF MILK

1049.40 Classes of utilization.
1049.41 Shrinkage.
1049.42 Classification of transfers and diversions.
1049.43 General classification rules.
1049.44 Classification of producer milk.
1049.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1049.50 Class prices.
1049.51 Basic formula price.
1049.52 Plant location adjustments for handlers.
1049.53 Announcement of class prices.
1049.54 Equivalent price.

UNIFORM PRICE

1049.60 Handler's value of milk for computing uniform price.
1049.61 Computation of uniform price (including weighted average price).
1049.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1049.70 Producer-settlement fund.
1049.71 Payments to the producer-settlement fund.
1049.72 Payments from the producer-settlement fund.
1049.73 Payments to producers and to cooperative associations.
1049.74 Butterfat differential.
1049.75 Plant location adjustments for producers and on nonpool milk.
1049.76 Payments by handler operating a partially regulated distributing plant.
1049.77 Adjustment of accounts.
1049.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1049.85 Assessment for order administration.
1049.86 Deduction for marketing services.

ADVERTISING AND PROMOTION PROGRAM

Secs.
1049.110 Agency.
1049.111 Composition of the Agency.
1049.112 Term of office.
1049.113 Selection of Agency members.
1049.114 Agency operating procedure.
1049.115 Powers of the Agency.
1049.116 Duties of the Agency.
1049.117 Advertising, research, education, and promotion program.
1049.118 Limitation of expenditures by the Agency.

[1] Filed as part of the original document.

[2] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Sec.
1049.119 Personal liability.
1049.120 Procedure for requesting refunds.
1049.121 Duties of the market administrator.
1049.122 Liquidation.

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

GENERAL PROVISIONS

§ 1049.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1049.2 Indiana marketing area.

"Indiana marketing area" (hereinafter referred to as the "marketing area") means all the territory within the boundaries of each of the Indiana counties listed below, including territory wholly or partly within such boundaries occupied by Government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments:

Adams.
Allen.
Bartholomew.
Blackford.
Boone.
Brown.
Cass.
Clay.
Clinton.
Decatur.
De Kalb.
Delaware.
Elkhart.
Fayette.
Fountain.
Franklin.
Fulton.
Grant.
Hamilton.
Hancock.
Hendricks.
Henry.
Howard.
Huntington.
Jackson.
Jay.
Jefferson.
Jennings.
Johnson.
Kosciusko.
Lagrange.
Lake.
La Porte.
Lawrence.
Madison.
Marion.
Marshall.
Miami.
Monroe.
Montgomery.
Morgan.
Noble.
Owen.
Parke.
Porter.
Putnam.
Randolph.
Ripley.
Rush.
Shelby.
Steuben.
St. Joseph.
Starke.
Switzerland.
Tippecanoe.
Tipton.
Union.
Vermillion.
Vigo.
Wabash.
Warren.
Wayne.
Wells.
Whitley.

§ 1049.3 Route disposition.

"Route disposition" means a delivery (including that custom-packaged for another person, disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk product classified as Class I milk other than a delivery in bulk form to any milk or filled milk processing plant.

§ 1049.4 [Reserved]

§ 1049.5 Distributing plant.

"Distributing plant" means a plant approved by any duly constituted health authority for the processing or packaging of milk for fluid consumption in the marketing area and from which there is route disposition during the month in the marketing area.

§ 1049.6 Supply plant.

"Supply plant" means a plant in which some milk approved by any duly constituted health authority for fluid consumption in the marketing area is assembled and shipped in bulk as milk or skim milk to a distributing plant during the month.

§ 1049.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant with:

(1) Total route disposition, exclusive of packaged fluid milk products received from other plants and filled milk, in an amount not less than 50 percent of Grade A milk received at such plant (excluding receipts of milk diverted from another plant pursuant to § 1049.13) during the month from dairy farmers, supply plants, and handlers pursuant to § 1049.9(c), except that a plant meeting such percentage requirement for the preceding month may remain qualified under this subparagraph in the current month; and

(2) Route disposition within the marketing area during the month of at least 10 percent of such receipts, such route disposition to be exclusive of packaged fluid milk products received from other plants and filled milk: *Provided*, That any plant meeting the requirements of this paragraph in each of the months of September through May, inclusive, shall continue to have pool plant status in the months of June, July, and August, immediately following if there is route disposition, except filled milk, from the plant in the marketing area during such month.

(b) A supply plant from which not less than 50 percent of the Grade A milk received from dairy farmers and handlers pursuant to § 1049.9(c) at such plant during the month is shipped to plants qualifying for the month pursuant to paragraph (a) of this section. A plant qualified pursuant to this paragraph in each of the immediately preceding months of September through February shall remain so qualified for the months of April through August unless written application is filed with the market administrator on or before the first day of any such month to designate such plant as a nonpool plant for such month and for each subsequent month through August during which it would otherwise not qualify under this paragraph.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant from which the Secretary determines there is a greater proportion of route disposition (except filled milk) in another marketing area regulated by another order issued pursuant to the Act and such plant is fully subject to regulation of such other order: *Provided*, That a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which it has a greater proportion of its route disposition (except filled milk) in such other marketing area, unless, notwithstanding the provisions of this subparagraph, it is regulated by such other order;

(3) A distributing plant which meets the requirements of paragraph (a) of this section which also meets the requirements of another order on the basis of its route disposition in such other marketing area and from which the Secretary determines there is a greater quantity of route disposition (except filled milk) during the month in this marketing area than in such other marketing area but which plant is nevertheless fully regulated under such other order;

(4) A supply plant which during the month is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to paragraph (b) of this section and a greater volume of fluid milk products (except filled milk) is moved to pool distributing plants qualified on the basis of route disposition in this marketing area; and

(5) That portion of a plant that is physically separated from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition.

§ 1049.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool supply plant that is not an other order plant or a producer-handler plant, from which fluid milk products are shipped during the month to a pool plant.

§ 1049.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to producer milk diverted for the account of such association pursuant to § 1049.13;

(c) Any cooperative association with respect to milk it receives for its account from the farm of a producer in a tank truck owned and operated by, or under

the control of, such association, for delivery to a pool plant operated by another person, unless both the cooperative association and the operator of the pool plant notify the market administrator that the plant operator will be responsible for payment for the milk and is purchasing the milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered.

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; or

(f) Any person who operates an other order plant described in § 1049.7(c).

§ 1049.10 Producer-handler.

"Producer-handler" means a person who operates a dairy farm and a distributing plant and who receives no fluid milk products from other dairy farmers or from sources other than pool plants, and no milk products other than fluid milk products for reconstitution into fluid milk products: *Provided*, That such person provides proof satisfactory to the market administrator that the care and management of all dairy animals and other resources used in his own farm production and the operation of the processing and distributing business are at the personal enterprise and risk of such person.

§ 1049.11 [Reserved]

§ 1049.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who, in compliance with Grade A inspection requirements of a duly constituted health authority, produces milk for distribution as fluid milk products within the marketing area or produces milk acceptable for fluid consumption at Federal, State or municipal institutions, which milk is received at a pool plant, diverted pursuant to § 1049.13, or received by a handler pursuant to § 1049.9(c).

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1049.44(a)(8)(iii) and the corresponding step of § 1049.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1049.13 Producer milk.

"Producer milk" means all skim milk and butterfat contained in milk of any producer which is:

(a) Received during the month at one or more pool plants or by a handler pursuant to § 1049.9(c) (milk may be diverted during the month by a handler from a pool distributing plant to another pool plant(s) for not more days of production of producer milk than is physically received at the diverting pool plant).

(b) Received at a pool plant at least one day during the month from such producer or from a handler pursuant to § 1049.9(c) and then diverted by the operator of a pool plant or by a cooperative association to a nonpool plant that is not a producer-handler plant during the month under any of the following conditions:

(1) During April through August the operator of a pool plant or a cooperative association may divert the milk production of a producer from a pool plant to a nonpool plant on any number of days during the month.

(2) During September through March the milk of a producer diverted by the operator of a pool plant or a cooperative association to a nonpool plant shall be limited to the amounts specified in paragraph (b)(2)(i) and (ii) of this section:

(i) The operator of a pool plant may divert the milk of producers (except producers for whom a cooperative association is diverting milk under the percentage limit of paragraph (b)(2)(ii) of this section) for not more days of production of producer milk than is physically received at the diverting pool plant or he may divert an aggregate quantity not exceeding 40 percent of the milk of all such producers.

(ii) A cooperative association may divert the milk of individual producers for not more days of production of producer milk than is physically received at a pool plant or it may divert an aggregate quantity of the milk of producers not exceeding 40 percent of all such milk either caused to be delivered to pool plants or diverted to nonpool plants by the cooperative association.

(3) When milk is diverted in excess of the limit by a handler who elects to divert on the basis of days-of-production, only that milk of the individual producer which was received at a pool plant or which was diverted to a nonpool plant for not more days of production than is physically received at a pool plant shall be considered producer milk.

(4) When milk is diverted in excess of the percentage limit by a handler who elects to divert on a percentage basis, eligibility as producer milk shall be forfeited on a quantity of milk equal to such excess. In such instances the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk. If the handler fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler.

(c) Diverted milk shall be deemed to be received by the handler at the pool plant or nonpool plant to which the milk is diverted, unless diverted to a plant located in any part of the marketing area or to a plant at which no location adjustment would apply pursuant to § 1049.52, in which case such diverted milk shall be deemed to be received at the pool plant from which diverted.

§ 1049.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1049.40(b)(1) from any source other than producers, or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1049.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1049.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1049.40(b)(1)) for which the handler fails to establish a disposition.

§ 1049.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1049.40 (b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1049.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1049.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1049.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or milk products for its members; and

(c) To have all of its activities under the control of its members.

HANDLER REPORTS

§ 1049.30 Reports of receipts and utilization.

On or before the 8th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers pursuant to § 1049.9 (b) or (c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1049.40 (b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1049.9 (b) or (c) shall report:

(1) The quantities of skim milk and butterfat contained in receipts of milk from producers;

(2) The quantities of such receipts delivered to each pool plant of other handlers; and

(3) The classification of such receipts diverted pursuant to § 1049.13.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1049.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1049.9 (a), (b) and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1049.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1049.32 Other reports.

(a) On or before the day prior to diverting milk pursuant to § 1049.13, each handler shall notify the market administrator of his intention to divert such milk, the date or dates of such diversion, and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1049.30 and 1049.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1049.40 Classes of utilization.

Except as provided in § 1049.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1049.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In fluid milk products and products specified in paragraph (b)(1) of this

section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond his control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1049.15; and

(7) In shrinkage assigned pursuant to § 1049.41(a) to the receipts specified in § 1049.41(a)(2) and in shrinkage specified in § 1049.41 (b) and (c).

§ 1049.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1049.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (7) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (7) of this section which was received in bulk fluid form;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of skim milk and butterfat, respectively, in milk received from a handler pursuant to § 1049.9(c), except that if the handler operating the pool plant files notice with the market administrator that he is purchasing such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2.0 percent;

(3) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk diverted to such plant from another pool plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(4) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(7) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(8) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b) (1), (2), (3), (5), (6) and (7) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1049.9 (b) or (c) but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph shall be zero.

§ 1049.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk and butterfat transferred or diverted in the form of a fluid milk product to a pool plant from another pool plant or by a handler pursuant to § 1049.9 (b) or (c) and skim milk and butterfat transferred in the form of a bulk fluid cream product between pool plants shall be classified as Class I milk unless both parties to each such transfer or diversion request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1049.44(a)(12) and the corresponding step of § 1049.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1049.44(a)(7) or the corresponding step of § 1049.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1049.44(a) (11) or (12) or the corresponding steps of § 1049.44 (b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utlization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1049.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a

producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product; unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1049.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1049.43 General classification rules.

In determining the classification of producer milk pursuant to § 1049.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1049.30 and shall compute separately for each pool plant and each handler pursuant to § 1049.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1049.40, 1049.41 and 1049.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1049.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1049.44 Classification of producer milk.

For each month the market administrator shall determine for each pool plant the classification of milk received from producers and from handlers pursuant to § 1049.9 (b) or (c) and the classification of milk received from producers by each handler pursuant to § 1049.9 (b) or (c) that was not received at a pool plant, as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1049.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1049.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1049.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a

fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1049.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1049.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk at all pool plants of the handler in producer milk, receipts of fluid milk products from pool plants of other handlers, from handlers pursuant to § 1049.9(b) and (c), and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1049.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1049.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the

computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts from handlers pursuant to § 1049.9(b) and (c) and in receipts of fluid milk products and bulk fluid cream products from other pool plants according to the classification assigned pursuant to § 1049.42 (a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1049.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1049.44(a)(12) and the corresponding step of § 1049.44 (b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1049.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 14th day after the end of each month, report to each cooperative association, upon request by such association, the percentage of the milk caused to be delivered by the cooperative association or its members which was utilized in each class at each pool plant receiving such milk. For the purpose of this report, the milk so received shall be allocated to each class at each pool plant in the same ratio as all producer milk received at such plant during the month.

Class Prices

§ 1049.50 Class prices.

Subject to the provisions of § 1049.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.47.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The class III price shall be the basic formula price for the month.

§ 1049.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1049.52 Plant location adjustments for handlers.

(a) For producer milk which is received at a pool plant located outside the area for which zero location adjustment is specified in paragraph (a)(1)(i) of this section, which milk is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1049.50(a) shall be reduced on the basis of the applicable amount or rate for the location of such plant pursuant to paragraph (a) (1) or (2) of this section, respectively. For the purpose of this section and § 1049.75, the distances to be computed shall be on the basis of the shortest hard-surfaced highway distances as determined by the market administrator:

(1) At any plant located within:

	Rate of adjustment per hundredweight (Cents)
(i) The State of Ohio or any Indiana county not specifically named in subdivisions (ii) through (iv) of this subparagraph	0
(ii) Any of the Indiana counties of: Adams, Allen, Blackford, Cass, Carroll, De Kalb, Huntington, Jay, Lagrange, Miami, Noble, Steuben, Wabash, Wells, White, Whitley	4
(iii) Any of the Indiana counties of: Benton, Elkhart, Fulton, Jasper, Kosciusko, Marshall, Newton, Pulaski, St. Joseph, and Berrien and Cass Counties, Mich	8
(iv) Any of the Indiana counties of: Lake, La Porte, Porter, Starke	12

(2) For any plant at a location outside the territory specified in the preceding paragraph (a)(1) of this section, the applicable adjustment rate per hundredweight shall be based on the shortest highway distance between the plant and the nearest of the Monument Circle, Indianapolis, Ind., or the main post offices of Fort Wayne, South Bend, or Valparaiso, Ind., and shall be 1.5 cents for each 10 miles or fraction thereof from such point plus the amount of the location adjustment pursuant to paragraph (a)(1) of this section applicable at the respective point.

(b) For the purpose of calculating adjustments pursuant to this section, transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the receipts at such plant from producers and handlers pursuant to § 1049.9(b) and (c) and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1049.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1049.54 Equivalent price.

If for any reason a price quotation or factor required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price or factor determined by the Secretary to be equivalent to the price or factor which is required.

UNIFORM PRICE

§ 1049.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk for each pool plant of each handler and for each handler pursuant to § 1049.9 (b) and (c) for milk that was not received at a pool plant as follows:

(a) Multiply by the applicable class prices the pounds of producer milk in each class as determined pursuant to § 1049.44 and the pounds of milk received from handlers pursuant to § 1049.9(c) (and allocated pursuant to § 1049.44(a) (13) and the corresponding step of § 1049.44(b)), and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1049.44(a)(14) and the corresponding step of § 1049.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1049.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1049.44 (a)(9) and the corresponding step of § 1049.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1049.44(a)(7) (i) through (iv) and the corresponding step of § 1049.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1049.44(a)(7) (v) and (vi) and the corresponding step of § 1049.44 (b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1049.44(a)(11) and the corresponding step of § 1049.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1049.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1049.60 for all handlers who filed the reports prescribed by § 1049.30 for the month and who made the payments pursuant to § 1049.71 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1049.75;

(c) Subtract an amount computed by multiplying the total hundredweight of producer milk and milk received from handlers pursuant to § 1049.9(c) included in paragraph (a) of this section by 5 cents;

(d) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The hundredweight of milk described in paragraph (c) of this section; and

(2) The total hundredweight for which a value is computed pursuant to § 1049.60(f);

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract for each month of April through July the amount obtained by multiplying the hundredweight of milk described in paragraph (c) of this section by 20 cents. The amount so subtracted, and the interest subsequently earned thereon (less any money not available for crediting under this paragraph because of insufficient payment by a handler to the producer-settlement fund) shall be credited to the producer-settlement fund and remain as an obligated amount until disbursed pursuant to paragraph (i) of this section;

(i) Add for the month of September one-fourth of the total money that has been credited to the producer-settlement fund pursuant to paragraph (h) of this section as of the eighth day of the following month. Similarly, for the months of October and November, add one-third and one-half, respectively, of the remainder that has been so credited. For the month of December, add the remainder of the money credited to the producer-settlement fund pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the hundredweight of milk described in paragraph (c) of this section; and

(k) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1049.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 14th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1049.70 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments received pursuant to §§ 1049.71, 1049.76, 1049.77 and 1049.78 and out of which he shall make all payments pursuant to §§ 1049.72 and 1049.77: *Provided*, That a payment due a handler shall be offset against payments due the market administrator from such handler pursuant to §§ 1049.71, 1049.76, 1049.77, 1049.78, 1049.85 and 1049.86.

§ 1049.71 Payments to the producer-settlement fund.

(a) On or before the 15th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1049.60.

(2) The sum of:

(i) The value at the uniform price, adjusted pursuant to § 1049.75, of such handler's receipts of producer milk and milk received from handlers pursuant to § 1049.9(c);

(ii) The value at the weighted average price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1049.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1049.72 Payments from the producer-settlement fund.

On or before the 16th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1049.71(a)(2) exceeds the amount computed pursuant to § 1049.71(a)(1). If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

§ 1049.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for produce milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) On or before the 18th day after the end of each month, for each hundredweight of producer milk received during such month, an amount computed at not less than the uniform price as adjusted pursuant to §§ 1049.74, 1049.75 and 1049.86, less any payment made pursuant to paragraph (a)(1) of this section. If by such date the handler has not received full payment from the market administrator pursuant to § 1049.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following receipt of the balance due from the market administrator.

(b) Each handler shall make payment to the cooperative association for producer milk which it caused to be delivered to such handler, if such cooperative association is authorized to collect such payments for its members and exercises such authority, an amount equal to the sum of the individual payments otherwise payable for such producer milk, as follows:

(1) On or before two days prior to the last day of each month for producer milk received during the first 15 days of the month; and

(2) On or before the 16th day after the end of each month for milk received during such month.

(c) Each handler shall pay a cooperative association for milk received by the handler from the cooperative association as follows:

(1) In the case of milk received from a pool plant(s) operated by a cooperative association:

(i) For milk received during the first 15 days of the month, the handler shall pay the cooperative association on or before two days prior to the last day of such month not less than the Class III price for the preceding month;

(ii) For milk received during the month the handler shall pay the cooperative association on or before the 10th day of the following month not less than the applicable class prices pursuant to § 1049.50 adjusted by the butterfat differential specified in § 1049.74 and less any payments made pursuant to paragraph (c)(1)(i) of this section; and

(2) Each handler pursuant to § 1049.9(a) who receives milk from a cooperative association as a handler pursuant to § 1049.9 (b) or (c), including the milk of producers who are not members of such association, and who the market administrator determines have authorized such cooperative association to collect payment for their milk, shall pay such cooperative for such milk as follows:

(i) On or before two days prior to the last day of the month for milk received during the first 15 days of the month, not less than the Class III price for the preceding month;

(ii) On or before the 16th day of the following month for milk received during the month, not less than the uniform price as adjusted pursuant to §§ 1049.74 and 1049.75, and less any payments made pursuant to paragraph (c)(2)(i) of this section.

(d) In making payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom he has received milk a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month and identity of the producer;

(2) The daily and total pounds and the average butterfat content of producer milk;

(3) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount, or the rate per hundredweight, and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer or cooperative association.

§ 1049.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1049.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received or which is deemed to have been received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1049.52(a); and

(b) For purposes of computations pursuant to §§ 1049.71 and 1049.72 the weighted average price shall be adjusted at the rates set forth in § 1049.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price plus 5 cents shall not be less than the Class III price.

§ 1049.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1049.30(b) and 1049.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent

that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1049.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to subparagraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1049.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order) except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1049.60 for such handler shall include, in lieu of the value of other source milk specified in § 1049.60(f) less the value of such other source milk specified in § 1049.71(a)(2)(ii), a value of milk determined pursuant to § 1049.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1049.7(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1049.30(b) and 1049.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1049.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1049.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1049.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1049.77 Adjustment of accounts.

Whenever verification by the market administrator of reports or payments of any handler discloses errors resulting in money due (a) the market administrator from such handler (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payment next following such disclosure.

§ 1049.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to § 1049.71, 1049.76, 1049.77(a), 1049.78, 1049.85, or 1049.86(a) shall be increased three-fourths of 1 percent on the sixth day following the date such obligation is due and on the same day of each succeeding month until such obligation is paid.

Administrative Assessment and Marketing Service Deduction

§ 1049.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler (except a handler pursuant to § 1049.9(b) or (c) for milk delivered to pool plants) shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundred-weight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own farm production) and milk received from handlers pursuant to § 1049.9(b) or (c);

(b) Other source milk allocated to Class I pursuant to § 1049.44(a)(7) and (11) and the corresponding steps of § 1049.44(b), except such other source milk that is excluded from the computations pursuant to § 1049.60(d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1049.76(a)(2).

§ 1049.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1049.73 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to producer milk received by such handler (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

ADVERTISING AND PROMOTION PROGRAM

§ 1049.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1049.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1049.111 Composition of the Agency.

Each cooperative association or combination of cooperative associations as provided for under § 1049.113(b) with 3 percent or more of the total participating producers (producers who have not requested refunds for the most recent quarter) is authorized one Agency representative plus one additional Agency representative for each additional full 10 percent of the participating member producers it represents. Cooperative associations with less than 3 percent of the total participating producers that have elected not to combine pursuant to § 1049.113(b), and participating producers who are not members of cooperatives are authorized to select from such group, in total, one Agency representative for the first full 3 percent plus one additional Agency representative for each additional full 10 percent that such producers constitute of the total participating producers. For the purpose of the Agency's initial organization, all persons defined as producers shall be considered as participating producers.

§ 1049.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1049.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative association authorized one or more respresentatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 3 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1049.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required 3 percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among the individual producers eligible to vote. Election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1049.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting, unless the Agency determines that more than a simple majority shall be required.

§ 1049.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1049.110.

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With the approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1049.110 and 1049.117.

§ 1049.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1049.110 and 1049.117;

(c) Keep minutes, books, and records, and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1049.117 Advertising, research, education, and promotion program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1049.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1049.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1049.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1049.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1049.121 Duties of the market administrator.

Except as specified in § 1049.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1049.113(c);

(b) Set aside the amounts subtracted under § 1049.61(c) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1049.61(c).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1049.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1049.61(c) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1049.110 through 1049.122).

(d) Audit the Agency's records of receipts and disbursements.

§ 1049.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1049.70.

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