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EXECUTIVE ORDER 11802

General Creighton W. Abrams
Chief of Staff, United States Army

As a mark of respect to the memory of General Creighton W. Abrams, Chief of Staff, United States Army, it is hereby ordered, pursuant to the provisions of Section 4 of Proclamation 3044 of March 1, 1954, as amended, that until the day of interment the flag of the United States shall be flown at half-staff on all buildings, grounds, and naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions. I also direct that the flag shall be flown at half-staff during this same period at all United States embassies, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

Gerald R. Ford

THE WHITE HOUSE,
September 4, 1974.

[FR Doc.74-20729 Filed 9-4-74;2:45 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 36—Parks, Forests, and Public Property

CHAPTER III—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 327—RULES AND REGULATIONS GOVERNING PUBLIC USE OF WATER RESOURCE DEVELOPMENT PROJECTS ADMINISTERED BY THE CHIEF OF ENGINEERS

Recreation Use Fees

In accordance with section 210 of Pub. L. 90-483, 82 Stat. 746, Public Law 88-578, 78 Stat. 897, Land and Water Conservation Act of 1965, as most recently amended by Pub. L. 93-81, 87 Stat. 178 and Pub. L. 93-303, 88 Stat. 192, this amendment sets forth the requirements for a special recreation use fee, as established by Pub. L. 93-303.

The above legislation directs subject to certain limitations, the collection of daily recreation use fees where the Federal Government provides specialized outdoor recreation sites, facilities, equipment, or services.

Use fee collection is required at all campgrounds having certain enumerated facilities. At each Corps lake or reservoir where camping is permitted, the Corps will provide at least one primitive campground where no fees will be charged.

General entrance or admission fee will not be collected at any Corps of Engineers recreation areas.

Amend § 327.25 to read:

§ 327.25 Recreation use fees.

(a) (1) Section 2 of 78 Stat. 897 (The Land and Water Conservation Fund Act of 1965), as amended, directs, subject to certain limitations, the collection of daily recreation use fees where the Federal government provides specialized outdoor recreation sites, facilities, equipment, or services at the place of use or any reasonably convenient location.

(2) At water resources development projects administered by the Secretary of the Army, acting through the Chief of Engineers, fees will not be charged for use in any combination of drinking water, wayside exhibits, roads, overlook sites, visitor centers, scenic drives, toilet facilities, picnic tables or boat ramps (except if mechanical or hydraulic boat lifts are provided).

(b) In addition, fees will not be charged for use of campgrounds which do not have the following: tent or trailer spaces, drinking water, access roads, refuse containers, toilet facilities, personal fee collection, reasonable visitor protection, and simple devices for containing campfires (if campfires are permitted).

(c) At each Corps lake or reservoir where camping is permitted, the District Engineer will provide at least one primitive campground, containing designated campsites, sanitary facilities, and vehicular access, where no fees will be charged.

(d) All use fees shall be fair and equitable and will be based on the following criteria:

(1) The direct and indirect amount of Federal expenditure.

(2) The benefit to the recipient.

(3) The public policy or interest served.

(4) The comparable recreation fees charged by other Federal and non-Federal public agencies within the service area of the management unit at which the fee is charged.

(5) The economic and administrative feasibility of fee collection.

(6) The extent of regular maintenance required, and

(7) Other pertinent factors.

Based on the above criteria, District Engineers have recommended to the Office, Chief of Engineers and the Chief has established fees for recreation facilities within the ranges set forth as follows:

$1–$4 per day for family camping.
$3–$25 per day for group camping.

A charge of $.50 for electrical service where available will be made for family campsites, but in no case will the daily fee for family camping exceed $4.

Fees for specialized outdoor recreation facilities not mentioned above may also be established in accordance with the criteria listed in this paragraph.

(e) (1) Any Golden Age Passport permittee shall be entitled upon presentation of such a permit to utilize special recreation facilities at a rate of 50 percent off the established use fee.

(2) Golden Eagle Passports however, do not affect the charging of use fees, since they apply only to entrance fees, which are not charged by the U.S. Army Corps of Engineers.

(f) The District Engineer shall insure that clear notice that a fee has been established is prominently posted at each such area and at appropriate locations therein, and that it be included in publications distributed at such areas.

(g) Failure to pay a prescribed use fee is a violation of the Land and Water Conservation Fund Act, as amended, and subjects the violator to a punishment by a fine of not more than $100.

(Pub. L. 93-81, 87 Stat. 178 and Pub. L. 93-303, 88 Stat. 192)

By authority of the Secretary of the Army.

Dated: August 15, 1974.

FRED R. ZIMMERMAN,
Lt. Colonel, U.S. Army,
Chief, Plans Office, TAGO.

[FR Doc.74-20465 Filed 9-4-74;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 243-5]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Arizona Transportation Control Plan; Revisions and Corrections

On April 11, 1973, the State of Arizona submitted a proposed transportation control plan to the Administrator pursuant to section 110 of the Clean Air Act (42 U.S.C. 1857c-5). Although several of the strategies to control carbon monoxide were approvable in concept, they were not set forth in the required regulatory detail. Accordingly, on June 15, 1973 the Administrator disapproved the plan (38 FR 16555, June 22, 1973). As required under section 110(c) of the Clean Air Act, the Administrator proposed on July 16, 1973, substitute regulations for attainment of the national standard for carbon monoxide (38 FR 18942).

The Governor of Arizona submitted a revised control strategy on September 11, 1973. After reviewing this revised plan, supplemental information and public comment, the Administrator conditionally approved the Arizona Transportation Control Plan on December 3, 1973 (38 FR 33368). (An evaluation report of the state plan is now available in the EPA regional office). In addition, EPA promulgated regulations which placed certain requirements and compliance dates on the implementation of each of the State's control measures. The promulgation of these implementation criteria was necessary to satisfy the requirements of 40 CFR Part 51 for approval. These requirements fell primarily on the employer carpool incentive program and the bus/carpool matching program. For example, EPA required that the employer carpool incentive program be made applicable immediately to employers with 200 spaces. The regulation also addressed the criteria for evaluating sufficiency of a plan, reporting requirements and procedures for EPA promulgation of such plans. In similar fashion, the bus/carpool matching program

was required to be applicable to a certain number of employees within designated areas of Phoenix and Tucson. For both control strategies, a compliance schedule was included in the promulgated regulations to insure implementation on a timely basis.

In the November 6 General Preamble for all transportation control plans (38 FR 30626), the EPA stated that it would continually evaluate such plans, and make revisions providing they could be properly justified and not inconsistent with the statutory requirements for final attainment of the national standards. Since the December 3 plan was announced, various comments have been received, and the need for certain changes has become evident.

In defining the geographical boundaries for the employer carpool incentive program, a major employer in the Tucson area was omitted through error. These boundaries are being re-drawn to include this employer.

Regarding the carpool programs required of major employers, the regulation prescribed certain requirements as to content. It has been brought to our attention that these requirements might be construed not to allow sufficient flexibility for development of innovative carpool incentives. EPA concurs and is changing the wording in the appropriate paragraph (c) from "* * * shall contain provisions * * *" to "* * * should contain provisions * * *".

EPA is also specifying base periods and submittal dates for the reporting requirements described in the regulations for the employer carpool incentive program (§ 52.137) and the monitoring of transportation trends (§ 52.140).

On December 24, 1973, the State formally requested a 60-day extension for all compliance dates mentioned in the two regulations. According to the State, it was not possible to meet the original compliance schedule because of the late publication date of the regulations, the disruption caused by the Christmas holidays and the recent re-organization, and finally the considerable inter-departmental coordination needed to properly implement the regulations.

EPA reviewed the State's request, concurred that additional time was necessary for proper implementation, and so notified the State. Despite the delay, the State is making significant progress toward full implementation of both these programs. Accordingly, EPA is hereby formalizing the 60-day extension of compliance dates for the employer carpool incentive program and the bus/carpool matching program, which occurred in early 1974. It should be noted however that the nature of the delay does not justify extension of those compliance dates in 1975. This extension being granted applies only to those compliance dates in 1974 which affect employers maintaining at least 200 parking spaces. Compliance dates for employers maintaining 70 spaces remain unchanged. Similarly, those compliance dates for the bus/carpool matching program which fall in 1975 are not extended. This Notice amends 40 CFR Part 52 to reflect the extension of compliance dates.

These changes are effective on October 7, 1974, except that the Administrator finds good cause for making those changes to compliance dates effective immediately.

(Secs. 110c, 301 of the Clean Air Act, (42 U.S.C. 1857c-5 and 1857g))

Dated: August 29, 1974.

RUSSELL E. TRAIN,
Administrator.

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

Subpart D—Arizona

1. Section 52.137 is amended by revising paragraphs (a), (c), (d), (e), (g), (h) to read as follows:

§ 52.137 Employer carpool incentive program.

(a) Definitions:

(1) "Metropolitan Phoenix Area" means the area bounded on the south by I-17 and Buckeye Road to the intersection with I-17, on the east by 48th Street, on the north by the Arizona Canal and Glendale Avenue, and on the west by 43rd Avenue.

(2) "Greater Tucson Area" means an area bounded by a line starting at the intersection of Sweetwater Drive and Silverbell Road, thence 7 miles east, thence 1 mile south, thence 5.5 miles east, thence 9 miles south, thence 5 miles west, thence 3.5 miles south, thence 5.5 miles west, thence 6 miles north, thence 2 miles west, thence 7.5 miles north to the point of origin.

* * * * *

(c) On or before March 1, 1974, the State of Arizona shall submit to the Administrator a compliance schedule implementing the approved employer carpool incentive program. This compliance schedule shall, at a minimum, provide that each employer in areas specified in paragraph (b) of this section who maintains more than 200 employee parking spaces shall, on or before April 1, 1974, submit to the State of Arizona an adequate incentive program designed to encourage the use of carpools and mass transit and discourage employees from using single-passenger automobiles to commute to work. Each program should contain provisions for preferential parking, covered parking and other benefits to employees who travel to work by carpool; subsidies to employees who use mass transit, reductions in the number of employee parking spaces or surcharges on the use of such spaces by employees; provision of special charter buses or other modes of mass transit for the use of employees; and/or any other measures acceptable to the Administrator. By June 1, 1974, the State of Arizona shall submit each programs so received, together with the State's evaluation of the program and the State's recommendation as to whether the program should be approved or disapproved, to the Administrator.

(d) On or before August 1, 1974, the Administrator shall approve or disapprove each program so submitted. Notice of such approval or disapproval shall be published in this Part 52.

(e) In order to be approvable by the Administrator, each program shall contain procedures whereby the employer will supply the State of Arizona and the Administrator with semi-annual certified reports. The semi-annual periods are January 1–June 30 and July 1–December 31, and the certified reports required by this section shall be submitted within 45 days after the end of each reporting period. The first such report shall be submitted no later than August 15, 1974. Such reports shall show, at a minimum, the following information:

(1) The number of employees at each of the employer's facilities within the areas specified in paragraph (b) of this section on December 31, 1973, and as of the date of the report.

(2) The number of (i) free and (ii) non-free employee parking spaces provided by the employer at each such employment facility on December 31, 1973, and as of the date of the report.

(3) The number of employees regularly commuting to and from work by (i) private automobile, (ii) carpool, and (iii) mass transit at each such employment facility on December 31, 1973, and as of the date of the report.

(4) Such other information as the Administrator may prescribe.

* * * * *

(g) By September 1, 1974, the Administrator shall prescribe a carpool incentive program for each employer to whom paragraph (b) of this section is applicable if such employer has not submitted a program. By October 1, 1974, the Administrator shall prescribe a carpool incentive program for each employer to whom paragraph (b) of this section is applicable if the program submitted is not adequate. Within 2 months after any revocation pursuant to paragraph (f) of this section, the Administrator shall prescribe a carpool incentive program for the affected employer. Any program prescribed by the Administrator shall be published in this Part 52.

(h) All programs approved under paragraph (d) or promulgated under paragraph (g) on account of an initial failure to submit a plan shall be fully implemented on or before November 1, 1974.

* * * * *

2. Section 52.138 is amended by revising paragraphs (a) and (c) to read as follows:

§ 52.138 Bus/carpool matching program.

(a) Definitions:

(1) "Metropolitan Phoenix Area" means the area bounded on the south by I-17 and Buckeye Road to the intersection with I-17, on the east by 48th Street, on the north by the Arizona Canal and Glendale Avenue, and on the west by 43rd Avenue.

(2) "Greater Tucson Area" means an area bounded by a line starting at the

intersection of Sweetwater Drive and Silverbell Road, thence 7 miles east, thence 1 mile south, thence 5.5 miles east, thence 9 miles south, thence 5 miles west, thence 3.5 miles south, thence 5.5 miles west, then 6 miles north, thence 2 miles west, thence 7.5 miles north to the point of origin.

* * * * *

(c) On or before March 1, 1974, the State of Arizona shall submit to the Administrator a compliance schedule for implementing the approved bus/carpool matching program. This compliance schedule shall, at a minimum, provide for implementation of the program in the following phases:

(1) On or before May 1, 1974, bus/carpool matching shall be made available to the following employees:

(i) *Phoenix state capital area.* At least 10,000 employees whose work location is within the area bounded by Van Buren Street on the north, Jefferson Street on the south, Central Avenue on the east, and 19th Avenue on the west.

(ii) *Tucson central business district.* At least 2,000 employees whose work location is within an area bounded by a circle of 2-mile radius centered at the intersection of Congress Street and Stone Avenue.

(2) On or before November 1, 1974, bus/carpool matching shall be made available to the following employees.

(i) *Metropolitan Phoenix Area.* All employees in businesses having more than 250 employees.

(ii) *Greater Tucson Area.* All employees in businesses having more than 100 employees.

(3) On or before September 1, 1975, bus/carpool matching shall be made available to the following employees:

(i) *Metropolitan Phoenix Area.* All employees in businesses having more than 50 employees.

(ii) *Greater Tucson Area.* All employees in businesses having more than 50 employees.

* * * * *

3. Section 52.140 is amended by adding paragraph (e) to read as follows:

§ 52.140 Monitoring transportation trends.

* * * * *

(e) The quarterly reports specified in paragraphs (b) and (c) of this section shall be submitted to the Administrator through the Regional Office, and shall be due within 45 days after the end of each reporting period.

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[FRL 258-4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to Utah Plan

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator of the Environmental Protection Agency approved, with specific exceptions, a plan for implementation of the national ambient air quality standards submitted by Utah. On July 27, 1972 (37 FR 15094), the Administrator proposed regulations to correct deficiencies in the regulatory provisions of the Utah plan. The proposed regulations include emissions limitations for particulate matter from process sources, fuel combustion, incineration and coke ovens in the Wasatch Front Intrastate Region.

Public hearings on the proposed regulations were conducted in Salt Lake City by the Environmental Protection Agency on September 14, 1972, and November 9, 1972. Interested parties presented their comments at these hearings and through the mail. Consideration of this information and further review of the proposed regulations led to only minor revisions. The particulate matter regulations were promulgated on May 14, 1973 (38 FR 12696).

Amendments Affecting United States Steel Corporation's Geneva Plant

Following the promulgation of the particulate matter regulations for the Wasatch Front Intrastate Region on May 14, 1973, United States Steel Corporation filed a "Petition for Reconsideration, for Clarification, for Modification and for Supplemental Hearing at which New Evidence may be Submitted" with the Environmental Protection Agency on June 11, 1973. On August 21, 1973, a meeting was held in Denver, Colorado between representatives of U.S. Steel and EPA at which the spokesman for the Corporation presented new evidence as requested in the Petition. Agency representatives visited the Corporation's Geneva Works near Provo, Utah, on September 11–12, 1973, to observe the plant operations and discuss technical aspects of the Corporation's presentations in Denver. Following a detailed review of the new data, as well as related testimony at the public hearings on the proposed regulations, the Administrator determined that a revision of the process weight regulation and a modification of the byproduct coke oven regulation would clarify the operating and maintenance responsibilities of the Corporation and simplify the Agency's surveillance and enforcement activities. The proposed revisions were published on April 16, 1974 (39 FR 13673).

At a public hearing conducted by EPA in Salt Lake City on May 16, 1974, U.S. Steel representatives raised objections to several of the proposed revisions and recommended alternative revisions. They also indicated that particulate matter emissions at the Geneva Works had been significantly reduced by the installation of stage-charging on the byproduct coke ovens. Supplemental information was submitted to EPA by the Corporation on May 28, June 5, and June 7, 1974, documenting the new emission reduction and providing supporting data for the recommendations presented at the public hearing. On the basis of this new evidence, the Administrator has determined that the proposed regulations should be modified as follows:

1. The 35-second limit for each pushing operation is increased to 45 seconds. In addition, an averaging time of four consecutive hours and specified observation areas for determining compliance are added to the regulation.

2. The 5 percent requirement pertaining to chuckdoors and elbow covers is increased to 10 percent. Observations will be taken 45 minutes apart from specified locations to determine compliance with this requirement.

3. The proposed emission limit of 0.022 gr/scf for the open hearth furnaces is changed to 0.027 gr/scf, and the averaging time for determining compliance is changed from 4 to 8 hours.

In the Administrator's judgement, the revised regulations, in conjunction with § 3.2, *Visible Emissions*, Utah Code of Air Conservation Regulations, will result in the attainment of the national standards for particulate matter throughout the Provo area (Utah County). The Utah Air Quality Section is currently conducting an extensive study of ambient levels of particulate matter in Utah County, including several monitoring locations near the Geneva Works. Should the results of this six-station study indicate that ambient levels of particulate matter in the vicinity of the U.S. Steel plant are higher than the concentration used in the development of the regulations promulgated today, the Administrator will propose the necessary revisions to these regulations.

Amendments Affecting Kennecott Copper Corporation's Utah Smelter

On June 8, 1973, Kennecott Copper Corporation filed a "Petition for Reconsideration" with the Agency requesting a revision in the federal compliance schedule which required all process sources subject to the particulate matter regulations promulgated on May 14, 1973 (§ 52.2330 (c)(1)) to demonstrate final compliance no later than July 31, 1975. At meetings with Environmental Protection Agency representatives on July 10, November 5 and November 13, 1973, Kennecott officials presented the results of fluorescent particle tracer studies and diffusion modeling which indicated that the national standards for particulate matter in the vicinity of the Magna copper smelter would not be attained even if the Corporation achieved compliance with the process weight rate table promulgated by the Agency. The data gathered by the Corporation in its field studies, and supported by diffusion model results, indicated that violations of the national standards near the plant were principally caused by low-level fugitive emissions which were not subject to the process weight regulations. In order to control particulate matter emissions to levels which would not result in violations of the national standards, the present smelter would require control equipment and physical alterations costing approximately $30 million and requiring until mid-1976 for completion, according to the Corporation's best estimates. By comparison, the Corporation is undertaking a major modification of its smelting process which, when completed, should provide it with best available

control of fugitive emissions. The corporation plans to complete its modification program by July 31, 1977, and has indicated that efforts to achieve compliance with the process weight rate table on the existing facility would interfere with the timetable for the new process. The Corporation has notified the Agency that the modification program will consist of replacing the existing reverberatory furnaces with Noranda reactors and reducing the use of existing converters.

Based on an evaluation of the information developed by the Corporation, the Administrator determined that the existing regulations should be revised to require best available control of fugitive emissions and to specify the allowable particulate matter stack emissions from the smelting operations. Since these revisions will impose substantially greater demands on the Corporation than is presently the case, the Administrator also determined that a two-year extension is required for the attainment of the national standards for particulate matter in the Wasatch Front Intrastate Region. The federal compliance schedule applicable to the smelting operation requires the Corporation to comply with the revised regulation as expeditiously as practicable, but no later than July 31, 1977. The revised schedule in no way relieves the Corporation of its responsibility to comply with applicable portions of the present particulate matter regulations at its lime plant, molybdenite dryers, and power plant as expeditiously as practicable, but no later than July 31, 1975.

At the May 16, 1974 public hearing on the proposed revisions, Kennecott officials objected to the proposed particulate matter emission limitation of 137 pounds per hour, claiming that the 24-hour ambient measurement on which the proposed regulation was based was influenced by acid mist emissions from the smelter stacks as well as the solid particulate matter emissions used in EPA's calculations. The Kennecott representatives also testified that total stack emissions of particulate matter during the 24-hour measuring period were significantly greater than the average daily emissions previously reported by the Corporation. In addition, they requested that the impact of the new 1200-foot stack planned for the smelter be considered in determining the degree of control necessary to achieve the national standards for particulate matter. On June 10, 1974, Kennecott submitted supporting documentation regarding stack emissions and the sulfate fraction of the ambient sample on the day in question. On the basis of this new data, the final regulation is amended to limit total particulate matter emissions to 1058 pounds per hour, of which no more than 103 pounds per hour can be solid particulates and no more than 955 pounds per hour can be acid mist and aerosols as measured by the modified EPA stack sampling method included in the regulation. No consideration has been given to the new stack which the Corporation plans to build since the degree of control required to attain the national standards for particulate matter is reasonably available. This approach is consistent with the opinion of the Fifth Circuit Court of Appeals in *NRDC et al.* vs. *EPA*, 489 F. 2d 390 (CA5, 1974). In that case, the Court held that dispersion techniques such as tall stacks may not be utilized as a means of achieving ambient standards unless constant control techniques sufficient to achieve the standards are not reasonably available.

The provisions of the revised regulation affecting Kennecott's Utah Smelter are applicable to the Corporation whether or not it follows through with its plans to construct a modified smelting process. Accordingly, if the Corporation should decide to abandon or change its plans to construct a modified smelting process, the provisions of the revised regulation, including best available control of fugitive particulate matter emissions, will remain in effect.

The technical support document for the revision to Utah's particulate matter control strategy is available for public inspection at the Environmental Protection Agency, Office of Public Affairs, Region VIII, 1860 Lincoln Street, Denver, Colorado 80203, and at the Environmental Protection Agency, Room 329, 401 M Street, S.W., Washington, D.C. 20460.

The amendments which follow are effective on October 7, 1974.

(42 U.S.C. 1857c-5 (c) and (e))

Dated: August 28, 1974.

RUSSELL E. TRAIN,
Administrator.

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

Subpart TT—Utah

1. Section 52.2322 is amended by adding paragraph (f) as follows:

§ 52.2322 Extensions.

* * * * *

(f) The Administrator hereby extends for 2 years the attainment date for the primary standards for particulate matter in the Wasatch Front Intrastate Region.

2. In § 52.2327, paragraph (b) is revised to read as follows:

§ 52.2327 Compliance schedules.

* * * * *

(b) *Federal compliance schedule.* (1) Except as provided in paragraph (b) (2) of this section, the owner or operator of any stationary source subject to § 52.2330 (c) shall comply with such regulation on or before January 31, 1974. The owner or operator of the source subject to § 52.2330(b) of this chapter shall comply with such regulation at initial startup of such source unless a compliance schedule has been submitted pursuant to paragraph (b) (2) of this section.

(i) Any owner or operator in compliance with § 52.2330(c) on the effective date of this regulation shall certify such compliance to the Administrator no later than 120 days following the effective date of this paragraph.

(ii) Any owner or operator who achieves compliance with § 52.2330 (b) or (c) after the effective date of this regulation shall certify such compliance to the Administrator within 5 days of the date compliance is achieved.

(2) Any owner or operator of a stationary source subject to paragraph (b) (1) of this section may, no later than 120 days following the effective date of this paragraph, submit to the Administrator for approval a proposed compliance schedule that demonstrates compliance with § 52.2330 (b) or (c) (1) (i) as expeditiously as practicable but no later than July 31, 1975.

(3) The compliance schedule shall provide for periodic increments of progress toward compliance. The dates for achievement of such increments shall be specified. Increments of progress shall include, but not be limited to: Submittal of the final control plan to the Administrator; letting of necessary contracts for construction or process change, or issuance of orders for the purchase of component parts to accomplish emission control or process modification; initiation of on-site construction or installation of emission control equipment or process modification; and final compliance.

(4) Any owner or operator who submits a compliance schedule pursuant to this paragraph shall, within 5 days after the deadline for each increment of progress, certify to the Administrator whether or not the required increment of the approved compliance schedule has been met.

3. In § 52.2330, paragraphs (c) (1) and (c) (4) are revised.

As amended, § 52.2330 reads as follows:

§ 52.2330 Rules and regulations: Particulate matter.

* * * * *

(c) *Replacement for section 3.5 (Wasatch Front Intrastate Region)*

(1) *Regulation for control of process sources.* (i) No owner or operator of any process source, except open hearth furnaces, sintering plants, copper smelting operations (reactors and converters) and byproduct coke ovens, in the Wasatch Front Intrastate Region (§ 81.52 of this chapter) shall discharge or cause the discharge of particulate matter into the atmosphere in excess of the hourly rate shown in the following table for the process weight rate identified for each source.

POUNDS PER HOUR

Process weight rate:	*Emission rate*
100	0.551
200	0.877
600	1.830
1,000	2.580
5,000	7.580
10,000	12.00
20,000	19.20
60,000	40.00
80,000	42.50
120,000	46.30
160,000	49.00
200,000	51.20
1,000,000	69.00
2,000,000	77.60

(A) Interpolation of the data in the table for process weight rates up to 60,000 lb/h shall be accomplished by use of the equation:

$$E=4.10P^{0.67} \text{ for } P \leq 30 < \text{tons/h}$$

and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb/h shall be accomplished by use of the equation:

$$E=55.0P^{0.11}-40 \text{ for } P>30 \text{ tons/h}$$

Where:
E=Emissions in pounds per hour.
P=Process weight in tons per hour.

(B) Process weight is the total weight of all materials and solid fuels introduced into any specific process. Liquid and gaseous fuels and combustion air will not be considered as part of the process weight. For a cyclical or batch operation, the process weight per hour will be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle. For a continuous operation, the process weight per hour will be derived by dividing the process weight for a given period of time by the number of hours in that period.

(ii) No owner or operator of any open hearth furnace in the Wasatch Front Intrastate Region shall discharge or cause the discharge of particulate matter into the atmosphere from such furnaces in excess of 0.027 grains per standard cubic foot of exhaust gas, maximum 8-hour average.

(A) The owner or operator of any open hearth furnace subject to paragraph (c)(1)(ii) of this section shall comply with the compliance schedule specified below:

(*1*) October 1, 1974—Submit a control plan to the Administrator for meeting the requirements of paragraph (c)(1)(ii) of this section. Such plan shall be subject to approval by the Administrator.

(2) November 1, 1974—Let contracts or issue purchase orders for emission control systems and/or process modifications.

(3) December 1, 1974—Initiate on-site construction and/or installation of emission control equipment or process change.

(*4*) January 1, 1975—Complete on-site construction and/or installation of emission control system or process change.

(5) March 1, 1975—Achieve final compliance with requirements of paragraph (c)(1)(ii) of this section.

(B) The owner or operator of any open hearth furnace subject to this paragraph may submit to the Administrator, no later than thirty (30) days after the effective date of this paragraph, a proposed alternative compliance schedule. No such compliance schedule may provide for final compliance after July 31, 1975. If approved by the Administrator, such schedule shall satisfy the compliance schedule requirement of this paragraph for the affected source.

(iii) No owner or operator of any sintering plant in the Wasatch Front Intrastate Region shall discharge or cause the discharge of particulate matter into the atmosphere from such plant in excess of 0.035 grains per standard cubic foot of exhaust gas, maximum 2-hour average.

(A) The owner or operator of any sintering plant subject to this paragraph shall comply with the requirements of paragraph (c)(1)(iii) within 30 days after the effective date of this regulation.

(B) If the owner or operator of any sintering plant subject to this paragraph cannot comply within thirty (30) days after promulgation of this regulation, he may submit to the Administrator, no later than thirty (30) days after the effective date of this paragraph, a proposed alternative compliance schedule. No such compliance schedule may provide for final compliance after July 31, 1975. If approved by the Administrator, such schedule shall satisfy the compliance schedule requirements of this paragraph for the affected source.

(iv) No owner or operator of any copper smelting operation in the Wasatch Front Intrastate Region shall discharge or cause the discharge of particulate matter into the atmosphere from the stack or stacks serving the reactor and converter operations in excess of 1058 pounds per hour, maximum 6-hour average, of which no more than 103 pounds per hour shall be solid particulate matter and no more than 955 pounds per hour shall be sulfuric acid mist (including sulfur trioxide) or allow the escape of any fugitive particulate matter emissions which can be captured and controlled using best available techniques.

(A) The owner or operator of any smelter subject to this paragraph shall comply with the compliance schedule specified below:

(*1*) October 1, 1974—Submit a final plan to the Administrator for meeting the requirements of paragraph (c)(1)(iv) of this section. Such a plan shall be subject to approval by the Administrator.

(2) December 1, 1974—Let contracts or issue purchase orders for emission control systems and/or process modifications.

(3) April 1, 1975—Initiate on-site construction and/or installation of emission control equipment or process change.

(*4*) May 31, 1977—Complete on-site construction and/or installation of emission control system or process change.

(*5*) July 31, 1977—Achieve final compliance with the requirements of paragraph (c)(1)(iv) of this section.

(B) The owner or operator of any smelter subject to this paragraph may submit to the Administrator, no later than thirty (30) days after the effective date of this paragraph, a proposed alternative compliance schedule. No such compliance schedule may provide for final compliance after July 31, 1977. If approved by the Administrator such schedule shall satisfy the compliance schedule requirements of this paragraph for the affected source.

* * * * *

(4) Byproduct coke ovens. No owner or operator of any byproduct coke oven in the Wasatch Front Intrastate Region (§ 81.52 of this chapter) shall operate any coke oven during the pushing and charging operations in such a manner as to cause, permit or allow the emissions of visible particulate matter except that visible emissions shall be allowed for a period or periods aggregating no more than 35 seconds for each charging operation and 45 seconds for each pushing operation, averaged over a period of any four consecutive hours for each battery. The charging operation shall be observed from the top side of the battery, downwind of the larry car where all ports and hoppers can be clearly observed (approximately 30 feet from the charging holes). The pushing operation shall be observed from immediately outside of the coke wharf in front of the coke oven being pushed. This paragraph does not exempt the pushing operations from compliance with section 3.2, *Visible Emissions*, Utah Code of Air Conservation Regulations which is part of the approved State Implementation Plan.

(i) No owner or operator of any coke oven subject to paragraph (c)(4) of this section shall discharge or cause the discharge into the atmosphere of any visible emissions except non-smoking flame, from more than 5 percent each of the coke oven doors, charging hole covers, and standpipes, and from more than 10 percent each of the chuckdoors and elbow covers. Compliance with this requirement shall be determined by observations taken not less than 45 minutes apart from the top side of the battery for the charging hole covers, standpipes and elbow covers; from outside the coke wharf area for coke-side doors; and from outside the pusher track area for the pusher-side doors and the chuckdoors. Only sources found to be discharging visible emissions during two consecutive observations shall be counted in determining violations.

(ii) No owner or operator of any coke oven subject to paragraph (c)(4) of this section shall operate a coke quenching tower unless such quenching tower is equipped with interior baffles.

(iii) The owner or operator of any coke oven subject to this paragraph shall comply with the requirements of paragraph (c)(4) of this section within 30 days after the effective date of this regulation.

(iv) If any owner or operator of the coke oven subject to this paragraph can not comply within 30 days after the effective date of this regulation, he may submit to the Administrator, no later than thirty (30) days after the effective date of this paragraph, a proposed compliance schedule. No such compliance schedule may provide for final compliance after July 31, 1975. If approved by the Administrator, such schedule shall satisfy the compliance schedule requirements of this paragraph for the affected source.

(5) The test methods and procedures used to determine compliance with paragraph (c)(1) of this section are set forth

below. The methods referenced are contained in the appendix to part 60 of this chapter. Equivalent methods and procedures may be used if approved by the Administrator.

(i) For each sampling repetition, the average concentration of particulate matter shall be determined by using method 5, except that compliance with (c)(1)(iv) shall be determined by modifying method 5 to maintain a gas temperature above the sulfuric acid dew point (320° F minimum) at the exit end of the sampling probe and to utilize 80 percent isopropanol as the reagent in the first two impingers in place of water. Determination of the sulfuric acid mist concentration (including sulfur trioxide) collected by this modified method shall be based on the procedures described in method 8. Traversing during sampling by method 5 shall be according to method 1. The minimum sampling time shall be 2 hours and the minimum sampling volume shall be 60 feet³ (1.170 m³) corrected to standard conditions on a dry basis.

(ii) The volumetric flow rate of the total effluent shall be determined by using method 2. Gas analysis shall be performed using the integrated sample technique of method 3, and moisture content shall be determined by the condenser technique of method 4.

(iii) All tests shall be conducted while the source is operating at the maximum production or combustion rate at which such source will be operated. During the tests, the source shall burn fuels or combinations of fuels, use raw materials, and maintain process conditions representative of normal operation, and shall operate under such other relevant conditions as the Administrator shall specify.

(6) The test methods and procedures used to determine compliance with paragraph (c)(2) of this section shall be those prescribed for particulate matter in § 60.46 of this chapter.

(7) The test methods and procedures used to determine compliance with paragraph (c)(3) of this section shall be those in § 60.54 of this chapter.

4. Section 52.2331 is revised to read as follows:

§ 52.2331 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. These dates reflect the information presented in Utah's plan, except where noted.

ATTAINMENT DATES FOR NATIONAL STANDARDS

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Photochemical oxidants (hydrocarbons)
	Primary	Secondary	Primary	Secondary			
Wasatch Front Intrastate.	*July 1977*	*July 1977*	*July 1977*	*July 1977*	*July 1975*	*August 1976*	*July 1975.*
Four Corners Interstate.	*July 1975*	*July 1975*	(1)	(1)	do	(1)	(1).
Utah Intrastate	(1)	(1)	(1)	(1)	(1)	(1)	(1).

[1] Air quality levels presently below secondary standards.

NOTE.—Dates or footnotes which are italic are prescribed by the Administrator because the plans do not provide a specific date, or the date provided is not acceptable.

[FR Doc.74-20403 Filed 9-4-74;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Bear River Migratory Bird Refuge, Utah

The following special regulation is issued and is effective on September 5, 1974.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

UTAH

BEAR RIVER MIGRATORY BIRD REFUGE

The public hunting of ducks, coots, mergansers and whistling swans on the Bear River Migratory Bird Refuge, Utah, is permitted from October 5, 1974 through January 5, 1975, inclusive; and geese from October 12, 1974 through December 15, 1974, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 12,855 acres, is delineated on maps available at refuge headquarters, Brigham City, Utah and from the Area Office, Fish and Wildlife Service, Federal Building, Salt Lake City, Utah 84111. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, mergansers and whistling swans subject to the following special conditions:

(1) *Steel shot.* The exclusive use of 12 gage steel shot in Area A will be required on even numbered days beginning October 6, 1974 and continue through the balance of the waterfowl hunting season. The possession of lead shot in Area A on even numbered days is prohibited and having lead shot in one's possession will be considered prima facie evidence that the person having such shot in his possession is engaged in hunting with same.

(2) *Hunting areas.* Area A—No hunting is permitted from roadways or within 100 yards of any roadway. Area B—No hunting is permitted from roadways or adjacent area as posted by signs.

(3) *Boat use.* The use of boats is permitted except that airthrust boats and aircycles may not be used in Unit 2 on weekends and holidays. Airthrust boats and aircycles may be launched only from designated boat ramps. Boats may be left at designated areas 1 week prior to and during the hunting season. All boats and trailers must be removed within 2 weeks after the close of the hunting season.

(4) *Parking.* Hunters may park cars only at designated areas within the refuge.

(5) *Hunter check station.* Each hunter who enters Area A is requested to register at the checking station and check out before leaving the refuge. Those hunting in Area B are not required to register on entering or leaving the refuge.

(6) Routes of travel—To reach open hunting areas, travel is permitted on foot or bicycle over roads between Units 1 and 2 and Units 2 and 3. Travel by boats from checking station using the canal between Units 1 and 2 or down main river channel into Unit 2, or using the canal between Units 2 and 3. Travel by boats and trailers over dike roads to designated parking and launching areas. Airthrust boats and aircycles may use designated travel lanes across a closed portion of the refuge leading to the open area south and southwest of the refuge.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in 50 CFR Part 32, and are effective through January 5, 1975.

HARVEY WILLOUGHBY,
Acting Regional Director.

AUGUST 26, 1974.

[FR Doc.74-20477 Filed 9-4-74;8:45 am]

PART 32—HUNTING

J. Clark Salyer National Wildlife Refuge, North Dakota

The following special regulation is issued and is effective on September 5, 1974.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

NORTH DAKOTA

J. CLARK SALYER NATIONAL WILDLIFE REFUGE

Public hunting of geese on the J. Clark Salyer National Wildlife Refuge, North Dakota, is permitted from September 28 through November 17, 1974, and the hunting of ducks and coots is permitted from September 28 through November 17, 1974, and the hunting of common snipe (Wilson's) is permitted from September 14 through November 16, 1974, but only on the area designated by signs as open to migratory waterfowl hunting. This open area comprising 2,850 acres is delineated on a map available at the refuge headquarters, Upham, North Dakota, and from the Area Office, U.S. Fish and Wildlife Service, P.O. Box 1897, Bismarck, North Dakota 58501. Hunting shall be in accordance with all applicable

State and Federal regulations subject to the following special conditions:

(1) Blinds—Temporary blinds of approved material may be constructed.

(2) Retrieving zones—Retrieving zones will be designated by signs. Possession of firearms in retrieving zones is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally which are set forth in 50 CFR Part 32, and are effective through November 17, 1974.

ROBERT C. FIELDS,
Refuge Manager, J. Clark Salyer National Wildlife Refuge, Upham, North Dakota 58789.

AUGUST 22, 1974.

[FR Doc.74-20476 Filed 9-4-74;8:45 am]

PART 32—HUNTING

Seedskadee National Wildlife Refuge

The following special regulation is issued and is effective on September 5, 1974.

§ 32.12 **Special regulations; migratory game birds; for individual wildlife refuge areas.**

WYOMING

SEEDSKADEE NATIONAL WILDLIFE REFUGE

Public hunting of geese, ducks, coots, mergansers and snipe on the Seedskadee National Wildlife Refuge, Wyoming is permitted as follows: Geese from October 5 through November 18, 1974, inclusive, and November 30 through December 29, 1974, inclusive; Ducks, coots, mergansers and snipe from September 28 through December 29, 1974, inclusive. All of the refuge area, comprising 13,248 acres, and so designated by signs, is open to hunting. Maps of the area are available at the refuge office, Room 118, Courthouse, Green River, Wyoming, and from the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Denver, Colorado 80215. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of geese, coots, ducks, mergansers and snipe.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in 50 CFR Part 32, and are effective through December 29, 1974.

MERLE O. BENNETT,
Refuge Manager, Seedskadee National Wildlife Refuge, Green River, Wyoming.

AUGUST 26, 1974.

[FR Doc.74-20467 Filed 9-4-74;8:45 am]

PART 32—HUNTING

Tennessee; Reelfoot National Wildlife Refuge; Correction

In F.R. Doc. 74-17431, appearing on page 27675 of the issue for Wednesday, July 31, 1974, under § 32.22 *Raccoons*, insert item (2) as follows:

(2) Raccoons may be taken, without limit, on the Grassy Island refuge unit during the period September 30–October 5, 1974.

PHILLIP S. MORGAN,
Acting Regional Director, U.S. Fish and Wildlife Service.

AUGUST 26, 1974.

[FR Doc.74-20475 Filed 9-4-74;8:45 am]

PART 32—HUNTING

Rice Lake National Wildlife Refuge, Minnesota

The following special regulation is issued and is effective on September 5, 1974.

§ 32.32 **Special regulations; upland game; for individual wildlife refuge areas.**

MINNESOTA

RICE LAKE NATIONAL WILDLIFE REFUGE

Public hunting of ruffed grouse on the Rice Lake National Wildlife Refuge, is permitted from sunrise to sunset September 14 through October 29, 1974, only on the areas designated by signs as open to hunting. The open area of Rice Lake National Wildlife Refuge, comprising 2,000 acres, is delineated on a map available at refuge headquarters, McGregor, Minnesota and from the Regional Director, Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State regulations governing the hunting of upland game.

DON E. ADAMS,
Refuge Manager, Rice Lake National Wildlife Refuge, McGregor, Minnesota 55760.

AUGUST 23, 1974.

[FR Doc.74-20501 Filed 9-4-74;8:45 am]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—MARINE MAMMALS

Incidental Taking in the Course of Commercial Fishing Operations

The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) provides in section 101(a)(2) that during the twenty-four month period initially following the date of enactment of the Act, the taking of marine mammals incidental to the course of commercial fishing operations shall be permitted and shall not be subject to the provisions of sections 103 and 104. Subsequent to such twenty-four month period marine mammals may be taken incidental to commercial fishing operations but under permits issued pursuant to section 104, subject to regulations promulgated in accordance with section 103 of the Act, and in accordance with procedures promulgated under section 104.

On March 13, 1974, a notice of intent to prescribe regulations was published in the FEDERAL REGISTER (39 FR 9685). Pursuant to that intent, proposed regulations were published in the FEDERAL REGISTER (39 FR 12356–61) on April 5, 1974.

Written views, comments or objections were considered if submitted prior to May 15, 1974. Comments timely received were presented and made a part of the record of an agency hearing which was held on May 15 and 16, 1974 in Seattle, Washington. In addition, ten witnesses representing the National Marine Fisheries Service, the fishing industry, the State of Alaska, and public groups appeared, presented testimony, and responded to cross-examination for the record. Following the hearing, four briefs were filed by certain of the parties represented at the hearing.

Based on the hearing record and the briefs submitted, the Administrative Law Judge issued his recommended decision on July 15, 1974, concluding, among other things, that the record fully supports the promulgation of regulations and that the proposed regulations as modified and amended by his decision should be adopted as the final regulations.

A draft environmental impact statement (DEIS) was prepared and submitted to the Council on Environmental Quality (CEQ) on April 5, 1974, concurrent with the publication of the proposed regulations. Public hearings regarding the DEIS were held in Washington, D.C., on May 7, 1974, and at Terminal Island, California, on May 9, 1974. A final environmental impact statement (FEIS) was transmitted to CEQ on August 29, 1974.

Copies of the Administrative Law Judge's decision and the FEIS are available for review in the offices of the Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 or at the five regional offices listed below:

Director, Northwest Region
1700 Westlake Avenue North
Seattle, Washington 98109

Director, Southeast Region
Duval Building, 9450 Gandy Boulevard
St. Petersburg, Florida 33702

Director, Northeast Region
14 Elm Street
Gloucester, Massachusetts 01930

Director, Southwest Region
300 South Ferry Street
Terminal Island, California 90731

Director, Alaska Region
P.O. Box 1668
Juneau, Alaska, 99801

As a result of his analysis of the hearing record, the briefs submitted in connection therewith, recommendations from the Marine Mammal Commission, and the Administrative Law Judge's decision, the Director, National Marine Fisheries Service, has determined that certain changes be made in the proposed regulations (39 FR 12356–61, April 5, 1974). The changes in the proposed regulations are made below. Explanations are only provided where the Director's changes deviate from the Judge's decision. The reasons for the Judge's changes are set forth in his decision.

1. Section 216.24(b)(1) (ii) and (iii) are amended.

2. Section 216.24(b)(2) is amended to provide for application for a general permit by organizations which represent members of a class.

3. Section 216.24(b)(3) is amended, and the expiration date for the initial general permits has been put at December 31, 1975, rather than being for an indefinite period as set forth in the proposed rule making of April 5, 1974. The Judge's recommendation to terminate the general permits on December 31, 1976 has not been accepted because such date is predicated on the imposition of certain other requirements relating to yellowfin tuna purse seine gear contained in the proposed regulations which the Judge rejected. In addition, an informal public hearing under section 553 of the Administrative Procedure Act is provided with respect to 103(d) information within three months prior to or subsequent to the expiration of the initial general permit. This latter change is based upon recommendations contained in the hearing record and briefs.

4. Section 216.24(c) is amended to further clarify application procedures, and to change the fees for certificates of inclusion to reflect the cost of administering the permit program for the different categories of permits and certificates of inclusion. It has been determined that with respect to most certificates, a $10.00 basic fee is appropriate to cover administrative costs, rather than the proposed $5.00 fee. Administrative costs are greater for the yellowfin tuna category than other categories; therefore, we are establishing a fee of $200. Provision is made for review of the fee. These changes are based on issues raised in the hearing record and are in addition to the Judge's recommendation.

5. Section 216.24(d) is amended.

6. Section 216.24(d)(1)(ii) is amended.

7. Section 216.24(d)(1)(iii) is amended. The Judge's recommendation is supplemented with an amendment to prevent the intentional killing or injuring of Atlantic bottlenosed dolphins. This is added to reflect the fact that the evidence disclosed that Atlantic bottlenosed dolphins do not cause the kind of damage or present the danger to fishermen that would justify the intentional killing or injuries permitted by this subsection.

8. Section 216.24(d)(1)(v) is amended.

9. Section 216.24(d)(2) and Section 216.24(d)(2)(i) are amended.

10. Section 216.24(d)(2)(iii) is amended.

11. Section 216.24(d)(2)(iv) is amended in subsections 216.24(d)(2)(iv)(A), (C), (D), (E)(2), and (E)(3). Section 216.24(d)(2)(iv)(E)(2) is amended beyond the Judge's recommendation to include a definition for the phrase "significant number of roll ups," for clarity. Corresponding figure No. 1 is also amended.

12. Section 216.24(d)(2)(v) is amended.

13. Section 216.24(d)(2)(vii) is amended to include the Judge's recommendation and also to replace the word "demonstrate" with the word "perform" to more accurately state what is required.

14. Section 216.24(d)(2)(viii) is amended and redesignated § 216.24(d)(2)(ix) and a new section 216.24(d)(2)(viii) is added.

15. Section 216.24(d)(3) is amended to clarify its title.

16. Section 216.24(d)(3)(ii) is amended to correspond to the amended § 216.24(d)(1)(ii).

17. Section 216.24(d)(3)(iii) is amended to correspond to the amended section 216.24(d)(1)(iii).

18. Section 216.24(d)(3)(v) is amended to correspond to the amended § 216.24(d)(1)(v).

19. Section 216.24(d)(4)(ii) is amended to correspond to the amended § 216.24(d)(1)(ii).

20. Section 216.24(d)(4)(iii) is amended to correspond to the amended § 216.24(d)(1)(iii).

21. Section 216.24(d)(4)(v) is amended to correspond to the amended § 216.24(d)(1)(v).

22. Section 216.24(d)(5)(ii) is amended to correspond to the amended § 216.24(d)(1)(ii).

23. Section 216.24(d)(5)(iii) is amended to correspond to the amended § 216.24(d)(1)(iii).

24. Section 216.24(d)(5)(v) is amended to correspond to the amended § 216.24(d)(1)(v).

25. Section 216.24(e)(1) is amended, adding in addition to the Judge's recommendation a phrase noting that any finding by the Director in respect to foreign fishing technology would be published in the FEDERAL REGISTER. Since the Act's section 101(a)(2)'s provision for an alternative method of certifying imported fish as caught in compliance with the Act requires an affirmative finding by the Director, the addition specifically recognizes federal rule making procedures.

26. Section 216.24(e)(2) is redesignated as § 216.24(e)(3), and amended to implement the new § 216.24(e)(2) as follows: "and" is added to subpart (i) and subpart (ii) is amended to require the quantity as well as species of fish to be shown on the shipping documentation. The change is a technical one designed to assure more positive identification of the shipment. These changes are in addition to the Judge's recommended changes.

27. A new § 216.24(e)(2) is added to provide a means for the Director to designate that certain species and categories of fish are not involved with commercial fishing operations which cause the death or injury of any marine mammals and therefore are not subject to the importation prohibitions and documentation requirements of § 216.24(e). This new section is an addition to the Judge's recommended changes. Such designation will eliminate a substantial amount of otherwise required documentation and will comply with and implement the intentions and requirements of the Act.

28. Section 216.24(e)(3)(iii) formerly § 216.24(e)(2)(iii), is amended to conform to the reworded subsection (e)(1). A phrase is added to the beginning of the subsection, for the reasons stated above with respect to (e)(1), that is, to note that this method of certifying compliance with the Act will not go into effect until such time as the Director makes and publishes an affirmative finding as to the rate of incidental kill or serious injury for particular foreign fishing technologies. These changes are based on issues raised in the hearing record and are in addition to the Judge's recommendations.

29. A phrase is added to § 216.24(e)(3)(iv), formerly § 216.24(e)(2)(iv), requiring that the government official's or fishing master's statement identify the exporter, species, and quantity of the fish presented for importation. The change is a technical one meant to connect such statements more specifically to the other shipping documentation. In addition, the subsection is clarified to make it clear that these regulations are the regulations referred to in the subsection. These changes are based on issues raised in the hearing record and are in addition to the Judge's recommendations.

30. A new § 216.24(e)(3)(v) is added to provide for, among other things, an additional way to import fish if it can be documented that the fish were caught prior to the effective date of these regulations. These changes are based on issues raised in the hearing record and are in addition to the Judge's recommendations.

31. Section 216.24(e)(3)(vi), formerly § 216.24(e)(2)(v), is amended to provide alternative forms for the presentation of the required certification. These changes are based on issues raised in the hearing and are in addition to the Judge's recommendations.

32. Certain minor subsection relettering is done to implement the FEDERAL REGISTER's suggested format for subsection numbering. These changes are in addition to the Judge's recommendations.

33. Section 216.24(g) is added.

34. To assure that the FEIS is available for 30 days before the final action is taken, the effective date of these regulations is delayed until September 30, 1974. Prior to that date, no formal action will be taken with respect to applications for permits. Modifications of these regulations prior to the effective date, to the extent such modifications are necessary and permissible, will be announced in the FEDERAL REGISTER.

These regulations are effective September 30, 1974.

Dated: August 29, 1974.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

§ 216.24 Taking and related acts incidental to commercial fishing operations.

(a) After October 20, 1974, no marine mammals may be taken in the course of a commercial fishing operation unless the taking constitutes an inci-

dential catch as defined in § 216.3, a general permit and certificate of inclusion have been obtained in accordance with these regulations, and such taking is not in violation of such permit. It is the immediate goal that the incidental kill or serious injury of marine mammals occurring in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate.

(b) Permits: (1) General permits to allow the taking of marine mammals in connection with commercial fishing operations will be issued to persons using fishing gear within any one of the following five general categories:

(i) *Towed or Dragged Gear.* Shall include those commercial fishing operations utilizing towed or dragged gear such as bottom otter trawls, bottom pair trawls, multi-rig trawls, and dredging gear.

(ii) *Encircling Gear; Yellowfin Tuna Purse Seining.* Shall include those commercial fishing operations utilizing purse seines for yellowfin tuna.

(iii) *Encircling Gear; Seining other than Yellowfin Tuna.* Shall include those commercial fishing operations utilizing seines for species other than yellowfin tuna.

(iv) *Stationary Gear.* Shall include commercial fishing operations utilizing stationary gear such as traps, pots, wiers, and pound nets.

(v) *Other Gear.* Shall include those commercial fishing operations utilizing trolling, gill nets, hook and line gear, and any gear not classified u ider paragraph (b)(1) (i), (ii), (iii), or (iv) of this section.

(2) Permits shall be issued as general permits to a class of fishermen using one of the general categories of gear set forth above. Any member of such class or any organization representing members of a class may apply for a general permit on behalf of all members of the class. Subsequent to a grant of the general permit, individuals may make application to be included under the terms of a general permit.

(3) General permits shall be valid for one year. However, initial general permits shall expire on December 31, 1975. All permits issued thereafter shall expire on December 31 of the year issued. Such general permits shall be subject to review, modification, suspension or revocation and may contain terms and conditions prescribed in accordance with section 104(b)(2) (16 U.S.C. 1374(b)(2)) of the Act. The Director shall conduct an informal public hearing within three months prior to or subsequent to the expiration of such initial general permits at which he shall present information described in section 103(d)(1)–(4) of the Act with reference to the regulations and permits in effect and the research and development program.

(4) Upon proper application for inclusion under the general permit, certificates of inclusion shall be issued to masters or other persons in charge of vessels engaged in commercial fisheries, or if no vessels are involved, to those who participate in commercial fishing operations. Such certificates are not subject to public hearings prior to issuance. Such certificates shall not be transferable but will be valid on any vessel or boat for which the individaul named in the permit is the master or person in charge.

(5) The certificate must be in the possession of the person to whom it was issued in the course of his fishing operations and shall be shown upon request to an enforcement agent or other designated agent of the National Marine Fisheries Service.

(6) Crew members of vessels are not required to possess permits.

(c) Applications: (1) Applications for a general permit will be accepted on the effective date of these regulations. After issuance of a general permit, applications for inclusion under such general permit will be accepted at any time. All persons included under a general permit will receive a certificate evidencing such inclusion and setting forth the period of time during which they may conduct fishing operations under the general permit. Initial certificates shall be valid through December 31, 1975. Thereafter, certificates will expire on December 31 of the year issued.

(2) Applications for certificates of inclusion should be addressed as follows:

Residents of the States of Washington, Oregon, Idaho, Montana, Wyoming, Colorado, North Dakota, South Dakota, and Utah, should make application to the Regional Director, National Marine Fisheries Service, Seattle, Washington 98102.

Residents of the States of California, Nevada, Arizona, Hawaii, and the territories of American Samoa, Guam, and Trust Territories, should make application to the Regional Director, National Marine Fisheries Service, Terminal Island, California 90731.

Residents of the State of Alaska should make application to the Regional Director, National Marine Fisheries Service, Juneau, Alaska 99801.

Residents of the States of Maine, Vermont, New Hampshire, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, District of Columbia, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Michigan, Wisconsin, Illinois, Indiana, and Minnesota, should make application to the Regional Director, National Marine Fisheries Service, Gloucester, Massachusetts 01930.

Residents of the States of North Carolina, South Carolina, Florida, Mississippi, Louisiana, Texas, Georgia, Oklahoma, Alabama, Nebraska, Iowa, Tennessee, Missouri, New Mexico, Kentucky, Kansas, Puerto Rico, Virgin Islands, and Arkansas, should make application to the Regional Director, National Marine Fisheries Service, St. Petersburg, Florida 33702.

(3) Applications for certificates of inclusion should contain:

(i) The name of the person(s) which is to appear on the certificate of inclusion;

(ii) The category of the general permit under which the applicant(s) wishes to be included;

(iii) The species of fish sought and general area of operations;

(iv) Identity of State or local commercial fishing licenses. If any, under which fishing operations are conducted and dates of expiration;

(v) Name and signature of person, persons, or organization making application.

(4) Applications for certificates of inclusion must contain a payment in accordance with the following schedule for each person named in paragraph (c)(3)(i) of this section. The schedule of fee payment is:

Categories 1, 3, 4, and 5, Towed or Dragged Gear; Encircling Gear, Seining other than yellowfin; Stationary Gear; Other Gear; $10.00.

Category 2, Encircling Gear, Yellowfin Tuna Purse Seining: $200.00.

The Director may change the amount of said required payment at any time he determines the different payment to be reasonable, and said change may be accomplished by publication in the FEDERAL REGISTER of the new payment required, without the necessity of amending these regulations.

(5) The Regional Director receiving applications for a general permit shall determine the adequacy and completeness of such applications received by him and if found to be adequate and complete, will forward them to the Director, National Marine Fisheries Service, who will forthwith publish a notice of such application in the FEDERAL REGISTER, giving interested parties thirty days in which to submit written data or views with respect to the granting of such permit.

(6) If within thirty days after the date of publication of notice with respect to an application for a general permit any interested party or parties requests a hearing in connection therewith, the Director may conduct a hearing. Any hearing held in connection with a general permit shall be conducted in the same manner as hearings held in connection with scientific or display applications under § 216.33.

(7) The Regional Director receiving applications for certificates of inclusion shall determine the adequacy and completeness of such applications and, upon his determination that such applications are adequate and complete, he shall immediately approve such applications and thereafter notify the applicants of his approval and issue a certificate to approved applicants.

(d) Terms and conditions of fishing operations under general permits shall include but not be limited to the following:

(1) *Towed or dragged gear.* (i) A certificate holder may take marine mammals so long as such taking is an inci-

dental occurrence in the course of normal commercial fishing operations. Marine mammals taken incidental to commercial fishing operations shall be immediately returned to the environment where captured without further injury.

(ii) A certificate holder may take such steps as are necessary to protect his catch, gear, or person from depredation, damage or personal injury without inflicting death or injury to any marine mammal.

(iii) Only after all means permitted by paragraph (d)(1)(ii) of this section have been taken to deter a marine mammal from depredating the catch, damaging the gear, or causing personal injury, may the certificate holder injure or kill the animal causing the depredation or immediate damage, or about to cause immediate personal injury; however, in no event shall a certificate holder kill or injure an Atlantic bottlenosed dolphin, *Tursiops truncatus*, under the provisions of this paragraph. In no event shall the certificate holder injure or kill any animal permitted to be killed or injured under this paragraph unless the infliction of such damage is substantial and immediate and is actually being caused at the time such steps are taken. In all cases, the burden is on the certificate holder to fully report and demonstrate that the animal was causing substantial and immediate damage or about to cause personal injury and that all possible steps to protect against such damage or injury as permitted by paragraph (d)(1)(ii) of this section were taken and that such attempts failed.

(iv) Marine mammals taken in the course of commercial fishing operations shall be subject to the provisions of § 216.3 with respect to "Incidental catch," and may not be retained except where a specific permit has been obtained authorizing the retention.

(v) All certificate holders shall maintain logs of incidental take of marine mammals in such form as prescribed by the Director. All occurrences resulting in death or injury to marine mammals in the course of commercial fishing operations under the conditions of a general permit shall be immediately recorded in the log and reported in writing to the Regional Director, National Marine Fisheries Service, where a certificate application was made, or to an enforcement agent or other designated agent of the National Marine Fisheries Service, at the earliest opportunity but no later than five days after such occurrence, except that if a vessel at sea returns to port later than five days after such occurrence, then it shall be reported within forty-eight hours after arrival in port. Reports must include:

(A) The location, time, and date of the death or injury

(B) The identity and number of marine mammals killed or injured; and

(C) A description of the circumstances which led up to and caused the death or injury.

(vi) Failure to comply with the provisions of the general permit including, but not limited to, failure to submit upon demand to an inspection by an authorized Federal enforcement agent, or failure to adhere to the provisions of these regulations will subject the certificate holder to a revocation of his certificate and also subject the certificate holder, vessel, and master to the penalties provided for under the Act.

(2) *Encircling Gear; Yellowfin Tuna Purse Seining*

(i) A certificate holder may take marine mammals, so long as such taking is an incidental occurrence in the course of normal commercial fishing operations. Marine mammals taken incidental to commercial fishing operations shall be immediately returned to the environment where captured without further injury. Each certificate holder shall take every possible step to minimize the incidental mortality and serious injury of marine mammals in the course of commercial fishing operations, including refraining from causing or permitting a purse seine under his control to be set around marine mammals when conditions of wind, sea, visibility, or the number of marine mammals and/or fish concerned would, in his judgment, be likely to prevent the effective use of the backdown and other procedures required herein. Such steps to minimize mortality and serious injury shall include, where appropriate, causing a purse seine already set on marine mammals to be released and/or opened to facilitate release of marine mammals where such a step will, in his judgment, be effective and conditions prevent the effective use of the procedures required hereunder. The Director may publish findings relating to conditions of wind, sea, visibility or numbers of marine mammals and fish concerned which prevent the effective use of equipment and procedures required hereunder and result in an unacceptably high rate of incidental mortality and serious injury of marine mammals and under which conditions it would not be permissible to cause a set to be made on marine mammals.

(ii) A certificate holder may take such steps as are necessary to protect his catch, gear, or person from depredation, damage, or threat of personal injury without inflicting death or injury to any marine mammal.

(iii) All certificate holders shall maintain daily logs, in such form as the Director may prescribe, of all sets in which marine mammals are taken. Such logs must include the location, time, and date of set; weather, and water conditions; estimated number and species of marine mammals upon which set was made; estimated number and species of marine mammals caught; method used to remove marine mammals from net; amount and kind of tuna caught; and an actual count of marine mammals killed, and seriously injured, if any, on each set. Such logs shall be subject to inspection at the discretion of the Regional Director, National Marine Fisheries Service, where a certificate application was made, or his designated agents. In addition, copies of all such logs shall be mailed or delivered to the Regional Director, NMFS, where a certificate application was made, at the earliest possible opportunity, but no later than 5 days after the most recent recording in the log, except that if a vessel at sea returns to port later than five days after such occurrence, then it shall be reported within forty-eight hours after arrival in port.

(iv) Certificates will be valid only on vessels equipped with a porpoise safety panel in their purse seine and using other gear and procedures as herein described. Porpoise safety panels and all other gear used in the course of catching and landing yellowfin tuna, backdown and other release procedures shall be maintained in a proper and seaworthy condition. The porpoise safety panel shall be installed as follows:

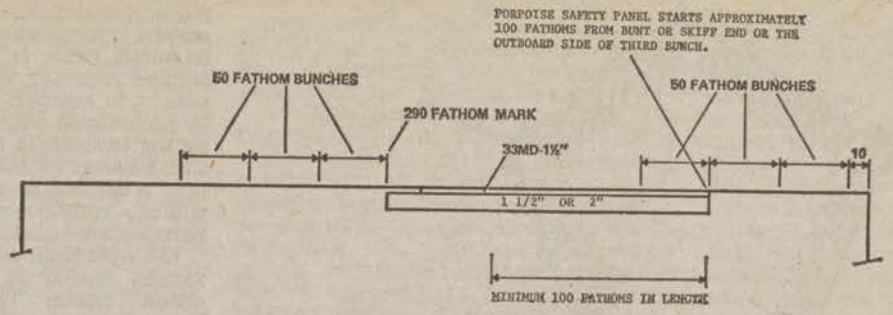
(A) Beginning approximately 100 fathoms from the bunt or skiff end of the net or on the outboard side of the third bunch with sufficient panel installed to protect the entire perimeter of the backdown area from the tie-down point, the porpoise safety panel shall be installed and extend a minimum of 100 fathoms in length. The minimum length of the panel in nets deeper than 10 panels shall be determined at a ratio of 10 fathoms in length for each panel that the net is deep. The porpoise safety panel shall consist of (*1*) one strip of 2" stretch mesh, commencing at the corkline, with a total minimum depth of 225 meshes, or (*2*) one strip of 280 meshes deep of 1½" stretch mesh, plus a corkline border strip 33 meshes deep, for a total of 313 meshes deep, minimum depth.

(B) Each end of the porpoise safety panel must be identified with an easily distinguishable marker which may be separate from the corkline or may be a single cork in the corkline of a different color than the one on either side.

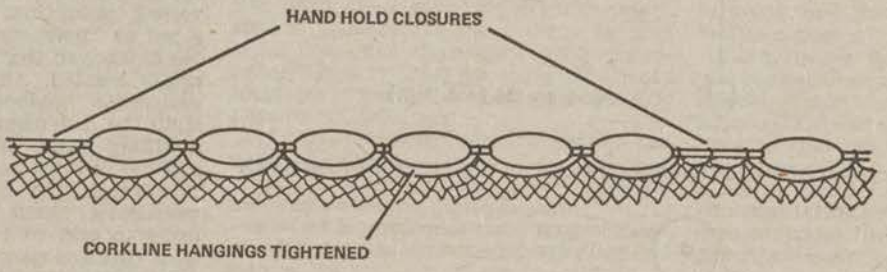
(C) Throughout the length of the corkline in which the porpoise safety panel is located, hand hold openings are to be secured either by false hangings, the installation of small sections of 1½" or 2" stretch mesh, or by hand-constructed webbing of the same size as 1½" or 2" stretch mesh. In any event, by whatever means these areas are closed to prevent porpoise entrapment, proof of its utility to achieve the desired result shall be its resistance to the insertion of a cylindrical shaped object, no larger than one and three-eights inches in diameter.

(D) Porpoise safety panels installed in purse seines on the effective date of these regulations which have been certified by the master or owner of a vessel to the Regional Director, National Marine Fisheries Service, Terminal Island, California, pursuant to the interim regulations effective January 22, 1974 (39 FR 2481), and which have been conditionally approved by the Regional Director for use pending an initial inspection of the net by an authorized agent of the National Marine Fisheries Service or which has been inspected and found to be in conformity with such interim regulations by the Re-

gional Director, as evidenced by notification to the master or owner of the vessel by the Regional Director, shall be deemed to meet the specifications described above for tuna purse seining encircling gear. Five figures are included in these regulations to illustrate and clarify some of the requirements of this class of permit.



LOCATION OF PORPOISE SAFETY PANEL INSERTION
Figure 1 - 216.24 d (2)(iv)



STANDARD SEINE
Figure 2 - 216.24 d (2)(iv)

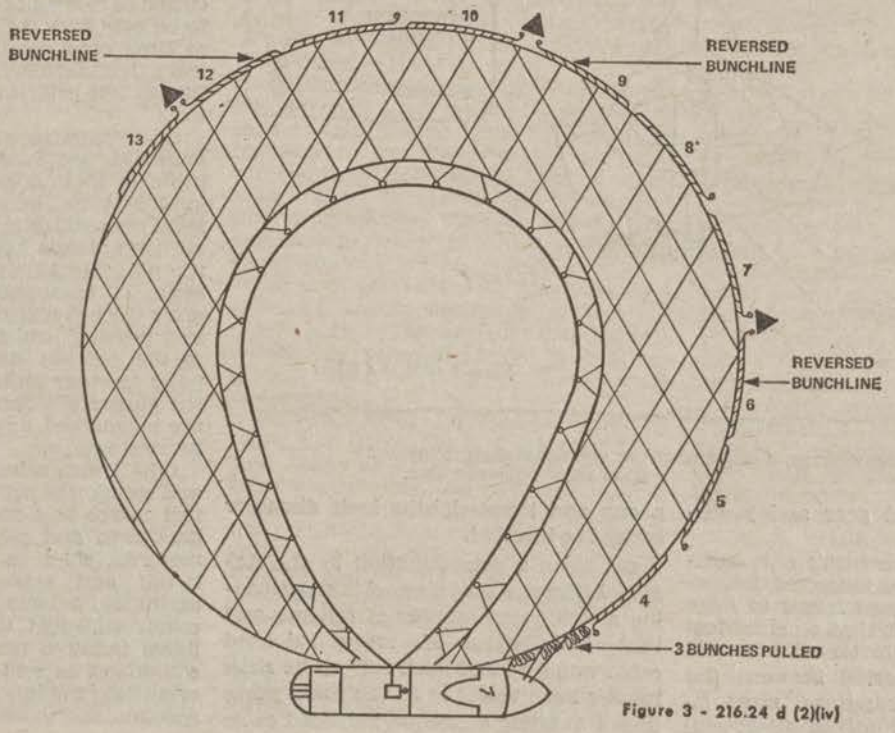


Figure 3 - 216.24 d (2)(iv)

LOCATION OF REVERSE BUNCHLINES FOR USE WITH SPEEDBOATS TO HOLD NET OPEN USING A TOTAL OF 13 BUNCH LINES. TRIANGLES DENOTE TOWING POINTS.

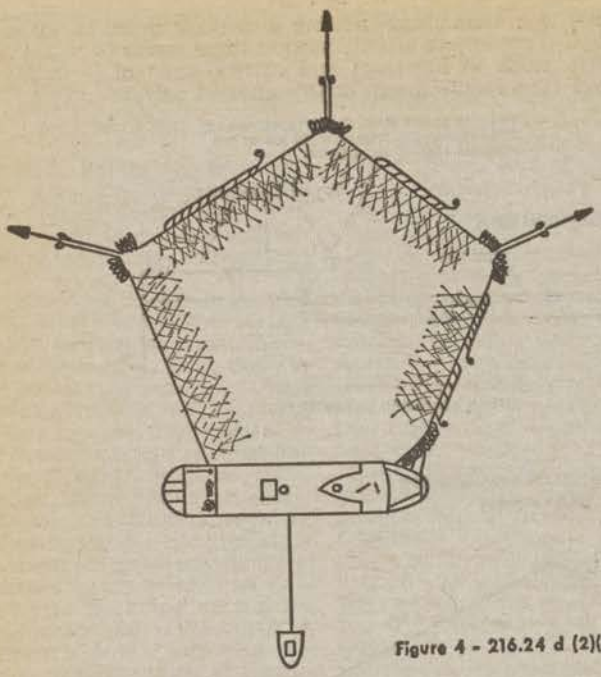


Figure 4 - 216.24 d (2)(iv)

SPEEDBOATS HOLDING NET OPEN, AFTER THE NET IS PURSED, UTILIZING THE THREE REVERSED BUNCH LINES.

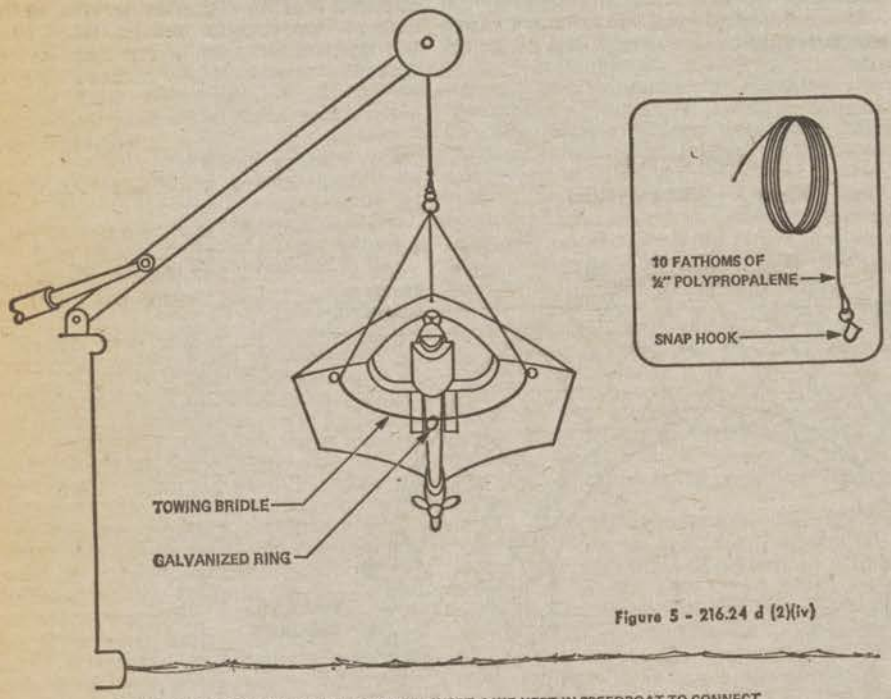


Figure 5 - 216.24 d (2)(iv)

SPEEDBOAT RIGGED WITH TOWING BRIDLE. INSET: LINE KEPT IN SPEEDBOAT TO CONNECT BUNCH LINES TO TOWING BRIDLE.

(E) Other required gear and procedures:

(1) Throughout the entire net, corkline hangings shall be inspected following each trip. Hangings found to have loosened to the extent that a cylindrical object with a 1⅜" diameter will not meet resistance when inserted between the cork and corkline hangings, must be tightened so that a cylindrical object with a one and three-eighths inch diameter cannot be inserted.

(2) Upon a determination by the Regional Director that a vessel is experiencing a significant number of roll-ups and that installation of torque-balanced cable would reduce such roll-up he shall require such vessel to install main purse lines consisting of torque-balanced cable with the exception of the centerpieces which may consist of standard cable of the necessary size and breaking strength. In those cases in which torque-balanced cable is required, at a minimum, the main purse line, and any excess purse line shall consist of torque-balanced cable. Torque-balanced cable is a three-strand preformed right lay wire rope which is resistant to rotation under load or strain in accordance with standards published by the Director in the FEDERAL REGISTER. The phrase "significant number of roll-ups" is defined as one or more sets during which a roll-up occurs and one or more porpoise are killed.

(3) Nets shall contain bunch lines arranged similar to the diagram reproduced herein. The arrangements of bunch lines should allow up to 5 bunch lines to be pulled in normal fishing operations and for the use of speed boats to hold the net open by towing or reversed bunch lines as indicated in figure 3. Each towing point at the conjunction of reversed bunch lines must be marked with a red 40" polyform float or equally visible marker so that towing points can be easily located. All vessels operated by certificate holders under this section shall be equipped with two or more auxiliary boats. Auxiliary boats shall be utilized to hook onto the reversed bunch lines and tow the net open to the pentagonal shape shown in figure 4 in order to prevent the collapse of the net as a required part of every set made on marine mammals. Certificate holders operating vessels that do not carry two or more auxiliary boats may not conduct fishing operations which involve setting purse seines on marine mammals with such vessels.

(v) All tuna purse seine vessels operated by a certificate holder shall be required to carry a porpoise basket suitable to be used over the side of the seine skiff to allow crew members to physically release live marine mammals during drying up and prior to final stages of brailing.

(vi) Following a net set where marine mammals are captured in the course of utilizing a purse seine for catching and landing tuna, backdown and other release procedures shall be continued until all live animals have been released from the net. "Backdown procedure" means a series of maneuvers, which take place after the net is tied down following a set and pursing, which keeps the net open to the greatest degree and allows porpoise or other marine mammals to leave the pursed net over the net floats which are submerged as a result of the vessel moving astern.

(vii) Purse seine nets and other gear and equipment utilized to catch and land fish under this section and to conduct backdown and other procedures herein required, shall be maintained in functional and seaworthy condition. All certificate holders shall maintain proficiency sufficient to perform the procedures required herein. Vessel gear and equipment as well as the proficiency of certificate holders will be subject to inspection and examination by authorized

NMFS personnel at any time at the discretion of the Director. Any vessel found to be equipped with gear which is not in conformity with these regulations or is not maintained in a functional and seaworthy condition shall be declared ineligible for use by a certificate holder for commercial fishing operations under this section and the certificate of any certificate holder who is found to lack proficiency in the procedures required herein shall be immediately suspended or revoked.

(viii) Director may publish a finding of the rate of incidental mortality and serious injury of marine mammals in the course of commercial fishing operations conducted pursuant to these regulations.

(ix) Failure to comply with the provisions of this permit or these regulations, including, but not limited to, failure to submit upon demand to an inspection or examination by an authorized agent of the National Marine Fisheries Service, falsification of logs and reports required hereunder, or failure to satisfy the requirements of any provisions of these regulations, will subject certificate holders, vessel masters, or owners to immediate revocation of the certificate and/or right to be included under a general permit and further subject certificate holders, vessels, masters, or owners to the penalties provided for under the Act.

(3) *Encircling Gear; Seining other than Yellowfin Tuna.*

(i) A certificate holder may take marine mammals so long as such taking is an incidental occurrence in the course of normal commercial fishing operations. Marine mammals taken incidental to commercial fishing operations shall be immediately returned to the environment where captured without further injury.

(ii) A certificate holder may take such steps as are necessary to protect his catch, gear, or person from depredation, damage or personal injury without inflicting death or injury to any marine mammal.

(iii) Only after all means permitted by paragraph (d) (3) (ii) of this section have been taken to deter a marine mammal from depredating the catch, damaging the gear, or causing personal injury, may the certificate holder injure or kill the animal causing the depredation or immediate damage, or about to cause immediate personal injury; however, in no event shall a certificate holder kill or injure an Atlantic bottlenosed dolphin, *Tursiops truncatus*, under the provisions of this paragraph. In no event shall the certificate holder injure or kill any animal permitted to be killed or injured under this paragraph unless the infliction of such damage is substantial and immediate and is actually being caused at the time such steps are taken. In all cases, the burden is on the certificate holder to fully report and demonstrate that the animal was causing substantial and immediate damage or about to cause personal injury and that all possible steps to protect against such damage or injury as permitted by paragraph (d) (3) (ii) of this section were taken and that such attempts failed.

(iv) Marine mammals taken in the course of commercial fishing operations shall be subject to the provisions of § 216.3 with respect to "Incidental catch," and may not be retained except where a specific permit has been obtained authorizing the retention.

(v) All certificate holders shall maintain logs of incidental take of marine mammals in such form as prescribed by the Director. All occurrences resulting in death or injury to marine mammals in the course of commercial fishing operations under the conditions of a general permit shall be immediately recorded in the log and reported in writing to the Regional Director, National Marine Fisheries Service, where a certificate application was made, or to an enforcement agent or other designated agent of the National Marine Fisheries Service, at the earliest opportunity but no later than five days after such occurrence, except that if a vessel at sea returns to port later than five days after such occurrence, then it shall be reported within forty-eight hours after arrival in port. Reports must include:

(A) the location, time, and date of the death or injury;

(B) the identity and number of marine mammals killed or injured; and

(C) a description of the circumstances which led up to and caused the death or injury.

(vi) Failure to comply with the provisions of the general permit including, but not limited to, failure to submit upon demand to an inspection by an authorized Federal enforcement agent, or failure to adhere to the provisions of these regulations will subject the certificate holder to a revocation of his certificate and also subject the certificate holder, vessel owner and master to the penalties provide for under the Act.

(4) *Stationary gear.* (i) A certificate holder may take marine mammals so long as such taking is an incidental occurrence in the course of normal commercial fishing operations. Marine mammals taken incidental to commercial fishing operations shall be immediately returned to the environment where captured without further injury.

(ii) A certificate holder may take such steps as are necessary to protect his catch, gear, or person from depredation, damage or personal injury without inflicting death or injury to any marine mammal.

(iii) Only after all means permitted by paragraph (d) (4) (ii) of this section have been taken to deter a marine mammal from depredating the catch, damaging the gear, or causing personal injury, may the certificate holder injure or kill the animal causing the depredation or immediate damage, or about to cause immediate personal injury; however, in no event shall a certificate holder kill or injure an Atlantic bottlenosed dolphin, *Tursiops truncatus*, under the provisions of this paragraph. In no event shall the certificate holder injure or kill any animal permitted to be killed or injured under this paragraph unless the infliction of such damage is substantial and immediate and is actually being caused at the time such steps are taken. In all cases, the burden is on the certificate holder to fully report and demonstrate that the animal was causing substantial and immediate damage or about to cause personal injury and that all possible steps to protect against such damage or injury as permitted by paragraph (ii) were taken and that such attempts failed.

(iv) Marine mammals taken in the course of commercial fishing operations shall be subject to the provisions of § 216.3 with respect to "Incidental catch," and may not be retained except where a specific permit has been obtained authorizing the retention.

(v) All certificate holders shall maintain logs of incidental take of marine mammals in such form as prescribed by the Director. All occurrences resulting in death or injury to marine mammals in the course of commercial fishing operations under the conditions of a general permit shall be immediately recorded in the log and reported in writing to the Regional Director, National Marine Fisheries Service, where a certificate application was made, or to an enforcement agent or other designated agent of the National Marine Fisheries Service, at the earliest opportunity but no later than five days after such occurrence, except that if a vessel at sea returns to port later than five days after such occurrence, then it shall be reported within forty-eight hours after arrival in port.

Reports must include:

(A) the location, time, and date of the death or injury

(B) the identity and number of marine mammals killed or injured; and

(C) a description of the circumstances which led up to an caused the death or injury.

(vi) Failure to comply with the provisions of the general permit including, but not limited to, failure to submit upon demand to an inspection by an authorized Federal enforcement agent, or failure to adhere to the provisions of these regulations will subject the certificate holder to a revocation of his certificate and also subject the certificate holder, vessel, owner and master to the penalties provided for under the Act.

(5) *Other gear.* (i) A certificate holder may take marine mammals so long as such taking is an incidental occurrence in the course of normal commercial fishing operations. Marine mammals taken incidental to commercial fishing operations shall be immediately returned to the environment where captured without further injury.

(ii) A certificate holder may take such steps as are necessary to protect his catch, gear, or person from depredation, damage or personal injury without inflicting death or injury to any marine mammal.

(iii) Only after all means permitted by paragraph (d) (5) (ii) of this section have been taken to deter a marine mam-

mal from depredating the catch, damaging the gear, or causing personal injury, may the certificate holder injure or kill the animal causing the depredation or immediate damage, or about to cause immediate personal injury; however, in no event shall a certificate holder kill or injure an Atlantic bottlenosed dolphin, *Tursiops truncatus*, under the provisions of this paragraph. In no event shall the certificate holder injure or kill any animal permitted to be killed or injured under this paragraph unless the infliction of such damage is substantial and immediate and is actually being caused at the time such steps are taken. In all cases, the burden is on the certificate holder to fully report and demonstrate that the animal was causing substantial and immediate damage or about to cause personal injury and that all possible steps to protect against such damage or injury as permitted by paragraph (d)(5)(ii) of this section were taken and that such attempts failed.

(iv) Marine mammals taken in the course of commercial fishing operations shall be subject to the provisions of § 216.3 with respect to "Incidental catch," and may not be retained except where a specific permit has been obtained authorizing the retention.

(v) All certificate holders shall maintain logs of incidental take of marine mammals in such form as prescribed by the Director. All occurrences resulting in death or injury to marine mammals in the course of commercial fishing operations under the conditions of a general permit shall be immediately recorded in the log and reported in writing to the Regional Director, National Marine Fisheries Service, where a certificate application was made, or to an enforcement agent or other designated agent of the National Marine Fisheries Service, at the earliest opportunity but no later than five days after such occurrence, except that if a vessel at sea returns to port later than 5 days after such occurrence, then it shall be reported within forty-eight hours after arrival in port. Reports must include:

(A) the location, time, and date of the death or injury

(B) the identity and number of marine mammals killed or injured; and

(C) a description of the circumstances which led up to and caused the death or injury.

(vi) Failure to comply with the provisions of the general permit including, but not limited to, failure to submit upon demand to an inspection by an authorized Federal enforcement agent, or failure to adhere to the provisions of these regulations will subject the certificate holder to a revocation of his certificate and also subject the certificate holder, vessel, and master to the penalties provided for under the Act.

(e) Importation: (1) It shall be illegal to import into the United States any fish, whether fresh, frozen or otherwise prepared, if such fish were caught in a manner prohibited by these regulations or in a manner that would not be allowed in circumstances where a person subject to the jurisdiction of the United States would be required to have a certificate of inclusion in a general permit hereunder, whether or not any marine mammals were in fact taken incident to the catching of the fish, unless the Director makes a finding and publishes such finding in the FEDERAL REGISTER, that such fishing, although not in conformity with the specific requirements of these regulations, is accomplished in a manner which does not result in an incidental mortality and serious injury rate in excess of that which results from fishing operations under these regulations.

(2) All fish are subject to the prohibitions and documentation requirements of this paragraph (e), except the following fish and categories of fish which the Director has determined are not involved with commercial fishing operations which cause the death or injury of any marine mammals—

(i) [Reserved]

(3) Effective October 21, 1974, all fish, except those fish exempted by paragraph (e)(2) of this section, shall be denied entry into the United States unless accompanied by shipping documentation showing:

(i) The country of origin; and

(ii) The identity and quantity of fish; and, either

(iii) After the Director has published the finding referred to in paragraph (e)(1) of this section, a statement from a responsible official of the country of origin that the fishing technology permitted by the country of origin with respect to the species of fish presented for importation into the United States does not result in a rate of serious injury or death to marine mammals in excess of that which results from the conduct of commercial fishing operations as prescribed by these regulations. Country of origin for the purposes of this section shall mean the country under whose flag the fish catching vessels are documented and whose fish are a part of any cargo or shipment of fish to be imported into the U.S. regardless of any transshipments; or

(iv) a statement by a responsible official of the country of origin or the master of the vessel which caught the fish that such fish were not caught in a manner prohibited for U.S. fishermen by these regulations. The statement shall identify the species, quantity, and exporter of the fish to which the statement refers; or

(v) a statement by a responsible official of the country of origin or the master of the vessel which caught the fish that (A) such fish in the shipment were caught prior to the effective date of these regulations; or, (B) if the fish in the shipment are yellowfin tuna, that (*1*) the yellowfin tuna were caught prior to April 1, 1974, or (2) if the yellowfin tuna was caught between April 1, 1974, and October 20, 1974, that the yellowfin tuna was caught in conformance with the interim regulations regarding tuna purse-seining operations (39 FR 2481, January 22, 1974). The statement shall identify the species, quantity, and exporter of the fish to which the statement refers; or

(vi) Any nation may certify to the Director either (A) that all of its vessels fishing under its flag are fishing in conformance with these regulations; or (B) a list of the vessels, by name and official number, fishing under such nation's flag which are fishing in conformance with these regulations; or (C) that all of its vessels fishing under such nation's flag, with the exception of any vessels specifically listed by name and official number, are fishing in conformance with these regulations. If methods (B) or (C) are used, the shipping documentation must also show the name and official number of the vessel which caught the fish presented for importation.

(f) Any duly authorized agents of the Secretary may from time to time, after timely oral or written notice to the vessel owner or charterer, board and/or accompany commercial fishing vessels documented under the laws of the United States, whenever the Secretary determines that there is space available, on regular fishing trips, for the purpose of conducting research or observation operations. Such research and observation operations shall be carried out in such manner as to minimize interference with commercial fishing operations. No masters, charterer, operator or owner of such vessel shall impair or in any way interfere with the research or observations being carried out. The Secretary shall provide for the payment of all reasonable costs directly related to the quartering and maintaining of such agents on board such vessels.

(g) Penalties and rewards: Any person or vessel, subject to the jurisdiction of the United States shall be subject to the penalties provided for under the Act for the conduct of fishing operations in violation of these regulations. The Secretary shall recommend to the Secretary of the Treasury that an amount equal to one-half of the fine incurred but not to exceed $2,500 be paid to any person who furnishes information which leads to a conviction for a violation of these regulations. Any officer, employee, or designated agent of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this section.

[FR Doc.74-20347 Filed 9-4-74;8:45 am]

Title 7—Agriculture

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

PART 26—GRAIN STANDARDS

United States Standards for Oats

Statement of considerations. The United States Grain Standards Act, as amended (82 Stat. 762, 7 U.S.C. 76) provides for official U.S. standards to designate the levels of quality of grain for use by producers, merchandisers, and consumers in the domestic and export

marketing of grain. Official grading service is provided under the Act upon request of the applicant and payment of a fee to cover the cost of the service.

Pursuant to section 4 of the Act, a notice concerning a proposed revision of the United States Standards for Oats (7 CFR 26.251 *et seq.*) was published in the FEDERAL REGISTER (38 FR 34663) on December 17, 1973, according to the administrative procedure provisions of Section 553 of Title 5, United States Code.

Approximately 600 reprints of the notice were sent to interested persons in the grain industry. Interested persons were given until January 31, 1974, to submit data, views, or recommendations concerning the proposed revisions.

Seven written comments were received in response to the notice. In general, the comments were favorable to the proposed revision. Three commentors opposed the proposed effective date of June 1, 1974, because the near proximity of the date would have created difficulty in processing outstanding futures contracts. As a result of the comments and after informal consultation with industry members, the effective date of the revised standards is changed to June 1, 1975.

One commentor objected to the deletion of the class names white, red, gray, black, and mixed because information as to the color of oats is needed in purchasing oats for feed for thoroughbred horses.

The classing of oats has been based on genetic background, as evidenced by kernel characteristics, and the color of the hulls. The kernel characteristics of oats vary by variety, location, and season. As a result, the classing of certain varieties of white oats (*Avena sativa*) and certain varieties of red oats (*Avena byzantina*) has been and is one of the more difficult grain grading activities. The classing of some of the newer varieties, such as Goodfield and Clintford, is especially difficult because they contain germ plasm and kernel characteristics of both red and white oats.

The problem in accurately classing white and red oats has resulted in intermarket grading differences and in trade complaints and is seriously detracting from the marketing of oats in one or more markets. It is concluded that the inspection problems and the trade complaints warrant deleting the genetic- and color-based class names. In instances where an applicant may desire an official inspector's opinion as to the general, overall color of a lot of oats, it may be shown, at the applicant's request, in the "remarks" space on the certificate of grade.

Other suggestions, which have been adopted, are:

1. Show only the definition for oats in § 26.251. Show all other definitions under "Definitions of other terms" in §26. 252. Redesignate all subsequent sections and paragraphs as needed.

2. In the definition of "Other grains," change "grain sorghum" to "sorghum" and list in the proper alphabetical order; and add the term "sunflower" in the proper alphabetical order.

3. Modify the section entitled "Temporary adjustments in equipment and procedures" for clarity.

4. In the definition of the special grade "Ergoty oats," change "0.1 percent" to "0.10 percent" to show the degree of accuracy desired.

5. Clarify the definition of the special grade "Weevily oats" by showing that the meaning of "infested" is defined in the Grain Inspection Manual.

6. Make other minor changes for purposes of clarity.

In consideration of the foregoing and other information available in the Department, the United States Standards for Oats (7 CFR 26.251 *et seq.*) are revised to read as follows:

UNITED STATES STANDARDS FOR OATS [1]

TERMS DEFINED

§ 26.251 Definition of oats.

Grain which consists of 50 percent or more of oats (*Avena sativa* L. and *A. byzantina* C. Koch) and may contain, singly or in combination, not more than 25 percent of wild oats and other grains for which standards have been established under the United States Grain Standards Act.

* * * * *

§ 26.252 Definitions of other terms.

For the purposes of these standards the following terms shall have the meanings stated below:

(a) *Distinctly low quality.* Oats which are obviously of inferior quality because they contain foreign substances or because they are in an unusual state or condition, and which cannot be properly graded by use of the other grading factors provided in the standards.

(b) *Fine seeds.* All matter which may be removed from a test portion of the original sample by an approved device in accordance with procedures prescribed in the Grain Inspection Manual.[2] For the purpose of this paragraph, "approved device" shall be the 5/64 triangular-hole sieve.[3]

(c) *Foreign material.* All matter other than oats, wild oats, and other grains (see paragraph (f) of this section). Oat clippings and detached oat hulls are foreign material.

(d) *Heat-damaged kernels.* Kernels and pieces of kernels of oats, other grains (see paragraph (f) of this section), and wild oats which are materially discolored and damaged as a result of heating.

(e) *Moisture.* Water content in oats as determined by an approved device in accordance with procedures prescribed in the Grain Inspection Manual.[2] For the purpose of this paragraph "approved device" shall include the Motomco Moisture Meter and any other equipment that is approved by the Administrator as giving equivalent results.[3]

(f) *Other grains.* Barley, corn, cultivated buckwheat, einkorn, emmer, flaxseed, guar, hull-less barley, nongrain sorghum, Polish wheat, popcorn, poulard wheat, rice, rye, sorghum, soybeans, spelt, sunflower, sweet corn, triticale, and wheat.

(g) *Sieves.* (1) *5/64 triangular-hole sieve.* A metal sieve 0.032 inch thick with equilateral triangular perforations the inscribed circles of which are 0.0781 (5/64) inch in diameter.

(2) *0.064 x 3/8 oblong-hole sieve.* A metal sieve 0.032 inch thick with oblong perforations 0.064 inch by 0.375 (3/8) inch.

(h) *Sound oats.* Kernels and pieces of kernels of oats (except wild oats) which are not badly ground-damaged, badly weather-damaged, diseased, frost-damaged, heat-damaged, insect-bored, mold-damaged, sprout-damaged, or otherwise materially damaged.

(i) *Stones.* Concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate readily in water.

(j) *Test weight per bushel.* Test weight per bushel shall be the weight per Winchester bushel (2,150.42 cubic inch capacity) as determined on a test portion of the original sample by an approved device in accordance with instructions in the Grain Inspection Manual.[2] For the purpose of this paragraph "approved device" shall include the Fairbanks-Morse or Ohaus Test Weight Per Bushel Apparatus and any other equipment that is approved by the Administrator as giving equivalent results.[3]

Test weight per bushel, for grade determination, shall be stated in terms of whole and half pounds; a fraction of a pound when equal to or greater than one-half shall be stated as one-half and when less than one-half shall be disregarded; e.g., 41.1 through 41.4 shall be 41.0 and 41.5 through 41.9 shall be 41.5.

(k) *Wild oats.* Seeds of *Avena fatua* and *A. sterilis.*

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 26.253 Basis of determination.

All determinations shall be on a test portion of the original sample.

§ 26.254 Temporary modifications in equipment and procedures.

The equipment and procedures referred to in the oats standards are applicable to oats produced and harvested under normal environmental conditions. Abnormal environmental conditions during the production and harvesting of

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

[2] Grain Inspection Manual, GR Instruction 918-6, effective August 28, 1972, as amended, U.S. Department of Agriculture, Agricultural Marketing Service. Copies may be obtained from the Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, 6525 Belcrest Road, Hyattsville, Maryland 20782.

[3] Requests for information concerning approved devices and procedures, criteria for approved devices, and request for approval of devices should be directed to the Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, 6525 Belcrest Road, Hyattsville, Maryland 20782.

oats may require minor temporary modifications in the equipment or procedures to obtain results expected under normal conditions. When these adjustments are necessary; Grain Division Field Offices, official inspection agencies, and interested parties in the grain industry will be notified promptly in writing of the modification. Changes in interpretations of identity, quality, and condition are excluded and shall not be made.

§ 26.255 Percentages.

Percentages shall be determined on the basis of weight and shall be rounded off as follows:

(a) When the figure to be rounded is followed by a figure greater than 5, round to the next higher figure; e.g., 0.46, report as 0.5.

(b) When the figure to be rounded is followed by a figure less than 5, round to the next lowest figure; e.g., 0.54, report as 0.5.

(c) When the figure to be rounded is even and it is followed by the figure 5, retain the even figure. When the figure to be rounded is odd and it is followed by 5, round the figure to the next highest number; e.g., 0.45, report as 0.4; 0.55, report as 0.6.

Percentages, except when determining the quantity of ergot and the identity of oats, shall be stated in whole and tenth percent to the nearest tenth percent, unless otherwise prescribed in the Grain Inspection Manual.[1] The percentage of ergot shall be stated to the nearest hundredth percent. The percentage of oats, wild oats, and other grains in determining the identity of oats shall be stated to the nearest whole percent.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

§ 26.256 Grades and grade requirements for oats.

(See also § 26.258.)

Grade	Minimum limits		Maximum limits		
	Test weight per bushel	Sound oats	Heat-damaged kernels	Foreign material	Wild oats
	Pounds	*Percent*	*Percent*	*Percent*	*Percent*
U.S. No. 1	36.0	97.0	0.1	2.0	2.0
U.S. No. 2	33.0	94.0	.3	3.0	3.0
U.S. No. 3[1]	30.0	90.0	1.0	4.0	5.0
U.S. No. 4[2]	27.0	80.0	3.0	5.0	10.0
U.S. sample grade[3]	(4)	(4)	(4)	(4)	(4)

[1] Oats that are slightly weathered shall be graded not higher than U.S. No. 3.

[2] Oats that are badly stained or materially weathered shall be graded not higher than U.S. No. 4.

[3] U.S. Sample grade shall be oats which—

(a) Do not meet the requirements for the grades U.S. No. 1, 2, 3, or 4,

(b) Contain more than 7 stones which have an aggregate weight in excess of 0.2 percent of the sample weight or more than 2 crotalaria seeds (*Crotalaria* spp.) per 1,000 grams of oats or more than 16 percent of moisture,

(c) Have a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor), or

(d) Are heating or otherwise of distinctly low quality.

§ 26.257 Grade designations.

The grade designations for oats shall include in the following order: (a) The letters "U.S.," (b) the number of the grade or the words "Sample grade," (c) certain special grade designations, if applicable (see § 26.259), (d) the word "oats," and (e) certain special grade designations, if applicable (see § 26.259).

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

§ 26.258 Special grades and special grade requirements.

A special grade, when applicable, is supplemental to the grade assigned under § 26.256. Such special grades are established and determined as follows:

(a) *Bleached oats.* Oats which in whole or in part, have been treated with sulphurous acid or any other bleaching agent.

(b) *Bright oats.* Oats, except Bleached oats, that are of good natural color.

(c) *Ergoty oats.* Oats which contain ergot in excess of 0.10 percent.

(d) *Extra-heavy oats.* Oats which have a test weight per bushel of 40 pounds or more.

(e) *Garlicky oats.* Oats which contain 4 or more green garlic bulblets or an equivalent quantity of dry or partly dry bulblets in 500 grams of oats.

(f) *Heavy oats.* Oats which have a test weight per bushel of 38 pounds or more but less than 40 pounds.

(g) *Smutty oats.* Oats which have kernels covered with smut spores or which contain smut masses and smut balls in excess of 0.2 percent.

(h) *Thin oats.* Oats which contain more than 20.0 percent of oats and other matter, except "fine seeds," which may be removed from a test portion of the original sample by approved devices in accordance with the procedures prescribed in the Grain Inspection Manual.[2] For the purpose of this paragraph "approved devices" shall be the 0.064 x ⅜ oblong-hole sieve and the 5/64 triangular-hole sieve.[3]

(i) *Tough oats.* Oats which contain more than 14.0 percent but not more than 16.0 percent of moisture.

(j) *Weevily oats.* Oats which are infested with live weevils or other insects injurious to stored grain. As applied to oats, the meaning of the term "infested" is set forth in chapter VI of the Grain Inspection Manual.[4]

§ 26.259 Special grade designations.

(See also § 26.258.)

The grade designation for bright, extra-heavy, and heavy oats shall include, preceding the word "oats," the word(s) "Bright," "Extra-heavy," or "Heavy," as warranted, and all other information prescribed in § 26.257. The grade designation for bleached, ergoty, garlicky, smutty, thin, tough, and weevily oats shall include, following the word "oats," the word(s) "Bleached," "Ergoty," "Garlicky," "Smutty," "Thin," "Tough," or "Weevily," as warranted, and all other information prescribed in § 26.257.

Comments. The United States Grain Standards Act, as amended, requires that public notice shall be given on any amendment of the standards and that no changes shall become effective less than 1 year after promulgation thereof, unless, in the judment of the Secretary, the public health, interest, or safety require that they become effective sooner. It is desirable that amended standards become effective before the beginning of harvest to minimize possible disruption of normal marketing procedures. Accordingly, under the administrative procedure provisions of Section 553 of Title 5, United States Code, it is found upon good cause that further notice and other public procedure with respect to these amendments are impracticable and contrary to the public interest, and good cause is found for making them effective less than 1 year after publication in the Federal Register.

After adoption of these amendments, official inspection personnel will, upon request, show as "Remarks" on inspection certificates, the overall color of the oat hulls. Also, for a period of 6 months after adoption of these amendments, official inspection personnel will, upon request, show on inspection certificates the grade under both the old and the revised standards.

Effective date. The foregoing standards supersede the United States Standards for Oats as amended effective January 8, 1974, and shall become effective June 1, 1975.

Done at Washington, D.C., on: AUGUST 30, 1974.

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

[FR Doc.74-20546 Filed 9-4-74;8:45 am]

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

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Japanese Beetle

QUARANTINE AND REGULATIONS; CORRECTION

In the amendment of the list of Japanese beetle regulated articles (FR Doc. 74-14078) effective June 19, 1974, in 7 CFR 301.48, paragraph (b) (1) (vi) was published to read "Unused mechanized soil-moving equipment." It should have read "Used mechanized soil-moving equipment." Accordingly, in § 301.48, paragraph (b) (1) (vi) is corrected to read as follows:

§ 301.48 Quarantine; restriction on interstate movement of specified regulated articles.

* * * * *

(b) * * *

(1) * * *

(vi) Used mechanized soil-moving equipment;

* * * * *

Done at Washington, D.C., this 30th day of August 1974.

LEO G. K. IVERSON,
Deputy Administrator, Plant Protection and Quarantine Programs.

[FR Doc.74-20550 Filed 9-4-74;8:45 am]

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

[Amdt. 55]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

THE GRAIN SORGHUM ENDORSEMENT

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, the above-identified regulations are amended effective beginning with the 1975 crop year in the following respects:

1. Subsection 4(e) of the Grain Sorghum Endorsement shown in § 401.129 of this chapter is amended to read as follows:

(e) Notwithstanding any other provision of this section for determining production to be counted, the production to be counted of any threshed grain sorghum which has in excess of 15 percent kernel damage, as defined in the "Official Grain Standards of the United States," or less than a 48-pound test weight per bushel due to insurable causes occurring within the insurance period shall be adjusted by (1) dividing the value per hundredweight of the damaged grain sorghum as determined by the Corporation, by the market price per hundredweight at the local market for grain sorghum grading No. 2 at the time the loss is adjusted, or if the damaged grain sorghum has been sold, by dividing the price per hundredweight received by the insured by the No. 2 price on the date of sale at the local market, and (2) multiplying the result thus obtained by the number of hundredweight of such damaged grain sorghum. If the grain sorghum does not have in excess of 15 percent kernel damage or less than a 48-pound test weight per bushel, and it is determined that the production contains a moisture content of 15 percent or more, such production shall be reduced 1.2 percent for each full percent of moisture in excess of 14 percent.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

The foregoing amendment establishes a formula for the downward adjustment in the production of grain sorghum to be counted because of poor quality due to insured causes which is different from the formula applicable in the current contract. The current contract provides for an adjustment in any grain sorghum production to be counted for which the quality has been damaged to the extent that the grain sorghum does not grade No. 4 or better (determined in accordance with Official Grain Standards of the United States). The production of any grain sorghum so damaged is adjusted downward by dividing the value per hundredweight of such damaged grain sorghum by the market price per hundredweight at the local market for grain sorghum grading No. 4 at the time the loss is adjusted and multiplying this result by the number of hundredweight of damaged grain sorghum.

Inasmuch as there are a few markets which now quote a price for No. 4 grain sorghum and the current formula no longer reflects present market practices, considerable dissatisfaction has arisen in recent years among both insureds and the field with respect to the method contained in the current contract for the downward adjustment of damage production of grain sorghum to be counted. The retention of the current quality provision would probably result in reduced sales and increased cancellations. The foregoing amendment is designed to correct this, and it is desirable it become effective in 1975. Notice of changes must be given insureds in the southern Texas counties by September 15, 1974. It would therefore be impossible to follow both the procedures for notice and public participation prescribed by 5 U.S.C. 553(b) and (c) prior to the adoption of this amendment and to comply with the contractual provisions with respect to filing such changes in time to be effective for the 1975 crop year.

Under the circumstances, the Board of Directors found that it would be impracticable and contrary to the public interest to follow the procedure for notice and public participation prescribed by 5 U.S.C. 553 (b) and (c), as directed by the Secretary of Agriculture in a Statement of Policy, executed July 20, 1971 (36 FR 13804), prior to its adoption. Accordingly, said amendment was adopted by the Board of Directors on August 22, 1974.

[SEAL] LLOYD E. JONES,
Secretary, Federal Crop Insurance Corporation.

Approved on August 29, 1974.

EARL L. BUTZ,
Secretary.

[FR Doc.74-20419 Filed 9-4-74;8:45 am]

[Amdt. No. 57]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

THE RICE ENDORSEMENT

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, the above-identified regulations are amended effective beginning with the 1975 crop year in the following respects:

1. Subsection 5(f) of the rice endorsement shown in § 401.132 of this chapter is amended effective beginning with the 1975 crop year by adding a sentence at the end thereto reading as follows:

"Production to be counted for any threshed rice with a moisture content of 15 percent or more not qualifying for the adjustment provided above shall be reduced 1.2 percent for each full one percent of moisture above 14 percent."

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

The foregoing amendment provides a formula whereby the production of threshed rice with a moisture content of at least 15 percent which does not qualify for a downward adjustment in production to be counted under the current contract, will be reduced 1.2 percent for each full percent of moisture in excess of 14 percent.

Under the current endorsement rice with excess moisture is counted without making allowance for such moisture in adjusting losses even though allowance for such moisture is made when the rice is sold at the market place. Insureds with proper drying equipment are able to remove this moisture before the loss is adjusted and thereby reduce the number of pounds of rice to be counted. This has created considerable dissatisfaction in recent years among insureds who do not have the proper equipment to dry rice and they have insisted that the present formula is not equitable.

The retention of the current quality provision in its present form would probably result in reduced sales and increased cancellations. The foregoing amendment is designed to correct this. It will also provide rice insureds who do not have drying equipment with a much more liberal formula for adjusting production.

Under the circumstances and because a sales campaign will soon be underway, the Board of Directors found that it would be impracticable and contrary to the public interest to follow the procedure for notice and public participation prescribed by 5 U.S.C. 553(b) and (c), as directed by the Secretary of Agriculture in a Statement of Policy, executed July 20, 1971 (36 FR 13804), prior to its adoption. Accordingly, said amendment was adopted by the Board of Directors on August 22, 1974.

[SEAL] LLOYD E. JONES,
Secretary, Federal Crop Insurance Corporation.

Approved on August 29, 1974.

EARL L. BUTZ,
Secretary.

[FR Doc.74-20418 Filed 9-4-74;8:45 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

[Amdt. No. 56]

THE SOYBEAN ENDORSEMENT

Pursuant to the authority contained in the Federal Crop Insurance Act as amended, the above-identified regulations are amended effective beginning with the 1975 crop year in the following respects:

1. Subsection 4(e) of the Soybean Endorsement shown in § 401.134 of this chapter is amended to read as follows:

(e) Notwithstanding any other provision of this section for determining production to be counted, the production to be counted of any threshed soybeans which have in excess of 8 percent kernel damage, as defined in the "Official Grain Standards of the United States," due to insurable causes occurring within the insurance period shall be adjusted by (1) dividing the value per bushel of the damaged soybeans as determined by the Corporation, by the market price per bushel at the local market for soybeans grading No. 2 at the time the loss is adjusted, or if the damaged soybeans have been sold, by dividing the price per bushel received by the insured, by the No. 2 price on the date of sale at the local market, and (2) multiplying the

result thus obtained by the number of bushels of such damaged soybeans. If the soybeans do not have in excess of 8 percent kernel damage and it is determined that the production contains a moisture content of 15 percent or more, such production shall be reduced 1.2 percent for each full percent of moisture in excess of 14 percent.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

The foregoing amendment establishes a formula for the downward adjustment in the production of soybeans to be counted because of poor quality due to insured causes which is different from the formula applicable in the current contract. The current contract provides for an adjustment in any soybean production to be counted for which the quality has been damaged to the extent that the soybeans do not grade No. 4 or better (determined in accordance with Official Grain Standards of the United States). The production of any soybeans so damaged is adjusted downward by dividing the value per bushel of such damaged soybeans by the market price per bushel at the local market for soybeans grading No. 4 at the time the loss is adjusted and multiplying this result by the number of bushels of damaged soybeans.

Inasmuch as there are few markets which now quote a price for No. 4 soybeans and the current formula no longer reflects present market practices, considerable dissatisfaction has arisen in recent years among both insureds and the field with respect to the method contained in the current contract for the downward adjustment of damaged production of soybeans to be counted. The retention of the current quality provision would probably result in reduced sales and increased cancellations. The foregoing amendment is designed to correct this. It will also provide soybean insureds with a much more liberal formula for adjusting production.

Under the circumstances, the Board of Directors found that it would be unnecessary and contrary to the public interest to follow the procedure for notice and public participation prescribed by 5 U.S.C. 553(b) and (c), as directed by the Secertary of Agriculture in a Statement of Policy, executed July 20, 1971 (36 FR 13804), prior to its adoption. Accordingly, said amendment was adopted by the Board of Directors on August 22, 1974.

[SEAL] LLOYD E. JONES,
Secretary, Federal Crop Insurance Corporation.

Approved on August 29, 1974.

EARL L. BUTZ,
Secretary.

[FR Doc.74-20420 Filed 9-4-74;8:45 am]

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

[Valencia Orange Reg. 481]

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

Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period Sept. 6–12, 1974. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

§ 908.781 Valencia Orange Regulation 481.

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

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

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges is expected to be generally active. Prices f.o.b. averaged $3.62 per carton on a reported sales volume of 677 carlots last week, compared with an average f.o.b. price of $3.63 per carton and sales of 552 carlots a week earlier. Track and rolling supplies at 380 cars were down 9 cars from last week.

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

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

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period September 6, 1974, through September 12, 1974, are hereby fixed as follows:

(i) District 1: 358,000 cartons;

(ii) District 2: 317,000 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as

when used in said amended marketing agreement and order.

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

Dated: September 4, 1974.

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

[FR Doc.74–20717 Filed 9–4–74;12:25 pm]

Title 9—Animals and Animal Products

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

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

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

List of Hog Cholera Eradication States; Commonwealth of Puerto Rico

This amendment adds the Commonwealth of Puerto Rico to the list of Hog Cholera Eradication States in 9 CFR 76.2(f) upon the basis of a determination that it is eligible for such listing under the criteria in § 76.2(f). The special provisions in 9 CFR Part 76, as amended, pertaining to the interstate movement of swine and swine products from Eradication or Free States are thereby made applicable to the Commonwealth of Puerto Rico. The special provisions contained in 9 CFR Part 76, as amended, pertaining to the interstate movement of swine and swine products from Hog Cholera Eradication or Free States apply to the Commonwealth of Puerto Rico. This addition of the Commonwealth of Puerto Rico to the list of those with hog cholera eradication status also affects the Federal indemnities payable under other regulations (9 CFR Part 56, as amended) for swine slaughtered because of hog cholera in the Commonwealth of Puerto Rico.

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

In § 76.2, paragraph (f) is amended by adding thereto the name of the Commonwealth of Puerto Rico.

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

Effective date. The foregoing amendment shall become effective on August 30, 1974.

The amendment relieves restrictions no longer deemed necessary to prevent the spread of hog cholera and must be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 30th day of August 1974.

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

[FR Doc.74–20549 Filed 9–4–74;8:45 am]

PART 78—BRUCELLOSIS

Subpart D—Designation of Modified Certified Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

MODIFIED CERTIFIED BRUCELLOSIS AREA; CORRECTION

In FR Doc. 74–19314 (39 FR 30106–30107), appearing in the FEDERAL REGISTER of Wednesday, August 21, 1974, the State of Florida was inadvertently included as an exception to paragraph (a) of § 78.13. Accordingly, paragraph (a) of § 78.13 is corrected to read:

(a) All States of the United States are hereby designated as Modified Certified Brucellosis Areas except Oklahoma.

It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

Effective date. The foregoing action shall become effective September 5, 1974.

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

[FR Doc.74–20545 Filed 9–4–74;8:45 am]

PART 78—BRUCELLOSIS

Subpart D—Designation of Modified Certified Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

MODIFIED CERTIFIED BRUCELLOSIS AREAS

The following county was deleted from the list of Modified Certified Brucellosis Areas in 9 CFR 78.13 on the specified date: Bryan County in Oklahoma on August 21, 1974. Since said date, it has been determined that this county again comes within the definition of § 78.1(i); and, therefore, it has been redesignated as a Modified Certified Brucellosis Area.

Accordingly, § 78.13 of said regulations designating Modified Certified Brucellosis Areas is hereby revised to read as follows:

§ 78.13 Modified Certified Brucellosis Areas.

(a) All States of the United States are hereby designated as Modified Certified Brucellosis Areas except Oklahoma.

(b) The following State is hereby designated as a Modified Certified Brucellosis Area except for the county named:

(1) Oklahoma except Dewey County.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f; 37 FR 28464, 28477, 38 FR 19141, 9 CFR 78.16)

Effective date. The foregoing amendment shall become effective September 5, 1974.

The amendment imposes certain restrictions necessary to prevent the spread of brucellosis in cattle and relieves certain restrictions presently imposed. It should be made effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 30th day of August 1974.

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

[FR Doc.74–20547 Filed 9–4–74;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–8456]

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

Interpretive Statement on Two-Tier Real Estate Investment Companies

In 1960, the Commission issued a release in which it discussed in part the circumstances under which a company which invests in securities of entities

which invest in real estate might be subject to the Investment Company Act of 1940 (15 U.S.C. 80a et seq.) (the "Act").[1] As the Commission then indicated, in determining whether a real estate investment trust would be exempt from the Act under section 3(c)(5) (15 U.S.C. 80a–3)[2] thereof, as a person primarily engaged in the business of purchasing or otherwise acquiring mortgages and other liens on and interests in real estate, "the character of the trust's assets must be considered." However, a two-tier real estate company, i.e., a company which invests in companies which in turn invest in real estate, and which does not meet the section 3(c)(5) criteria, may, nevertheless, not come within the definition of an investment company contained in the Act. The position of the Division of Investment Management Regulation (the "Division") with respect to the status under the Act of various types of two-tier companies and its views as to the circumstances under which such a company—even if within the definition of an investment company contained in the Act—might qualify for an exemption from the Act, are set forth below.

In recent years, the question of the applicability of the Act to two-tier real estate companies has arisen most often in connection with limited partnerships which invest, as limited partners, in limited partnerships engaged in the real estate business.[3] The definition of an investment company contained in section 3(a)(1) (15 U.S.C. 80a–3) and 3(a)(3) (15 U.S.C. 80a–3) of the Act and the exception from the latter section provided by section 3(b)(2) (15 U.S.C. 80a–3) of the Act are the provisions of the Act which are most relevant to such companies.

Under section 3(a)(1) of the Act, an issuer is an investment company if it is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities.

In the opinion of the Division, any issuer which is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in limited partnership interests in limited partnerships engaged in the real estate business is an investment company within the meaning of section 3(a)(1) of the Act.[4] The fact that a company's assets consist of limited partnership interests in limited partnerships engaged in the real estate business or that a company intends that its assets should consist of such interests does not, however, require the conclusion that the company is an investment company within the meaning of section 3(a)(1) of the Act if other facts indicate that the company is, in fact, or proposes to be, primarily engaged, through its general partner acting on behalf of the company,[5] in the real estate business.

Ownership of limited partnership interests, however, might cause the company to fall within the definition of an investment company contained in section 3(a)(3) of the Act. Under that section, an issuer is an "investment company" if it is engaged or proposes to engage in the business of investing, reinvesting, owning, *holding*, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. As used in this section, the term "investment securities" includes all securities except (A) Government securities, (B) securities issued by employees' securities companies, and (C) securities issued by majority-owned subsidiaries of the owner which are not investment companies.

A "majority-owned subsidiary" of a person is, as defined by section 2(a)(24) (15 U.S.C. 80a–2) of the Act, a company 50 per centum or more of the outstanding voting securities of which are owned by such person; section 2(a)(42) (15 U.S.C. 80a–2) defines a "voting security" as any security presently entitling the owner or holder thereof to vote for the election of directors of a company; and section 2(a)(12) (15 U.S.C. 80a–2) defines the term "director" as used in the Act to mean any director of a corporation or any person performing similar functions with respect to any organization.

Two-Tier Real Estate Companies Which May Qualify for a "No-Action" Position

The Division believes that limited partnership interests owned by a two-tier real estate partnership may be sufficiently analogous to securites issued by majority-owned subsidiaries to warrant the Division not recommending an enforcement action to the Commission if (1) such company owns more than 50 percent of the limited partnership interests in all the limited partnerships in which it invests and has the right to dismiss and replace the general partners of such underlying companies and the limited partners of such company have the right to dismiss and replace their general partner or partners; (2) such company is not an investment company within the meaning of Section 3(a)(1) of the Act;[6] and (3) such company does not register under the Act in reliance upon an opinion of counsel that it is not an investment company within the meaning of Section 3(a)(3) of the Act.

Two-Tier Companies Which May Qualify for an Order Pursuant to Section 3(b)(2)

In addition, two-tier partnerships which do not come within the definition of an investment company contained in Section 3(a)(1) of the Act, but do fall within the definition of an investment company contained in Section 3(a)(3) the Act, may be exempted from the latter definition pursuant to the provisions of Section 3(b)(2) of the Act, which provide that, notwithstanding Section 3(a)(3), an issuer is not an investment company if the Commission, upon application, finds and by order declares it to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly or (A) through majority-owned subsidiaries or (B) through controlled companies conducting similar types of businesses.

In connection with such an application, it would be the Division's position that a two-tier partnership, even though it owns only limited partnership interests in its underlying partnerships, may yet qualify for exemption under Section 3(b)(2) if it, in fact, is engaged in the real estate business through its control of its underlying partnerships. Of course, the business activities of the two-tier partnership would have to be carried out

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[1] Investment Company Act Release No. 8140, Securities Act of 1933 Release No. 4298 (November 18, 1960) (25 FR 12178).

[2] Section 3(c)(6) of the Act was amended and renumbered section 3(c)(5) as part of the Investment Company Act Amendments Act of 1970, P.L. 91–547.

[3] These problems usually do not arise in connection with oil and gas drilling programs since Section 3(c)(9) (15 U.S.C. 80a–3) of the Act excepts from the definition of investment company "any person substantially all of whose business consists of owning or holding oil, gas, or other mineral royalties or leases, or fractional interests therein, or certificates of interest or participation in or investment contracts relative to such royalties, leases or fractional interests." Interests in oil and gas limited partnerships or joint ventures have generally been considered "certificates of interest or participation in or investment contracts relative to" oil or gas royalties or leases and thus limited partnerships or joint ventures owning such interests have been considered, generally, excepted from the provisions of the Act. However, the interpretive positions expressed in this release would apply to other types of business ventures such as cattle breeding and raising and agricultural activities.

[4] The definition of a "security" contained in Section 2(a)(36) (15 U.S.C. 80a–2) of the Act is the same as that contained in Section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b). With respect to that section, the Commission has stated that,

"Under the Federal Securities Laws, an offering of limited partnership interests and interests in joint or profit-sharing real estate ventures generally constitutes an offering of a 'profit-sharing agreement,' or an 'investment contract' within the meaning of Section 2(1) of the Securities Act of 1933 * * * [t]he investor provides the capital and shares in the risk and the profits; the promoter or third party manages, operates and controls the enterprise * * *" Securities Act Release No. 4877 (August 8, 1967) (32 F.R. 11705)

[5] The history of the two-tier partnership and its general partner, the type of compensation of the general partner, the control by the limited partners of the two-tier partnership over its general partner and over the general partners of the underlying partnerships, may be relevant, together with other factors, to the determination of whether the general partner of a two-tier company, in engaging in activities related to the business of the underlying limited partnerships, is doing so on behalf of the two-tier partnership or on its own account.

[6] Section 3(a)(1) would be applicable, for example, if the 50% limited partnership interests were held as passive investments.

for the partnership by its general partner and, in order to qualify for the exemption, an issuer would have to demonstrate that in carrying on such activities its general partner would be acting on behalf of the partnership and not on its own behalf.[7]

TWO-TIER COMPANIES WHICH MAY QUALIFY FOR A SECTION 6(c) EXEMPTION

Two-tier partnerships that invest in limited partnerships engaged in the development and building of housing for low and moderate income persons may qualify for exemption from the Act pursuant to the provisions of Section 6(c) of the Act (15 U.S.C. 80a–6).[8] In order to qualify for such an exemption, limited partnership interests in the issuer should be sold only to persons for whom investment in limited profit, essentially tax-sheltered investments would not be unsuitable, and requirements for fair dealing by the general partner of the issuer with the limited partners of the issuer should be included in the basic organizational documents of the company.[9]

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 9, 1974.

[FR Doc.74–20515 Filed 9–4–74;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74–40]

PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT AREAS

Eighth Coast Guard District

These amendments revise the description of the captain of the port areas and the marine inspection zones of the Eighth Coast Guard District in 33 CFR Part 3.

The boundary between the Mobile Marine Inspection Zone (MIO) and the New Orleans MIO that is described in §§ 3.40–10(b) and 3.40–15(b) is moved westward to the east bank of the Pearl River. The Galveston MIO boundary that is described in § 3.40–30 is revised. The Mobile, New Orleans, Sabine, Houston, Galveston, and Corpus Christi Captain of the Port areas (COTP) are revised to coincide with the Mobile, New Orleans, Port Arthur, Houston, Galveston, and Corpus Christi MIO's, respectively. The descriptions of these COTP's, as amended by this document, are transferred to §§ 3.40–10, 3.40–15, 3.40–20, 3.40–25, 3.40–30, and 3.40–35, respectively. Accordingly, §§ 3.40–55, 3.40–60, 3.40–65, 3.40–70, 3.40–75, and 3.40–80, that contain the present descriptions of these areas, are deleted. The Port Isabel COTP is eliminated. Accordingly, § 3.40–85, that contains the desoription of this COTP, is deleted.

Since these amendments are matters relating to agency organization, they are exempt from the notice of proposed rule making requirements in 5 U.S.C. 553(b)(3)(A), and since these amendments announce an existing change in organization, they are effective immediately under 5 U.S.C. 553(d)(3).

In accordance with the foregoing, 33 CFR Part 3, is amended as follows:

1. Section 3.40–10 is revised to read as follows:

§ 3.40–10 The Mobile Marine Inspection Zone and Captain of the Port.

(a) The Mobile Marine Inspection Office and the Mobile Captain of the Port Office are located in Mobile, Alabama.

(b) The boundary of the Mobile Marine Inspection Zone and Captain of the Port area starts at the sea from the intersection of the Florida coast and longitude 83°50′ W.; thence due north to a position 30°15′ N., 83°50′ W., thence due west to a position 30°15′ N., 84°45′ W.; thence due north to the intersection of the south shore of Jim Woodruff Reservoir; thence along the east shore of the Jim Woodruff Reservoir and the east bank of the Flint River upstream to 32°20′ N., 84°02′ W.; thence northwesterly to the intersection of the Georgia-Alabama boundary at 32°53′ N. latitude; thence northerly along the Alabama-Georgia boundary to 34° N. latitude; thence west along 34° N. latitude to the Alabama-Mississippi boundary; thence south along the Alabama-Mississippi boundary to the southern boundary of Monroe County, Mississippi; thence westerly along the southern boundaries of Monroe and Chickasaw Counties, Mississippi to 89° W. longitude; thence south along 89° W. longitude to the junction of the east bank of the Pearl River; thence southwesterly along the east bank of the Pearl River; thence southwesterly along the east shore of the Ross Barnett Reservoir; thence southerly along the east bank of the Pearl River to the sea.

2. Section 3.40–15 is revised to read as follows:

§ 3.40–15 New Orleans Marine Inspection Zone and Captain of the Port.

(a) The New Orleans Marine Inspection Office and the New Orleans Captain of the Port Office are located in New Orleans, Louisiana.

(b) The boundary of the New Orleans Marine Inspection Zone and Captain of the Port area starts in Mississippi at the junction of the sea and the east bank of the Pearl River; thence northerly along the east bank of the Pearl River; thence northeasterly along the east shore of the Ross Barnett Reservoir; thence northeasterly along the east bank of the Pearl River to 89° W. longitude; thence north along 89° W. longitude to the southern boundary of Chickasaw County, Mississippi; thence westerly along the southern boundaries of Chickasaw, Calhoun, Granada, Leflore, Sunflower, and Washington Counties to the Mississippi-Louisiana boundary; thence west along the Louisiana-Arkansas boundary to the Texas boundary; thence south along the Louisiana-Texas boundary to 32°23′ N. latitude; thence southeasterly to 31°24′ N. latitude, 93°20′ W. longitude; thence southeasterly to 30°30′ N., 92°24′ W.; thence south along 92°24′ W. longitude to the sea.

3. Section 3.40–20 is revised to read as follows:

§ 3.40–20 The Port Arthur Marine Inspection Zone and Sabine Captain of the Port.

(a) The Port Arthur Marine Inspection Office is located in Port Arthur, Texas. The Sabine Captain of the Port Office is located in Sabine, Texas.

(b) The boundary of the Port Arthur Marine Inspection Zone, and the Sabine Captain of the Port area, starts at the junction of the sea and 92°24′ W. longitude; thence north along 92°24′ W. longitude to 30°30′ N. latitude; thence northwesterly to 31°24′ N. latitude, 93°20′ W. longitude; thence northwesterly to the junction of 32°23′ N. latitude and the Louisiana-Texas boundary; thence north along the Louisiana-Texas boundary and the Texas-Arkansas boundary; thence westerly along the Texas-Arkansas boundary and the Texas-Oklahoma boundary to 97° W. longitude; thence south along 97° W. longitude to the southern boundary of Dallas County, Texas; thence easterly along the southern boundary of Dallas County, Texas, to the east bank of the Trinity River; thence southeasterly along the east bank of the Trinity River; thence southeasterly along the east shore of Lake Livingston; thence southerly along the east bank of the Trinity River to 30° N. latitude; thence east along 30° N. latitude to 94°23′ W. longitude; thence south along 94°23′ W. longitude to the sea.

4. Section 3.40–25 is revised to read as follows:

§ 3.40–25 Houston Marine Inspection Zone and Captain of the Port.

(a) The Houston Marine Inspection Office is located in Houston, Texas. The Houston Captain of the Port Office is located in Galena Park, Texas.

(b) The boundary of the Houston Marine Inspection Zone and Captain of the Port area starts at the junction of the east bank of the Trinity River and 30° N. latitude; thence northerly along

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[7] See footnote 5 *supra*.

[8] Under Section 6(c) of the Act, the Commission may exempt any persons from any and all provisions of the Act if, and to the extent, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Such exemption may not be necessary or appropriate if the Applicant would qualify for an order pursuant to section 3(b)(2) of the Act.

[9] See, for example, the application of National Housing Partnership—II, Investment Company Act Release Nos. 7947 (August 16, 1973) (38 FR 22585) and 7990 (September 12, 1973).

the east bank of the Trinity River; thence northwesterly along the eastern shore of Lake Livingston; thence northwesterly along the east bank of the Trinity River to the southern boundary of Dallas County, Texas; thence westerly along the southern boundary of Dallas County, Texas to 97° W. longitude; thence north along 97° W. longitude to the Texas-Oklahoma boundary; thence northwesterly along the Texas-Oklahoma boundary; thence north along the New Mexico-Oklahoma boundary; thence west along the New Mexico-Colorado boundary; thence south along the New Mexico-Arizona boundary; thence easterly along the southern boundary of New Mexico to the southeast corner of New Mexico at 32° N. latitude; thence southeasterly to 29°18′ N. latitude, 96°07′ W. longitude; thence northeasterly to 29°35′ N. Latitude, 94°55′ W. longitude; thence north along 94°55′ W. longitude to 30° N. latitude; thence east along 30° N. latitude to the east bank of the Trinity River.

5. Section 3.40–30 is revised to read as follows:

§ 3.40–30 Galveston Marine Inspection Zone and Captain of the Port.

(a) The Galveston Marine Inspection Office and the Galveston Captain of the Port Office are located in Galveston, Texas.

(b) The boundary of the Galveston Marine Inspection Zone and Captain of the Port area starts at the junction of the sea and 94°23′ W. longitude; thence north along 94°23′ W. longitude to 30° N. latitude; thence west along 30° N. latitude to 94°55′ W. longitude; thence south to 29°35′ N. latitude, 94°55′ W. longitude; thence southwesterly to the east bank of the Colorado River at 29°18′ N. latitude, 96°07′ W. longitude; thence southerly along the east bank of the Colorado River to the sea.

6. Section 3.40–35 is revised to read as follows:

§ 3.40–35 Corpus Christi Marine Inspection Zone and Captain of the Port.

(a) The Corpus Christi Marine Inspection Office and the Corpus Christi Captain of the Port Office are located in Corpus Christi, Texas.

(b) The boundary of the Corpus Christi Marine Inspection Zone and Captain of the Port area starts at the junction of the sea and the east bank of the Colorado River; thence northerly along the east bank of the Colorado River to 29°18′ N. latitude, 96°07′ W. longitude; thence northwesterly to the southeast corner of New Mexico at 32° N. latitude; thence westerly along the Texas-New Mexico boundary to the international boundary; thence southeasterly along the international boundary to the sea.

§§ 3.40–55, 3.40–60, 3.40–65, 3.40–70, 3.40–75, 3.40–80, and 3.40–85 [Deleted]

7. Sections 3.40–55, 3.40–60, 3.40–65, 3.40–70, 3.40–75, 3.40–80, and 3.40–85 are deleted.

(5 U.S.C. 552; 14 U.S.C. 633; 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b))

Effective date. These amendments are effective on September 5, 1974.

Dated: August 29, 1974.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.74–20494 Filed 9–4–74;8:45 am]

[CGD 73–152]

PART 128—REGULATED NAVIGATION AREAS

Chesapeake Bay Entrance

The amendments in this document—

(1) Establish a regulated navigation area for the entrance to Chesapeake Bay;

(2) Revise the authority citation for Part 128 to provide that the Ports and Waterways Safety Act of 1972 be the authority for Part 128, except for the regulations applicable to Apra Outer Harbor, Guam; and,

(3) Add general requirements for masters of vessels in regulated navigation areas and for persons who cause or authorize the operation of vessels in regulated navigation areas.

Interested persons were notified of the opportunity to participate in this rulemaking proceeding by the notice of proposed rulemaking published in the FEDERAL REGISTER of December 13, 1973 (38 FR 34778–80). A public hearing concerning these regulations was held in Norfolk, Virginia, on January 23, 1974. Statements made at this public hearing and all written comments received, were fully considered by the Coast Guard in promulgating these regulations. Except as noted and discussed in the following paragraphs, the regulations as proposed have been adopted without substantive changes.

1. Several comments were received supporting the proposed regulations. Most of these comments also noted that closing the Chesapeake Bay Bridge-Tunnel (CBBT) for repairs after each vessel collision with the structure has had an adverse economic effect on the Delmarva Peninsula and southeastern Virginia.

2. Seven comments objected to the proposed requirement in the notice of proposed rule making for vessels to proceed at 10 knots or less in the vicinity of the CBBT. Three of these comments stated that proceeding at 10 knots or less, rather than at a great speed, in the two channels crossing the CBBT impairs a vessel's maneuverability. One comment stated that reducing speed on approach to the CBBT poses a possibility of engine failure or of a dangerous overtaking situation. Three comments noted that compliance with the proposed speed limit will significantly increase the time needed to transit the regulated navigation area and, thus, jeopardize the competitive position of shippers and ports in the Hampton Roads area. Because of the comments received, the proposed speed limit will not be adopted at this time. However the issue of speed and its relation to safety, is not closed. The Coast Guard will continue to study the problem and the effectiveness of the regulations as now published, and if necessary it will issue regulations imposing a speed limit.

3. One comment recommended that the proposed requirement in § 128.501(c)(2) in the notice for a vessel over 100 gross tons under tow in the regulated navigation area to have a secondary towing rig be revised to exclude manned barges. The comment stated that no manned barge has ever collided with the CBBT and that the crew of a manned barge that has parted its towline in the regulated navigation area can reconnect a towline quickly or, if necessary, drop anchor to prevent a collision with the CBBT. This recommendation has not been adopted in the final rules. During severe weather conditions a crew member of a barge that has parted its towline often cannot work safely on deck to take on a towline or anchor the vessel. Use of a secondary towing rig will eliminate the need for a crew member to be on the deck of the barge while it is being recovered in tow.

4. One comment recommended that vessels proceeding on a route between upper Chesapeake Bay and Hampton Roads passing east of Thimble Shoal Light not be required to comply with the proposed requirement to carry a secondary towing rig. The comment recommended in the alternative that the western boundary of the regulated navigation area be moved eastward of Thimble Shoal Light. Neither recommendation has been adopted in the final rules. Use of a secondary towing rig on board a vessel that has parted its towline will allow quick recovery of the vessel in tow. A vessel that parts its towline in the regulated navigation area east of Thimble Shoal Light is close enough to the CBBT to make its quick recovery in tow essential to avoid the possibility of a subsequent collision with the structure.

5. One comment asked whether the proposed requirement to carry a secondary towing rig applies to integrated tows. Section 128.501(c)(2) has been clarified in the final rules to require that a secondary towing rig be carried on each vessel over 100 gross tons under tow in the regulated navigation area, and on at least one vessel in a tow having two or more vessels each of which is less than 100 gross tons and the total tonnage of which is greater than 100 gross tons. Several smaller vessels connected together in tow can cause significant damage upon collision with the CBBT. Use of a secondary towing rig on these vessels should allow their quick recovery in tow if the towline to the towing vessel is parted.

6. One comment requested that tugboats, which because of their configuration do not have anchors rigged for quick release, not be required to comply with the proposed requirement in the notice to post an anchor detail when underway within 2 miles of the CBBT. As a result of this comment, § 128.501(c)(3) has been revised in the final rules to exclude its application to tugboats equipped with bow fenderwork constructed in a way that the anchor cannot be rigged for quick release.

7. One comment recommended that the proposed requirement to prohibit a vessel drawing less than 25 feet from entering Thimble Shoal Channel, except to cross the channel, be revised to allow use of the channel by a vessel drawing less than 25 feet whenever use of an auxiliary channel will reduce its maneuverability. This proposal has not been adopted in the final rules. For shallow draft vessels with reduced maneuverability that cannot navigate safely in these auxiliary channels, an authorization can be obtained from the Captain of the Port under § 128.501(c)(9)(i) to use the main channel.

8. One comment recommended that a regulation be added requiring the use of a licensed pilot on board self-propelled vessels over 100 gross tons, and on towing vessels over 26 feet in length, whenever hazardous conditions exist in the regulated navigation area. This recommendation has not been adopted in the final rules. The Commonwealth of Virginia has laws governing the use of pilots in the regulated navigation area; and Title 46, U.S. Code, section 364 requires the use of pilots on board coastwise seagoing steam vessels that are subject to the laws of the United States and not sailing under register. Section 128.501(c)(7) is amended by deleting references to operative ship-to-shore communications equipment; the final rule prohibits the entry of a vessel over 100 gross tons in the regulated navigation area unless the Captain of the Port has been notified of the vessel's time and place of entry, or unless the vessel has navigation charts of the regulated navigation area and operative radar during reduced visibility, or unless the vessel has a pilot or other person on board with previous experience in navigating the waters of the regulated navigation area. For a vessel entering without navigation charts and operative radar during reduced visibility, and without a pilot or other person with previous experience in navigating the waters of the regulated navigation area, the Captain of the Port after notification from the vessel will normally provide an escort or provide the master of the vessel with information to assist its navigation through the regulated navigation area.

9. Minor revisions have been made to the final rules for purposes of clarification.

In consideration of the foregoing, 33 CFR Part 128 is amended as follows:

1. By revising the authority citation for Part 128 to read as follows:

AUTHORITY: Sec. 104, Pub. L. 92-340, 86 Stat. 424 (33 U.S.C. 1224); 49 CFR 1.46(o)(4) unless otherwise noted.

2. By adding a new paragraph (c) to § 128.05 to read as follows:

§ 128.05 Definitions.

* * * * *

(c) "Person" includes an individual, firm, corporation, association, partnership, and governmental entity.

3. By adding a new § 128.07 to read as follows:

§ 128.07 Vessel operation in a regulated navigation area.

(a) The master of a vessel in a regulated navigation area shall operate the vessel in accordance with the regulations in subpart B of this part.

(b) No person may cause or authorize the operation of a vessel in a regulated navigation area contrary to the regulations in this part.

4. By adding a new § 128.501 to read as follows:

§ 128.501 Chesapeake Bay Entrance.

(a) The following is a Regulated Navigation Area—The waters of the Atlantic Ocean and Chesapeake Bay enclosed by a line beginning at Fort Wool Light at latitude 36°59'12" N., longitude 76°18'-09" W.; thence to Cape Charles City Range Rear Light at latitude 37°14'54" N., longitude 76°01'16" W.; thence southerly along the shoreline to Wise Point at latitude 37°06'58" N., longitude 75°58'18" W.; thence to Cape Charles Light at latitude 37°07'22" N., longitude 75°54'24" W.; thence to Cape Henry Light at latitude 36°55'35" N., longitude 76°00'27" W.; thence westerly along the shoreline to the east side of the entrance to Little Creek at latitude 36°55'49" N., longitude 76°10'33" W.; thence to the west side of the entrance to Little Creek at latitude 36°55'53" N., longitude 76°-10'46" W.; thence westerly along the shoreline to the southernmost end of the Hampton Roads Tunnel south approach span at latitude 36°58'02" N., longitude 76°17'51" W.; thence northerly along that approach span to the point of beginning.

(b) For the purposes of this section—

(1) "CBBT" means Chesapeake Bay Bridge-Tunnel;

(2) Chesapeake Channel consists of the waters enclosed by a line beginning at Chesapeake Channel Lighted Buoy 7 at latitude 37°01'13" N., longitude 76°-03'08" W.; thence to Lighted Bell Buoy 11 at latitude 37°03'28" N., longitude 76°05'36" W.; thence to Lighted Buoy 12 at latitude 37°03'42" N., longitude 76°-05'13" W.; thence to Lighted Bell Buoy 8 at latitude 37°01'29" N., longitude 76°-02'47" W.; thence to the point of beginning;

(3) Thimble Shoal Channel consists of the waters enclosed by a line beginning at Thimble Shoal Channel Lighted Bell Buoy 1 at latitude 36°57'20" N., longitude 76°02'47" W.; thence to Lighted Buoy 19 at latitude 37°00'10" N., longitude 76°13'43" W.; thence to Lighted Gong Buoy 20 at latitude 37°00'19" N., longitude 76°13'39" W.; thence to Lighted Buoy 2 at latitude 36°57'30" N., longitude 76°02'45" W.; thence to the point of beginning;

(4) Thimble Shoal North Auxiliary Channel consists of the waters in a rectangular area 450 feet wide adjacent to the north side of Thimble Shoal Channel, the southern boundary of which extends from Lighted Buoy 2 at latitude 36°57'30" N., longitude 76°02'45" W., to Lighted Gong Buoy 20 at latitude 37°00'-19" N., longitude 76°13'39" W.; and

(5) Thimble Shoal South Auxiliary Channel consists of the waters in a rectangular area 450 feet wide adjacent to the south side of Thimble Shoal Channel, the northern boundary of which extends from Lighted Bell Buoy 1 at latitude 36°57'20" N., longitude 76°02'47" W. to Lighted Buoy 19 at latitude 37°00'-10" N., longitude 76°13'43" W.

(c) Regulations:

(1) *Anchoring Prohibition.* No vessel over 100 gross tons may anchor or moor in this regulated navigation area, except that a self-propelled vessel may anchor or moor in an anchorage ground designated under § 110.168(g) of this chapter if it—

(i) Can get underway within 30 minutes with sufficient power to maneuver to keep clear of the CBBT and other vessels; and

(ii) Has no impairment to its maneuverability such as defective steering equipment or defective main propulsion machinery.

(2) *Secondary Towing Rig.* (i) No vessel over 100 gross tons may be towed in this regulated navigation area unless it is equipped with a secondary towing rig in addition to its primary towing rig that—

(A) Is of sufficient strength for towing the vessel;

(B) Has a connecting device that can receive a shackle pin of at least two inches in diameter; and

(C) Is fitted with a recovery pick-up line led outboard of the vessel's hull.

(ii) For the purpose of this subparagraph a tow consisting of two or more vessels each of which is less than 100 gross tons, and the total gross tonnage of which is greater than 100 gross tons, shall be treated as if it were one vessel under tow that is over 100 gross tons.

(3) *Anchoring detail.* Whenever a self-propelled vessel over 100 gross tons equipped with an anchor or anchors, except a tugboat equipped with bow fenderwork of a type of construction that the anchor cannot be rigged for quick release, is underway within two nautical miles of the CBBT, its personnel must be stationed at locations where the vessel can be anchored in an emergency without delay.

(4) *Draft limitation.* No vessel drawing less than 25 feet may enter Thimble Shoal Channel except to cross that channel.

(5) *Direction of traffic.* No vessel may proceed in—

(i) Thimble Shoal North Auxiliary Channel except in a westbound direction or to cross that channel; or,

(ii) Thimble Shoal South Auxiliary Channel except in an eastbound direction or to cross that channel.

(6) *Impaired Vessel Maneuverability*— (i) *Before entry.* No vessel over 100 gross tons, the maneuverability of which is impaired because of any condition such as hazardous weather, defective steering equipment, defective main propulsion machinery, or damage to the

vessel, may enter the regulated navigation area unless—

(A) It is attended by one or more tugboats with total sufficient power to ensure its safe passage through the regulated navigation area; or

(B) Its entry is otherwise authorized by the Captain of the Port.

(ii) *After entry.* If the maneuverability of a vessel over 100 gross tons underway in the regulated navigation area becomes impaired because of any condition, the master of the vessel shall as soon as possible thereafter—

(A) Report the impairment to the Captain of the Port; and

(B) Have the vessel attended by one or more tugboats described in subdivision (i)(A) of this subparagraph, except when otherwise authorized by the Captain of the Port.

(7) *Navigation charts, radar, and pilots.*

No vessel over 100 gross tons may enter the regulated navigation area unless—

(i) The vessel has on board navigation charts of the regulated navigation area and, during reduced visibility, operative radar; or

(ii) The vessel has a pilot or other person on board with previous experience in navigating the waters of the regulated navigation area; or

(iii) The Captain of the Port has been given notice of the time and place of entry of the vessel.

(8) *Emergencies.* In an emergency, any person may deviate from any regulation in this section to the extent necessary to avoid endangering persons, property, or the environment. However, each vessel over 100 gross tons, except for a self-propelled vessel that can get underway within 30 minutes with sufficient power to maneuver to keep clear of the CBBT and other vessels and that has no impairment to its maneuverability such as defective steering equipment or defective main propulsion machinery, that anchors or moors in the regulated navigation area because of an emergency, must as soon as possible—

(i) Notify the Captain of the Port of the place of anchoring or mooring; and

(ii) Be attended by one or more vessels of sufficient power to keep the vessel in the position where it is anchored or moored.

(9) *Waiver.* (i) The Captain of the Port may, upon request, waive any regulation in this paragraph if he finds that the proposed operations under the waiver can be done safely. An application for a waiver must state the need for the waiver and describe the proposed operations.

(ii) Compliance with this paragraph is not required to the extent necessary to carry out the following operations:

(A) Law enforcement.

(B) The servicing of aids to navigation, or the surveying, maintenance, or improvement of waters, in the regulated navigation area.

(d) *Control of vessel anchoring, mooring, and movement.* (1) When necessary to prevent damage to, or destruction or loss of, any vessel or the CBBT, the Captain of the Port may issue directions requiring the further anchoring, mooring, or movement of a vessel that has anchored or moored in this regulated navigation area because of an emergency.

(2) The master of a vessel in the regulated navigation area shall comply with each direction issued to him under this section.

5. By adding an authority citation for § 128.1401 to read as follows:

AUTHORITY: Sec. 1, 40 Stat. 220, as amended, (50 U.S.C. 191); sec. 6(b)(1), 80 Stat. 937 as amended (49 U.S.C. 1655(b)(1)); Proc. No. 2914, 3 CFR 1949–53 Comp. p. 99 (1950), E.O. 10637, 3 CFR 1954–58 Comp., p. 269 (1955); 49 CFR 1.46(b)

(86 Stat. 424 (33 U.S.C. 1224); 49 CFR 1.46(o)(4))

Effective date: Oct. 5, 1974.

Dated: August 30, 1974.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.74-20493 Filed 9-4-74;8:45 am]

Title 34—Government Management

CHAPTER II—OFFICE OF FEDERAL MANAGEMENT POLICY, GENERAL SERVICES ADMINISTRATION

SUBCHAPTER B—PROCUREMENT MANAGEMENT

[FMC 74-6]

PART 213—OPERATIONAL EFFECTIVENESS OF DECENTRALIZED PURCHASING ACTIVITIES

This document implements Recommendation Part D, Number 5 of the report of the Commission on Government Procurement.

FMC 74-6, dated August 21, 1974, establishes a requirement that executive departments and establishments with decentralized purchasing activities develop and implement a continuing program aimed at the removal of impediments to improved decentralized purchasing activities.

Part 213, Operational effectiveness of decentralized purchasing activities, is added to read as set forth below.

Effective date. This regulation is effective immediately.

Dated: August 21, 1974.

ARTHUR F. SAMPSON,
Administrator of General Services.

Sec.
213.1 Purpose.
213.2 Background.
213.3 Policy intent.
213.4 Applicability and scope.
213.5 Responsibilities.
213.6 Reporting requirement.
213.7 Inquiries.

AUTHORITY: E.O. 11717 (38 FR 12315, May 11, 1973).

§ 213.1 Purpose.

This part establishes a requirement that executive departments and establishments with decentralized purchasing activities develop and implement a continuing program aimed at the removal of impediments to improved decentralized purchasing activities.

§ 213.2 Background.

(a) The Commission on Government Procurement (COGP) in its report to Congress dated December 31, 1972, under Chapter 4 of Part D—Acquisition of Commerical Products, reported that the operational effectiveness of field procurement offices varies widely both among and within agencies. In reviewing purchasing offices at the field level, COGP found that many field personnel were unsure of their authority to develop procedures intended to simplify operations and provide more effective support. Also evident was a reluctance, especially in small field offices, to deviate from established procedures or to submit requests through channels for authorization to use innovative procurement techniques.

(b) COGP concluded that improvements in work-force productivity with consequent reductions in the cost of operation can be achieved through a more effective evaluation and selection of alternative systems of procurement and distribution. For example, it was noted that indefinite delivery contracts and certain authorized small purchase procedures when innovatively used with various pricing techniques and delivery systems provide extensive choices in tailoring contracts to respond to differing needs and conditions.

(c) As one means of improving operational effectiveness of decentralized purchasing activities, COGP recommended that the executive branch encourage agencies to use headquarters procurement staff personnel in conducting on-the-job training of field personnel to (1) implement techniques adapted to specific field activity needs and (2) identify possibilities for procurement innovations and technical transfusion.

(d) The findings and the recommendation of COGP have been considered by an interagency task group, the Office of Procurement Management, and the Interagency Procurement Policy Group's Planning Staff (composed of senior procurement officials of seven major agencies), and official agency comments have been received. The consensus of the foregoing is that the COGP recommendation has merit and that agencies should have a continuing program aimed at the removal of obstacles to improve decentralized purchasing activities at field locations.

§ 213.3 Policy intent.

It is the intent of this part to bring about improvements in the operational effectiveness of decentralized purchasing activities of the executive agencies through continuing agency programs that identify and remove the barriers to innovative cost-saving procurement techniques which are responsive to the activities' needs.

§ 213.4 Applicability and scope.

The provisions of this part apply to all executive departments and establishments having decentralized purchasing activities. The term "agency" throughout this part is synonymous with the term

"departments and establishments" as defined in § 200.5.

§ 213.5 Responsibilities.

Heads of applicable executive departments and establishments shall establish within 180 calendar days from the date of this part a continuing program aimed at the removal of impediments to improve the decentralized purchasing activities. In establishing such a program, consideration shall be given to the use of headquarters procurement staff personnel in conducting on-the-job training of field procurement personnel to (a) implement techniques adapted to specific field activity needs and (b) identify possibilities for procurement innovations and technical transfusion.

§ 213.6 Reporting requirement.

A copy of agency programs established in response to this part shall be furnished within 180 calendar days from its effective date to the General Services Administration (AMC), Washington, DC 20405. This report is exempt from reports control.

§ 213.7 Inquiries.

Further information concerning this part may be obtained by contacting:

General Services Administration (AMC), Washington, D.C. 20405.
Telephone: IDS 183-7794, FTS (202) 343-7794.

[FR Doc.74-20113 Filed 9-4-74;8:45 am]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY TRANSPORTATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Part 39—Parts and Accessories Necessary For Safe Operation

Sleeper Berths in Commercial Motor Vehicles

The Director of the Bureau of Motor Carrier Safety has received four petitions for reconsideration of his action of April 16, 1974, revising § 393.76 of the Federal Motor Carrier Safety Regulations to increase the minimum dimensions of sleeper berths in commercial motor vehicles (39 FR 14710).

Three of the petitioners are manufacturers of heavy-duty truck tractors: International Harvester Co., White Motor Corp., and Freightliner Corp. The primary contention advanced by all three manufacturers was essentially a restatement of the position they took in their comments on the notice of proposed rulemaking that was published on September 14, 1973 (38 FR 25696). They unanimously said that the revision of § 393.76 would make it difficult, if not impossible, for them to produce sleeper-berth equipped cab-over-engine tractors having a bumper-to-back-of-cab (BBC) dimension short enough to enable the tractor to be operated in combination with twin 27-foot trailers in States which have a 65-foot overall length limit for combinations of motor vehicles. In addition, both White and Freightliner restated their request for a provision in the rule which would permit continuation of an inward slope of the rear wall of sleeper-berth compartments. White sought an allowable slope of seven degrees, while Freightliner requested an amendment to permit a five-and-one-half inward slope. Both of the manufacturers stated that the reason why the slope was needed was to accommodate articulation in the vertical plane between the exterior rear wall of a 74-inch BBC tractor and the front end of the first 27-foot trailer when the tractor is operated in combination with twin 27-foot trailers in a State having an overall length limit of 65 feet.

The fourth petition for reconsideration was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers (IBT). IBT generally took the position that the revision was inadequate because it failed to provide sufficient sleeping room in the minimum-size berth. IBT noted that the specifications of the Coast Guard for minimum size of sleeping accommodations for crew members of merchant vessels require more space than is required under the revised § 393.76 for a motor vehicle sleeper berth. IBT also cited some 1961 U.S. Department of Health, Education, and Welfare data relating to the dimensions of the general population of the United States as evidence that drivers should have the 84- x 36- x 36-inch dimensions requested in IBT Local 222's original petition for rulemaking on this subject.

At noted above, the principal impact of the revised rules on manufacturers is felt in the design and construction of sleeper-berth equipped tractors with short BBC dimensions. Short BBC tractors equipped with sleeper berths represent a very small percentage of all sleeper-berth equipped models sold in this country. For example, International Harvester Co., one of the petitioners in this proceeding, stated in its petition that only six and one-half percent of its total sales of sleeper berth tractors are short BBC vehicles. Two other manufacturers of whom the Bureau has inquired indicated that approximately the same percentage of sales of their sleeper-berth equipped tractors was short-BBC tractors. It therefore appears that short-BBC tractors equipped with sleeper berths are used primarily in combination with twin 27-foot trailers in States which have an overall length limit of 65 feet and are then so used only in relatively small numbers.

When given a choice, motor carriers, including owner-operators who purchase their own equipment, preponderantly choose sleeper berths that are wider than berths which meet the minimum dimensional requirements of the regulations. For example, one manufacturer who offers three sizes of sleeper berths in his cab-over-engine type tractors, sells 85 percent of those vehicles equipped with 33-inch wide berths. Another manufacturer surveyed sells 77 percent of his sleeper-berth equipped C.O.E. tractors with 36-inch wide berths. The information the Bureau has received tends to support the conclusion that narrow sleeper berths are found only in tractors that are intended to be used in combination with twin 27-foot trailers in States having a 65-foot overall length limit. The Director has concluded that the impact of the increase in minimum sleeper berth dimensions generated by this rulemaking proceeding will be felt in only a relatively small proportion of all sleeper berth operations.

In this connection, it is interesting to note that the Bureau has not received any adverse comment on the new rules from motor carriers, who are the persons who will feel whatever adverse impact the increase in sleeper berth size may have on operating efficiency and to whom the rules directly apply.

The only study of human sleeping positions discovered during the Bureau's literature search (Johnson, H. M., Swan, T. H. & Weigand, G. E., *In What Position Do Healthy People Sleep?*, Journal of the American Medical Assn., June 28, 1930, p. 2058) found, using the technique of time-lapse photography, that the typical healthy sleeper changes from one distinct body position to another between 20 and 45 times during eight hours of sleep. He does so in order to stretch and relax various muscles and to prevent both localized muscle set and deprivation of blood supply to soft skin tissue that is under pressure from contact with the surface upon which the person is sleeping. The majority of the repertoire of positions the sleeper assumes are variations of prone positions, with the arms in many cases extended above or under the head. In addition, in many of the prone positions, one or both legs are flexed upward towards the region of the hips and chest. Seemingly contorted positions are often assumed in order to stretch and relax back mucles. The width of the bed used during the study was 39 inches.

None of the documented sleeping positions resembled a reclining individual in a rigid supine position with both arms tucked in close to his sides. Yet, two of the manufacturer-petitioners supplied the Bureau with depictions of a person in such a rigid position in order to demonstrate that a smaller space envelope than is permitted under the new rules would suffice. The petitioners also used these depictions as premises for arguing that the rules should permit a 24-inch wide berth having a "cutout" or narrowed area in the region of the sleeping driver's head. Few, if any, of the preferred sleeping positions noted in the study could be accommodated by such a berth. It will not do, therefore, to argue, as one of the petitioners has done, that no harm is done by allowing an incursion into the berth at the location of the head.

The above-mentioned study also made it clear that when the area of the sleeping surface is reduced in size, the number of positions that a sleeper can assume becomes limited. This limitation degrades the quality of his sleep.

In general, the Bureau's survey of vehicle manufacturers indicated that reductions in the width of sleeper berths are accompanied by decreases in the remaining space within the cab. For example, one manufacturer who offers a 73-inch BBC C.O.E. tractor equipped with a sleeper berth fits the vehicle with a 23-inch-wide berth. This leaves a 50-inch longitudinal dimension for accommodation of the occupants, the steering wheel, the instrument panel, and related components. This same manufacturer offers an 86-inch BBC sleeper-berth equipped tractor fitted with a 32-inch wide berth, leaving 54 inches for the driver and interior components. This tendency would seem to indicate that it is probable that driver accommodations, as well as sleeper-berth accommodations, are compromised in the short BBC configuration.

One of the petitioners said that if the Bureau did not reduce the new minimum width of sleeper berths, it might be compelled to compromise driver accommodations in order to retain the overall BBC dimensions of its very short tractors. Such a compromise would most likely taken the form of a reduction in the length of the driver's seat fore-and-aft adjustment. If that proves to be the case, the Bureau would have no alternative except to consider rulemaking on the subject of minimum driver accommodations. The Bureau has already begun the initial phases of research that ultimately may provide answers to significant questions concerning the adequacy of present cab designs. The data resulting from this research, coupled with surveys of vehicles to ascertain whether in-cab dimensional conditions are sufficient, will decide whether additional regulation in this area is warranted. The Director understands the design limitations that manufacturers face, and he fully supports current efforts to increase unduly restrictive laws on maximum vehicle length. At the same time, the Director cannot ignore the fact that sleeper berths which are too narrow to allow a driver to secure proper rest portend safety consequences that may well outweigh the operating convenience of having a short BBC C.O.E. tractor pulling two 27-foot trailers in States which have an overall 65-foot length limit. This is the case regardless of whether the tractor is used in a single-driver operation or a two-driver operation. It is also true that there is nothing inviolable about the 27-foot trailer that requires the Director to countenance incursions into the minimum sleeper berth dimensions necessary for safe operation, particularly when the 27-foot length is an arbitrarily critical figure. This is especially true with regard to the question of sloping rear cab walls. As he said in the Preamble to the final rule on this subject, the Director is aware of the advantages of this design from the standpoint of maximizing the vehicle's cargo-carrying capability. At that time, the Director also noted that no safety benefits were apparent in such design. No new evidence or data has been submitted to the Director to warrant a change in that appraisal. A sloping rear cab wall is a compromise design that apparently is necessitated only by the desire to build a tractor with a BBC dimension in the 72- to 74-inch range. There is not even unanimity of opinion on this point. The International Harvester Co., for example, makes no mention of the need for sloping rear walls in its petition for reconsideration even though it produces a 74 inch BBC tractor comparable to the products of other petitioners.

Somewhere a balance must be struck, and it appears that the dimensions set forth in the new rule strikes the appropriate balance.

The Director is sympathetic with the view expressed by IBT that drivers would probably be better rested in a sleeper berth having the 84 x 36 x 36 dimensions requested by the Union than they will be in berths that meet, but do not exceed, the minimum dimensions prescribed in § 396.76, as amended (75 x 24 x 24). In fact, because of the market preferences noted above, it appears that in 90 to 95 percent of the cases, drivers actually will have available to them a sleeper berth that is closer to the dimensions proposed by IBT than the minima prescribed by the new rules. An increase in the minima would, however, effectively preclude operation of short BBC sleeper tractors. The results of Bureau-sponsored research on driver fatigue indicate that, from a safety standpoint, the quality of rest in sleeper-berth operations is suspect. Because tractors with extremely short wheelbases ride more harshly than longer vehicles and provide minimal accommodations for drivers, whether asleep in the berth or awake behind the wheel, they represent a worst case condition. Nevertheless, the Bureau does not now have in hand sufficient information to institute rulemaking which would in effect make unlawful their continued operation in interstate or foreign commerce. This vehicle type will be the subject of continued close scrutiny by the Bureau.

IBT's petition also raised two other issues. First, said IBT, the Bureau failed to act on its request for a requirement that motor carriers must supply a pillow for the sleeper berth. That request was not, however, contained in the petition for rulemaking, and, as a result, the proposal that a pillow must be a mandatory part of the sleeper berth apparatus was not mentioned in the notice of proposed rulemaking (38 FR 25696). Although the addition of a pillow to the required sleeper berth equipment may, at first glance, seem a minor step, further reflection discloses that it raises significant questions about sanitation and driver preference. Accordingly, the Director concludes that he cannot dispose of the IBT request in the context of this proceeding. Secondly, IBT said that the Director erred in failing to act on its request, contained in comments on the notice of proposed rulemaking, for a requirement that the interiors of sleeper berths be padded to protect drivers from injury in the event of sudden acceleration or deceleration. Here again, the request was made at too late a stage in the proceeding to permit its consideration for substantive action. In addition, the request raises significant technical issues, since the question of the performance specifications of energy absorbing material is a difficult one: the simple addition of a sponge rubber or similar covering material on interior surfaces may do very little to mitigate the adverse effects of so-called "second collision" impacts. For these reasons, the Director must decline to deal with the IBT request at this time.

The Director will consider rulemaking on the subject of imposing a requirement for a pillow, interior padding, or both if a petition containing suitable justification for rulemaking action is filed under § 389.31 of the procedural rules, 49 CFR 389.31.

The Director is aware of the probability that the decision he made in this proceeding concerning minimum allowable sleeper berth dimensions will be fully satisfactory to none of the parties. He is also aware of the fact that vast imponderables are necessarily involved in determining what the optimum criteria should be. Given the current state of knowledge, the critical question whether one or another set of dimensional criteria poses an unacceptable risk of driver fatigue, on the one hand, or unduly restricts the design of tractor models which, in the interests of economic efficiency, should be marketed, on the other, simply will not yield to a rationale as precise as a cost-benefit analysis. This is not an unusual phenomenon in rulemaking proceedings, and, as noted above, the Director is compelled to strike the balance between conflicting interests on a subjective basis. Judge Wright put the matter succinctly when, in a recent case, he wrote that in a rulemaking proceeding

> an agency's task is not to test raw evidence against a single, pre-established standard; rather the agency is to fashion a host of new legal standards—regulations—having prospective effect. A rule-making agency makes not one but dozens of "ultimate" decisions—not only because a set of regulations has many provisions, but also because adoption of any one provision constitutes simultaneous rejection of possible alternatives. Few if any of these "ultimate" decisions will depend on factual conclusions of the sort conventional in adjudication. Looking to the future, and commanded by Congress to make policy, a rule-making agency necessarily deals less with "evidentiary" disputes than with normative conflicts, projections from imperfect data, experiments and simulations, educated predictions, differing assessments of possible risks, and the like. The process is *quasi*-legislative in character, and one will search in vain for those intermediate "findings" of fact which mark the midway point in an adjudicator's linear march from raw edvidence to single, ultimate conclusion.

Amoco Oil Co. v. *Environmental Protection Agency*, No. 73-1117 (D.C. Cir. May 1, 1974).

For the foregoing reasons, the petitions for reconsideration are denied.

(Sec. 204, Interstate Commerce Act, 49 U.S.C. 304, sec. 6, Department of Transportation Act, 49 U.S.C. 1655, delegations of authority at 49 CFR 1.48. 389. 4.)

Issued on August 27, 1974.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc.74-20483 Filed 9-4-74;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1123; Amdt. 3]

PART 1033—CAR SERVICE

Northwestern Oklahoma Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of August 1974.

Upon further consideration of Service Order No. 1123 (38 FR 5174, 24902, 25183 and 39 FR 83271), and good cause appearing therefor.

It is ordered, That:

Section 1033.1123 *Service Order No. 1123* (Frank W. Pollock, Jr., D/B/A Northwestern Oklahoma Railroad Co., authorized to operate over certain trackage abandoned by Missouri-Kansas-Texas Railroad Company) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 28, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1974.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17 (2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-20569 Filed 9-4-74;8:45 am]

[S.O. 1126, Amdt. 3]

PART 1033—CAR SERVICE

Baltimore and Ohio Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of August 1974.

Upon further consideration of Service Order No. 1126 (38 FR 6999, 22790 and 39 FR 8327), and good cause appearing therefor:

It is ordered, That:

Section 1033.1126 *Service Order No. 1126* (The Baltimore and Ohio Railroad Company authorized to operate over tracks of Penn Central Transportation Company, Robert W. Blanchette, Richard C. Bond, and John H. McArthur, trustees) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 28, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1974.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-20573 Filed 9-4-74;8:45 am]

[Corrected S.O. 1169, Amdt. 1]

PART 1033—CAR SERVICE

Providence and Worcester Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of August, 1974.

Upon further consideration of Service Order No. 1169 (39 FR 4783), and good cause appearing therefor:

It is ordered, That:

Section 1033. 1169 *Corrected Service Order No. 1169* (Providence and Worcester Company authorized to operate over tracks authorized to be abandoned by Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, Trustees, and over tracks of Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, trustees) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 30, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1974.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-20570 Filed 9-4-74;8:45 am]

[S.O. 1170, Amdt. 1]

PART 1033—CAR SERVICE

Railroad Operating Regulations for Movement of Privately Owned Freight Cars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of August 1974.

Upon further consideration of Service Order No. 1170 (39 FR 3827), and good cause appearing therefor:

It is ordered, That:

Section 1033.1170 *Service Order No. 1170* Railroad operating regulations for movement of privately owned freight cars be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 28, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

(e) *Effective date.* This amendment shall become effective at 11:59 p.m., August 31, 1974.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17 (2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-20571 Filed 9-4-74;8:45 am]

[S.O. 1176, Amdt. 1]

PART 1033—CAR SERVICE

Kansas City Southern Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of August 1974.

Upon further consideration of Service Order No. 1176 (39 FR 13264), and good cause appearing therefor:

It is ordered, That:

Section 1033.1176 *Service Order No. 1176.* The Kansas City Southern Railway Company authorized to operate over certain tracks of St. Louis-San Francisco Railway Company be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 28, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1974.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17 (2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-20572 Filed 9-4-74;8:45 am]

[S.O. 1180, Amdt. 1]

PART 1033—CAR SERVICE

Baltimore and Ohio Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of August, 1974.

Upon further consideration of Service Order No. 1180 (39 FR 11891), and good cause appearing therefor:

It is ordered, That:

Section 1033.1180. *Service Order No. 1180.* The Baltimore and Ohio Railroad Company authorized to operate over tracks of Penn Central Transportation Company, Robert W. Blanchette, Richard C. Bond, and John H. McArthur, Trustees be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 28, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1974.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-20574 Filed 9-4-74;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Parts 223, 223a]

REENTRY PERMITS AND REFUGEE TRAVEL DOCUMENTS

Issuance

Pursuant to section 553 of Title 5 of the United States Code (80 Stat. 383), notice is hereby given of the proposed amendment of §§ 223.1 and 223a.3 of Chapter I of Title 8 of the Code of Federal Regulations, pertaining to the issuance of reentry permits and refugee travel documents, respectively.

To prevent possible abuse which might result from an alien being in possession of multiple documents entitling the holder to apply for admission to the United States as a returning resident, it is proposed to amend § 223.1 to provide that an applicant for a reentry permit who is a lawful permanent resident and who is in possession of a refugee travel document issued pursuant to 8 CFR 223a may not be issued a reentry permit unless he surrenders the refugee travel document to the Service. Likewise, it is proposed to amend § 223a.3 to provide that a lawful permanent resident alien who is in possession of a reentry permit issued pursuant to section 223 of the Immigration and Nationality Act and 8 CFR 223 may not be issued a refugee travel document unless he surrenders the reentry permit to the Service.

In accordance with section 553 of Title 5 of the United States Code (80 Stat. 383), interested persons may submit to the Commissioner of Immigration and Naturalization, Room 7100–C, 425 Eye Street, NW., Washington, D.C. 20536, written data, views, or arguments, in duplicate, relative to the proposed rules. Such representations may not be presented orally in any manner. All relevant material received on or before October 3, 1974, will be considered.

In 8 CFR Part 223, Reentry permits, it is proposed to amend § 223.1 by adding the following sentence between the existing fifth and sixth sentences thereof:

§ 223.1 Application.

* * * A reentry permit applicant who is a lawful permanent resident alien and who is in possession of a refugee travel document issued pursuant to Part 223a of this chapter may be issued a reentry permit only if he surrenders the refugee travel document to the Service. * * *

In 8 CFR Part 223a, Refugee Travel Document, it is proposed to amend § 223a.3 by adding a new sentence at the end thereof to read as follows:

§ 223a.3 Eligibility.

* * * An alien who is a lawful permanent resident and who is in possession of a reentry permit issued pursuant to section 223 of the Act and Part 223 of this chapter may be issued a refugee travel document only if he surrenders the reentry permit to the Service.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

Dated: August 29, 1974.

L. F. CHAPMAN, Jr.,
Commissioner of Immigration and Naturalization.

[FR Doc.74–20408 Filed 9–4–74;8:45 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 78]

BRUCELLOSIS REGULATIONS

Notice of Proposed Rulemaking

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114a–1, 115, 120, 121, 125, 134b, 135f), the Animal and Plant Health Inspection Service is considering revising Part 78, Title 9, Code of Federal Regulations, concerning brucellosis in cattle and bison:

Statement of considerations. As the goal of complete eradication of brucellosis in cattle is approached, it is necessary that the last foci of infection be eliminated and all means of preventing spread of this disease be employed. Added restrictions on the movement of cattle were requested by the Brucellosis Committee of the United States Animal Health Association (USAHA) in October 1971 and again in June 1972. The proposed changes in Part 78 reflect recommendations made by this Committee. The proposed revision would:

1. In § 78.1, include definitions of a Certified Brucellosis-Free herd(k), Certified Brucellosis-Free Area(l), Noncertified Area(n), Brucellosis Exposed Animal(z), and Herd of Unknown Status (aa).

2. In § 78.6, eliminate the provision for reshipment of purebred brucellosis reactors since such provisions are no longer deemed necessary and are not compatible with the goal of brucellosis eradication. In the proposed revision, the authority to allow such movements in specific cases would be available in § 78.12—Other Movements.

3. In § 78.8(c), provide for the movement of calves less than 6 months of age from infected herds for feeding, bleeding, or other purposes provided such calves are either from cows tested negative within 10 days from the date of movement or are from reactor cows and have been separated from their dams for at least 30 days prior to the date of movement.

4. In § 78.8(a) and § 78.8(b), require the heat branding with the letter "S" on the left jaw of exposed cattle before they leave the premises of origin to go to slaughter or to a quarantined feedlot or through an approved market to such destination. It is intended that exposed cattle originating in infected herds or exposed in channels of trade be permanently identified and go to slaughter or to quarantined feedlots rather than move into other herds.

5. In § 78.9(a), provide for the movement of cattle originating in Certified Brucellosis-Free Areas accompanied by a way bill or owner's statement which will indicate origin.

6. In § 78.9(b), provide for the movement of cattle from Modified Certified Brucellosis Areas. Cattle originating from Certified Brucellosis-Free herds in such areas must be accompanied by a health certificate. Cattle of the beef breeds under 24 months of age and other breeds under 20 months of age may move when accompanied by a waybill or owner's statement regardless of their vaccination status. Other cattle must be accompanied by a health certificate and must be tested negative within 30 days prior to movement or be tested at the first concentration point immediately upon arrival.

7. In § 78.10, provide for movement of cattle from qualified herds in noncertified areas.

8. In § 78.20, § 78.21, § 78.22, § 78.23, and § 78.24, list Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, Noncertified Areas, specifically approved stockyards, and specifically approved slaughtering establishments, respectively.

The Table of Contents and the Provisions in Part 78, Title 9, Code of Federal Regulations, would be amended to read as follows:

PART 78—BRUCELLOSIS

Subpart A—General Provisions

Sec.
78.1 Definitions.
78.2 Notice relating to existence of brucellosis.
78.3 Handling of certificates or permits for movement of animals.

Sec.
78.4 Handling in transit of animals moved interstate.

Subpart B—Restrictions on Interstate Movement of Cattle Because of Brucellosis

78.5 General restrictions.
78.6 Steers and spayed heifers.
78.7 Brucellosis reactor cattle.
78.8 Brucellosis exposed cattle.
78.9 Cattle from herds not known to be affected with brucellosis.
78.10 Cattle from qualified herds.
78.11 Cattle from herds of unknown status.
78.12 Other movements.

Subpart C—Restrictions on Interstate Movement of Bison Because of Brucellosis

78.13 General restrictions.
78.14 Bison steers and spayed heifers.
78.15 Brucellosis reactor bison.
78.16 Brucellosis exposed bison.
78.17 Bison from herds not known to be affected with brucellosis.
78.18 Movement of bison from public zoo to public zoo.
78.19 Other movements.

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards and Slaughtering Establishments

78.20 Certified Brucellosis-Free Areas.
78.21 Modified Certified Brucellosis Areas.
78.22 Noncertified Areas.
78.23 Specifically approved stockyards.
78.24 Slaughtering establishments.
78.25 Designation of areas; approval of stockyards and slaughtering establishments.

Subpart A—General Provisions

§ 78.1 Definitions.

As used in this part, the following terms shall have the meanings set forth in this section except as otherwise specified.

(a) *Brucellosis.* The contagious, infectious, and communicable disease caused by bacteria of the genus Brucella. It is also known as Bangs disease, undulant fever, and contagious abortion.

(b) *Veterinary services.* Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture.

(c) *Deputy Administrator.* The Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other Veterinary Services official to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(d) *State.* Any State, the District of Columbia, Puerto Rico, the Virgin Islands of the United States, or Guam.

(e) *Person.* Any individual, corporation, company, association, firm, partnership, society, or joint stock company or other legal entity.

(f) *Veterinary Services representative.* A veterinarian or other person employed by Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, who is authorized to perform the function involved.

(g) *State representative.* A veterinarian or other person regularly employed in livestock sanitary work of a State or a political subdivision thereof, and who is authorized by such State or political subdivision to perform the function involved under a cooperative agreement with the United States Department of Agriculture.

(h) *Accredited veterinarian.* An accredited veterinarian as defined in Part 160 of this Chapter.

(i) *Interstate.* From any State into or through any other State.

(j) *Uniform Methods and Rules.* The Recommended Brucellosis Eradication Uniform Methods and Rules developed by the United States Animal Health Association and adopted by Veterinary Services, in its publication of April 1974. The provisions of the Uniform Methods and Rules are the minimum standards for achieving and maintaining certified herd and area status.[1]

(k) *Certified Brucellosis-Free herd.* A herd of cattle which has achieved and maintains status as a Certified Brucellosis-Free herd according to the provisions of the Uniform Methods and Rules,[1] Chapter 1, Parts I, II, III, and IV; *Provided,* That such Certified Brucellosis-Free herd status has been recommended by a State representative in the State in which the herd is located and has been approved by the Deputy Administrator.

(l) *Certified Brucellosis-Free Area.* A State, or a political subdivision of a State, or portion thereof, which has achieved and maintains status as a Certified Brucellosis-Free area according to the provisions of the Uniform Methods and Rules,[1] Chapter 1, Parts I, II, III, and VI; *Provided,* That such Certified Brucellosis-Free Area status has been recommended by a State representative in the State in which the area is located and has been approved by the Deputy Administrator. (Such areas are specified in § 78.20.)

(m) *Modified Certified Brucellosis Area.* A State, or a political subdivision of a State, or portion therof, which has achieved and maintains status as a Modified Certified Brucellosis Area according to the provisions of the Uniform Methods and Rules,[1] Chapter 1, Parts I, II, III, and V; *Provided,* That such Modified Certified Brucellosis Area status has been recommended by a State representative in the State in which the area is located and has been approved by the Deputy Administrator. (Such areas are specified in § 78.21.)

(n) *Noncertified area.* Any area listed in § 78.22.

(o) *Qualified herd.* Any herd of cattle in a noncertified area which is not known to be affected with brucellosis and for which the State has records showing that the herd has been tested for brucellosis in accordance with the procedures for herd tests for initial Modified Certified Brucellosis Area status specified in the Uniform Methods and Rules,[1] Chapter 1, Part V–A, within 12 months prior to interstate movement of any cattle from such herd.

(p) *Herd known to be affected.* Any herd in which any animal has been classified as a brucellosis reactor as defined in the Uniform Methods and Rules,[1] Chapter 1, Part I–A, and which has not been released from quarantine in accordance with such Uniform Methods and Rules,[1] Chapter 1, Part II–D.

(q) *Quarantined feedlot.* Any confined area which has achieved and maintains status as a quarantined feedlot according to the provisions of the Uniform Methods and Rules,[1] Chapter 1, Part I–E.

(r) *Official test.* Any test for brucellosis as prescribed in the Uniform Methods and Rules,[1] Chapter 1, Part II–G.

(s) *Official vaccinate.* A female bovine animal vaccinated against brucellosis in accordance with the provisions prescribed in the Uniform Methods and Rules,[1] Chapter 1, Parts I–H, I, and J.

(t) *Moved.* Shipped, transported, or otherwise moved, or delivered or received for movement.

(u) *Certificate.* An official document issued by a Veterinary Services representative, State representative, or accredited veterinarian at the point of origin of a shipment of domestic animals to be moved under this Part which shows the identification tag, tattoo, or registration number or similar identification of each animal to be moved, the number of animals covered by the document, the purpose for which the animals are to be moved, the points of origin and destination, the consignor, and the consignee, and which states that the animal or animals identified on the certificate have been tested for brucellosis in accordance with the Uniform Methods and Rules[1] and has/have been found negative and otherwise meets the requirements of this Part.

(v) *Permit.* An official document issued for movement of animals under this Part by a Veterinary Services representative, State representative, or an accredited veterinarian which lists the identification tag, tattoo, backtag, or registration number or similar identification of each animal to be moved, the number of animals covered by the document, the purpose for which the animals are to be moved, the points of origin and destination, the consignor, and the consignee. In the case of any cattle or bison that is a brucellosis reactor, the document shall show the reactor tag number of each animal and the name of the owner of such animal when it was tested for brucellosis.

(w) *Owner's statement.* A statement signed by the owner or shipper of the animals, stating: (1) The destination of the animals; (2) the purpose for which they are to be moved; (3) the number of animals covered by the statement; (4) the point from which the animals are moved interstate; and (5) the name and address of the owner or shipper.

(x) *Specifically approved stockyard.* A stockyard specifically approved for the purposes of the regulations in this Part in accordance with § 78.23(b).

[1] Copies of the April 1974 Recommended Brucellosis Eradication Uniform Methods and Rules (APHIS 91–1) are available upon request from Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Federal Building, Hyattsville, Maryland 20782, filed as part of the original document.

(y) *Specifically approved slaughtering establishment.* A slaughtering establishment specifically approved for the purposes of the regulations in this Part in accordance with § 78.25(b).

(z) *Brucellosis exposed animal.* Any animal, except brucellosis reactor animals, that are part of a herd known to be affected or that have been in contact with a brucellosis reactor animal in marketing or other channels for a period of 24 hours or for a period of less than 24 hours if such brucellosis reactor animal has aborted or calved within the past 30 days or has a vaginal or uterine discharge.

(aa) *Herd of unknown status.* A herd of cattle in a noncertified area which has not been tested for brucellosis in accordance with the procedures for herd tests for initial modified certified area certification specified in Chapter 1, Part V–A of the Uniform Methods and Rules[1] within 12 months prior to the interstate movement of any cattle from such herd.

(bb) *Herd not known to be affected.* Any herd in which no animal has been classified as a brucellosis reactor as defined in the Uniform Methods and Rules,[1] Chapter 1, Part I–A; also, any herd in which any animal has been classified as a brucellosis reactor as defined in the Uniform Methods and Rules,[1] Chapter 1, Part I–A, and which has been released from quarantine in accordance with such Uniform Methods and Rules,[1] Chapter 1, Part II–D.

(cc) *Brucellosis reactor animal.* Any animal which has reacted to an official test for brucellosis as defined in the Uniform Methods and Rules,[1] Chapter 1, Part I–A and Part II–G.

§ 78.2 Notice relating to existence of brucellosis.

Notice is hereby given that the contagion of brucellosis may exist in domestic animals in each State.

§ 78.3 Handling of certificates or permits for movement of animals.

(a) Whenever the regulations in this Part require a certificate or a permit for movement of animals and the animals are moved by a transportation agency issuing waybills or other forms of billing covering the movement, the certificate or permit for movement shall be delivered to such transportation agency by the shipper or his agent at the time the animals are delivered for shipment; shall become the property of the transportation agency; shall be attached to the billing by the transportation agency; shall accompany such billing to the destination of the animals; and shall be filed with such billing for future reference.

(b) Whenever the regulations in this part require a certificate or a permit for movement of animals and the animals are moved by a transportation agency not issuing waybills or other forms of billing, or moved by any other means, the certificate or permit for movement shall accompany the animals to their destination and be delivered to the consignee, or, in case the consignor and the consignee are the same person, to the first person purchasing the animals during or after such movement, or to the person to whom the animals are delivered.

(c) The Veterinary Services representative, State representative, or accredited veterinarian, issuing a certificate or permit required for the interstate movement of cattle under the regulations in this Part shall forward a copy thereof to the proper livestock sanitary official of the State of destination of the animals.

§ 78.4 Handling in transit of animals moved interstate.

Animals moving interstate except cattle and bison consigned to immediate slaughter or to a quarantined feedlot,[2] shall be moved only in a means of conveyance which has been cleaned in accordance with the provisions of § 71.5, § 71.7, § 71.10, and § 71.11 of this subchapter, and if unloaded in the course of such movement, shall be handled only in pens at specifically approved stockyards cleaned in accordance with the provisions of § 71.4, § 71.7, § 71.10, and § 71.11 of this subchapter or in pens at feed, water, and rest stations cleaned in accordance with the provisions of § 71.4, § 71.7, § 71.10, and § 71.11 of this subchapter.

Subpart B—Restrictions on Interstate Movement of Cattle Because of Brucellosis

§ 78.5 General restrictions.

Cattle may not be moved interstate except in compliance with the regulations in this subpart.

§ 78.6 Steers and spayed heifers.

Steers and spayed heifers over 6 months of age may be moved interstate from any area without restrictions under this subpart.

§ 78.7 Brucellosis reactor cattle.

Brucellosis reactor cattle may only be moved interstate under this section for immediate slaughter directly to a slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), or a specifically approved slaughtering establishment, or to a specifically approved stockyard for sale to such a slaughtering establishment, in accordance with the following requirements:

(a) *Marking of brucellosis reactor cattle.* Brucellosis reactor cattle shall be marked for identification by branding the letter "B" on the left jaw in letters not less than 2 nor more than 3 inches high, and attaching to the left ear a metal tag bearing a serial number and the inscription "U.S. Reacted" or a similar State reactor tag.

(b) *Required permit.* Brucellosis reactor cattle shall be accompanied to destination by a permit for movement of the animals in accordance with § 78.3.

(c) *Marking of records.* Each transportation agency moving brucellosis reactor cattle in the course of their interstate movement shall plainly write or stamp upon the face of each waybill, conductor's manifest, switch order, vehicle interchange record, or other document, which it prepares in connection with such movement, the words "Brucellosis Reactor."

(d) *Segregation of brucellosis reactor cattle en route interstate.* Brucellosis reactor cattle shall not be moved interstate in a railroad car, boat, truck, or other means of conveyance, containing nonreactor animals susceptible to brucellosis, unless all of the animals are for immediate slaughter, or unless reactor cattle are kept separate from the other animals by a partition securely affixed to the sides of the means of conveyance.

§ 78.8 Brucellosis exposed cattle.

Brucellosis exposed cattle may be moved interstate from any area only under the conditions specified in any of the following subparagraphs:

(a) *Movement of brucellosis exposed cattle to quarantined feedlots.*[2] Brucellosis exposed cattle may be moved interstate from any area directly to a quarantined feedlot,[2] or to a specifically approved stockyard for sale and shipment to a quarantined feedlot,[2] if such cattle are marked for identification by branding with heat the letter "S" on the left jaw, in letters not less than 2 nor more than 3 inches high, before the animals leave the premises from which they are moved interstate. Such cattle shall be accompanied by a permit as defined in § 78.1(v). If the movement is to a specifically approved stockyard for sale and shipment to a quarantined feedlot,[2] a separate permit shall be required for the subsequent interstate movement of such cattle from any such stockyard to a quarantined feedlot.[2]

(b) *Movement of brucellosis exposed cattle for immediate slaughter.* Brucellosis exposed cattle may be moved interstate from any area for immediate slaughter directly to a slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or directly to a specifically approved slaughtering establishment, or to a specifically approved stockyard for sale and shipment to such a slaughtering establishment, if such cattle are marked for identification by branding with heat the letter "S" on the left jaw in letters not less than 2 nor more than 3 inches high, before the animals leave the market premises from which they are moved interstate. Such cattle shall be accompanied by a permit as defined in § 78.1 (v). A separate permit shall be required for the subsequent interstate movement of such cattle from any such stockyard to a slaughtering establishment.

(c) *Movement of brucellosis exposed cattle under 6 months of age for feeding, breeding, or other purposes.* Brucellosis exposed calves under 6 months of age from brucellosis exposed cows in a herd known to be affected with brucellosis may be moved interstate from any area into

[2] A list of quarantined feedlots in any State may be obtained from the State Representative.

any area for any purpose if such burcellosis exposed calves are moved within 10 days after an entire herd test, and are from dams negative to the official test, and are accompanied by a certificate as defined in § 78.1(u). Brucellosis exposed calves under 6 months of age that are from brucellosis reactor cows but that have been separated from the dam for 30 days or more immediately preceding interestate movement, may be moved interstate from any area into any area for any purpose if such calves are accompanied by a certificate as defined in § 78.1(u).

§ 78.9 Cattle from herds not known to be affected with brucellosis.

Cattle from herds not known to be affected with brucellosis may be moved interstate from specified areas only as follows:

(a) *Certified Brucellosis-Free Areas.* Cattle from herds not known to be affected with brucellosis in any Certified Brucellosis-Free Area may be moved interstate from such area into any area for any purpose if such cattle are accompanied by a waybill or similar document or an owner's statement as defined in § 87.1(w).

(b) *Modified Certified Brucellosis Areas.* Cattle from herds not known to be affected with brucellosis in any Modified Certified Brucellosis Area may be moved interstate from such area into any area under the conditions specified in one or more of the following subparagraphs:

(1) *Movement for immediate slaughter.* Such cattle may be so moved for immediate slaughter if they are accompanied by a waybill or similar document or an owner's statement as defined in § 78.1(w).

(2) *Movement to quarantined feedlots.*[1] Such cattle may be so moved to a quarantined feedlot if they are accompanied by a waybill or similar document or an owner's statement as defined as § 78.1(w).

(3) *Movement for feeding, breeding, or for purposes other than in paragraphs (b) (1) and (2) of this section.* Such cattle may be so moved for feeding, breeding, or for purposes other than those specified in paragraphs (b) (1) and (2) of this section, as follows:

(i) Such cattle originating in Certified Brucellosis-Free herds may be so moved if they are accompanied by a certificate as defined in § 78.1(u), which also states that the cattle originated in a Certified Brucellosis-Free herd.

(ii) Such cattle of the beef breeds under 24 months of age and other breeds under 20 months of age which are not parturient (springers) or postparturient may be so moved if such cattle are accompanied by a waybill or similar document or an owner's statement as defined in § 78.1(w).

(iii) Other such cattle may be so moved if they are accompanied by a certificate as defined in § 78.1(u), are subjected to an official test for brucellosis and found negative within 30 days prior to such interstate movement and the certificate shows in addition to items required under § 78.1(u), the test dates and results of the official tests; except that cattle moved directly from a farm of origin to a specifically approved stockyard shall be accompanied by a waybill or similar document or an owner's statement as defined in § 78.1(w), and the shipper causes such cattle to be subjected to an official test for brucellosis upon arrival and prior to losing identity with the herd of origin.

§ 78.10 Cattle from qualified herds.

Cattle from qualified herds in any noncertified area may be moved interstate into any area only under the conditions specified in one or more of the following paragraphs:

(a) *Movement for immediate slaughter.* Such cattle may be so moved for immediate slaughter if they are accompanied by a waybill or similar document or an owner's statement as defined in § 78.1(w).

(b) *Movement to quarantined feedlots.*[1] Such cattle may be so moved to a quarantined feedlot if they are accompanied by a waybill or similar document or an owner's statement as defined in § 78.1(w).

(c) *Movement for feeding, breeding, or for purposes other than in paragraphs (a) and (b).* Such cattle may be so moved for feeding, breeding, or for purposes other than those specified in paragraphs (a) and (b) of this section, as follows:

(1) Such cattle originating in Certified Brucellosis-Free herds may be so moved when accompanied by a certificate as defined in § 78.1(u), which also states that the cattle originated in a Certified Brucellosis-Free herd.

(2) Official vaccinates of the beef breeds under 24 months of age and of other breeds under 20 months of age at the time of interstate movement may be so moved when accompanied by a certificate as defined in § 78.1(u).

(3) Other such cattle may be so moved when accompanied by a certificate as defined in § 78.1(u), if such cattle, except calves under 6 months of age, were subjected to an official test for brucellosis not less than 30 days after the date of the last qualifying herd test and not more than 30 days before the date of the interstate movement, and the certificate shows, in addition to items required under § 78.1(u), the test dates and results of any official test required by this paragraph.

§ 78.11 Cattle from herds of unknown status.[2]

Cattle which originate in herds of unknown status[2] in any noncertified area may be moved interstate only for immediate slaughter directly to a slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or to a specifically approved slaughtering establishment, or directly to a quarantined feedlot,[1] or to a specifically approved stockyard for sale and shipment to a quarantined feedlot[1] or such a slaughtering establishment, when accompanied by a permit as defined in § 78.1(v) of this Part.

§ 78.12 Other movements.

The Deputy Administrator, Veterinary Services, may, upon request, in specific cases, permit the interstate movement not otherwise provided for in this subpart of cattle under such conditions as he may prescribe in each case to prevent the spread of brucellosis. The Deputy Administrator, Veterinary Services, will promptly notify the appropriate livestock sanitary official of the States involved of any such action.

Subpart C—Restrictions on Interstate Movement of Bison Because of Brucellosis

§ 78.13 General restrictions.

Bison may not be moved interstate except in compliance with the regulations in this subpart.

§ 78.14 Bison steers and spayed heifers.

Bison steers and spayed heifers over 6 months of age may be moved interstate from any area without restriction under this subpart.

§ 78.15 Brucellosis reactor bison.

Brucellosis reactor bison may only be moved interstate under this section for immediate slaughter directly to a slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), or a specifically approved slaughtering establishment, or to a specifically approved stockyard for sale to such a slaughtering establishment, in accordance with the following requirements:

(a) *Marking of brucellosis reactor bison.* Brucellosis reactor bison shall be marked for identification by branding the letter "B" on the left jaw in letters not less than 2 nor more than 3 inches high, and attaching to the left ear a metal tag bearing a serial number and the inscription "U.S. Reacted," or a similar State reactor tag.

(b) *Required permit.* Brucellosis reactor bison shall be accompanied to destination by a permit for movement of the animals in accordance with § 78.3.

(c) *Marking of records.* Each transportation agency moving brucellosis reactor bison in the course of their interstate movement shall plainly write or stamp upon the face of each waybill, conductor's manifest, switch order, vehicle interchange record, or other document which it prepares in connection with such movement, the word "Brucellosis Reactors."

(d) *Segregation of brucellosis reactor bison en route interstate.* Brucellosis reactor bison shall not be moved interstate in a railroad car, boat, truck, or other means of conveyance containing nonreactor animals susceptible to brucellosis, unless all of the animals are for immediate slaughter, or unless the reactor bison are kept separate from the other animals by a partition securely affixed to the sides of the means of conveyance.

[2] A herd of unknown status may become a qualified herd as defined in § 78.1(o) upon compliance with the provisions of § 78.1(o).

§ 78.16 Brucellosis exposed bison.

Brucellosis exposed bison may be moved interstate from any area only under the conditions specified in any of the following paragraphs:

(a) *Movement of brucellosis exposed bison to quarantined feedlots.*[1] Brucellosis exposed bison may be moved interstate from any area directly to a quarantined feedlot,[2] or to a specifically approved stockyard for sale and shipment to a quarantined feedlot.[3] Such bison shall be accompanied by a permit as defined in § 78.1(v). If the movement is to a specifically approved stockyard for sale and shipment to a quarantined feedlot,[2] a separate permit shall be required for the subsequent interstate movement of such bison from any such stockyard to a quarantined feedlot.[3]

(b) *Movement by brucellosis exposed bison to immediate slaughter.* Brucellosis exposed bison may be moved interstate from any area for immediate slaughter directly to a slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), or directly to a specifically approved slaughtering establishment, or to a specifically approved stockyard for sale and shipment to such a slaughtering establishment. Such bison shall be accompanied by a permit as defined in § 87.1(v).

§ 78.17 Bison from herds not known to be affected with brucellosis.

Bison from herds not known to be affected with brucellosis may be moved interstate from any area only under the conditions specified in one or more of the following paragraphs:

(a) *Movement for immediate slaughter.* Such bison may be so moved for immediate slaughter if they are accompanied by a waybill or similar document or an owner's statement as defined in § 78.1(w).

(b) *Movement to quarantined feedlot.*[3] Such bison may be so moved to a quarantined feedlot if they are accompanied by a waybill or similar document or an owner's statement as defined in § 78.1(w).

(c) *Movement for feeding, breeding, or for purposes other than in paragraphs (a) and (b) of this section.* Such bison may be so moved for feeding, breeding, or for purposes other than those specified in paragraphs (a) and (b) of this section, as follows:

(1) Such bison calves under 6 months of age may be so moved when accompanied by a certificate as defined in § 78.1(u).

(2) Such officially vaccinated bison under 24 months of age which are not parturient (springers) or postparturient may be so moved when accompanied by a certificate as defined in § 78.1(u).

(3) Such bison from a herd which has been declared free of brucellosis by the cooperating State and Federal livestock sanitary officials of the State in which the herd is located may be moved when accompanied by a certificate as defined in § 78.1(u).

(4) Other such bison may be so moved if they are accompanied by a certificate as defined in § 78.1(u), are subjected to an official test for brucellosis and found negative within 30 days prior to such interstate movement and the certificate shows in addition to items required under § 78.1(u), the test dates and results of the official test.

§ 78.18 Movement of bison from public zoo to public zoo.

Bison from herds not known to be affected with brucellosis and shipped from a zoo owned by a governmental agency to another such zoo may be moved interstate from any area if handled in accordance with § 78.4.

§ 78.19 Other movements.

The Deputy Administrator, Veterinary Services, may upon request in specific cases, permit the interstate movement not otherwise provided for in this subpart of bison under such conditions as he may prescribe in each case to prevent the spread of brucellosis. The Deputy Administrator, Veterinary Services, will promptly notify the appropriate livestock sanitary official of the States involved of any such action.

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards and Slaughtering Establishments

§ 78.20 Certified Brucellosis-Free Areas.

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.*

Arizona, California, Connecticut, Delaware, Hawaii, Idaho, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific Counties Within States.*

Alabama. Barbour, Cherokee, Clay, Cleburne, Dale, Etowah, Geneva, Henry, Houston, Lee.

Arkansas. Ashley, Baxter, Benton, Boone, Bradley, Calhoun, Carroll, Clay, Cleburne, Cleveland, Columbia, Conway, Craighead, Crawford, Dallas, Drew, Franklin, Fulton, Garland, Grant, Greene, Howard, Independence, Izard, Jackson, Johnson, Lafayette, Lawrence, Madison, Marion, Monroe, Montgomery, Newton, Ouachita, Perry, Pike, Poinsett, Polk, Pope, Prairie, Randolph, Saline, Scott, Searcy, Sebastian, Sharp, Stone, Union, Woodruff, Yell.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mesa, Mineral, Moffat, Montezuma, Montrose, Otero, Ouray, Park, Phillips, Pitkin, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld.

Florida. Baker, Bay, Brevard, Calhoun, Dade, Escambia, Franklin, Gadsden, Gulf, Hamilton, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Pasco, Santa Rosa, Sumter, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Barrow, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, Dawson, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Henry, Jeff Davis, Johnson, Jones, Lanier, Laurens, Liberty, Long, Madison, McIntosh, Monroe, Peach, Rabun, Richmond, Rockdale, Schley, Screven, Stephens, Taylor, Telfair, Toombs, Towns, Treutle, Twiggs, Upson, Ware, Washington, Wayne, Wheeler, White.

Illinois. Adams, Alexander, Boone, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Greene, Grundy, Hamilton, Hancock, Henderson, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Kane, Kankakee, Kendall, Knox, Lake, LaSall, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Massac, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pulaski, Putnam Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, White, Whiteside, Will, Winnebago, Woodford.

Iowa. Adair, Adams, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cerro Gordo, Cherokee, Chickasaw, Clay, Clayton, Clinton, Dallas, Delaware, Des Moines, Dickinson, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Lucas, Lyon, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Plymouth, Pocahontas, Polk, Sac, Scott, Shelby, Sioux, Story, Tama, Taylor, Union, Van Buren, Wapello, Washington, Webster, Winnebago, Woodbury, Worth, Wright.

Kansas. Comanche, Doniphan, Ford, Gove, Haskell, Hodgeman, Johnson, Lane, Marshall, Pawnee, Phillips, Riley, Scott, Trego, Washington.

Kentucky. Bell, Breathitt, Campbell, Clay, Edmonson, Floyd, Harlan, Jackson, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan,

Owsley, Pendleton, Perry, Pike, Robertson, Rowan, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Audrain, Carter, Dallas, Douglas, Dunklin, Franklin, Gasconade, Hickory, Iron, Jackson, Laclede, Lewis, Marion, Miller, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

New Mexico. Bernalillo, Catron, Dona Ana, Grant, Los Alamos, Luna, McKinley, Sandoval, Santa Fe, Sierra, Acoma Indian Reservation, Laguna Indian Reservation, Chociti Indian Reservation, Jemez Indian Reservation, Jicarilo Indian Reservation, Mescallero Indian Reservation, Navajo Indian Reservation, Zuni Indian Reservation, Canoncito Navajo Reservation.

South Dakota. Aurora, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Day, Deuel, Dewey, Douglas, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Lake, Lawrence, Lincoln, Lyman, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Benton, Bledsoe, Blount, Campbell, Cannon, Carter, Cheatham, Clairborne, Cocke, Coffee, Cumberland, Davidson, Decatur, DeKalb, Dickson, Fentress, Grainger, Greene, Grundy, Hamblen, Hancock, Hardin, Hawkins, Houston, Jackson, Jefferson, Johnson, Knox, Lawrence, Lincoln, Loudon, Macon, McNairy, Meigs, Monroe, Montgomery, Morgan, Polk, Rhea, Roane, Robertson, Rutherford, Scott, Sevier, Sullivan, Sumner, Trousdale, Unicoi, Union, Van Buren, Warren, Washington, Wayne, White.

Texas, Crane, Ector, Jeff Davis, Loving, Terrell, Ward, Winkler.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Camuy, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guayanilla, Gurabo, Hormigueros, Humacao, Isabela, Jayuya, Juana Diaz, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Penuelas, Ponce, Quebradillas, Rincon, Rio Grande, Rio Piedras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, San Sebastian, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.*

Alaska, Louisiana, Nebraska.

(b) *Specific Counties Within States.*

Alabama. Autauga, Baldwin, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Chilton, Choctaw, Clarke, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Escambia, Fayette, Franklin, Greene, Hale, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Chicot, Clark, Crittenden, Cross, Desha, Faulkner, Hempstead, Hot Spring, Jefferson, Lee, Lincoln, Little River, Logan, Lonoke, Miller, Mississippi, Nevada, Phillips, Pulaski, St. Francis, Sevier, Van Buren, Washington, White.

Colorado. Baca, Kiowa, Morgan, Prowers, Pueblo, Yuma, Southern Ute Indian Reservation, Ute Mountain Indian Reservation.

Florida. Alachua, Bradford, Broward, Charlotte, Citrus, Clay, Collier, Columbia, De Soto, Dixie, Duval, Flagler, Gilchrist, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Okeechobee, Osceola, Palm Beach, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Seminole, Suwanee, Union, Volusia.

Georgia. Baker, Baldwin, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Decatur, Dodge, Dooly, Doughterty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Terrell, Thomas, Tift, Troup, Turner, Union, Walker, Walton, Warren, Webster, Whitfield, Wilcox, Wilkes, Wilkinson, Worth.

Illinois. Bond, Brown, Fulton, Gallatin, Hardin, Henry, Johnson, Mason, Pike, Pope, Wayne, Williamson.

Iowa. Allamakee, Appanoose, Clarke, Crawford, Davis, Decatur, Dubuque, Guthrie, Louisa, Madison, Pottawattamie, Poweshiek, Ringgold, Warren, Wayne, Winneshiek.

Kansas. Allen, Anderson, Atchison, Barber, Barton, Bourbon, Brown, Butler, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Cowley, Crawford, Decatur, Dickinson, Douglas, Edwards, Elk, Ellis, Ellsworth, Finney, Franklin, Geary, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Harvey, Jackson, Jefferson, Jewell, Kearny, Kingman, Kiowa, Labette, Leavenworth, Lincoln, Linn, Logan, Lyon, Marion, McPherson, Meade, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osage, Osborne, Ottawa, Pottawatomie, Pratt, Rawlins, Reno, Republic, Rice, Rooks, Rush, Russell, Saline, Sedgwick, Seward, Shawnee, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Wabaunsee, Wallace, Wichita, Wilson, Woodson, Wyandotte.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckenridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Choctaw, Chickasaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, Leflore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Daviess, De Kalb, Dent, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Jasper, Jefferson, Johnson, Knox, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, McDonald, Mercer, Mississippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

New Mexico. Chaves, Colfax, Curry, De Baca, Eddy, Guadalupe, Harding, Hidalgo, Lea, Lincoln, Los Alamos, Mora, Otero, Quay, Rio Arriba, Roosevelt, San Juan, San Miguel, Socorro, Taos, Tor-

rance, Union, Valencia, Isleta Indian Reservation.

Oklahoma. Adair, Alfalfa, Atoka, Beaver, Beckham, Blaine, Caddo, Canadian, Carter, Cherokee, Choctaw, Cimarron, Cleveland, Coal, Comanche, Cotton, Craig, Creek, Custer, Delaware, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Haskell, Hughes, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Latimer, LeFlore, Lincoln, Logan, Love, McClain, McCurtain, McIntosh, Major, Marshall, Mayes, Murray, Muskogee, Noble, Nowata, Okfuskee, Oklahoma, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Roger Mills, Rogers, Seminole, Sequoyah, Stephens, Texas, Tillman, Tulsa, Wagoner, Washington, Washita, Woods, Woodward.

South Dakota. Beadle, Brookings, Davidson, Edmunds, Jones, Kingsbury, Marshall, Sanborn, Stanley, Crow Creek Indian Reservation.

Tennessee. Bedford, Bradley, Carroll, Clay, Crockett, Dyer, Fayette, Franklin, Gibson, Giles, Hamilton, Hardeman, Haywood, Henderson, Henry, Hickman, Humphreys, Lake, Lauderdale, Lewis, Madison, Marion, Marshall, Maury, McMinn, Moore, Obion, Overton, Perry, Pickett, Putnam, Sequatchie, Shelby, Smith, Stewart, Tipton, Weakley, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Bordern, Bosque, Bowie, Brazoria, Brazos, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Childress, Clay, Cochran, Coke, Coleman, Collins, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crocket, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf, Smith, Delta, Denton, De Witt, Dickens, Dimmit, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glassock, Goliad, Gonzales, Gray, Grayson, Gregg, Grimes Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hardin, Harris, Harrison, Hartley, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Irion, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Lipscomb, Live Oak, Llano, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Martin, Mason, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Newton, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Potter Presidio, Rains, Randall, Reagan, Real, Red River, Reeves, Refugio, Roberts, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Val Verde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Yoakum, Young, Zapata, Zavala.

Wyoming. Lincoln.

Puerto Rico. Arecibo, Carolina, Guaynabo, Hatillo, Juncos, Las Piedras, Naguabo.

§ 78.22 Noncertified Areas.

Oklahoma. Bryan and Dewey.

§ 78.23 Specifically approved stockyards.

Notices containing lists of stockyards specifically approved for the purposes of the regulations in this Part are published in the FEDERAL REGISTER. Information with respect to these stockyards may also be obtained from Veterinary Services representatives and State inspectors.

§ 78.24 Slaughtering establishments.

(a) Information with respect to the slaughtering establishments operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) may be obtained from the Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, and from the Veterinary Services representative and a State representative.

(b) Notices containing lists of slaughtering establishments specifically approved for the purposes of the regulations in this Part are published in the FEDERAL REGISTER. Information with respect to these slaughtering establishments may also be obtained from the Veterinary Services representative or a State representative.

§ 78.25 Designation of areas; approval of stockyards and slaughtering establishments.

(a) The Deputy Administrator, Veterinary Services, is authorized to amend § 78.20, § 78.21, and § 78.22 to designate States or political subdivisions or portions thereof as Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, or Noncertified Areas, respectively, when he determines that the areas come within the appropriate definitions in § 78.1 (l), (m), or (n), and to delete any area from any such list when he determines that the area no longer comes within the relevant definition.

(b) The Deputy Administrator is authorized to specifically approve stockyards for the purposes of the regulations in this Part and to promulgate notices listing such stockyards in accordance with § 78.23 when he determines that the inspection and handling of livestock at such stockyards are adequate to effectuate the purposes of the regulations in this Part and that Veterinary Services and the State in which such stockyards are located have entered into a Memorandum of Understanding setting forth certain standards for such stockyards. The Deputy Administrator may withdraw approval and remove any stockyard from the said list when he finds that the inspection or handling of livestock at such stockyard is no longer adequate to effectuate the purposes of such regulations, or when he determines that there is not full compliance with all provisions of the standards involved, or when such Memorandum of Understanding between Veterinary Services and the State within which such stockyard is located has been terminated. The Deputy Administrator is further authorized to specifically approve slaughtering establishments for the purposes of the regulations in this Part and to promulgate notices listing such slaughtering establishments in accordance with § 78.24(b) when he determines that the inspection and handling of livestock or carcasses or products thereof at such slaughtering establishment is adequate to effectuate the purposes of such regulations. The Deputy Administrator may remove any slaughtering establishment from the said list when he finds that the inspection or handling of livestock or carcasses or products thereof at such slaughtering establishment is no longer adequate to effectuate the purposes of such regulations.

Before the Deputy Administrator withdraws specific approval and removes any specifically approved stockyard or slaughtering establishment from respective approved lists, the owner of such establishment shall be given notice by the Deputy Administrator of the charges against him and shall have an opportunity to present his views. In those instances where there is a conflict as to the facts, a hearing shall be held to resolve such conflicts.

Any person who wishes to submit written data, views or arguments concerning this proposal may do so by filing them with the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, Room 870, Federal Building, U.S. Department of Agriculture, Hyattsville, Maryland 20782, before November 4, 1974.

All written submissions made pursuant to this notice will be made available for public inspection at Room 870, Federal Building, Hyattsville, Maryland 20782, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 22nd day of August 1974.

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

[FR Doc.74-20489 Filed 9-4-74;8:45 am]

[9 CFR Part 92]

IMPORTATION OF BIRDS

Extension of Time To Submit Written Data, Views and Arguments

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that the time for filing data, views, and arguments with respect to the proposed amendments of regulations contained in 9 CFR Part 92 to provide for the quarantine of imported zoological birds in approved zoological parks and clarify the permit requirements for commercial birds as well as the authority of the Deputy Administrator in § 92.2(a) to allow imports, in specific cases, of any animals and products; and birds for research purposes only, as published in the FEDERAL REGISTER, June 21, 1974 (39 FR 22272–22273), is extended to October 7, 1974.

Interested persons are to submit written comments, suggestions or objections regarding the proposed amendments to the Deputy Administrator, Animal and Plant Health Inspection Service, Veterinary Services, U.S. Department of Agriculture, Federal Building, Hyattsville, Maryland 20782.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 30th day of August 1974.

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

[FR Doc.74-20548 Filed 9-4-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 132]

DRUG LISTING ACT OF 1972

Proposed Revision of Implementing Regulations

On April 2, 1974, Bristol-Myers Co., 345 Park Ave., New York, N.Y. 10022, filed a petition proposing a revision of the regulations implementing the Drug Listing Act of 1972 (21 CFR Part 132). Although the petition addressed itself to the use of both the NDC (National Drug Code) and HRI (National Health Related Items Code) prefixes, the petitioner recognizes that any use of the National Health Related Items Code, which was established pursuant to a notice published in the FEDERAL REGISTER of January 1, 1971 (36 FR 27), and use of the prefix "HRI" are voluntary and are not governed by regulatory instructions. The petition proposes that:

(1) The single character "N" be adopted for use to replace both the NDC and HRI prefixes wherever the use of a prefix is prescribed by regulation or is requested to be used in a voluntary manner not covered by regulation. The petition contends that recognition of products as drugs or health related items could be achieved equally well if both three-character prefixes, NDC and HRI, were replaced by a single character "N." The use of a single abbreviated character would conserve valuable space on product labels and would avoid confusion by permitting more simplified instructions for manual recognition and processing procedures. The prefix "N" would also adequately distinguish drug and health related code numbers from the grocery Universal Product Code (UPC) and any other system of code numbers.

(2) The NDC or HRI human readable codes, which are printed as integral parts of the UPC symbols on consumer packages, be acceptable as meeting the Food and Drug Administration's labeling provisions for printing the codes on such consumer packages. Wherever the code would otherwise appear in accordance with Food and Drug Administration labeling instructions, the code format and placement would remain unaffected by the provisions of the recommendation contained in the petition. It is anticipated that the UPC symbol will appear only on that package form of the product which is considered the final trade package sold to the consumer. The UPC Symbol Specification Manual indicates that the UPC symbol may be placed in various positions on a consumer package, although the natural bottom is preferred. The petition states that, given a choice, most manufacturers who are already complying with many regulatory requirements governing their printing on packaging would prefer not to place the NDC codes in the UPC symbol and, again, in the upper third of the principal panel of the label, as required by § 132.8(b)(3)(i), because there would be a redundant printing of essentially the same code numbers in two places on the trade package.

The Commissioner of Food and Drugs has reviewed the petition and agrees to the adoption of a single digit or character to replace the present NDC and HRI prefixes, but has determined that the adoption of the same prefix for both NDC and HRI prefixes would not adequately distinguish a drug product code from a health related item code. Products listed in compliance with the Drug Listing Act of 1972 and products listed under the National Health Related Items Code System are listed under two separate operating systems. Any publication of the code numbers used to represent the products in these two systems would, at the present time, be printed in separate publications. To facilitate identification of a product from its code number by reference to a published list of such code numbers, it would be necessary to know whether the code number represented a drug product or a health-related item. Although the code formats for drug products and health-related items differ, this is not considered to be the most desirable method of identifying these two categories of products. The Commissioner, therefore, concludes that the recommendation of the petition regarding the adoption of "N" to replace the NDC/HRI prefixes be modified to adopt the single character "N" to replace the NDC prefix and the single character "H" to replace the HRI prefix.

The Commissioner concludes that placement of the NDC number as an integral part of the UPC symbol when such symbol appears on the bottom of a consumer package is not in compliance with the provisions of section 502(c) of the Federal Food, Drug, and Cosmetic Act as to prominence and conspicuousness. The Commissioner concludes that if the NDC number is shown on a drug label, it shall be placed prominently in the top third of the center panel of the label of the immediate container and of the outside container or wrapper if such there be. However, he proposes to modify § 132.8(b)(3)(i) to provide that, in addition, the NDC number may also appear as part of and contiguous to the UPC symbol wherever such symbol appears on consumer packages for over-the-counter drugs.

Copies of the petition are available on request from the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20852.

In addition, the Commissioner concludes that it is no longer necessary for the prefix "NDC," or "N" as proposed in the petition, to be "in a different color or different type style (font) than that used to print the number if the label is printed rather than typewritten" as now specified in 21 CFR 132.8(b)(3)(ii). He therefore proposes to delete such wording in this section.

Section 510(f) of the act exempts from public disclosure any list of drugs containing a particular ingredient submitted pursuant to section 510(j)(3) of the act, unless such an exemption would be inconsistent with the protection of the public health. The Commissioner concludes that such an exemption for a list of drugs containing a particular active ingredient would be inconsistent with the protection of the public health. Section 132.9(a)(2)(iii) was never intended to prevent public disclosure of lists of drugs containing a particular active ingredient. The Commissioner proposes to modify this provision of the regulations to restrict it to a list of drugs containing a particular inactive ingredient.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 506, 507, 510, 512, 701(a), 704; 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055 and 1057 as amended, 55 Stat. 851, 59 Stat. 463 as amended, 76 Stat. 794 as amended, 82 Stat. 343–351; 21 U.S.C. 321, 352, 355, 356, 357, 360, 360b, 371(a), 374); the Public Health Service Act (sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262); and the Drug Listing Act of 1972 (Public Law 92–387; 86 Stat. 559–562) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 132 be amended as follows:

1. In § 132.8 by revising paragraph (b)(3)(i), (ii), and (iii) to read as follows:

§ 132.8 Notification of registrant; drug establishment registration number and drug listing number.

* * * * * * *

(b) * * *

(3) * * *

(i) The NDC number shall be placed prominently in the top third of the center panel of the label of the immediate container and of the outside container or wrapper if such there be. In addition, wherever the Universal Product Code (UPC) symbol appears on consumer packages for over-the-counter drugs, the NDC number may also appear as part of and contiguous to that symbol.

(ii) The NDC number shall be preceded by the initial "N" whenever it is used on a label or in labeling.

(iii) The Product-Package Code configuration shall be indicated and the segments of the number shall be separated by a dash, i.e., N 1564—3542—12, N 15643—542—12, or N 15643—5421—2.

* * * * *

2. In § 132.9 by revising paragraph (a)(2)(iii) to read as follows:

§ 132.9 Inspection of registrations and drug listings.

(a) * * *

(2) * * *

(iii) A list of drugs containing a particular inactive ingredient.

* * * * *

Interested persons may, on or before November 4, 1974, file written comments (preferably in quintuplicate) with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20852, regarding the petition and this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: August 28, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–20446 Filed 9–4–74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 30, 31, 32, 33, 34, 35]

[CGD 74–127]

CONSTRUCTION AND EQUIPMENT OF TANK VESSELS

Advance Notice of Proposed Rulemaking

The United States Coast Guard is considering amending Subchapter D, Rules and Regulations for Tank Vessels, to include all of the provisions of IMCO Resolution A.271(VIII), entitled "Draft Regulations Concerning Fire Safety Measures for Tankers and Combination Carriers", which was adopted on 20 November 1973 by the Inter-Governmental Maritime Consultative Organization Assembly (IMCO).

This advance notice of proposed rulemaking is being issued to provide timely notice of the impending changes to the regulations for tank vessels. It is projected that the new requirements will become effective for vessels, the keels of which are laid or which are at a similar stage of construction, on or after 1 January 1975. The proposed structural fire protection requirements apply to all manned tank vessels and the proposed regulation changes concerning fire prevention and protection systems apply to all propelled tank vessels of 500 or more gross tons. Details of the proposed regulation changes are scheduled to be published in the FEDERAL REGISTER within a reasonable period of time following publication of this advanced notice. Interested persons may obtain a copy of IMCO Resolution A.271(VIII) by writing to U.S. Coast Guard (GCMC/82), Room 8234, 400 Seventh Street, S.W., Washington, D.C. 20590. Each inquiry should identify the notice (CGD 74–127) and include a name and complete return address.

Since many of the provisions of IMCO Resolution A.271(VIII) are already contained in 46 CFR, Subchapter D, the new requirements will not be published as a separate part, but will be included in the appropriate subparts of the existing regulations.

Some of the proposed regulation changes are already standard practice and should not result in significant changes. In general, the proposed changes will include, with some variation, the following:

1. Category A machinery spaces must be positioned aft of the cargo area and must be separated from the cargo pump rooms by "A" class boundaries. The casing doors on Category A machinery spaces must be self-closing. The surface of insulation on interior boundaries of such spaces must be impervious to oil and oil vapors.

2. Accommodation spaces, control stations, and service spaces must be positioned aft. Common boundaries separating cargo pump rooms or machinery spaces of Category A from accommodation and service spaces must be insulated to "A–60" requirements, as should the boundaries between pump rooms and control stations. In addition, exterior boundaries of deckhouses and superstructures enclosing accommodation and service spaces must be "A–60" Class for the portion facing the cargo tank and for 10 feet (3 meters) aft of the front boundary. The front boundary and 16 feet (5 meters) aft of the front boundary of deckhouses and superstructures facing the cargo tanks may not have doors on the main deck opening into spaces with access to accommodation and service areas, may only have fixed port lights, and may have port lights on the first tier of the main deck if fitted with inside covers of steel.

3. Concealed spaces behind ceilings, panelings, or linings must be divided by non-combustible draft stops not more than 45 feet (14 meters) apart.

4. Combustible veneers within accommodation and service areas may be increased to a maximum thickness of .079 inch (2 mm), except that within corridors, stairway, enclosures, and control stations the thickness may not exceed .059 inch (1.5 mm).

5. The passage of ventilation ducts from Category A machinery spaces through accommodation and service spaces and control stations is restricted. Similarly, the passage of ventilation ducts for accommodation and service spaces and control stations through machinery spaces of category A is restricted.

6. The foam concentrate storage requirements for the deck foam system are being increased to allow 20 minutes of foam generation. The capacity of any monitor must be at least .073 gallons per minute per square foot of deck area protected by that monitor, in addition to other sizing requirements based on cargo tank area and largest tank area. The design range of foam monitors may not exceed 75% of the throw determined by tests in still air conditions. On tankers of 100,000 dead weight tons or over and combination carriers of 50,000 dead weight tons and over, monitors and hose connections must be situated on the port and starboard sides of the house, facing the cargo deck. Effort should be made to assure that the deck foam system is capable of simple and rapid operation.

7. An inert gas system must be provided for protection of cargo tanks on crude oil tankers of 100,000 dead weight tons and over and on crude oil combination carriers of 50,000 dead weight tons and over. The system must be capable of providing a suitable oxygen deficient atmosphere, with an oxygen content not normally exceeding 5% by volume. The capacity of the inert gas system must be at least 125% of the rated cargo pump capacity and the system must be capable of supplying inert gas on demand to the cargo tanks.

Comments are welcome and should be addressed to the Commandant (G–CMC/82), U.S. Coast Guard, Washington, D.C. 20590. Specific details of the proposed changes will be published in the near future for formal comments. In addition, public hearings will be held prior to publication of the final rulemaking.

This advance notice of proposed rulemaking is issued under the authority of 46 U.S.C. 375, 391a, 416; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and E.O. 11239 (30 FR 9671).

Dated: August 28, 1974.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.74–20496 Filed 9–4–74;8:45 am]

[46 CFR Part 151]

[CGD 73–275]

UNMANNED BARGES CARRYING CERTAIN BULK DANGEROUS CARGOES

Sodium Sulfide Solution (NTE 10%) and Sulfur Dioxide; Correction

In FR Document No. 74–16104, that was published at 39 FR 26042 in the issue of Tuesday, July 16, 1974, the word "Open" and the letters "SR" which describe the vent requirements for sodium sulfide solution and sulfur dioxide, respectively, were omitted from the amendment to Table 151.05 of Title 46. The amendment to Table 151.05 should read as follows:

Sodium sulfide solution (NTE 10%)	Atmos.	Amb.	III	1i 2i	Integral Gravity	Open	Open	II	G-I	NR	Vent N	No	151.55-1(b)	NA	NA	G
Sulfur dioxide	Press.	Amb.	I	1NA 2ii	Ind. Pressure.	SR	Closed	I	P-2	NR	Vent F	No	151.50-39 151.50-35	NA	NA	2

Dated: August 28, 1974.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.74-20495 Filed 9-4-74;8:45 am]

Urban Mass Transportation Administration

[49 CFR Ch. VI]

MASS TRANSIT AND SPECIAL USE HIGHWAY PROJECTS

Notice of Proposed Rule Making

CROSS REFERENCE: For a document issued by the Federal Highway Administration and the Urban Mass Transportation Administration proposing regulations for Mass Transit and Special Use Highway Projects, see FR Doc. 74-20540, which appears as Part IV of this issue.

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

FM BROADCAST STATIONS

Proposed Table of Assignments, Anamosa, Iowa City, and Burlington, Iowa; Extension of Time for Comments

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Anamosa and Iowa City, Iowa; Burlington, Iowa), Docket No. 19161, RM-1540, RM-1823.

Order extending time for filing reply comments.

1. On April 16, 1974, the Commission adopted a memorandum opinion and order and notice of proposed rulemaking in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on May 2, 1974, 39 FR 15324. The date for filing comments has expired and reply comments are due on August 28, 1974.

2. On August 27, 1974, counsel for Dodge-Point Broadcasting Co., Inc. (Dodge-Point), filed a request for an extension of time in which to file reply comments to and including September 4, 1974. Counsel states that the additional time is necessary to allow for the completion of an additional exhibit to its reply comments. Other parties in the proceeding have consented to the requested extension of time.

3. We are of the opinion that the public interest would be served by extending the time in this proceeding. *Accordingly, it is ordered*, That the date for filing reply comments is extended to and including September 4, 1974.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Adopted: August 28, 1974.

Released: August 29, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-20457 Filed 9-4-74;8:45 am]

[47 CFR Parts 2, 89, 91]

[Docket No. 20149; FCC 74-886]

TELEMETRY AND REMOTE CONTROL OPERATIONS

Availability of Splinter Frequencies

In the matter of amendment of Part 89 and 91 of the Commission's rules and regulations to make available four 173 MHz splinter frequencies to the Local Government and Manufacturers Radio Services for telemetry and remote control operations.

1. Notice is hereby given of proposed rulemaking in the above-entitled matter.

2. For the past several years there has been an increasing demand for telemetry and remote control operations in the land mobile radio services. During this time the Commission has allocated numerous frequencies to various radio services for telemetry purposes.[1] These frequencies, however, were made available only to the radio services which had then demonstrated a need for telemetry operations. In recent years this need for telemetry operations has spread to other radio services.

3. There have been numerous inquiries concerning telemetry operations, especially in the field of air, noise, and water quality monitoring systems, from applicants eligible in the Local Government and Manufacturers Radio Services which, because of eligibility limitations, cannot use the frequencies available for telemetry and remote control purposes in the 173 MHz band. In the past, the Commission has considered such inquiries on a case-by-case basis and, where applicable, granted a rule waiver to permit the licensee the use of a channel in that band. However, recently these inquiries have become more numerous and it is no longer practical to continue solving the problem by rule waiver. It is for this reason that the Commission is proposing to allocate these frequencies to these radio services for telemetry and remote control operations.

4. The 173 MHz narrow band channels are already shared between various Industrial Radio Services.[2] It appears that the sharing of frequency bands between additional radio services can readily be accomplished if the stations are limited to reasonable power levels, directional antenna systems are employed for most of the fixed point-to-point installations, and interservice coordination is required for all fixed station use.

5. Accordingly, we propose to amend Parts 2, 89, and 91 of our rules to make the four 173 MHz splinter bands available to licensees in the Local Government and Manufacturing Radio Services for telemetry and remote control operations.[3] Use of the bands in these services will be subject to the same limitations as applied to the licensees in the other Industrial Services.

6. In addition to this, we propose at this time to conform the mobile power limitations. As noted in footnote (2) the power limitation for mobile operations in all these services is 1 watt, except for Forest Products which is 3 watts. There are very few authorizations for mobile operation on these frequencies because the one watt power limitation has tended to limit the types of operations in the past. Since Forest Products operations have used 3 watts output successfully, we propose to amend the mobile power limitation in the other eligible services to permit 3 watts output.

[1] In Docket 17228 (9 FCC 2nd 839), four 173 MHz splinter frequencies were allocated to certain Industrial Services for telemetering; in Docket 18924 (24 FCC 2nd 554) the frequency band 216-220 to the Industrial Radio Services was made available for telemetering; In Docket 19451 (41 FCC 2nd 990) Land Mobile telemetry was provided for in the 1427-1435 MHz band; and in docket 19478 (41 FCC 2nd 8) we made provisions for medical telemetry on certain offset frequencies in the 460-470 MHz band in the Business Radio Service.

[2] 173.2075-173.2125, 173.3875-173.3925, 173.2000-173.2075, and 173.3925-173.4000 MHz. These frequencies are available in the Power, Petroleum, and Special Industrial Radio Services with power limitations of one watt, mobile and fifty watts, fixed; in the Forest Products Radio Service with the limitation of three watts mobile and fifty watts fixed; and in the Business Radio Service with a power limitation of one watt, mobile. Fixed operation in business is not permitted. These frequencies are available on a shared basis for remote control and telemetering purposes. A petition (Rm. 1702) requesting that fixed use of these frequencies be allowed in the Business Radio Service is pending. However, because that proposal raised special issues, it will be considered separately.

[3] In the rules, only the center frequency of the band will be listed. Applications for frequencies other than the center channel of each the bands will be considered on a case-by-case basis provided the operation complies with the bandwidth limitations.

7. Authority for the proposed amendments is contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended. Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules, interested persons may file comments on or before November 4, 1974, and reply comments on or before November 19, 1974. Relevant and timely comments will be considered by the Commission before final action in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

8. In accordance with the provisions of § 1.419 of the Commission's Rules an original and fourteen copies of all statements, briefs, or comments filed shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted: August 21, 1974.

Released: August 26, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[4]
VINCENT J. MULLINS,
Secretary.

APPENDIX

I. Part 2 of the commission's rules is amended as follows:

1. In § 2.106, Table, the frequencies 173.2–174. MHz are amended to read as follows:

§ 2.106 Table of Frequency Allocations.

United States		Federal Communications Commission				
Band (megahertz)	Allocation	Band (megahertz)	Service	Class of station	Frequency (megahertz)	Nature of service of stations
5	6	7	8	9	10	11
*	*	*	*	*	*	*
173.2–173.4	NG	173.2–173.4	Fixed land mobile.	Base fixed mobile.		PUBLIC SAFETY. INDUSTRIAL.
173.4–174.0	G					
*	*	*	*	*	*	*

* * * * *

II. Part 89 of the Commission rules is amended as follows:

1. Section 89.259(f), Table, is amended by the addition of four 173 MHz frequency bands to the frequency table and five new limitations 14, 15, 16, 17, and 18 [are added] to paragraph (g) to read as follows:

§ 89.259 Frequencies available to the local government Radio Services.

(f) * * *

Frequency or band (megahertz)	Class of station(s)	Limitations
*	*	*
158.955	Mobile	
173.20375	Fixed or mobile	14, 16, 17, 18
173.2100	do	14, 15, 17, 18
173.3900	do	14, 15, 17, 18
173.39625	do	14, 16, 17, 18
216–220	Base or mobile	27
*	*	*

(g) * * *

(14) The maximum power output of the transmitter may not exceed 50 watts for fixed stations and 3 watts for mobile stations. A1, A2, F1, or F2 emission may be authorized and mobile stations used to control remote objects and devices may be operated in the continuous transmit mode.

(15) For FM transmitters the sum of the highest modulating frequency in hertz and the amount of frequency deviation or swing in hertz may not exceed 1700 Hz and the maximum deviation may not exceed 1.2 kHz. For AM transmitters the highest modulating frequency may not exceed 1200 Hz. The carrier frequency must be maintained within 0.0005 percent of the center of the frequency band, and the authorized bandwidth may not exceed 3 kHz.

(16) For FM transmitters the sum of the highest modulating frequency in hertz and the amount of frequency deviation or swing in hertz may not exceed 2800 Hz and the maximum deviation may not exceed 2.5 kHz. For AM transmitters the highest modulating frequency may not exceed 2000 Hz. The carrier frequency must be maintained within 0.0005 percent of the center of the frequency band, and the authorized bandwidth may not exceed 6 kHz.

(17) This frequency band is available on a shared basis with several Industrial Radio Services.

(18) Operational fixed stations must employ directional antennas having a front-to-back ratio of at least 20 dB. Omnidirectional antennas having unity gain may be employed for stations communicating with at least three receiving locations separated by 160° of azimuth.

III. Part 91 of the Commission's rules is amended as follows:

1. Section 91.254 (a) and (b) are amended to read as follows:

§ 91.254 Frequencies available.

(a) * * *

Frequency or band (megahertz)	Class of station(s)	Limitations
*	*	*
171.925	Operational fixed	4
173.20375	Fixed or mobile	18, 20, 22, 23
173.2100	do	20, 21, 22, 23
*	*	*
173.3900	Fixed or mobile	20, 21, 22, 23
173.39625	do	18, 20, 22, 23
216–220	Base or mobile	24
*	*	*

[4] Commissioners Reid and Hooks absent.

(b) * * *

(20) In this frequency band the maximum power output of the transmitter may not exceed 50 watts for fixed stations and 3 watts for mobile stations. A1, A2, F1, or F2 emission may be authorized, and mobile stations used to control remote objects and devices may be operated in the continuous transmit mode.

(23) This frequency band is available on a shared basis with the Local Government and several Industrial Radio Services.

* * * * *

2. Section 91.304(a), Table, and (b) (21) and (25) are amended to read as follows:

§ 91.304 Frequencies available.

(a) * * *

Frequency or band (megahertz)	Class of station(s)	Limitations
*	*	*
171.925	Operational fixed	2
173.20375	Fixed or mobile	21, 24, 25, 26
173.2100	do	21, 23, 25, 26
*	*	*
173.3900	Fixed or mobile	21, 23, 25, 26
173.39625	do	21, 24, 25, 26
216–220	Base or mobile	27
*	*	*

(b) * * *

(21) In this frequency band the maximum power output of the transmitter may not exceed 50 watts for fixed stations and 3 watts for mobile stations. A1, A2, F1, or F2 emission may be authorized, and mobile stations used to control remote objects and devices may be operated in the continuous transmit mode.

* * * * *

(25) This frequency band is available on a shared basis with the Local Government and several Industrial Radio Services.

* * * * *

3. Section 91.354(a), table, and (b) (24) and (26) are amended to read as follows:

§ 91.354 Frequencies available.

(a) * * *

Frequency or band (megahertz)	Class of station(s)	Limitations
*	*	*
171.925	Operational fixed	2
173.20375	Fixed or mobile	22, 24, 25, 26
173.2100	do	23, 24, 25, 26
*	*	*
173.3900	Fixed or mobile	23, 24, 25, 26
173.39625	do	22, 24, 25, 26
216–220	Base or mobile	7
*	*	*

(b) * * *

(24) In this frequency band the maximum power output of the transmitter may not exceed 50 watts for fixed stations and 3 watts for mobile stations. A1, A2, F1, or F2 emission may be authorized, and mobile stations used to control remote objects and devices may be operated in the continuous transmit mode.

* * * * *

(26) This frequency band is available on a shared basis with the Local Government and several Industrial Radio Services.

* * * * *

4. Section 91.504(a), table, and (b) (23) and (25) are amended to read as follows:

§ 91.504 Frequencies available.

(a) * * *

Frequency or band (megahertz)	Class of station(s)	General reference	Limitations
*	*	*	*
171.925	Operational fixed.	Hydrological	4
173.20375	Fixed or mobile	Permanent use.	21, 23, 24, 25
173.2100	do	do	22, 23, 24, 25
173.3900	do	do	22, 23, 24, 25
173.39625	do	do	21, 23, 24, 25
216-220	Base or mobile	Telemetry	30
*	*	*	*

(b) * * *

(23) In this frequency band the maximum power output of the transmitter may not exceed 50 watts for fixed stations and 3 watts for mobile stations. A1, A2, F1, or F2 emission may be authorized, and mobile stations used to control remote objects and devices may be operated in the continuous transmit mode.

* * * * *

(25) This frequency band is available on a shared basis with the Local Government and several Industrial Radio Services.

* * * * *

5. Section 91.554(a), table, and (b) (29) are amended to read as follows:

§ 91.554 Frequencies available.

(a) * * *

Frequency or band (megahertz)	Class of station(s)	General reference	Limitations
*	*	*	*
171.925	Operational fixed	Hydrological	4
173.20375	Mobile	Permanent use.	29, 30
173.2100	do	do	29, 31
173.3900	do	do	29, 31
173.39625	do	do	29, 30
216-220	do	Telemetry	45
*	*	*	*

(b) * * *

(29) This frequency band is available on a shared basis with the Local Government and several Industrial Radio Services and may be used for low-power mobile operations for the purpose of remote control and telemetering. The maximum power output of the transmitter may not exceed 3 watts. A1, A2, F1, or F2 emission may be authorized and mobile stations used to control remote objects and devices may be operated in the continuous transmit mode.

* * * * *

6. Section 91.730(a), table, is amended by the addition of four 173 MHz frequency bands to the frequency table and five new limitations 23, 24, 25, 26, and 27 are added to paragraph (b) to read as follows:

§ 91.730 Frequencies available.

(a) * * *

Frequency or band (megahertz)	Class of station(s)	Limitations
*	*	*
158.430	Base or mobile	1
173.20375	Fixed or mobile	23, 24, 26, 27
173.2100	do	24, 25, 26, 27
173.3900	do	24, 25, 26, 27
173.39625	do	23, 24, 26, 27
216-220	Base or mobile	19
*	*	*

(b) * * *

(23) For FM transmitters the sum of the highest modulating frequency in hertz and the amount of frequency deviation or swing in hertz may not exceed 2800 Hz. and the maximum frequency deviation may not exceed 2000 Hz. The carrier frequency must be maintained within 0.0005 percent of the center of the frequency band, and the authorized bandwidth may not exceed 6 kHz.

(24) In this frequency band the maximum power output of the transmitter may not exceed 50 watts for fixed stations and 3 watts for mobile stations. A1, A2, F1, or F2 emission may be authorized, and mobile stations used to control remote objects and devices may be operated in the continuous transmit mode.

(25) For FM transmitters the sum of the highest modulating frequency in hertz and the amount of frequency deviation or swing in hertz may not exceed 1700 Hz and the maximum deviation may not exceed 1.2 kHz. For AM transmitters the highest modulating frequency may not exceed 1200 Hz. The carrier frequency must be maintained within 0.0005 percent of the center of the frequency band, and the authorized bandwidth may not exceed 3 kHz.

(26) Operational fixed stations must employ directional antennas having a front-to-back ratio of at least 20 dB. Omnidirectional antennas having unity gain may be employed for stations communicating with at least three receiving locations separated by 160° of azimuth.

(27) This frequency band is available on a shared basis with the Local Government and several Industrial Radio Services.

* * * * *

[FR Doc.74-20338 Filed 9-4-74;8:45 am]

[47 CFR Part 83]

[Docket No. 20148; FCC 74-883]

RADIO-TELEGRAPH AUTO ALARM

Proposed Amendment of Rules and Requirements

In the Matter of amendment of Part 83 to specify radio-telegraph auto alarm receiver timing tolerances, add requirements for reception of additional emissions, and to make editorial changes.

1. Notice of proposed rulemaking in the above entitled matter is hereby given.

2. Components of auto alarms—resistors, capacitances etc—in general are manufactured to fall within specified tolerances. Variations from a desired nominal value, whether they arise from the manufacturing process itself, from climatic influences, or from degradation due to misuse or aging, are reflected in the auto alarm's timing, which, as a consequence, may take on any of a whole range of values.

3. Present-day marine equipment regulations both international and domestic, however, do not allow for these variations in timing. As the regulations are currently written, equipment is expected in all cases to accept a precisely defined signal and to reject, without exception all other signals, i.e., all signals not meeting the rigid terms of the definition.

4. Unfortunately, this is a desideratum rather than an achieveable goal; equipment designs can only be realized with physical components and, given a batch of them whose elements are all nominally of the same value, their electrical characteristics always exhibit a spread of values. Accordingly equipment manufacturers, unable to guarantee absolute uniformity in the operation of their product, find themselves in a difficult situation: if the equipment they build accepts all the signals it is required to accept, it will not be able to reject all the signals it is required to reject, and vice versa. This proceeding proposes to grant them relief by specifying tolerances on auto-alarm timing that will establish the degree of variation deemed to be acceptable.

5. The International Convention for the Safety of Life at Sea, 1960 (SOLAS), to which the United States is signatory, requires that a certain class of vessels be provided with radiotelegraph auto alarms. These are radio devices, usually unattended, which are capable of receiving over the air an alarm signal transmitted by a distant ship or shore station; they are designed to respond to the signal by actuating an alerting device such as a bell at a location where a watch stander is present. The alarm signal is a radio wave made up, ideally, of twelve four-second dashes separated from each other by one-second spaces.

6. To allow for inaccuracies in sending and for the effect of atmospherics and other unpredictable phenomena, auto-alarm receivers should respond to dashes which are somewhat less or somewhat greater than four seconds in duration and to spaces which may be correspondingly lengthened or shortened. For this reason, regulation 10(a)(ii) of Chapter IV of SOLAS requires that the auto alarm "shall be actuated * * * when the dashes vary in length from 3.5 to as near 6 seconds as possible and the spaces vary in length between 1.5 seconds and the lowest practicable value, preferably not greater than ten milliseconds." This language is essentially repeated in the implementing rule, § 83.554(a)(1) of Part 83 of the FCC Rules and Regulations.

7. The reason for requiring the auto-alarm receiver to accept dashes as short as 3.5 seconds and spaces as long as 1.5 seconds is to take into account guesswork and nervousness on the part of the

sender in manual sending, malfunctions in automatic sending, rapid fading of the signal and other such likely but unforeseeable occurrences. The reason for requiring acceptance of dashes as long as 6 seconds and spaces as short as 10 milliseconds is based on the prime consideration that an auto-alarm receiver cannot distinguish between alarm signal dashes and continuous high-level noise or interference, and these may add to the apparent length of a given dash.

8. Assume a vessel at sea somewhere transmits an exact alarm signal—dashes exactly four seconds long separated by spaces exactly one second long. Assume that precisely at the end of a dash the receiving vessel receives a burst of static exactly one second long. Since the auto-alarm receiver cannot distinguish between the signal and atmospherics, it will hear in essence a nine-second dash and obviously will not interpret what it hears as part of an auto alarm signal sequence.

9. However, if a short interval of 10 milliseconds intervenes between the end of the static burst and the beginning of the succeeding four-second dash, and if the auto alarm has been designed to accept the 10 millisecond interval as a legitimate recognizable space, then the incoming signal will not be rejected. The auto alarm will have received what it takes to be a dash of 4.990 seconds (which is acceptable) followed by a space of .010 seconds (which is acceptable) followed in turn by a second acceptable dash.

10. As a worst case, the regulation makes provision for the following sequence: a four-second dash followed in turn by a 10 millisecond space, a 990 millisecond static burst, a four-second dash, another 990 millisecond static burst, a second 10 millisecond space, and then the alarm signal's third four-second dash. To the auto-alarm receiver, the combination of the second dash, flanked by the two 990 millisecond static bursts is indistinquishable from a dash of 5.980 seconds. It is this contingency for which the regulations attempt to allow when they call for acceptance by the auto alarm of dashes "as near six seconds as possible" and spaces at "the lowest practicable value, preferably not greater than ten milliseconds."

11. It is logical to proceed, then, on the assumption that the treaty and implementing regulations intend that auto alarm equipment be required to accept dashes at the lower end, as short as 3.5 seconds and, at the upper end, as close to 6 seconds as possible (but in any event with a duration of at least 5.980 seconds).

12. Since equipment can never be manufactured to exact specifications, manufacturers' tolerances must be considered in arriving at these figures. For the older auto-alarm receives a ±10% tolerance is taken to be reasonable in connection with the timing specifications. Here, setting any unit to have a response with a minimum dash length of 3.18 seconds would guarantee acceptance of a dash of 3.5 seconds by all units within the ±10% tolerance. A higher setting than 3.18 seconds clearly would be in violation of SOLAS and the FCC regulations, since it would ensure that some auto alarms within the ±10% tolerance would be unable to recognize a 3.5 second dash as acceptable.

13. The same may be said of the upper dash value. To strive for a setting of upper dash length of less than 6.66 seconds would make certain that some of the auto alarms falling within the manufacturer's specified 10% tolerance would not accept dashes of 5.98 seconds. This once again would lead to operation in contravention of the quoted SOLAS and FCC regulations.

14. For these reasons it is proposed in what follows that the older types of auto alarms, whose resistance-capacitance timing circuits are assumed to have a long-term tolerance of ±10%, be set at the factory or when serviced in the field, to accept minimum and maximum dash values of 3.18 and 6.67 seconds respectively. This will ensure acceptance by the auto-alarm in service of all dashes varying in length from 3.5 to 6.0 seconds.

15. Correspondingly, it is proposed that the upper value of space length be set at 1.7 seconds. This will make certain that equipment similarly limited by an equipment tolerance of ±10% will accept spaces of 1.5 seconds duration as required by the regulations.

16. One further point should be noted at this time. Regulation 10(a)(3) of Chapter IV of SOLAS and the Commission's implementing regulation, § 83.554 (a)(1)(vi) of Part 83 of the FCC Rules and Regulations, require that signals not falling within the previously quoted limits, namely dashes of less than 3.5 or greater than 6 seconds and spaces greater than 1.5 seconds, be rejected by the auto-alarm. It is clear that the intent of these regulations must be reinterpreted to take into account the introduction of equipment tolerances. The limits of the dash interval outside of which dashes are to be rejected must, therefore, be extended on each side by twice the rated tolerance. This will require that dashes less than 2.86 or greater than 7.34 seconds be rejected and that spaces greater than 1.84 seconds also be rejected. Tests carried out by the FCC laboratory have shown a significant degradation of auto-alarm performance in the presence of interfering signals and noise whenever the lower limit of the space is reduced to durations of the order of one or two milliseconds. It is, therefore, also being proposed that a minimum acceptable space length of 5 milliseconds be established; spaces with a duration of less than 5 milliseconds are not to be accepted as a legitimate space.

17. For the newer auto-alarms, e.g., solid state auto-alarms having digital counters activated by stable clocks as the basic timing device, long-term tolerances of the order of ±2% may be expected and should be made mandatory. Under these conditions performance will be improved and the incidence of false calls reduced. For example, calculations given in the attached Annex demonstrate that with a time base of 511 milliseconds, counting 3, 6, and 12 times to establish maximum space, minimum dash, and maximum dash respectively, a tolerance of ±2% will ensure that.

(a) Spaces up to 1.5, and dashes of between 3.5 and 6 seconds will be accepted both in type approval test (under the specified conditions) and in service as installed; and

(b) Spaces greater than 1.6, dashes less than 3.0 or greater than 6.3 seconds will be rejected.

Values of this order are therefore being proposed. Their derivation is given in the Annex.

18. With respect to the number of dashes required to actuate an auto alarm, there is presently an inconsistency in the Commission rules. Section 83.457 (a)(1) requires that the apparatus "respond to not less than 4 * * * consecutive dashes." Section 83.554(a)(1)(i) specifies, "The auto alarm shall be capable of being operated by either three or four consecutive dashes * * *" To remove this inconsistency, it is proposed to delete the words "either three or" from the quoted section. In this way the FCC rules, by being restricted to one of the two alternatives provided for in regulation 10(a)(ii) of Chapter IV of SOLAS, become self-consistent on this point.

19. Present regulations require the capability of response to A2 and B emissions. B is no longer a permissible emission and it is proposed to delete the reference to it in the present § 83.554(a)(1)(ii)(b). On the other hand, a change in the Radio Regulations of the International Telecommunications Union now requires reception of A2H emission. Further, since all U.S. approved auto alarms are capable of responding to A1 emission, it would be desirable to require a capability for its reception in the event such an alarm signal is actually transmitted. It is therefore proposed to include provision for the use of A1 and A2H emission in the above-quoted section.

20. Finally, some changes in the type approval test requirements have been proposed. These have to do with requiring tests with signals at additional input levels, emissions, modulating frequencies and percentages of modulation. A presently required noise test is being deleted because it is considered that present-day field tests conducted by the Commission's laboratory include a sufficient variety of noise conditions.

21. The proposed amendments to the rules, as set forth in the Appendix, are issued pursuant to the authority contained in sections 4(i) and 303 (e) and (r) of the Communications Act of 1934, as amended.

22. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested parties may file comments on or before September 23, 1974, and reply comments on or before October 3, 1974. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information be-

fore it, in addition to the specific comments invited by this Notice.

23. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission. Responses will be available for public inspection during business hours in the Commission's Public Reference Room in its headquarters in Washington, D.C.

Adopted: August 21, 1974.

Released: August 30, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
Secretary.

ANNEX

We consider a system employing clocks and digital counters with a tolerance specified for the clock period. It is required to mark the duration of three intervals given the following constraints:

(a) The interval 0–1.5 seconds, where the indication of 1.5 seconds will come as close to the termination of a true 1.5 second duration as may reasonably be expected in the light of the specified clock tolerance, but in no event to come *before* the completion of the 1.5 second period;

(b) The interval 0–3.5 seconds, where the indication of 3.5 seconds will come as close to the termination of a true 3.5 second duration as may reasonably be expected in the light of the specified clock tolerance, but in no event to extend *beyond* the completion of the 3.5 second period;

(c) The interval 0–6 seconds with constraints similar to those in (a) above.

It is evident that in (a) we should set our clock timing, n, so that at the multiple, m, selected by the counter the interval will be greater than 1.5 seconds by at least an amount generated by the clock tolerance, Tmm. Let the difference $mn-1.5=Tmm+p$. Simultaneously, (b) requires that we should seek a second multiple, k, of the same clock rate, n, yielding an interval less than 3.5 by at least an amount due to the clock tolerance. Here let $3.5-kn=Tkn+q$. If we wish to relate q to p by the ratio of the multiple chosen for each (i.e., if q should be $\frac{k}{m}$ or roughly $\frac{3.5}{1.5}$ times greater than p), then we may proceed as follows:

$$mn-Tmn=1.5+p \quad (1)$$

$$kn+Tkn=3.5-\frac{k}{m}p \quad (2)$$

or

$$bmn+bTmu=3.5-bp \quad (3)$$

where $b=\frac{k}{m}$;

n = the period of the clock in seconds;
m = smallest number of counts yielding an interval of $\geq$1.5 seconds;
k = greatest number of counts yielding an interval $\leq$3.5 seconds;
T = tolerance of the clock expressed as a decimal;
p = a kind of margin of safety in seconds defined by (1).

From (1) $bmn-bTmn=1.5b+bp$ (4)

From (3) and (4) $2bmn=3.5+1.5b$ (5)

or $$mn=.75+\frac{1.75}{b} \quad (6)$$

From (1) and (6)

$$(1-T)\left(.75+\frac{1.75}{b}\right)=1.5+p \quad (7)$$

The optimum case obviously occurs when p=0.

Under this limiting condition, we can solve for b, given any tolerance T.

Thus if we have a clock tolerance of .02, then the limiting value of b is 2.2418300653595. Since b is defined in terms of a rational fraction with integral numerator and denominator, its value may be approximated by the following series of ratios, all less than the limiting value.

TABLE I

Ratio:	*Decimal Values*
6:3	2.0
11:5	2.2
20:9	2.222
29:13	2.23076923 ....
38:17	2.235294 ....
47:21	2.238095 ....
56:25	2.24
65:29	2.2413793103448
Limit	2.2418300653595

Present day equipment is usually set up for a ratio of 7:3 with a clock timing of n = .5 seconds. This of course allows for a tolerance of zero as may be seen from equation (7).

$$(1-0)\left(.75+\frac{1.75}{\frac{7}{3}}\right)=\frac{3}{4}+\frac{\frac{7}{4}}{\frac{7}{3}}=\frac{3}{4}+\frac{3}{4}$$

$$=1.5$$

Consequently for this value T=p=0 and, therefore, this ratio 7:3 which equals 2.333 .... is unacceptable. However, from the point of view of retrofitting, it is desirable to leave n as close as possible to .5 seconds, to have b represented by a simple fraction whose numerator and denominator are integers as close to 7 and 3 respectively as is practicable, and whose T is of the order of .02.

With T equal to .02, three ratios from the table commend themselves to our attention: 6:3, 11:5, and 65:29. The first offers a great advantage in that the retrofit presents no substantial economic problem. The clock timing is changed from .5 seconds to .5416 seconds, and the second count is reduced from 7 to 6. Unfortunately, p is high—of the order of 6%—so that the overall reject is in the neighborhood of 10%. That is to say, with a two percent clock tolerance, when the timing is set to .5416 in order to ensure the legitimacy of a space 1.5 seconds in duration, we can not guarantee the rejection of any space less than 1.6575. And similarly with the upper and lower dash limits.

If we reduce the clock timing to .3091 seconds and use the ratio b = 11:5, then the reject value drops to 1.576 . . or approximately 5%. Here the possibility of false alarms is reduced but the price of retrofitting may be substantially increased.

Lastly, if we reduce the clock timing to .0528 and make use of the ratio b = 65:29, the reject value becomes 1.5614 or a little more than 4% (the theoretical minimum is .04 = 2T). Here the rejection is close to ideal but the retrofitting may pose still greater difficulties.

The analysis thus far is based on a tolerance of T = .02 and the requirement $q=\frac{k_p}{m}$. In this connection the simple ratio 9:4 looks attractive but its decimal value is equal to 2.25 and this is clearly greater than the 2.24183 . . . . that is the limit for T= .02.

If however we solve equation (7) for T assuming values of b=2.25 and p=0, we arrive at a value of tolerance equal to .01818. This value is only slightly more difficult to meet than .02, but it gives us the advantages of a high clock period of approximately .382, with low counts of 4 and 9 for the 1.5 and 3.5 intervals respectively. The reject for 1.5 is 1.555 or the minimum possible since p=0 and the reject for 3.5 is 3.375 or the maximum possible since q =0.

Another avenue worth exploring is to remove the restriction that

$$q=\frac{k}{m}p.$$

Here, for a tolerance of .02, a ratio of 12:6:3, and a choice of n = .511, we may arrive at reject values of 1.5637 for 1.5, and 3.0 for 3.5. Other combinations may easily be found. A summary of the cases considered is given in Table II.

TABLE II

	$p=\frac{k}{m}q$				$p\neq\frac{k}{m}q$
Clock tolerance T	0.01818 . . .		0.02		
Ratio j:k:m	16:9:4	12:6:3	20:11:5	116:65:29	12:6:3
Clock period n (seconds)	.3819444 . . .	.5416	.30909 . . .	.052785 . . .	.511
Mn	1.52777 . . .	1.625	1.54545 . . .	1.53076923 . . .	1.533
Tmn	.02777 . . .	.0325	.030909 . . .	.03661538 . . .	.03066
(1−T) mn	1.5	1.5925	1.514545 . . .	1.500153846	1.50234
(1−T) mn−1.5=p	0	.0925	.014545 . . .	.0001538	.00234
Reject 1.5=(1+T) mn	1.5555 . . .	1.6575	1.576363 . . .	1.56138461	1.56366
Kn	3.4375	3.25	3.4	3.43103448	3.066
Tkn	.0625	.065	.068	.06862069 . . .	.06132
(1+T) kn	3.5	3.315	3.468	3.49965517 . . .	3.12732
3.5−(1+T) kn=q	0	.185	.032	.00034483	.37268
Reject 3.5=(1−T) kn	3.375	3.185	3.332	3.36241379	3.09468

[1] Commissioners Reid and Hooks absent.

APPENDIX

In § 83.554(a), the introductory text and subparagraphs (1)(i), (1)(ii), (2)(i)(a), and (5)(i) are amended to read as follows:

§ 83.554 Requirements for radiotelegraph auto alarm.

(a) To be type approved by the Commission pursuant to section 3(x) of the Communications Act subsequent to July 1, 1975, radiotelegraph auto alarms shall comply with the following requirements:

(1) *Basic technical requirements.* (i) The auto alarm shall be capable of being operated by four consecutive dashes when the dashes vary in length from 6.0 to 3.5 seconds, and the intervening spaces vary in length between 1.5 seconds and 10 milliseconds. It shall not respond to dashes longer than 6.31 seconds or shorter than 3.33 seconds, nor to spaces longer than 1.58 seconds or shorter than 5 milliseconds except as follows:

(*a*) Auto alarms of the non-digital type employing resistance-capacitance timing covered by type approval granted before October 1, 1969, and placed in service on or before January 1, 1975, need only satisfy the following less stringent rejection limits; the auto alarm shall not respond to dashes longer than 7.40 seconds or shorter than 2.80 seconds, nor to spaces longer than 1.80 seconds or shorter than 5 milliseconds.[1] This exception shall not continue in effect after July 1, 1980.

(*b*) Auto alarms of the digital type employing a stable clock as the basic timing device covered by type approval granted before May 1, 1968, and placed in service on or before January 1, 1975, may be permitted additionally to accept dashes whose lower limit extends beyond 3.33 seconds down to 3.0 seconds.[1] This exception shall not continue in effect after July 1, 1980.

(ii) In the absence of interference of any kind, without manual adjustment during operation, the auto alarm shall be capable of positive and reliable operation with a minimum available signal of 100 microvolts RMS from the antenna circuit. It shall be capable under these conditions of operation on signals of the following classes of emission:

(*a*) A1;

(*b*) A2 (carrier modulated at any given modulation percentage from 30 to 100 percent at any given modulation frequency from 300 to 1350 hertz, inclusive);

(*c*) A2H (carrier keyed and emitted at any given power level from 3 to 6 decibels below peak envelope power, modulated at any given modulation frequency from 300 to 1350 hertz, inclusive).

* * * * *

(2) * * *

(i) * * *

(*a*) A radio receiver capable of receiving emissions of classes A1, A2, and A2H over the entire frequency range 492 to 508 kHz, inclusive.

* * * * *

(5) *Requirements as to laboratory tests.* (i) The following tests shall be conducted by the Commission's Laboratory at Laurel, Maryland, and shall be at the expense of the manufacturer or person submitting the auto alarm for approval, in the amounts specified in § 1.1120 of the Commission's Rules for the application filing fee and grant fee, respectively, plus shipping charges. The tests will be conducted using signals with A1, A2, and A2H emission, with modulation percentages and modulation frequencies as described in the following paragraphs, with the auto alarm connected to an artificial antenna consisting of a 20 microhenry inductance, a 500 picofarad capacitor, and a 5 ohm resistor connected in series. The receiver will be tested with its internal sensitivity control (if provided) set at maximum sensitivity, except where otherwise specified herein. The signal levels specified herein refer to the RMS value of signal present at the signal generator output terminal without external loading.

(*a*) Test of sensitivity of the auto alarm at the radio frequency 500 kHz to determine operation of the aural warning device.

(*1*) Measurements of minimum radio frequency signal input, keyed with alarm signal, 30 percent modulated with 300 Hz tone, required to operate aural warning device.

(*2*) Test of operation using 100 microvolts radio frequency input, keyed with alarm signal, 30 percent modulated with 300 Hz tone.

(*3*) Test of operation using 1 volt radio frequency input, keyed with alarm signal, 30 percent modulated with 300 Hz tone.

(*4*) Repeat of tests as in paragraph (a)(5)(i)(*a*)(*1*), (*2*), and (*3*), 30 percent modulated with 1350 Hz tone.

(*5*) Repeat of tests as in paragraph (a)(5)(i)(*a*) (*1*), (*2*), (*3*), *and* (*4*) *of* this section with 100 percent modulated signal.

(*b*) Test to determine operation of aural warning device from a 100 microvolts alarm signal, 30 percent modulated with a 300 hertz tone transmitted on any radio frequency or frequencies selected by the Commission from 492 to 508 kHz, inclusive.

(*c*) Test of auto-alarm operation with internal receiver sensitivity control (if provided) set at minimum setting at which 100 microvolts input on the radio frequency 492 kHz will operate aural warning device with simultaneous inputs of 100 microvolts auto-alarm signal, 30 percent modulation with an 800 hertz tone on 492 kHz and 200,000 microvolts, (800 hertz modulation) unkeyed signal on the frequency 350 kHz; similar tests with the same alarm signal and a 25,000 microvolts, (800 hertz modulation) unkeyed signal on the frequency 460 kHz; similar test with internal receiver sensitivity control (if provided) set at minimum setting at which 100 microvolts input on the frequency 508 kHz will operate aural warning device with simultaneous input of unkeyed signal on the frequency 540 kHz at 25,000 microvolts; and similar test with this latter signal on the frequency 650 kHz at 200,000 microvolts.

(*d*) Test of selector response to and rejection of dashes and spaces as provided in § 83.554(a)(1)(i). The tests will be made on the radio frequency 500 kHz with any input from 100 microvolts to 1 volt RMS, A1, A2, and A2H emission at any modulation from 30 to 100 percent, and any modulation frequency from 300 to 1350 Hz.

* * * * *

[FR Doc.74-20337 Filed 9-4-74;8:45 am]

[1] The acceptability of an auto alarm during field inspection under the limits specified in this exception will be determined in the absence of interference of any kind.

FEDERAL POWER COMMISSION

[18 CFR Part 141]

[Docket No. RM75-5]

ENVIRONMENTAL PROTECTION FACILITIES AND ACTIVITIES

Cost Reporting Requirements

AUGUST 29, 1974.

Pursuant to 5 U.S.C. 553 and sections 301, 304, and 309 of the Federal Power Act (49 Stat. 854, 855–856, 858–859; 16 U.S.C. 825, 825c, 825h), the Commission gives notice it proposes to amend, effective for the reporting year 1974, certain schedule pages of the Commission's Annual Report Form No. 1, Annual Report for Electric Utilities, Licensees and Others (Class A and Class B) prescribed by § 141.1, Chapter I, Title 18, CFR.

The Commission, considering the extensive environmental programs being undertaken by the electric utilities, believes that it is necessary and expedient for the Commission and the public to have an insight into the kind and magnitude of the costs being incurred for and the operating expenses of the environmental protection facilities and programs.

We recognize that the identification and quantification of "environmental costs" requires judgment. Some guidance is provided to aid in this process. At present, there is an absence of data being reported in the Form No. 1 concerning these costs. We believe that the suggested reporting system will yield valid and reliable information if sufficient objectivity is forthcoming. Obviously, overstated costs would be no better than insufficient data.

We are accordingly proposing the addition of two new schedules to the FPC Annual Report Form No. 1. The first of the proposed schedules would provide for the reporting of capital expenditures incurred in constructing new facilities or modifying existing facilities for the purpose of maintaining or upgrading the quality of the environment, concerning the production, transmission, and distribution of electrical energy. The expenses associated with the operation and maintenance of these facilities and with other environmental programs would be

reported in the second proposed schedule. The areas of concern to be considered in the schedules would include:

CAPITAL COSTS

1. Air pollution control facilities.
2. Water pollution control facilities.
3. Solid waste disposal costs.
4. Nuclear radiation control facilities.
5. Noise abatement equipment.
6. Esthetic costs.
7. Miscellaneous, with significant costs being identified.

EXPENSE ITEMS

1. Depreciation.
2. Labor, maintenance, materials and supplies costs related to environmental facilities and programs.
3. Fuel related costs.
4. Replacement power, purchased or generated.
5. Interest expense.
6. Taxes and fees.
7. Other, with significant costs being identified.

It is intended that capital cost data (Attachment A)[1] be reported for all existing plant facilities, regardless of age, so long as they are readily identifiable as having been constructed for environmental protection rather than operational purposes. The presence or absence of legislation in each particular jurisdiction requiring specific facilities or activities should not be considered as a limiting factor in determining the applicability of the proposed reporting requirements.

Attachment B[1] provides for the reporting of expenses related to environmental protection activities on an annual basis. These expenses would include, among other things, the difference in cost of environmentally clean low sulfur or low ash fuels over currently available alternative fuels that would otherwise be used. Another item to be included in this schedule would be the cost of replacement power, whether purchased or generated, necessary to compensate for reduced salable output of the respondent's existing plant as a result of the addition of pollution control equipment, use of alternative environmentally preferable fuels or environmental regulations of governmental bodies.

In Attachment A the costs reported are to reflect the difference in cost of facilities or equipment installed for environmental considerations over the cost of alternative facilities which would otherwise be used without environmental considerations. In Attachment B the expenses reported are to reflect the additional costs incurred due to the operation of environmental protection equipment, facilities and programs over operating expenses that would otherwise be incurred without environmental considerations. The basis for determining costs without environmental considerations will be the best engineering design achievable without environmental restrictions.

In those instances where it will be necessary to apportion the cost of plant or determine the excess of one fuel cost over another or any similar instances, it is proposed that the respondents furnish, on the appropriate schedule page and such additional pages as are necessary, the basis of such apportionments or determinations when preparing the schedules.

It is not our intention, at this time, that utilities be required to establish accounting systems to provide for the accumulation of the costs and expenses of environmental protection facilities and programs. The reported costs should be on the basis of the original or actual costs if available, otherwise on a best estimates basis.

The proposed amendments to the FPC Form No. 1 would be issued under the authority granted the Federal Power Commission by the Federal Power Act, as amended, particularly sections 301, 304, and 309 (49 Stat. 854, 855–856, 858–859; 16 U.S.C. 825, 825c, 825h).

(A) It is proposed to amend paragraph (d) of § 141.1, Chapter I, Title 18 of the Code of Federal Regulations by adding two schedules entitled "Environmental Protection Facilities" and "Environmental Protection Expenses" immediately following the schedule entitled "Research and Development Activities." As so amended, that portion of § 141.1 (d) will read:

§ 141.1 Form No. 1 Annual Report for electric utilities, licensees and others (Class A and Class B).

* * * * *

(d) * * *

Environmental Protection Facilities.
Environmental Protection Expenses.

* * * * *

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, to be received by October 15, 1974, data, views, comments or suggestions in writing concerning all or part of the proposed revised report forms. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the staff on the Federal Power Commission to discuss the proposed revisions. The staff, in its discretion, may grant or deny requests for conference.

(B) Effective for the reporting year 1974, it is proposed to revise and add certain schedule pages of FPC Form No. 1, Annual Report for Electric Utilities, Licensees and Others (Class A and Class B) prescribed by § 141.1, Chapter I, Title 18 of the Code of Federal Regulations, all as set out in Attachments A, B, and C hereto.[1]

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 74-20534 Filed 9-4-74;8:45 am]

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

[18 CFR Parts 141, 260]

[Docket No. RM75-7]

SCHEDULE PAGES 104 AND 105, ANNUAL REPORT FORMS NO. 1 AND NO. 2

Proposed Amendments

AUGUST 29, 1974.

Pursuant to 5 U.S.C. 553, sections 3, 4, 301, 304, and 309 of the Federal Power Act (41 Stat. 1063, 1064, 1065, 1066; 46 Stat. 798; 49 Stat. 838, 839, 840, 841, 854, 855, 856, 858, 859; 61 Stat. 501; 16 U.S.C. 796, 797, 825; 825c, 825h) and sections 8, 10, and 15 U.S.C. 717g, 717i, 717o) of the Natural Gas Act, the Commission gives notice it proposes to amend, effective January 1, 1974:

A. Certain schedules of FPC Form No. 1, Annual Report for Electric Utilities, Licensees and Others (Class A and Class B) prescribed by 18 CFR 141.1.

B. Certain schedules of FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B) prescribed by 18 CFR 260.1.[1]

The provisions of this rulemaking would:

Revise instruction 7 on schedule page 104, Officers, and add a new instruction 8 to require disclosure of all officerships or directorships held by officers of the reporting company,

Revise instruction 2 and add two new instructions 4 and 5 on schedule page 105, Directors, to require disclosure of all officerships or directorships held by directors of the reporting company.

The proposed reporting requirements will basically be the same for both officers and directors as follows:

7. (4) Where an officer (director) holds an officership or directorship in another company (or companies), furnish an explanation to include the name and the primary business of the other company, the position held and the nature and extent of transactions between the respondent and the other company(s) during the year.

8. (5) Where an officer (director) maintains a controlling interest or 10 percent or more of the common stock of a company in which he is not an officer or director, disclose in column (e) [(g)] the name and primary business of the other company, and describe the means of control and the nature and extent of transactions between the respondent and the other company(s) during the year.

[1] Attachment filed as part of original document.
[1] Attachments A, B, and C filed as part of the original document.

Our present reporting requirements may not provide adequate disclosure of interlocking officerships and directorships between a regulated company and other companies that may have current or future business relationships with the regulated company. We are proposing that all such interlocking positions be fully disclosed so as to enable this Commission, in carrying out its regulatory responsibilities, and for stockholders, consumers, and the public in general to be cognizant of the possible influence that might be exercised over business operations of the regulated companies by virtue of the interlocking positions.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than October 16, 1974, data, views, comments, or suggestions in writing concerning all or part of the proposed revised report forms. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the proposed revisions. The staff, in its discretion, may grant or deny requests for conference.

(A) Effective for the reporting year 1974, it is proposed to:

(1) Revise schedule pages 104, Officers and 105, Directors, of FPC Form No. 1, Annual Report for Electric Utilities, Licensees and Others, (Class A and Class B) prescribed by 18 CFR 141.1, all as set out in Attachment A hereto.

(2) Revise schedule pages 104, Officers, and 105, Directors, of FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B) prescribed by 18 CFR 260.1, all as set out in Attachment A hereto.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-20532 Filed 9-4-74;8:45 am]

[18 CFR Parts 141, 260]

[Docket No. RM75-4]

FPC FORMS

1974 Reporting Year

AUGUST 29, 1974.

Pursuant to 5 U.S.C. 553, sections 301, 304, and 309 of the Federal Power Act (49 Stat. 838, 854, 855-856, 858-859; 16 U.S.C. 825, 825c, 825h) and sections 8, 10, and 16 of the Natural Gas Act (52 Stat. 825-826, 830; 15 U.S.C. 717g, 717i, 717o), the Commission gives notice it proposes to revise for the reporting year 1974.

A. Certain schedules of FPC Form No. 1, Annual Report for Electric Utilities, Licensees and Others (Class A and Class B) prescribed by Section 141.1, Chapter 1, Title 18, CFR.

B. Certain schedules of FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B) prescribed by § 260.1, Chapter I, Title 18, CFR.

The proposed revisions will cause minor reporting changes to various pages in Annual Report Forms No. 1 and No. 2. Primarily the changes will add clarification to existing instructions with only a slight increase in reporting burden. The need for the proposed revisions stem from our past experience in working with the following affected schedules.

FPC FORMS NO. 1 AND NO. 2

Schedule Title	Proposed Changes	Attachment
Statement of retained earnings for the year.	Subheading "Transfers from Account 216.1" added to obtain uniform reporting.	A, p. 117.
Investments	Amends (1) instruction 3 to require reporting of date security is acquired and date of maturity, in column (a) rather than in columns (b) and (c) this will create space to add two new columns entitled "Purchases or Additions During Year" and "Sales or Other Dispositions During Year." These new columns will enlighten interested parties as to the annual activity in this area during the year consistent with similar schedules; and (2) Instruction 4 to clarify that advances subject to repayment currently be included in accounts 145 and 146 and not included in this schedule.	A, p. 202.
Deferred regulatory Commission Expenses.	Eliminates schedule page. This information will be reported on the regulatory Commission expense schedule, p. 353, thus eliminating reporting on this subject on 2 separate schedules.	A, p. 214.
Extraordinary items	Amends the schedule to provide that column (c) entitled "Related Federal Taxes," will include all income taxes not just Federal income taxes, thus more inclusive reporting.	A, p. 306.
Regulatory Commission expenses	Revises schedule to incorporate information reported on another schedule page 214, deferred regulatory Commission expenses, aforementioned. This will consolidate all reported information relative to this subject on one single schedule. In addition, we are requesting information on annual amortization of these expenses and require that they be classified by departments and account. Ultimately, the information requested will be more meaningful than that now reported.	A, p. 353.
Distribution of salaries and wages	Reporting of the water department distribution of salaries and wages would be eliminated as the information is of little or no use to the Commission.	A, p. 356.

FPC FORM NO. 1

Electric plant acquisition adjustments and accumulated provision for amortization of electric plant acquisition adjustments.	Amends instruction 2 to require a separate subheading for each account "Electric Plant Acquisition Adjustments" and "Accumulated Provision for Amortization of Electric Plant Acquisition Adjustments", and amends instruction 5 to reflect any acquisition adjustment not currently being amortized. Additional columns are added to provide a format consistent with other similar schedules to reflect changes during the year. Information presently reported is not adequate to afford evaluation of activity in this important area.	B, p. 407.
Accumulated provision for depreciation of electric utility plant.	Amends instruction 4 to provide more detail reporting to the extent that retirement work in progress amounts will be reported on a functional basis at year end.	B, p. 408.

FPC FORM NO. 2

Accumulated provision for depreciation of gas utility plant.	Amends instruction 4 to provide more consistent reporting to the extent that retirement work in progress amounts will be reported on a functional basis at year end.	C, p. 508.
Gas plant acquisition adjustments and accumulated provision for amortization of gas plant acquisition adjustments.	Amends instruction 2 to require a separate subheading for each account "Gas Plant Acquisition Adjustments" and "Accumulated Provision for Amortization of Gas Plant Acquisition Adjustments" and amends instruction 5 to reflect any acquisition adjustment not currently being amortized. Additional columns are added to provide a format consistent with other similar schedules to reflect changes during the year. Information presently reported is not adequate to afford evaluation of activity in this important area.	C, p. 513.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, to be received no later than October 15, 1974, data, views, comments or suggestions in writing concerning all or part of the proposed revised report forms. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the

person filing them requests a conference with the staff on the Federal Power Commission to discuss the proposed revisions. The staff, in its discretion, may grant or deny requests for conference.

(A) Effective for the reporting year 1974, it is proposed to:

(1) Revise certain schedule pages of FPC Form No. 1, Annual Report for Electric Utilities, Licensees and Others, (Class A and Class B) prescribed by § 141.1, Chapter I, Title 18 of the Code of Federal Regulations, all as set out in Attachments A and B.[1]

(2) Revise certain schedule pages of FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B) prescribed by § 260.1, Chapter I, Title 18 of the Code of Federal Regulations all as set out in Attachments A and C.[1]

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH PLUMB,
Secretary.

[FR Doc.74-20533 Filed 9-4-74;8:45 am]

[18 CFR Part 201]

[Docket No. RM75-6]

ADVANCES FOR GAS EXPLORATION, DEVELOPMENT AND PRODUCTION

Uniform System of Accounts

AUGUST 29, 1974.

Pursuant to 5 U.S.C. 553, sections 8, 10, and 16 of the Natural Gas Act (52 Stat. 825, 826, 830; 15 U.S.C. 71g, 717i, 717o), the Commission gives notice it proposes to amend Account 166, Advances for Gas Exploration, Development and Production, in the Uniform System of Accounts for Class A and Class B Natural Gas Companies, prescribed by Part 201, Chapter I, Title 18, CFR.

It has come to the attention of the Commission that a number of advance payment agreements on file with the Commission under Orders No. 465 and 499[1] either do not include provisions for the actual pricing of the gas to be sold to pipeline companies or may include pricing provisions that are inconsistent with our present policies. It has also been found that some contracts enacting advance payments do not provide for long-term commitment to the pipeline company of any natural gas discovered from expenditures of the advance payment.

Either the absence in contracts of pricing provisions or the presence of pricing stipulations inconsistent with our present policies may work to invalidate the advance payment contracts. While Paragraph E of Account 166[2] provides the customer of the pipeline some degree of rate protection, the principal objective of our advance payment program would not be fulfilled if gas does not flow to the advancing pipeline company.

With respect to commitment of any reserves found to the pipeline company, the Commission stated in Order No. 465 and again in Order Denying Rehearing of Order No. 499 (issued February 22, 1974) as a matter of policy that in considering rate base treatment for advances initially, the Commission would consider whether or not a sufficient portion of the gas reserves found as a result of an advance is dedicated to the pipeline making the advance.

The Commission, therefore, proposes to amend Account 166 by amending Paragraph A which would require, as an element of determining rate treatment, that all advance payment agreements shall require dedication to long-term contracts and specify that the selling price of the committed gas shall be governed by and limited to the applicable just and reasonable rate which has been prescribed by the Commission.

Comments are also requested from interested parties on the advisability of imposing an interest element to be included in the refunds when ordered, in compliance with Paragraph E, as a further assurance that the pipeline customers will be protected and compensated when refunds are ordered because the gas is not being sold to the pipeline company making the advance.

The proposed revision to Account 166, Advances for Gas Exploration, Development and Production, of the Commission's Uniform System of Accounts would be issued under authority granted the Federal Power Commission by the Natural Gas Act, particularly sections 8, 10, and 16 (52 Stat. 825, 826, 830; 15 U.S.C. 717g, 717i, 717o).

The following is a proposed amendment to the Uniform System of Accounts for Class A and Class B Natural Gas Companies in Part 201, Chapter I, Title 18 of the Code of Federal Regulations:

Amend the text of the balance sheet account by amending account "166, Advances for Gas Exploration, Development and Production," by adding a new sentence immediately after the second sentence of paragraph A and revising the second sentence of paragraph E. As so amended, account 166 will read:

166 Advances for gas exploration, development and production.

A. * * * All agreements executed after _____ (issuance date of Order No. __) shall specify that (1) the pipeline shall have first call on gas produced under long-term contracts, and (2) the selling price of the gas committed shall be governed by and limited to the applicable just and reasonable rate which has been prescribed by the Commission. * * *

* * * * *

E. * * * Any revenues collected as a result of the advance being included in rate base shall be refunded by the pipeline company to its customers, together with interest at the rate of seven percent per annum, from the date of payment until refunded, within 12 months after the removal of the advance from this account, unless otherwise directed by the Commission. * * *

* * * * *

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, to be received no later than October 15, 1974, data, views, comments or suggestions in writing concerning all or part of the proposals herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the proposed revisions. The staff, in its discretion, may grant or deny requests for conference.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-20531 Filed 9-4-74;8:45 am]

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

[1] Docket No. R-411 (Renotice), issued December 29, 1972, and Docket No. RM74-4, issued December 28, 1973, respectively.

[2] "When an advance which is or has been included in this account and in rate base results in a source of proven reserves of natural gas, gas deliveries commence but *no gas flows to the pipeline company making such advance*, the amount of the advance shall be removed from this account (and from rate base) and recorded in Account 167, Other Advances for Gas. Any revenues collected as a result of the advance being included in rate base shall be refunded by the pipeline company to its customers within 12 months after the removal of the advance from this account, unless otherwise directed by the Commission. Where there is partial recovery of the advance by gas, in this situation, the amount of the advance transferred from this account to Account 167 and the amount of revenues refunded shall be appropriately apportioned." (Italic added.)

VETERANS ADMINISTRATION

[38 CFR Part 21]

EDUCATIONAL BENEFITS

Extension of Delimiting Period

These changes to §§ 21.1041, 21.1042, 21.3041 and 21.3046 are intended to conform the regulations to the requirements enacted in Public Law 93-337 (88 Stat. 292) which extends the delimiting period from 8 to 10 years for veterans under Chapter 34, Title 38, United States Code and wives, husbands, widows, widowers and certain children under Chapter 35. In addition editorial changes were made in §§ 21.1041(a)(4), 21.3040 (c) and (d) and 21.3041(d) (1) and (3) designed to reflect agency policy to avoid any appearance of seeming to preclude benefits for female veterans, their dependents and survivors.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (27A1), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All relevant material received before October 7, 1974 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is also given that it is proposed that amendments to §§ 21.1041(a)(3) and (d), 21.1042, 21.3041(d) introduction and subparagraph (8) and 21.3046 be made effective June 1, 1974.

1. In § 21.1041, paragraph (a)(3) and (4) and the introductory portion of paragraph (d) preceding subparagraph (1) are amended to read as follows:

§ 21.1041 Periods of entitlement.

(a) *General.* * * *

(3) The veteran may use his or her entitlement at any time during the 10-year period determined under § 21.1042. It is not required that the entitlement time will be used in consecutive months.

(4) The 36-months limitation may be exceeded where an extension is authorized under paragraph (d) of this section, or where no charge against entitlement is made based on a course or courses pursued at a secondary school level, as provided in § 21.1045(a), pursued by a veteran under the Program of Special Assistance for the Educationally Disadvantaged or by a serviceman or servicewoman under the Predischarge Education program, or pursued by a wife, husband, widow, or widower under the Special Assistance for the Educationally Disadvantaged program.

* * * * *

(d) *Extension.* The period of entitlement, including the 36-months period, may be extended, but not beyond the 10-year delimiting date specified in § 21.1042:

* * * * *

2. Section 21.1042 is revised to read as follows:

§ 21.1042 Ending dates of eligibility.

The ending date of eligibility will be the latest of the following dates:

(a) *General.* No educational assistance will be afforded a veteran later than 10 years after his or her last discharge or release from active duty after January 31, 1955.

(b) *Correction of military records.* If the veteran became eligible for educational assistance as the result of a correction of military records under 10 U.S.C. 1552 or a change, correction, or modification of a discharge or dismissal pursuant to 10 U.S.C. 1553, or other corrective action by competent military authority, educational assistance will not be afforded later than 10 years after the date his or her discharge or dismissal was changed, corrected or modified.

(c) *Initial eligibility—(1) Discharge or release before June 1, 1966.* Where eligibility is based on a discharge or release from active duty before June 1, 1966, educational assistance will not be afforded later than May 31, 1976.

(2) *Discharge or release before August 31, 1967.* Where eligibility is based on a discharge or release from active duty before August 31, 1967, educational or training assistance based on a course of apprentice or other on-the-job training, flight training, or farm cooperative training approved under the provisions of § 21.4261, 21.4262, 21.4263 or 21.4264 will not be afforded later than August 30, 1977. (38 U.S.C. 1662).

(d) *Discontinuance.* If the veteran is pursuing a course on the date of expiration of eligibility as determined under this section, the educational assistance allowance will be discontinued effective the day preceding the end of the 10-year period. (38 U.S.C. 1662).

(e) *Periods excluded.* There shall be excluded in computing the 10-year period of eligibility for educational assistance under this section, any period during which the eligible veteran subsequent to his or her last discharge or release from active duty was captured and held as a prisoner of war by a foreign government or power plus any period immediately following the veteran's release from detention during which he or she was hospitalized at a military, civilian, or Veterans Administration medical facility, provided:

(1) the veteran served on or after January 1, 1955, and

(2) the veteran was eligible for educational assistance under the provisions of chapter 34 or chapter 36 of title 38, United States Code. (38 U.S.C. 1662; Pub. L. 93-337; 88 Stat. 292)

3. In § 21.3040, paragraphs (c) and (d) are revised to read as follows:

§ 21.3040 Eligibility; child.

* * * * *

(c) *Age limitation for commencement.* No person is eligible for educational assistance who reached his or her 26th birthday on or before the effective date of a finding of permanent total service-connected disability, or on or before the date the veteran's death occurred, or on or before the 91st day of listing by the Secretary concerned of the member of the Armed Forces on whose service eligibility is claimed as being in one of the missing status categories of § 21.3021(a)(1)(iv) and (3)(ii).

(d) *Termination of eligibility.* No person is eligible for educational assistance beyond his or her 31st birthday, except as provided under § 21.3041(e)(3). In no event may educational assistance be provided after the period of entitlement has been exhausted. In an exceptional case special restorative training may be provided in excess of 36 months. See § 21.3300.

4. In § 21.3041(d), the introductory portion preceding subparagraph (1), and subparagraphs (1), (3) and (8) are amended to read as follows:

§ 21.3041 Periods of eligibility; child.

* * * * *

(d) *Modified ending date.* When one of the following occurs between ages 18 and 26, the ending date will be the eligible person's 26th birthday or 5 years from the date of happening specified in subparagraphs (1) to (7) of this paragraph and 10 years in subparagraph (8) of this paragraph, whichever is later. Where the ending date is subject to modification under more than one of subparagraphs (3), (4), (5), (6) or (7) of this paragraph the more favorable date will apply. In no case will the modified ending date extend beyond the eligible person's 31st birthday.

(1) Effective date of permanent total rating of veteran-parent or the date of notification to him or her of such rating, whichever is the more advantageous to the eligible person. (38 U.S.C. 1712)

* * * * *

(3) Date of first unconditional discharge or release from "duty with the Armed Forces" served as an eligible person if he or she served after age 18 and before age 26. See § 21.3042.

* * * * *

(8) Enactment of Public Law 92-540 (86 Stat. 1074) on October 24, 1972, providing for a course of apprentice or other on-the-job training approved under the provisions of § 21.4261 or 21.4262; that is October 24, 1982 or until age 31, whichever is earlier.

* * * * *

5. Section 21.3046 is revised to read as follows:

§ 21.3046 Periods of eligibility; wives, husbands, widows, and widowers.

The period of eligibility cannot exceed 10 years and can be extended only as provided in paragraph (c) of this section. If eligibility arises before Oc-

tober 24, 1972, educational assistance based on a course of apprentice or other on-the-job training, or correspondence approved under the provisions of §§ 21.4256, 21.4261 and 21.4262 will not be afforded later than October 23, 1982. The period of eligibility of a wife or husband computed under the provisions of paragraph (a) of this section, however, will be recomputed under the provisions of paragraph (b) of this section if her or his status changes to that of widow or widower.

(a) *Wives or husbands.* (1) If the permanent total rating is effective before December 1, 1968, the beginning date of the 10-year period of eligibility is December 1, 1968.

(2) If the permanent total rating is effective on or after December 1, 1968, or the notification to the veteran of such rating was on or after that date, the beginning date of the 10-year period of eligibility is the effective date of the rating or the date of notification, whichever is more advantageous to the wife or husband.

(3) If eligibility arises under § 21.3021 (a) (3) (ii) the beginning date of the 10-year period is December 24, 1970, or the date the member of the Armed Forces on whose service eligibility is based was so listed by the Secretary concerned, whichever last occurs.

(b) *Widows or widowers.* (1) If the veteran's death occurred before December 1, 1968, the beginning date of the 10-year period is December 1, 1968.

(2) If the veteran's death occurred on or after December 1, 1968, the beginning date of the 10-year period is the date of death.

(c) *Extension to ending date.* Wife or husband is enrolled and eligibility ceases for a reason specified in subparagraph (1), (2) or (3): extended to end of quarter or semester for schools operating on quarter or semester system, or for schools not operating on quarter or semester system, to end of course or for 9 weeks, whichever is earlier. In a course pursued exclusively by correspondence, the period of eligibility will be extended to the end of the course or for the total additional amount of instruction that $462 will provide, whichever is less. No extension may exceed maximum entitlement or extend beyond the 10-year delimiting date specified in paragraph (a) of this section. Extension is authorized without regard to whether the midpoint of the quarter, semester or term has been reached. No extension of the period of eligibility will be made where training is pursued in a training establishment as defined in § 21.4200(c).

(1) Veteran is no longer rated permanently and totally disabled.

(2) Wife or husband is divorced from veteran without fault on her or his part.

(3) Spouse no longer is listed in any of the categories of § 21.3021(a) (3) (ii).

(38 U.S.C. 1711(b), 1712(b))

Approved: August 29, 1974.

By direction of the Administrator.

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

[FR Doc.74-20508 Filed 9-4-74;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[Public Notice CM-157]

ADVISORY COMMITTEE TO UNITED STATES SECTION, INTERNATIONAL NORTH PACIFIC FISHERIES COMMISSION

Notice of Meeting

Notice is hereby given, pursuant to the provisions of Pub. L. 92-463, that a meeting of the Advisory Committee to the United States Section, International North Pacific Fisheries Commission, will be convened on September 24, 1974 at Montlake Laboratory, Northwest Fisheries Center, National Marine Fisheries Service, 2725 Montlake Boulevard East, Seattle, Washington at 9 a.m. The agenda of the meeting will include discussion of surveillance of foreign fishing fleets, the progress of fisheries research, the Alaska salmon fisheries, the status of halibut and other groundfish stocks in the Bering Sea and Gulf of Alaska, the status of king and tanner crab stocks, the observer program, and world fishery developments as they affect the International North Pacific Fisheries Commission. The meeting on September 24 will be open to the public.

The Advisory Committee will also meet on September 25, 1974. This meeting will not be open to the public inasmuch as the discussion will involve classified matters pertaining to the United States negotiating position to be taken at the 21st Annual Meeting of the International North Pacific Fisheries Commission to be held in Seattle in November, 1974. Pursuant to the North Pacific Fisheries Act of 1954, 1023(c) U.S.C. 16, which provides that the "advisory committee . . . shall be granted opportunity to examine and to be heard on all proposed programs of study and investigation, reports, and recommendations of the United States Section", the members of the Advisory Committee will examine various options for the negotiating position at the Special Meeting, and these considerations must necessarily involve review of classified matters.

ALANSON G. BURT,
International Relations Officer.

AUGUST 22, 1974.

[FR Doc.74-20413 Filed 9-4-74;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[T. D. 74-230]

FOREIGN CURRENCIES

Certification of Rates

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372 (c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 74-191 for the following country. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Japan yen:

August 12, 1974	$0.003310
August 13, 1974	.003313
August 14, 1974	.003306
August 15, 1974	.003303
August 16, 1974	.003301
August 19, 1974	.003299
August 20, 1974	.003299
August 21, 1974	.003295
August 22, 1974	.003291
August 23, 1974	.003299

[SEAL] R. N. MARRA,
Director,
Duty Assessment Division.

[FR Doc.74-20542 Filed 9-4-74;8:45 am]

Office of the Secretary

NON-POWERED MECHANICS' TOOLS FROM JAPAN

Antidumping Proceeding Notice

On August 5, 1974, information was received pursuant to §§ 153.26 and 153.27, Customs regulations (19 CFR 153.26, 153.27), indicating a possibility that certain non-powered mechanics' tools from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.). For the purpose of this notice, the term "non-powered mechanics' tools" means chisels, punches, hammers and sledges, vises, C-clamps, micrometers, vernier calipers, dial indicators, and battery service tools.

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the United States Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows: The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs regulations (19 CFR 153.30).

[SEAL] DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

SEPTEMBER 3, 1974.

[FR Doc.74-20654 Filed 9-4-74;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Notice of Meeting

AUGUST 27, 1974.

The USAF Scientific Advisory Board Aeronautical Systems Division Advisory Group will held a closed meeting on September 19, 1974, from 9 a.m. until 5 p.m., at Air Force Aero Propulsion Laboratory, Wright-Patterson Air Force Base, Ohio.

The Group will receive classified and competition sensitive briefings and discussions on the proposed Tactical Air Command requirement for jet engine diagnostic capabilities including a status report on current technical developments in this area.

For further information, 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.74-20485 Filed 9-4-74;8:45 am]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

SUPERVISORY BOARDS OF CRIMINAL JUSTICE STATE PLANNING AGENCIES AND REGIONAL PLANNING UNITS

Guideline Regarding Representation of Minorities and Women

By virtue of the authority vested in it by 5 U.S.C. 301 and sections 501 and 518(c) of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3701, et seq., as amended by the Crime Control Act of 1973, Pub. L. 93-83, 87 Stat. 197, and consistent with the provisions of Title VI of the Civil Rights Act of 1964 and its implementing regulations, 28 CFR 42.101, et seq., Subpart C, the Law Enforcement Assistance Administration hereby issues this guideline relating to representation on State Planning Agency (SPA) supervisory boards and regional planning unit supervisory boards.

1. *Purpose.* This guideline provides guidance relating to the requirements of Title VI of the Civil Rights Act of 1964 and section 518(c) of the Crime Control Act of 1973, as they may be applied concerning representation of minorities and women on SPA supervisory boards and regional planning unit supervisory boards.

2. *Scope.* The provisions of this guideline apply to all SPA supervisory boards and all regional planning unit supervisory boards administering LEAA funds.

3. *Requirement.* No individual on the basis of race, color, sex, or national origin shall be denied appointment or selection to serve on supervisory boards of SPAs or regional planning units existing pursuant to section 203(a) of the Crime Control Act of 1973.

4. *Legal implications.* a. The failure of the chief executive of a state to select, for membership on SPA supervisory boards pursuant to Section 203(a) of the Crime Control Act of 1973, otherwise qualified minority or female members of the law enforcement and criminal justice agencies, units of general local government, and public agencies maintaining programs to reduce and control crime, may constitute a violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, and section 518(c) of the Crime Control Act of 1973.

b. Similarly, the failure of those responsible for the selection of supervisory boards of regional planning units pursuant to Section 203(a) of the Crime Control Act of 1973, to select otherwise qualified minority or female members of the law enforcement and criminal justice agencies, units of general local government, and public agencies maintaining programs to reduce and control crime, may constitute a violation of Title VI of the Civil Rights Act of 1964 and section 518(c) of the Crime Control Act of 1973.

5. *Effective date.* This guideline shall become effective on September 5, 1974.

DONALD E. SANTARELLI,
Administrator.

[FR Doc.74-20482 Filed 9-4-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Anchorage Land Office, Anchorage, Alaska, effective at 10 a.m. October 7, 1974.

COPPER RIVER MERIDIAN, ALASKA

T. 7 N., R. 1 w.,
Sec. 1: lots 1, 2, 3, 4, 5, 6, and 7, SW¼NE¼, S½NW¼, SW¼, W½SE¼;
Sec. 2: lots 1, 2, 3, 4, 5, and 6, S½N½, SW¼, N½SE¼;
Sec. 3: lots 1, 2, 3, 4, 5, and 6, S½N½, E½SW¼, SE¼;
Sec. 4: lots 1, 2, 3, 4, 5, 6, and 7;
Sec. 10: lots 1, 2, 3, 4, and 5, E½, E½NW¼;
Sec. 11: lots 1, 2, and 3, S½NE¼, W½, SE¼;
Sec. 12: lot 1, E½, S½NW¼, SW¼;
Sec. 13: all;
Sec. 14: lots 1 and 2, N½, N½SW¼, SE¼;
Sec. 15: lots 1, 2, 3, 4, 5, 6, and 7, E½E½ NE¼;
Sec. 22: lots 1, 2, and 3;
Sec. 23: lots 1, 2, 3, 4, and 5, E½, SE¼NW¼, E½SW¼;
Sec. 24: all;
Sec. 25: all;
Sec. 26: all;
Sec. 27: lots 1, 2, 3, 4, and 5, E½SE¼;
Sec. 34: lots 1, 2, 3, 4, 5, and 6;
Sec. 35: all;
Sec. 36: all.

Containing 9,404.02 acres.

2. This survey is located along the Richardson Highway east of the Gulkana River approximately 5 miles northwest of Gakon, Alaska. The land is generally level except along the west side of the survey where it steps down over a series of benches to the Gulkana River. A great portion of the area within the survey is timbered with black spruce and birch with willow undergrowth. The soil is black loam over sandy clay. A large percentage of the land is swampy, with numerous small ponds and lakes.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, including PL 92-203, December 18, 1971, Public Land Order 5418, filed March 28, 1974, and the requirements of applicable law, rules and regulations.

4. Inquiries concerning the lands should be addressed to the Manager, Anchorage Land Office, 555 Cordova Street, Anchorage, Alaska 99501.

CLARK R. NOBLE,
Land Office Manager.

AUGUST 23, 1974.

[FR Doc.74-20479 Filed 9-4-74;8:45 am]

ALASKA

Notice of Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Anchorage Land Office, Anchorage, Alaska, effective at 10 a.m. October 7, 1974.

COPPER RIVER MERIDIAN, ALASKA

T. 9 N., R. 1 W.
Sec. 19: lots 1, 2, 3, and 4, E½, E½W½;
Sec. 30: lots 1, 2, 3, and 4, E½, E½W½;
Sec. 31: lots 1, 2, 3, and 4, E½, E½W½;
Sec. 32: all.

Containing 2,542.88 acres.

2. This portion of survey lies on the east side of the Richardson Highway near the small settlement of Sourdough, Alaska. The elevation is between 1950 and 2100 feet above sea level. The soil is mostly clay or black muck covered with 4 to 6 inches of moss and forest duff.

The land is nearly level with the exception of the rolling land along Sourdough Creek, which meanders along the lines between sections 19 and 24 and the north one-half between sections 25 and 30.

The timber is mostly black spruce, with some aspen on the higher ground and white spruce along the creek bottom.

Numerous, small swampy potholes and thickets of dense willow or alder undergrowth occur throughout the survey.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, including Public Land Order 5418, filed March 28, 1974, and the requirements of applicable law, rules and regulations.

4. Inquiries concerning the lands should be addressed to the Manager, Anchorage Land Office, 555 Cordova Street, Anchorage, Alaska 99501.

CLARK R. NOBLE,
Land Office Manager.

AUGUST 23, 1974.

[FR Doc.74-20480 Filed 9-4-74;8:45 am]

ALASKA

Notice of Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Anchorage Land Office, Anchorage, Alaska, effective at 10 a.m., October 7, 1974.

COPPER RIVER MERIDIAN, ALASKA

T. 11 N., R. 8 E.
Sec. 14: lots 1, 2, 3, and 4, NW¼SE¼, N½SW¼, SE¼SW¼;
Sec. 15: lot 1, N½SE¼, SW¼, SW¼SE¼;
Sec. 16: S½;
Sec. 17: SE¼;
Sec. 19: lots 1 and 2, E½SW¼, SE¼;
Sec. 20: lots 1, 2, 3, and 4, E½NE¼SW¼, E½, S½SW¼SW¼;
Sec. 21: lots 1, 2, 3, 4, 5, 6, 7, and 8, NE¼SE¼NE¼, E½NW¼SE¼NE¼, SE¼NW¼, W½NW¼, N½SW¼, SW¼SW¼;
Sec. 22: lots 1, 2, 3, 4, 5, 6, 7, and 8, NW¼NE¼, N½NW¼;
Sec. 23: lots 1, 2, 3, 4 and 5, NE¼NW¼, S½NW¼;
Sec. 28: lot 1;
Sec. 29: lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, NE¼NW¼, N½NW¼NW¼;
Sec. 30: lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, N½NE¼NE¼, W½NW¼NE¼, NE¼NW¼NE¼, N½SE¼NW¼NE¼, SE¼NE¼NE¼, E½NW¼.

Containing 3,329.71 acres.

2. The land encompassed by this survey is situated around the village of Slana, Alaska, at the junction of Glenn Highway and Nabesna Road, about 65 miles southeast of Tok Junction.

The land is rolling, and varies in elevation from about 2200 feet to above 2600 feet above sea level.

The soil is thin and rocky throughout the area.

A heavy stand of cottonwood, spruce, birch and aspen cover the land, however, a large portion of this has been burned over in a recent forest fire.

The Glenn Highway traverses the entire length of the surveyed area in a northeast and southwesterly direction while the Nabesna Road crosses sections 29 and 30 in the southeast portion of the survey.

The Slana River forms the south boundary of the survey, flowing in a southeasterly direction.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, including PL 92-203, December 18, 1971, Public Land Order 5418, filed March 1974, and the requirements of applicable law, rules and regulations.

4. Inquiries concerning the lands should be addressed to the Manager, Anchorage Land Office, 555 Cordova Street, Anchorage, Alaska 99501.

CLARK R. NOBLE,
Land Office Manager.

AUGUST 23, 1974.

[FR Doc.74-20481 Filed 9-4-74;8:45 am]

[NM 22737]

NEW MEXICO

Notice of Application

AUGUST 26, 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), Llano, Inc. has applied for a 6 and 8 inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 27 E.,
Sec. 12, SE¼NE¼, E½SE¼ and SW¼SE¼.
T. 17 S., R. 28 E.,
Sec. 3, Lot 20;
Sec. 10, N½NE¼, SW¼NE¼, SE¼NW¼, N½SW¼ and SW¼SW¼;
Sec. 21, NW¼NE¼ and E½NW¼;
Sec. 29, SW¼NE¼ and SE¼SW¼.
T. 16 S., R. 29 E.,
Sec. 8, E½SE¼;
Sec. 9, NW¼SW¼;
Sec. 17, N½NE¼, SW¼NE¼, SE¼NW¼, E½SW¼ and SW¼SW¼;
Sec. 19, SE¼NE¼ and NE¼SE¼;
Sec. 20, W½NW¼;
Sec. 30, Lots 3, 4 E½NW¼ and NE¼SW¼.

This pipeline will convey natural gas across 6.076 miles of national resource lands 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.74-20503 Filed 9-4-74;8:45 am]

[NM 22774, 22775, 22776, 22778, 22781, 22782 and 22783]

NEW MEXICO

Notice of Applications

AUGUST 27, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for six 4½ inch and one 2⅜ inch natural gas pipelines rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 24 N., R. 6 W.,
Sec. 5, Lot 5;
Sec. 6, Lots 7, 8 and 10;
Sec. 12, S½NE¼;
Sec. 21, N½SW¼ and W½SE¼;
Sec. 35, Lots 7, 8 and 11.

These pipelines will convey natural gas across 1.444 miles of national resource lands in Rio Arriba 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, 3550 Pan American Freeway, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-20504 Filed 9-4-74;8:45 am]

Bureau of Reclamation

FLATHEAD NATIONAL FOREST, MONTANA

Transfer of Administrative Jurisdiction of Land at Hungry Horse Project

By virtue of the authority vested in the Secretary of the Interior by section 7(c) of the act of July 9, 1965 (79 Stat. 213) and his delegation of authority to the Commissioner of Reclamation dated February 25, 1966, published March 4, 1966 (31 FR 3426), jurisdiction over the following described lands, which lie within the exterior boundaries of the Flathead National Forest, Montana, and which were acquired by the Bureau of Reclamation in the development of the Hungry Horse Dam and Reservoir, Hungry Horse Project, Montana, is hereby transferred to the Secretary of Agriculture for recreational and other National Forest System purposes: Portions of sections 5 and 8, T. 30 N., R. 19 W., Montana Principal Meridian, Montana, as hereinafter more specifically described:

A tract of land containing two and 31/100 (2.31) acres, more or less, lying in and being that portion of Lot fourteen (14) in Section five (5), Township thirty (30) North, Range nineteen (19) West, M.P.M., identified as Lot forty-nine (49) of Wagsmith Villa as the same is shown platted on the official plat of the said Wagsmith Villa on file in the office of the County Clerk and Recorder, County of Flathead, State of Montana, and described by metes and bounds as follows: Beginning at the point of intersection of the South right-of-way boundary for existing Roosevelt Highway No. 2 with the South boundary of Section five (5), Township thirty (30) North, Range nineteen (19) West, M.P.M., said point being easterly a distance of 217.8 feet from the South quarter (S1/4) corner of said Section 5; thence along said South right-of-way boundary line on a curve to the left having a radius of 1472.5 feet, a distance of 130 feet, thence on a radial line South 20°16' East, a distance of 10 feet; thence continuing along said right-of-way boundary on a curve to the left having a radius of 1482.5 feet, a distance of 119.5 feet; thence along said right-of-way boundary North 69°44' East, a distance of 606.5 feet; thence South 269.6 feet to a point on the South boundary of said Section five (5); thence West along the said South boundary of Section five (5), a distance of approximately 826.8 feet to the point of beginning;

Also, a tract of land containing fifty-two and 07/100 (52.07) acres, more or less, lying in and being that portion of the North half of the Northeast quarter (N1/2 NE1/4) of Section eight (8), Township thirty (30) North, Range nineteen (19) West, M.P.M., particularly described as follows: Beginning at the North one-quarter (N1/4) corner of said Section 8; thence easterly along the North boundary thereof to a point being located a distance of 288.0 feet westerly from the Southeast corner of Lot 14 in Section 5, Township 30 North, Range 19 West, M.P.M., said point being also sometimes described as being easterly 1031.7 feet from the North one-quarter (N1/4) corner of said Section 8; thence approximately South 42° East, a distance of 1,000 feet; thence approximately South 58°31' East, a distance of 1104.4 feet, more or less, to the North 1/16 corner between Sections 8 and 9; thence westerly along the North 1/16 line of said Section 8 approximately 2,642.6 feet to the North 1/16 corner thereof; thence northerly along the North and South midsection line of said Section 8, a distance of 1,320 feet, more or less, to the North 1/4 corner thereof, the point of beginning;

Also, a tract of land containing fifty two and 8/100 (52.8) acres, more or less, lying in and being that portion of the northwest quarter (NW1/4) of Section eight (8), Township thirty (30) North, Range Nineteen (19) West, M.P.M., particularly described as follows: Beginning at the North 1/4 corner of said Section 8, Township 30 North, Range 19 West, M.P.M., thence westerly along the North boundary thereof a distance of 990 feet; thence southerly parallel to the North and South midsection line, a distance of 1320 feet, more or less, to the point of intersection with the North 1/16 line; thence easterly along the North 1/16 line, a distance of 481.80 feet, more or less, to the intersection with the extended East line of the east curb of Second Street of Hungry Horse Government Camp; thence South 00°01'34" West along the East line of the east curb of Second Street a distance of 990.34 feet, more or less, to the intersection with the South line of the south curb of South Street or Hungry Horse Government Camp, said point being North 56° 34'54" West a distance of 602.6 feet from the center of said Section 8; thence North 89°58'25" West along the South line of the south curb of South Street a distance of 980.56 feet; thence South 00°14'40" West a distance of 339.97 feet, more or less, to a point on the East and West midsection line of Section 8; thence easterly along the East and West midsection line, a distance of 1485 feet, more or less, to the center of said Section 8; thence northerly along the North and South midsection line, a distance of 2640 feet, more or less, to the point of beginning.

The total area in the aforementioned tracts is one hundred seven and 18/100 (107.18) acres.

Pursuant to said section 7(c) of the aforesaid act of July 9, 1965, the above lands shall become National Forest lands, provided, that all lands and waters within the Hungry Horse Project area needed or used for the operation of the project or for other Reclamation purposes shall

continue to be administered by the Commissioner of Reclamation to the extent he determines to be necessary for such operation.

This order shall be effective on September 5, 1974.

Dated: August 28, 1974.

GILBERT G. STAMM,
Commissioner,
Bureau of Reclamation.

[FR Doc.74-20463 Filed 9-4-74;8:45 am]

RIO GRANDE NATIONAL FOREST, COLORADO

Transfer of Administrative Jurisdiction of Land at Platoro Reservoir of the San Luis Project

By virtue of the authority vested in the Secretary of the Interior by section 7(c) of the act of July 9, 1965 (79 Stat. 213), and his delegation of authority to the Commissioner of Reclamation dated February 25, 1966, published March 4, 1966 (31 FR 3426), jurisdiction over the following described lands, which lie within the exterior boundaries of the Rio Grande National Forest, Colorado, and which were acquired by the Bureau of Reclamation in the development of the Platoro Reservoir, San Luis Project, Colorado, is hereby transferred to the Secretary of Agriculture for recreational and other National Forest System purposes: All or part of nine mining claims located in T. 36 N., R. 4 E., New Mexico Principal Meridian, as hereinafter more specifically described:

TRACT 1

"Ninety-six Lode" mining claim designated by the Surveyor-General as Lot No. 16746 embracing a portion of Township Thirty-Six North, Range Four East, New Mexico Meridian, Ute Mining District, within the County of Conejos, State of Colorado; "Annex Lode" mining claim designated by the Surveyor-General as Lot No. 19406 embracing a portion of Township Thirty-Six North, Range Four East, New Mexico Meridian, Ute Mining District, within the County of Conejos, State of Colorado; "Jim Walker Lode" mining claim designated by the Surveyor-General as Lot No. 19407 embracing a portion of Township Thirty-Six North, Range Four East, New Mexico Meridian, Ute Mining District, being 20.398 acres within the County of Conejos, State of Colorado.

TRACT 2

"Fortune Teller Lode" mining claim designated by the Surveyor-General as Lot No. 12847 embracing a portion of Township Thirty-Six North, Range Four East, New Mexico Meridian, Ute Mining District being 10.331 acres within the County of Conejos, State of Colorado.

TRACT 3

(1) "Julia Lode" mining claim designated by the Surveyor-General as Lot No. 6604 embracing a portion of Township Thirty-Six North, Ranged Four East, New Mexico Meridian, Ute Mining District, being 10.321 acres with the County of Conejos, State of Colorado.

(2) That part of the following mining claims lying below the high water line of the Platoro Reservoir: "Palmer Lode" mining claim designated by the Surveyor-General as Lot No. 6342A; "Forest King Lode" mining claim designated by the Surveyor-General as Lot No. 6342A; "Alta Lode" mining claim designated by the Surveyor-General as Lot No. 6342A; "Omaha Lode" mining claim designated by the Surveyor-General as Lot No. 6604, said high water line of the Platoro Reservoir is described as follows: Beginning at a point where the high water line of the Platoro Reservoir crosses the western boundary of the Palmer claim of the Forest King group, coordinates of which are E 99,478 N 97,608, which point lies in a Southeasterly direction 1430 feet from the Northwest corner of the said Palmer claim, coordinates of which are E 99,172 N 99,000 and 75 feet Northwest of the Southwest corner of said Palmer claim, the coordinates of which are E 99,500 N 97,530; thence N 32°49' E 189 feet; thence N 34°09' E 156 feet; thence N 15°54' E 256 feet; thence N 16°20' E 199 feet; thence N 00°51' E 93 feet; thence N 45°05' E 330 feet; thence N 20°49' E 84 feet; thence N 06°34' E 227 feet; thence N 12°53' E 126 feet; thence N 19°06' E 103 feet; thence N 36°04' E 59 feet; thence N 50°05' E 92 feet; thence N 64°37' E 83 feet, to a point where the high water line crosses the eastern boundary of the Omaha claim, of the Forest King group, coordinates of which are E 100,332 N 99,338. From which point the Northeast corner of the Omaha claim lies 30 feet in a Northwesterly direction, the coordinates of which are E 100,325 N 99,362 being 18.914 acres more or less, within Conejos County, Colorado.

The lands described aggregate 59.964 acres, more or less.

Pursuant to said section 7(c) of the aforesaid act of July 9, 1965, the above lands shall become National Forest lands, provided, that all lands and waters within the Platoro Reservoir area needed or used for the operation of the project or for other Reclamation purposes shall continue to be administered by the Commissioner of Reclamation to the extent he determines to be necessary for such operation.

This order shall be effective on September 5, 1974.

Dated: August 28, 1974.

GILBERT G. STAMM,
Commissioner,
Bureau of Reclamation.

[FR Doc.74-20464 Filed 9-4-74;8:45 am]

Geological Survey

OIL AND GAS PRODUCTION RATES, PREVENTION OF WASTE, AND PROTECTION OF CORRELATIVE RIGHTS

Notice of Proposed Order No. 11, Pacific Area

Notice is hereby given that pursuant to 30 CFR 250.1, 30 CFR 250.11 and in accordance with all other applicable provisions of 30 CFR Part 250, the Chief, Conservation Division, Geological Survey, proposes to initiate OCS Order No. 11 for the Pacific Area as set forth below.

The purpose of proposed OCS No. 11 is to provide oil and gas production rates, prevention of waste and protection of correlative rights in the Pacific OCS Area.

Interested persons may submit written comments, suggestions and objections concerning the proposed Order to the Director, U.S. Geological Survey, National Center, Mail Stop 101, 12201 Sunrise Valley Drive, Reston, Virginia 22092 on or before November 1, 1974.

V. E. MCKELVEY,
Director.

NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES IN THE OUTER CONTINENTAL SHELF, PACIFIC AREA

[OCS Order No. 11]

Effective ____

OIL AND GAS PRODUCTION RATES, PREVENTION OF WASTE, AND PROTECTION OF CORRELATIVE RIGHTS

This Order is established pursuant to the authority prescribed in 30 CFR 250.1, 30 CFR 250.11, and in accordance with all other applicable provisions of 30 CFR Part 250, and the Notice appearing in the FEDERAL REGISTER, dated December 5, 1970 (35 FR 18559), to provide for the prevention of waste and conservation of the natural resources of the Outer Continental Shelf, and the protection of correlative rights therein. This Order shall be applicable to all oil and gas wells on Federal leases in the Outer Continental Shelf of the Pacific Area. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b). References in this Order to approvals, determinations, and requirements for submitting of information or applications for approval are to those granted, made, or required by the Oil and Gas Supervisor or his delegated representative.

1. *Definition of Terms.* As used in this Order, the following terms shall have the meanings indicated:

A. *Waste of Oil and Gas.* The definition of waste appearing in 30 CFR 250.2(h) shall apply, and includes the failure to timely initiate enhanced recovery operations where such methods would result in an increased ultimate recovery of oil or gas under sound engineering and economic principles. Enhanced recovery operations refers to pressure maintenance operations, secondary and tertiary recovery, cycling, and similar recovery operations which alter the natural forces in a reservoir to increase the ultimate recovery of oil or gas.

B. *Correlative Rights.* The opportunity afforded each lessee or operator to produce without waste his just and equitable share of oil and gas from a common source of supply.

C. *Maximum Efficient Rate (MER).* The maximum sustainable daily oil or gas withdrawal rate from a reservoir which will permit economic development and depletion of that reservoir without detriment to ultimate recovery.

D. *Maximum Production Rate (MPR).* The approved maximum daily rate at which oil may be produced from a specified oil well completion or the maximum approved daily rate at which gas may be produced from a specified gas well completion.

E. *Interested Party.* The operators and lessees, as defined in 30 CFR 250.2 (f) and (g), of the lease or leases involved in any proceeding initiated under this Order.

F. *Reservoir.* An oil or gas accumulation which is separated from and not in oil or gas communication with any other such accumulation.

G. *Competitive Reservoir.* A reservoir as defined herein containing one or more producible or producing well completions on each of two or more leases, or portions thereof, in which the lease or operating interests are not the same.

H. *Property Line.* A boundary dividing leases, or portions thereof, in which the lease or operating interest is not the same. The

boundaries of Federally approved unit areas shall be considered property lines. The boundaries dividing leased and unleased acreage shall be considered property lines for the purpose of this Order.

I. *Oil Reservoir.* A reservoir that contains hydrocarbons predominantly in a liquid (single-phase) state.

J. *Oil Well Completion.* A well completed in an oil reservoir or in the oil accumulation of an oil reservoir with an associated gas cap.

K. *Gas Reservoir.* A reservoir that contains hydrocarbons predominantly in a gaseous (single-phase) state.

L. *Gas Well Completion.* A well completed in a gas reservoir or in the gas cap of an oil reservoir with an associated gas cap.

M. *Oil Reservoir with an Associated Gas Cap.* A reservoir that contains hydrocarbons in both a liquid and a gaseous state (two-phase).

N. *Producible Well Completion.* A well which is physically capable of production and which is shut in at the wellhead or at the surface, but not necessarily connected to production facilities, and from which the operator plans future production.

2. *Classification of Reservoirs.*—A. *Initial Classification.* Each producing reservoir shall be classified by the operator, subject to approval by the Supervisor, as an oil reservoir, an oil reservoir with an associated gas cap, or a gas reservoir.

(1) The initial classification of each reservoir from which production is commenced subsequent to the date of this Order shall be submitted for approval with the initial submittal of MER data for the reservoir.

(2) Each reservoir from which production commenced on or prior to the date of this Order shall be classified by the operator, based on existing reservoir conditions. Such classification shall be determined and submitted to the Supervisor within six (6) months of the date of this Order.

B. *Reclassification.* A reservoir may be reclassified by the Supervisor, on his own initiative or upon application of an operator, during its productive life when information becomes available showing that such reclassification is warranted.

3. *Oil and Gas Production Rates.*—A. *Maximum Efficient Rate (MER).* The operator shall propose a maximum efficient rate (MER) for each producing reservoir based on sound engineering and economic principles. When approved at the proposed or other rate, such rate shall not be exceeded, except as provided in paragraph 4 of this Order.

(1) *Submittal of Initial MER.* Within 45 days after the date of first production or such longer period as may be approved, the operator shall submit a Request for Reservoir MER (Form 9–1866) with appropriate supporting information.

(2) *Revision of MER.* The operator may request a revision of an MER by submitting the proposed revision to the Supervisor on a Request for Reservoir MER (Form 9–1866) with appropriate supporting information. The Operator shall obtain approval to produce at test rates which exceed an approved MER when such testing is necessary to substantiate an increase in the MER.

(3) *Review of MER.* The MER for each reservoir will be reviewed by the operator annually, or at such other required or approved interval of time. The results of the review, with all current supporting information, shall be submitted on a Request for Reservoir MER (Form 9–1866).

(4) *Effective Data of MER.* The effective date of an MER, or revision thereof, will be determined by the Supervisor and shown on a Request for Reservoir MER (Form 9–1866) when the MER is approved. The effective data for an initial MER shall be the first day following the completion of an approved testing period. The effective date for a revised MER shall be the first day following the completion of an approved testing period, or if testing is not conducted, the date the revision is approved.

B. *Maximum Production Rate (MPR).* The operator shall propose a maximum production rate (MPR) for each producing well completion in a reservior together with full information on the method used in its determination.When an MPR has been approved for a well completion, that rate shall not be exceeded except as provided in paragraph 4 of this Order. The MPR shall be based on well tests and any limitations imposed by (1) well tubing, safety equipment, artificial lift equipment, surface back pressure, and equipment capacity; (2) sand producing problems; (3) producing gas-oil and water-oil ratios; (4) relative structural position of the well with respect to gas-oil or water-oil contacts; (5) position of perforated interval within total production zone; and (6) prudent operating practices. The MPR established for well completion shall not exceed 110 percent of the rate demonstrated by a well test unless justified by supporting information.

(1) *Submittal of Initial MPR.* The operator shall have 30 days from the date of first continuous production within which to conduct a potential test, as specified under subparagraphs 5.B and 6.B of this Order, on all new and reworked well completions. Within 15 days after the date of the potential test, the operator shall submit a proposed MPR for the individual well completion on a Request for Well Maximum Production Rate (MPR) (Form 9–1867), with the results of the potential test on a Well Potential Test Report (Form 9–1868). Extension of the 30-day test period may be granted. The effective date for any approved initial MPR shall be the first day following the test period. During the 30-day period allowed for testing, or any approved extensions thereof, the operator may produce a new or reworked well completion at rates necessary to establish the MPR. The operator shall report the total production obtained during the test period, and approved extensions thereof, on the Well Potential Test Report (Form 9–1868).

(2) *Revision of MPR Increase.* If necessary to test a well completion at rates above the approved MPR to determine whether the MPR should be increased, notification of intent to test the well at such higher rates, not to exceed a stated maximum rate during a specified test period, shall be filed with the Supervisor. Such tests may commence on the day following the date of filing notification, unless otherwise ordered by the Supervisor. If an operator determines that the MPR should be increased he shall submit, within 15 days after the specified test period, a proposed increased MPR on a Request for Well Maximum Production Rate MPR) (Form 9–1867), and any other available data to support the requested revision, including the results of the potential test and the total production obtained during the test period on a Well Potential Test Report (Form 9–1868). Prior to approval of the proposed increased MPR, the operator may produce the well completion at a rate not to exceed the proposed increased MPR of the well. The effective date for any approved increased MPR shall be the first day following the test period. If testing rates or increased MPR rates result in production from the reservoir in excess of the approved MER, this excess production shall be balanced by underproduction from the reservoir under the provisions of subparagraph 4.B of this Order.

(3) *Revision of MPR Decrease.* When the quarterly test rate for an oil well completion or the semiannual test rate for a gas well completion required under subparagraphs 5.C and 6.C of this Order is less than 90 percent of the existing approved MPR for the well, a new reduced MPR will be established automatically for that well completion equal to 110 percent of the test rate submitted. The effective date for the new MPR for such well completion shall be the first day of the quarter following the required date of submittal of periodic well-test results under subparagraphs 5.C and 6.C of this Order. Also, the operator may notify the Supervisor on a Request for Well Maximum Production Rate (MPR) (Form 9–1867) of, or the Supervisor may require, a downward revision of a well MPR at any time when the well is no longer capable of producing its approved MPR on a sustained basis. The effective date for such reduced MPR for a well completion shall be the first day of the month following the date of notification.

(4) *Continuation of MPR.* If submittal of the results of a quarterly well test for an oil completion or a semi-annual well test for a gas well completion, as provided for in subparagraphs 5.C and 6.C of this Order, cannot be timely, continuation of production under the last approved MPR for the well may be authorized, provided an extension of time in which to submit the test results is requested and approved in advance.

(5) *Cancellation of MPR.* When a well completion ceases to produce, is shut in pending workover, or any other condition exists which causes the assigned MPR to be no longer appropriate, the operator shall notify the Supervisor accordingly on a Request for Well Maximum Production Rate (MPR) (Form 9–1867), indicating the date of last production from the well, and the MPR will be canceled. Reporting of temporary shut-ins by the operator for well maintenance, safety conditions, or other normal operating conditions is not required, except as is necessary for completion of the Monthly Report of Operations (Form 9–152).

C. *MER and MPR Relationship.* The withdrawal rate from a reservoir shall not exceed the approved MER and may be produced from any combination of well completions subject to any limitations imposed by the MPR established for each well completion. The rate of production from the reservoir shall not exceed the MER although the summation of individual well MPR's may be greater than the MER.

4. *Balancing of Production.*—A. *Production Variances.* Temporary well production rates, resulting from normal variations and fluctuations exceeding a well MPR or reservoir MER shall not be considered a violation of this Order, and such production may be sold or transferred pursuant to paragraph 8 of this Order. However, when normal variations and fluctuations result in production in excess of a reservoir MER, any operator who is overproduced shall balance such production in accordance with subparagraph 4.B below. Such operator shall advise the Supervisor of the amount of such excess production from the reservoir for the month at the same time as Form 9–152 is filed for that month.

B. *Balancing Periods.* As of the first day of the month following the month in which this Order becomes effective, all reservoirs shall be considered in balance. Balancing periods for overproduction of a reservoir MER shall end on January 1, April 1, July 1, and October 1 of each year. If a reservoir is produced at a rate in excess of the MER for any month, the operator who is overproduced shall take steps to balance production during the next succeeding month. In any event, all overproduction shall be balanced by the end of the next succeeding quarter following the quarter in which the overproduction occurred. The operator shall

notify the Supervisor at the end of the month in which he has balanced the production from an overproduced reservoir.

C. *Shut-in for Overproduction.* Any operator in an overproduction status in any reservoir for two successive quarters which has not been brought into balance within the balancing period shall be shut in from that reservoir until the actual production equals that which would have occurred under the approved MER.

D. *Temporary Shut-in.* If, as the result of storm, hurricanes, emergencies, or other conditions peculiar to offshore operations, an operator is forced to curtail or shut in production from a reservoir, the Supervisor may, on request, approve makeup of all or part of this production loss.

5. *Oil Well Testing Procedures*—A. *General.* Tests shall be conducted for not less than four consecutive hours. Immediately prior to the 4-hour test period, the well completion shall have produced under stabilized conditions for a period of not less than six consecutive hours. The 6-hour pretest period shall not begin until after recovery of a volume of fluid equivalent to the amount of fluids introduced into the formation for any purpose. Measured gas volumes shall be adjusted to the standard conditions of 15.025 psia and 60° F. for all tests. When orifice meters are used, a specific gravity shall be obtained or estimated for the gas and a specific gravity correction factor applied to the orifice coefficient. The Supervisor may require a prolonged test or retest of a well completion if such test is determined to be necessary for the establishment of a well MPR or a reservoir MER. The Supervisor may approve test periods of less than four hours and pretest stabilization periods of less than six hours for well completions, provided that test reliability can be demonstrated under such procedures.

B. *Potential Test.* Test data to establish or to increase an oil well MPR shall be submitted on a Well Potential Test Report (Form 9–1868). The total production obtained from all tests during the test period shall be reported on such form.

C. *Quarterly Test.* Tests shall be conducted on each producing oil well completion quarterly, and test results shall be submitted on a Quarterly Oil Well Test Report (Form 9–1869). Testing periods and submittal dates shall be as follows:

Testing period	Latest date for submittal of test results	For quarter beginning
September 11 to December 10	December 10	January 1.
December 11 to March 10	March 10	April 1.
March 11 to June 10	June 10	July 1.
June 11 to September 10	September 10	October 1.

There shall be a minimum of 45 days between quarterly tests for an oil well completion.

6. *Gas Well Testing Procedures.*—A. *General.* Testing procedures for gas well completions shall be the same as those specified for oil well completions in subparagraph 5.A except for the initial test which shall be a multi-point back-pressure test as described in paragraph 6.D.

B. *Potential Test.* Test data to establish or to increase a gas well MPR shall be submitted on a Well Potential Test Report (Form 9–1868).

C. *Semiannual Test.* Tests shall be conducted on each producing gas well completion semiannually, and test results shall be submitted on a Semiannual Gas Well Test Report (Form 9–1870). Testing periods and submittal dates shall be as follows:

Testing period	For submittal of test results	For semi-annual period beginning
June 11 to December 10	December 10	January 1.
December 11 to June 10	June 10	July 1.

There shall be a minimum of 90 days between semiannual tests for a gas well completion.

D. *Back-Pressure Tests.* A multi-point back-pressure test to determine the theoretical open-flow potential of gas wells shall be conducted within thirty days after connection to a pipeline. If bottom-hole pressures are not measured, such pressures shall be calculated from surface pressures using the method, or other similar method, found in the Interstate Oil Compact Commission (IOCC) Manual of Back-Pressure Testing of gas wells. The results of all back-pressure tests conducted by the operator shall be filed with the Supervisor, including all basic data used in determining the test results. The Supervisor may waive this requirement if multi-point back-pressure test information has previously been obtained on a representative number of wells in a reservoir.

7. *Witnessing Well Tests.* The Supervisor may have a representative witness any potential or periodic well tests on oil and gas well completions. Upon request, an operator shall notify the appropriate District office of the time and date of well tests.

8. *Sale or Transfer of Production.* Oil and gas produced pursuant to the provisions of this Order, including test production, may be sold to purchasers or transferred as production authorized for disposal hereunder.

9. *Bottom-Hole Pressure Tests.* Static bottom-hole pressure test shall be conducted annually on sufficient key wells to establish an average reservoir pressure in each producing reservoir unless a different frequency is approved. The Operator may be required to test specific wells. Results of bottom-hole pressure tests shall be submitted within 60 days after the date of the test.

10. *Flaring and Venting of Gas.* Oil- and gas-well gas shall not be flared or vented, except as provided herein.—A. *Small-Volume or Short-Term Flaring or Venting.* Oil- and gas-well gas may be flared or vented in small volumes or temporarily without the approval of the Supervisor in the following situations:

(1) *Gas Vapors.* When gas vapors are released from storage and other low pressure production vessels if such gas vapors cannot be economically recovered or retained.

(2) *Emergencies.* During temporary emergency situations, such as compressor or other equipment failure, or the relief of abnormal system pressures.

(3) *Well Purging and Evaluation Tests.* During the unloading or cleaning up of a well and during drillstem, producing, or other well evaluation tests not exceeding a period of 24 hours.

B. *Approval for Routine or Special Well Tests.* Oil- and gas-well gas may be flared or vented during routine and special well tests, other than those described in paragraph A above, only after approval of the Supervisor.

C. *Gas-Well Gas.* Except as provided in A and B above, gas-well gas shall not be flared or vented.

D. *Oil-Well Gas.* Except as provided in A and B above, oil-well gas shall not be flared or vented unless approved by the Supervisor. The Supervisor may approve an application for flaring or venting of oil-well gas for periods not exceeding one year if (1) the operator has initiated positive action which will eliminate flaring or venting, or (2) the operator has submitted an evaluation supported by engineering, geologic, and economic data indicating that rejection of an application to flare or vent the gas will result in an ultimate greater loss of equivalent total energy than could be recovered for beneficial use from the lease if flaring or venting were allowed.

E. *Content of Application.* Applications under paragraph D above for existing operations, as of the date of this Notice, shall be filed within three months from the effective date of this Order. Applications under paragraph D(2) above shall include all appropriate engineering, geologic, and economic data in an evaluation showing that absence of approval to flare or vent the gas will result in premature abandonment of oil and gas production or curtailment of lease development. Applications shall include an estimate of the amount and value of the oil and gas reserves that would not be recovered if the application to flare or vent were rejected and an estimate of the total amount of oil to be recovered and associated gas that would be flared or vented if the application were approved.

11. *Disposition of Gas.* The disposition of all gas produced from each lease shall be reported monthly on, or attached to, Form 9–152. The report shall be submitted in the following manner:

[In thousand cubic feet]

	Oil-well gas (MCF)	Gas-well gas (MCF)
Sales		
Fuel		
Injected [1]		
Flared		
Vented		
Other (specify)		
Total		

[1] Gas produced from the lease and injected on or off the lease.

12. *Multiple and Selective Completions.*—A. *Number of Completions.* A well bore may contain any number of producible completions when justified and approved.

B. *Numbering Well Completions.* Well completions made after the date of this Order shall be designated using numerical and alphabetical nomenclature. Once designated as a reservoir completion, the well completion number shall not change." Appendix A contains a detailed explanation of procedures for naming well completions.

C. *Packer Tests.* Multiple and selective completions shall be equipped to isolate the respective producing reservoirs. A packer test or other appropriate reservoir isolation test shall be conducted prior to or immediately after initiating production and annually thereafter on all multiply completed wells. Should the reservoirs in any multiply completed well become intercommunicative the operator shall make repairs and again conduct reservoir isolation tests unless some other operational procedure is approved. The results of all tests shall be submitted on a Packer Test (Form 9–1871) within 30 days after the date of the test.

D. *Selective Completions.* Completion equipment may be installed to permit selective reservoir isolation or exposure in a well bore through wireline or other operations. All selective completions shall be designated in accordance with subparagraph 12.B when the application for approval of such completions is filed.

E. *Commingling.* Commingling of production from two or more separate reservoirs within a common well bore may be permitted if it is determined that, collectively, the ultimate recovery will not be decreased. An application to commingle hydrocarbons from multiple reservoirs within a common

well bore shall be submitted for approval and shall include all pertinent well information, geologic and reservoir engineering data, and a schematic diagram of well equipment. For all competitive reservoirs, notice of the application shall be sent by the applicant to all other operators of interest in the reservoirs prior to submitting the application to the Supervisor. The application shall specify the well completion number to be used for subsequent reporting purposes.

13. *Gas-Cap Well Completions.* All existing and future wells completed in the gas cap of a reservoir which has been classified and approved as an associated oil reservoir shall be shut in until such time as the oil is depleted or the reservoir is reclassified as a gas reservoir; provided, however, that production from such wells may be approved when (1) it can be shown that such gas-cap production would not lead to waste of oil and gas, or (2) when necessary to protect correlative rights unless it can be shown that this production will lead to waste of oil and gas.

14. *Location of Wells.*—A. *General.* The location and spacing of all exploratory and development wells shall be in accordance with approved programs and plans required in 30 CFR 250.17 and 250.34. Such location and spacing shall be determined independently for each lease or reservoir in a manner which will locate wells in the optimum structural position for the most effective production of reservoir fluids and to avoid the drilling of unnecessary wells.

B. *Distance from Property Line.* An operator may drill exploratory or development wells at any location on a lease in accordance with approved plans; provided that no well directionally or vertically drilled and completed after the date of this Order in which the completed interval is less than 200 feet from a property line shall be produced unless approved by the Supervisor. For wells drilled as vertical holes, the surface location of the well shall be considered as the location of the completed interval but shall be subject to the provisions of 30 CFR 250.40(b). An operator requesting approval to produce a directionally drilled well in which the completed interval is located closer than 200 feet from a property line, or approval to produce a vertically drilled well with a surface location closer than 200 feet from a property line, shall furnish the Supervisor with letters expressing acceptance or objection from operators of offset properties.

15. *Enhanced Oil and Gas Recovery Operations.* Operators shall timely initiate enhanced oil and gas recovery operations for all competitive and noncompetitive reservoirs where such operations would result in an increased ultimate recovery of oil or gas under sound engineering and economic principles. A plan for such operations shall be submitted with the results of the annual MER review as required in paragraph 3A(3) of this Order.

16. *Competitive Reservoir Operations.* Development and production operations in a competitive reservoir may be required to be conducted under either pooling and drilling agreements or unitization agreements when the Conservation Manager determines, pursuant to 30 CFR 250.50 and delegated authority, that such agreements are practicable and necessary or advisable and in the interest of conservation.

A. *Competitive Reservoir Determination.* The Supervisor shall notify the operators when he has made a preliminary determination that a reservoir is competitive as defined in this Order. An operator may request at any time that the Supervisor make a preliminary determination as to whether a reservoir is competitive. The operators, within thirty (30) days of such preliminary notification or such extension of time as approved by the Supervisor, shall advise of their concurrence with such determination, or submit objections with supporting evidence. The Supervisor will make a final determination and notify the operators.

B. *Development and Production Plans.* When drilling and/or producing operations are conducted in a competitive reservoir, the operators shall submit for approval a plan governing the applicable operations. The plan shall be submitted within ninety (90) days after a determination by the Supervisor that a reservoir is competitive or within such extended period of time as approved by the Supervisor. The plan shall provide for the development and/or production of the reservoir, and may provide for the submittal of supplemental plans for approval by the Supervisor.

(1) *Development Plan.* When a competitive reservoir is still being developed or future development is contemplated, a development plan may be required in addition to a production plan. This plan shall include the information required in 30 CFR 250.34. If agreement to a joint development plan cannot be reached by the operators, each shall submit a separate plan and any differences may be resolved in accordance with paragraph 17 of this Order.

(2) *Production Plan.* A joint production plan is required for each competitive reservplan is required for each competitive reservoir. This plan shall include (a) the proposed MER for the reservoir; (b) the proposed MPR for each completion in the reservoir; (c) the percentage allocation of reservoir MER for each lease involved; and (d) plans for secondary recovery or pressure maintenance operations. If agreement to a joint production plan cannot be reached by the operators, each shall submit a separate plan, and any differences may be resolved in accordance with paragraph 17 of this Order.

C. *Unitization.* The Conservation Manager shall determine when conservation will be best served by unitization of a competitive reservoir, or any reservoir reasonably delineated and determined to be productive, in lieu of a development and/or production plan or when the operators and lessees involved have been unable to voluntarily effect unitization. In such cases, the Conservation Manager may require that development and/or production operations be conducted under an approved unitization plan. Within six (6) months after notification by the Conservation Manager that such a unit plan is required, or within such extended period of time as approved by the Conservation Manager, the lessees and operators shall submit a proposed unit plan for designation of the unit area and approval of the form of agreement pursuant to 30 CFR 250.51.

17. *Conferences, Decisions and Appeals.* Conferences with interested parties may be held to discuss matters relating to applications and statements of position filed by the parties relating to operations conducted pursuant to this Order. The Supervisor or Conservation Manager may call a conference with one or more, or all, interested parties on his own initiative or at the request of any interested party. All interested parties shall be served with copies of the Supervisor's or Conservation Manager's decisions. Any interested party may appeal decisions of the Supervisor or Conservation Manager pursuant to 30 CFR 250.81. Decisions of the Supervisor or Conservation Manager shall remain in effect and shall not be suspended by reason of any appeal, except as provided in that regulation.

APPENDIX A

Subparagraph 12.B *"Numbering Well Completions.* Well completions made after the date of this Order shall be designated using numerical and alphabetical nomenclature. Once designated as a reservoir completion, the well completion number shall not change * * *."

The intent of this Subparagraph is not necessarily to change the existing well completion names but to change the method of naming well completions after the effective date of this Order in order to insure that a completion in a given reservoir and a specific well bore will be assigned a unique name and will retain that name permanently. For further clarification, the following guidelines and examples are offered:

1. Each well bore will have a distinct, permanent number.

2. Each reservoir completion in a well bore will have a unique permanent designation which includes the well bore number in its nomenclature.

3. For the purpose of this Subparagraph, a "completion" is defined as all perforations in a given reservoir in a specific well bore and is not necessarily associated with a tubing string or strings.

4. If more than one completion is made in a well bore, an alphabetical suffix must be used in the nomenclature to differentiate between completions.

5. An alphabetical prefix may be utilized to designate the platform from which the well will be produced.

Example No. 1: The first well drilled from the A Platform is a single completion.

WELL NO. A–1

(Should an operator wish to use an alphabetical suffix with a single completion, he may do so.)

Example No. 2: A well drilled by a mobile rig need not carry an alphabetical prefix.

WELL NO. 1

(If the well is later connected to and produced from a production platform, the well shall be redesignated to reflect an alphabetical prefix.)

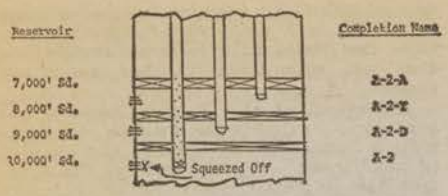
Example No. 3: The second well drilled from the A Platform is a triple completion.

First Completion	*Second Completion*	*Third Completion*
A–2	A–2–D	A–2–T

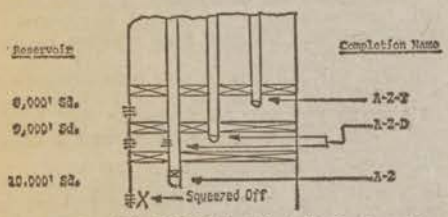
(In the above example, the letters "D" and "T" were used in naming the second and third completions utilizing current industry practice, although the intent is not to restrict operators to the use of these particular alphabetical suffixes. Any alphabetical suffix may be used as long as it is unique to the completion in that reservoir.)

Example No. 4: The drawing is shown to illustrate the fact that once a completion in a specific well bore is designated in a given reservoir, it will retain that name permanently. Let us consider the A–2 completion shown in Example No. 3. Should a recompletion be made in a different reservoir at a later date, it shall be renamed; however, the production from the reservoir associated with the original A–2 completion will always be identified with the A–2 completion. Once the A–2 completion in the 10,000' sand is squeezed and plugged off and the recompletion made to the 7,000' sand, the completion in the 7,000' sand would be designated A–2–A (or some other alphabetical suffix other than the "D" or "T" presently associated with other completions in the 9,000' and 8,000' sands).

The Sundry notice (From 9–331) submitted to obtain approval for the workover shall be the vehicle for naming the new completion.



Example No. 5: If the A–2 completion in Example No. 4 had been recompleted from the 10,000′ sand to the 9,000′ sand (where the A–2–D is currently completed), the completion would still be named A–2–D as both tubing strings would be considered one completion for purposes of this Order.



[FR Doc.74–20401 Filed 9–4–74;8:45 am]

National Park Service

CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION

Notice of Meeting

Notice is hereby given in accordance with Public Law 92–463 that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, September 20, 1974, at 1:30 p.m., at the Headquarters Building, Cape Cod National Seashore, Marconi Station Area, South Wellfleet, Mass.

The Commission was established by Public Law 87–126 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The purpose of the meeting is to consider the following agenda items: (1) Review of 1974 summer operations, (2) request by owners of Hall's cottages, North Eastham, for renewal of Certificate of Suspension of Condemnation of Commercial and Industrial Property for three years; and (3) showing of Alaska Areas film. The Superintendent will give a progress report covering current problems and items of interest, which will be reviewed and discussed.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to Commission members. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Lawrence C. Hadley, Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663 (telephone: 617–349–3785). Minutes of the meeting will be available for public inspection and copying four weeks after the meeting at Office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

JERRY D. WAGERS,
Regional Director,
North Atlantic Region.

AUGUST 20, 1974.

[FR Doc.74–20580 Filed 9–4–74;8:45 am]

Office of the Secretary

COMMISSIONER OF INDIAN AFFAIRS AND SOLICITOR

Delegation of Authority

This notice is issued in accordance with the provisions of 5 U.S.C. 552(a)(1). The Acting Secretary of the Interior has issued a new delegation of authority to the Commissioner of Indian Affairs, and a revised delegation of authority to the Solicitor of the Department of the Interior. The delegations were issued by Departmental Manual Release No. 1666 dated August 16, 1974. A general program delegation of authority has been provided to the Commissioner of Indian Affairs in Chapter 1, Part 230 of the Departmental Manual. The general delegation is similar to that provided other bureau directors in the Department, and succeeds and replaces Secretary's Order 2508 of January 11, 1949, as amended through Amendment Number 104 dated February 28, 1974, which provided authority on an item-by-item basis. The delegation of authority to the Solicitor, published as Chapter 2, Part 210 of the Departmental Manual is revised to delete authority regarding disposition of appeals to the Secretary pertaining to enrollment of Indians, pursuant to 25 CFR Part 42. Such authority is now exercised by the Commissioner of Indian Affairs. Both delegations of authority are published in their entirety below. Further information regarding the delegations may be obtained from Mr. Everett T. Keech, Director, Office of Management Consulting, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202/343–2195.

Dated: August 28, 1974.

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

CHAPTER 2 SOLICITOR

.1 *General Authority.* The Solicitor is authorized to exercise all authority of the Secretary respecting the legal work of the Department, subject to the limitations contained in 200 DM 1.4.

.2 *Authority in Specified Matters.*

A. The Solicitor is authorized to exercise the authority of the Secretary:

(1) Conferred by the provisions of 28 U.S.C., sec. 2672, with respect to tort claims;

(2) With respect to claims under 25 U.S.C., sec. 388, for damage arising out of the survey, construction, operation, or maintenance of irrigation works on Indian irrigation projects; and under Public Works for Water Appropriation Acts, for damage to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation;

(3) With respect to the disposition of appeals to the Secretary;

(a) Involving estates of Indians of the Five Civilized Tribes and Osage Indians;

(b) From decisions of the Appellate Division of the High Court of American Samoa which affirm sentences of death pursuant to Section 3.0505, as amended, of the Code of American Samoa (1961 Ed.)

(4) To supervise, administer, and control all activities within or on behalf of the Department relating to intellectual property including patents, inventions, trademarks, and copyrights.

(5) When acting upon a proposal by a bureau, to acquire real estate for the United States by condemnation pursuant to section 1 of the Act of August 1, 1888, as amended (40 U.S.C., sec. 257) whenever in the opinion of the Solicitor it is necessary or advantageous to the Government to do so and to submit to the Attorney General of the United States applications for the institution of proceedings for condemnation;

(6) Under section 1 of the Act of February 26, 1931 (40 U.S.C., sec. 258a), to sign declarations of taking;

(7) When acting upon a proposal to acquire real estate for the United States pursuant to section 3 of the Helium Act (50 U.S.C., sec. 167a) by condemnation pursuant to section 1 of the Act of August 1, 1888, as amended (40 U.S.C., sec. 257) whenever the Solicitor determines that a satisfactory agreement to acquire such land or interests in land cannot be made and that such acquisition by condemnation is necessary in the national interest and to submit to the Attorney General of the United States applications for the institution of proceedings for condemnation;

(8) Under 43 CFR Part 2, with respect to the availability of official records and testimony of employees; and

(9) With respect to the settlement of claims against the United States by employees for damage to, or loss of personal property pursuant to the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (31 U.S.C., secs. 240–243).

(10) Claims arising under the Act of March 9, 1920 (46 U.S.C., secs. 742, 747, 749 and 750), as amended by Public Law 92–417, also known as the Suits in Admiralty Act.

B. The Solicitor is authorized:

(1) To determine, compromise, and settle claims and demands of the United States pursuant to section 12 of the Act of August 20, 1937, as amended (16 U.S.C., sec. 832k);

(2) If he determines in connection with a claim under a contract that, as a matter of justice and equity, all or any part of the liquidated damages assessed on or after July 1, 1949, because of delay, against a party to a contract made by the Department on behalf of the Government should be remitted, to recommend to the Comptroller General that such remission be made, pursuant to the provisions of 41 U.S.C., sec. 256a;

(3) To accept on behalf of any Secretarial Officer service of judicial process and service of process issued by the legislation branch of the Government; and

(4) To enter into, modify or terminate contracts for services or supplies which are required for the Office of the Solicitor.

.3 *Authority to Redelegate.* The Solicitor may, in writing, redelegate or authorize written redelegation of any authority delegated to him in this chapter. For redelegations of authority see the Solicitor's Regulations.

PART 230 BUREAU OF INDIAN AFFAIRS

CHAPTER 1 GENERAL PROGRAM DELEGATION

.1 *Delegation.* Except as provided in 230 DM 1.2 below, the Commissioner of Indian Affairs is authorized to exercise the author-

ity of the Secretary of the Interior with respect to the management of all Indian affairs and all matters arising out of Indian relations, including the supervision, management, and operation of the Bureau of Indian Affairs and related activities of the Department with respect to Indian program matters.

.2 *Limitations.* The authority granted in 230 DM 1.1 does not include:

A. Authority which the Secretary may not redelegate as set forth in 200 DM 1, Executive Order 10250 as amended by Executive Order 10732, and Executive Order 10355.

B. Authority delegated on a functional basis in 205 DM.

C. Authority to approve land allotments or allotment schedules or to issue land patents.

D. Authority over the Indian Arts and Crafts Board appointed under the Act of August 27, 1935 (25 U.S.C. 305), the functions of the Board, or the regulations in 25 CFR Chapter II.

E. Any authority delegated to the Director, Office of Hearings and Appeals, under 211 DM 13 or to the Solicitor under 210 DM 2 except that the Commissioner is authorized to decide enrollment appeals which were formerly decided by the Solicitor under 210 DM 2.2A(3)(b).

F. Authority to grant permits for the examination of ruins, the excavation of archeological sites, and the gathering of objects of antiquity on Indian tribal lands or on individually owned trust or restricted Indian lands.

G. Authority to revoke tribal constitutions.

H. Authority under the Alaska Native Claims Settlement Act of December 18, 1971 (PL 92-203, 85 Stat. 688), except as specified below:

(1) The Commissioner has the authority to prepare, and to correct by addition or deletion as may be necessary, a roll of all Natives born on or before the date of enactment and to enroll eligible Natives in one of the twelve regions and eligible Natives who are non-residents of Alaska in a thirteenth region if it is established under section 7(c), all as provided in section 5.

(2) The Commissioner has the authority to distribute Alaska Native Fund money among the Regional Corporations pursuant to section 6(c).

(3) The Commissioner has the authority to review all listed villages and determine, subject to the right of appeal as provided in 43 CFR Part 2651, if any disqualify under section 11(b)(2).

(4) The Commissioner has the authority to determine, subject to the right of appeal as provided in 43 CFR Part 2651, if any Native villages not listed qualify for land and benefits under section 11(b)(3).

(5) The Commissioner, after consultation with the National Park Service, has the authority to certify the existence of cemetery sites and historical places under section 14(h)(1). The Bureau of Land Management will establish the boundaries, withdraw the land, and convey the title of cemetery sites and historical places to the appropriate Regional Corporation.

(6) The Commissioner has the authority to certify the eligibility of certain Native groups for land under section 14(h)(2).

(7) The Commissioner has the authority to certify the eligibility of an individual Native who applied for a primary place of residence under section 14(h)(5).

(8) The Commissioner has the authority to certify the eligibility of an individual as a Native who applied for an allotment to be processed under section 18(a).

(9) The Commissioner has the authority to review claims referred by the Court of Claims and file answers when claims are to be contested under section 20(d)(5).

I. Under the Act of August 28, 1958 (72 Stat. 974) regarding liquidation of the Hoonah war housing project in Alaska,

(1) Authority to determine the fair value of land conveyed by Indians to the Hoonah Indian Association under section 2(d).

(2) Authority to acquire land or any interest in land by eminent domain under section 2(f).

J. Under the Act of August 12, 1958 (72 Stat. 619) regarding the distribution of land and assets of certain Indian rancherias and reservations in California,

(1) Authority for final disposition of objections made by Indians to plans for the distribution of assets.

K. Authority under the Act of October 19, 1973 (87 Stat. 466) which provides for the use or distribution of funds appropriated in satisfaction of certain judgements of the Indian Claims Commission and the Court of Claims.

L. Under the Indian Financing Act of 1974 (88 Stat. 77) regarding the financing and economic development of Indians and Indian organizations,

(1) Authority to cancel, adjust, compromise, or reduce all or part of any loan made from the revolving loan fund which is determined to be uncollectable or collectable only at unreasonable costs as prescribed by section 105.

(2) Authority to cancel the uncollectable part of any obligation to which the Secretary has an assignment or subrogated right as prescribed by section 211.

.3 *Restrictions on Redelegation.* The Commissioner may not redelegate authority to permit Indian tribes to direct Bureau employees under 25 U.S.C. 48.

.4 *Existing Redelegations.* Redelegations of authority which have been made pursuant to Secretary's Order 2508, as amended, and which are in force on the effective date of this release, shall remain in force until revoked or superseded by redelegations made pursuant to this release.

[FR Doc.74-20502 Filed 9-4-74;8:45 am]

[INT FES 74-50]

FY 1975 PROPOSED PROGRAM

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bonneville Power Administration has prepared a Final Environmental Statement covering its Fiscal Year 1975 Proposed Program.

Copies of the final environmental statement are available for inspection in the library of the Headquarter's Office of BPA, 1002 N.E. Holladay Street, Portland, Oregon 97232; the Washington, D.C., office, in the Interior Building, Room 5600; and in the following Area and District Offices: Idaho Falls Area Office, 531 Lomax Street, P.O. Box 2558, Idaho Falls, Idaho 83401; Portland Area Office, Lloyd Plaza Bldg., 919 N.E. 19th Avenue, Room 201, P.O. Box 3621, Portland, Oregon 97208; Seattle Area Office, 415-1st Avenue North, Room 250, Seattle, Washington 98109; Spokane Area Office, Room 561, U.S. Court House, W. 920 Riverside Avenue, Spokane, Washington 99201; Walla Walla Area Office, West 101 Poplar, P.O. Box 1518, Walla Walla, Washington 99362; Eugene District Office, 834 Pearl Street, Eugene, Oregon 97401; Kalispell District Office (five miles east of Kalispell on Highway 2), P.O. Box 758, Kalispell, Montana 59901; and the Wenatchee District Office, Room G35, U.S. Federal Building and Post Office, 301 Yakima Street, P.O. Drawer 741, Wenatchee, Washington 98801.

A limited number of single copies are available and may be obtained by writing to the Environmental Manager, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208.

Dated: August 23, 1974.

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

[FR Doc.74-20478 Filed 9-4-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

AMERICAN FORK CANYON-PROVO PEAK PLANNING UNIT

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for American Fork Canyon-Provo Peak Planning Unit, Uinta National Forest, Utah. The Forest Service report number is USDA-FS-FES (Adm) R4-74-1.

The environmental statement identifies and evaluates the probable effects of the land use plan for the American Fork Canyon-Provo Peak Planning Unit on the Uinta National Forest in Utah. The purpose of the plan is to allocate National Forest lands within the unit to specific resource uses and activities; establish management objectives; document management direction, decisions, and necessary coordination between resource uses and activities; and provide for the protection, use, and development of the various resources within the planning unit. The plan provides for minimization of adverse effects and maximization of desirable effects. Minor adverse effects from some development activities will be temporary stream sedimentation. Recreation use activities will cause short periods of air pollution. Recreation opportunities will receive minor modification with opportunities for developed type recreation increasing. The mix of uses provided for includes moderate levels of consumptive resource uses. Significant areas will remain undeveloped with options for future management remaining open.

This final environmental statement was transmitted to CEQ on August 27, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave., S.W.
Washington, D.C. 20250

Regional Planning Office
USDA, Forest Service

Federal Building, Room 4403
324-25th Street
Ogden, Utah 84401

Forest Supervisor
Uinta National Forest
88 West First South
Provo, Utah 84601

District Forest Ranger
Pleasant Grove Ranger District
390 North 100 East
Pleasant Grove, Utah 84062

A limited number of single copies are available upon request to Forest Supervisor Bruce B. Hronek, Uinta National Forest, P. O. Box 1428, Provo, Utah 84601.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

VERN HAMRE,
Regional Forester.

AUGUST 27, 1974.

[FR Doc.74-20474 Filed 9-4-74;8:45 am]

COLVILLE, OKANOGAN, AND WENATCHEE NATIONAL FORESTS, WASHINGTON

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for vegetation management using selective herbicides on the Colville, Okanogan, and Wenatchee National Forests, Washington, for the period January 1, 1974, through June 30, 1975. USDA-FS-R6-DES (Adm)-74-5.

The environmental statement concerns a proposed use of selective herbicides for vegetation management on three National Forests located in north-central, northeastern Washington. The proposed uses are for conifer crop tree release, site preparation prior to planting, utility and road right-of-way maintenance, range improvement, noxious weed control, recreation and administrative site maintenance, and indirect wildlife habitat improvement.

This final environmental statement was transmitted to CEQ on August 30, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3231
12th & Independence Ave., S.W.
Washington, D.C. 20250

USDA, Forest Service
Pacific Northwest Region
319 S.W. Pine Street
Portland, Oregon 97204

Colville National Forest
695 S. Main Street
Federal Building
Colville, Washington 99114

Okanogan National Forest
219 Second Ave., South
Okanogan, WA 98840

Wenatchee National Forest
301 Yakima Street
Wenatchee, WA 98801

A limited number of single copies are available upon request to Regional Forester T. A. Schlapfer, Pacific Northwest Region, P.O. Box 3623, Portland, Oregon 97208.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

D. B. TRASK,
Acting Regional Forester, R-6.

AUGUST 30, 1974.

[FR Doc.74-20484 Filed 9-4-74;8:45 am]

PACIFIC CREST NATIONAL SCENIC TRAIL ADVISORY COUNCIL

Notice of Meeting

Notice is hereby given that a meeting of the Pacific Crest National Scenic Trail Advisory Council will be held, beginning at 1 p.m. on September 19, and ending at 4:30 p.m. on September 20, 1974, at the Red Lion Motel, Medford, Oregon. The purpose of the Council is to advise the Secretary on matters relating to the Pacific Crest National Scenic Trail, including the selection of rights-of-way, standards of the erection and maintenance of markers along the Trail, and the administration of the Trail.

The agenda for this meeting will include:

1 P.M.-4:30 P.M.—THURSDAY, SEPTEMBER 19

1. Welcome and announcements.
2. Accomplishments inside federally-administered areas since the last meeting, including plans for the current fiscal year.
3. General discussion of accomplishments and FY 1975 plans.

8:30 A.M.-4:30 P.M.—FRIDAY, SEPTEMBER 20

1. Reports from Subgroup Chairman and/or Council Members concerning Trail matters.
2. General discussion of subgroup reports.
3. Future Council membership.
4. Open discussion—topics from the floor.

The meeting will be open to the public. For additional information, interested persons may contact the the Forest Service, Washington, D.C., by telephone (703-235-9843) or by mail (USDA, Forest Service, Washington, D.C. 20250) prior to the meeting.

RUSSELL P. MCROREY,
Chairman, Pacific Crest Trail Advisory Council.

AUGUST 30, 1974.

[FR Doc. 74-20551 Filed 9-4-74; 8:45 am]

FORKS UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Forks Planning Unit, Ouachita National Forest, Arkansas, USDA-FS-R8-DES (Adm.)-75-5.

This environmental statement concerns the proposed management direction and resource allocation for the Forks Unit, Ouachita National Forest.

This draft environmental statement was transmitted to CEQ on August 28, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave., SW.
Washington, D.C. 20250

USDA, Forest Service
1720 Peachtree Road, NW., Room 804
Atlanta, Georgia 30309

USDA, Forest Service
Ouachita National Forest
P.O. Box 1270, Federal Building
Hot Springs, Arkansas 71901

A limited number of single copies are available upon request to Alvis Z. Owen, Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Federal Building, Hot Springs, Arkansas 71901.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Alvis Z. Owen, Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Federal Building, Hot Springs, Arkansas 71901. Comments must be received by October 28, 1974 in order to be considered in the preparation of the final environmental statement.

F. LEROY BOND,
Regional Forester.

AUGUST 28, 1974.

[FR Doc.74-20505 Filed 9-4-74;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-422]

PACIFIC FAR EAST LINE, INC.

Notice of Application

Notice is hereby given that Pacific Far East Line, Inc., a subsidized Operator operating under Operating-Differential Subsidy Agreement, Contract No. FMB-81 has filed application dated August 14, 1974, for written permission, under the Merchant Marine Act, 1936, as amended, in connection with the proposed acquisition of 49.9 percent interest in the stock of Pacific Far East Line, Inc. by Freighters, Inc. Inasmuch as the proposed affiliated company of Pacific Far East Line, Inc., namely Freighters, Inc. owns a U.S. flag tanker which from time to time may operate in domestic intercoastal or coastwise trade, written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, will be required by Pacific Far East Line, Inc., if the transfer of stock is approved.

Pacific Far East Line, Inc. requests written permission under section 805(a) for its proposed affiliate to own and/or operate one U.S. flag vessel engaged in the transportation of bulk cargoes in domestic intercoastal or coastwise service.

As information, the U.S. flag tanker owned and operated by the proposed affiliate of Pacific Far East Line, Inc. is the SS AMERICAN WHEAT.

Interested parties may inspect this application in the Office of Subsidy Administration, Maritime Administration, Room No. 4085, Department of Commerce Building, Fourteenth & E Streets, NW., Washington, D.C. 20230.

Any person, firm or corporation having interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on Sept. 13, 1974, file same with the Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

In the event that petitions for leave to intervene are received and a hearing is scheduled the purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Maritime Subsidy Board/Maritime Administration.

Dated: August 30, 1974.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.74-20632 Filed 9-4-74;8:45 am]

National Bureau of Standards

FEDERAL INFORMATION PROCESSING STANDARDS TASK GROUP 13, WORKLOAD DEFINITION AND BENCHMARKING

Notice of Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. II, 1972), notice is hereby given that the Federal Information Processing Standards Task Group 13 (FIPS TG-13), "Workload Definition and Benchmarking," will hold a meeting from 10:00 a.m. to 4:00 p.m. on Wednesday, October 9, 1974, in Room B-255, Building 225, of the National Bureau of Standards at Gaithersburg, Maryland.

The purpose of this meeting is to review the progress of three work groups and to further develop tasks which should be addressed by the Committee.

The public will be permitted to attend, to file written statements, and, to the extent that time permits, to present oral statements. Persons planning to attend should notify the Executive Secretary, Mr. John F. Wood, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C., 20234 (Phone—301-921-3485).

RICHARD W. ROBERTS,
Director.

AUGUST 29, 1974.

[FR Doc.74-20400 Filed 9-4-74;8:45 am]

National Oceanic and Atmospheric Administration

MARINE FISHERIES ADVISORY COMMITTEE AND MARINE FISHERIES ADVISORY COMMITTEE SUBCOMMITTEE ON THE NATIONAL FISHERIES PLAN

Public Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix I (Supp. II, 1972), notice is hereby given of meetings of the Marine Fisheries Advisory Committee Subcommittee on the National Fisheries Plan on Wednesday, September 18, 1974, to be followed by the meeting of the Marine Fisheries Advisory Committee on Wednesday, Thursday, and Friday, September 18, 19, and 20, 1974. The National Fisheries Plan Subcommittee meeting will commence at 9:30 a.m. on September 18 and adjourn promptly at 11:30 a.m. It will be held at Suffolk University, Boston, Massachusetts, in the President's Conference Room, Donahue Building, 41 Temple Street. The subcommittee meeting will be followed by a meeting of the Marine Fisheries Advisory Committee in Woods Hole, Massachusetts. The location of the meeting will be the Redfield Auditorium of the Woods Hole Oceanographic Institution, 45 Water Street, Woods Hole, Massachusetts. The meeting will commence at 2:00 p.m. on September 18. Morning sessions on September 19 and 20 will convene at 8:00 a.m.

The items for discussion at the meetings will include the following:

SEPTEMBER 18, 1974

9:30-11:30 a.m.	Meeting of the National Fisheries Plan Subcommittee Review Progress in development of the National Fisheries Plan.
2 p.m.	Convene Tenth Meeting of the Marine Fisheries Advisory Committee (MAFAC X).
	Welcome to new members.
2:30 p.m.	Introductions and Announcements.
3 p.m.	Results of LOS Caracas.
5 p.m.	Adjourn for the day.

SEPTEMBER 19, 1974

8 a.m.	ICNAF, An Appropriate Tool for Coastal Fishery Management?

SEPTEMBER 19, 1974—Continued

9 a.m.	Enforcement and Surveillance Discussion, continued from MAFAC IX.
11 a.m.	National Fisheries Plan.
12 noon	Lunch Break.
1:30-6 p.m.	Woods Hole Open House and Tour.

SEPTEMBER 20, 1974

8 a.m.	Review of NMFS Programs and Budget, FY 1975 Reprogramming.
9 a.m.	Coastal Zone Management and Fisheries.
10 a.m.	Draft NMFS Gear Development Policy.
11 a.m.	Reserved for Report by Subcommittee Chairmen.
11:30 a.m.	Items Suggested by MAFAC members.
12 noon	Contingency Items. a. Report on Fisheries Legislation. b. Bluefin Tuna Briefing.
1 p.m.	Adjourn MAFAC X.

The meetings will be open to the public throughout.

Dated: August 28, 1974.

ROBERT M. WHITE,
Administrator, National Oceanic and Atmospheric Administration.

[FR Doc.74-20460 Filed 9-4-74;8:45 am]

Office of the Secretary

COMMERCE TECHNICAL ADVISORY BOARD

Change in Time and Location of Meeting

Notice was published in the FEDERAL REGISTER, Vol. 39, No. 163, on Wednesday, August 21, 1974, of a meeting to be held by the Commerce Technical Advisory Board.

This notice is to advise that the time and location for the meeting on Tuesday and Wednesday, September 10 and 11, 1974, have been changed, as follows.

September 10—8:30 a.m.–11 a.m., Room 6802, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.
11 a.m.–12:30 p.m., Room 1096, Main Commerce Building.
1:30 p.m.–5 p.m., Room 6802, Main Commerce Building.

September 11—9:30 a.m.–12 noon, Room 6802, Main Commerce Building.

There are no other changes from the original notice of August 21, 1974.

A limited number of seats will be available to the press and to the public. The public will be permitted to file written statements or inquiries with the Chairman before or after the meeting. Minutes of the meeting will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Inspection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Persons desiring to obtain further information concerning the Board should contact Mrs. Florence S. Feinberg, Room 3877, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 967-5065.

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

AUGUST 30, 1974.

[FR Doc.74-20541 Filed 9-4-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ADVISORY COMMITTEES

Notice of Meetings

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776; 5 U.S.C. App.), the Food and Drug Administration announces the following public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a)(1) and (2) of the act:

	Committee name	Date, time, place	Type of meeting and contact person
1.	Drug Experience Advisory Committee.	September 13, 9 a.m., Conference Room K, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open—John Palmer, M.D. (HFD-200), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4630.

Purpose. Advises the Commissioner of Food and Drugs on methods currently in use or on proposed methods for the collection of data on adverse drug reactions, recommends changes as appropriate, and evaluates the significance of information received in the system.

Agenda. Program activities over the past year; implementation of prior recommendations; and future role of the committee.

	Committee name	Date, time, place	Type of meeting and contact person
2.	Panel on Review of Cardiovascular Devices.	September 30, 9:30 a.m., Room 1409, FB-8, 200 C St. SW., Washington, D.C.	Open—Glenn A. Rahmoeller (HFK-400), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-2376.

Purpose. Reviews and evaluates available data concerning safety, effectiveness, and reliability of cardiovascular devices currently in use.

Agenda. Discussion of product development protocols for medical devices classified in the scientific review category: A representative from FDA's Bureau of Drugs will discuss safety and efficacy requirements for new drugs, and a representative from the National Heart and Lung Institute will discuss NIH's preclinical testing requirements for new devices developed with NIH grants and contracts.

Agenda items are subject to change as priorities dictate.

Dated: August 28, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-20332 Filed 9-4-74;8:45 am]

[FAP 1A2612]

CHATTEM DRUG & CHEMICAL CO.

Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Chattem Drug & Chemical Co., Chattanooga, TN 37409, has withdrawn its petition (FAP 1A2612), notice of which was published in the FEDERAL REGISTER of December 16, 1970 (35 FR 19035), proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for safe use of glycine as a diluent and flavor-masking agent for saccharin in sugar substitutes for table use and in refrigerated, prepared, ready-to-eat gelatin desserts.

Dated: August 26, 1974.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.74-20449 Filed 9-4-74;8:45 am]

[FAP 4H3021]

MALLINCKRODT CHEMICAL WORKS

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 4H3021) has been filed by Mallinckrodt Chemical Works, Washine Division, c/o CFR Services, 2347 Paddock Lane, Reston, VA 22091, proposing that § 121.1186 *n-Heptyl p-hydroxybenzoate* (21 CFR 121.1186) be amended to recognize heptylparaben as the common or usual name for the food additive *n*-heptyl *p*-hydroxybenzoate.

Dated: August 26, 1974.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.74-20451 Filed 9-4-74;8:45 am]

[FAP 4B2932]

SHELL CHEMICAL CO.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 4B2932) has been filed by Shell Chemical Co., Division of Shell Oil Co., One Shell Plaza, P.O. Box 2463, Houston, TX 77001, proposing that § 121.2622 *Styrene block polymers with 1,3-butadiene* (21 CFR 121.2622) be amended to provide for safe use of styrene block polymer with 1,3-butadiene, hydrogenated, as articles or components of articles intended to contact food.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: August 26, 1974.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.74-20450 Filed 9-4-74;8:45 am]

[FAP 3A2904]

TATE & LYLE ENTERPRISES LTD.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3A2904) has been filed by Tate & Lyle Enterprises Limited, 1 Cosmos House, Bromley Common, Bromley, BR2 9NA, England, proposing that § 121.1092 *Acrylate-acrylamide resins* (21 CFR 121.1092) be amended in paragraph (c)(1) to extend the use of acrylamide-acrylic acid resin (hydrolyzed polyacrylamide) as a flocculent in the clarification of beet sugar juice or cane sugar juice to include beet sugar liquor or cane sugar liquor in an amount not to exceed 10 parts per million by weight of the liquor.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: August 26, 1974.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.74-20453 Filed 9-4-74;8:45 am]

[FAP 4B3005]

W. R. GRACE & CO.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)

(5)), notice is given that a petition (FAP 4B3005) has been filed by W. R. Grace & Co., DAREX Desalting Plant Services, Industrial Chemicals Groups, 7379, Route 32, Columbia, MD 21044, proposing that the food additive regulations (21 CFR Part 121) be amended to provide for safe use of a mixture of sodium polymethacrylate, acrylamide-sodium acrylate resin, and polyethylene glycol monolaurate as a scale and corrosion inhibitor in seawater desalination operations.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B–42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: August 26, 1974.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.74–20452 Filed 9–4–74;8:45 am]

Office of Education

ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

Notice of Public Meeting

Notice is hereby given, pursuant to Public Law 92–463, that the next meeting of the Advisory Committee on Accreditation and Institutional Eligibility will be held on September 25–27, 1974, at 9 a.m. local time, in the auditorium of the HEW-North Building, 330 Independence Avenue, SW., Washington, D.C.

The Advisory Committee on Accreditation and Institutional Eligibility is established pursuant to section 253 of the Veteran's Readjustment Assistance Act (Chapter 33, Title 38, U.S. code). The Committee is established to advise the Commissioner of Education in fulfilling his statutory obligations to publish a list of nationally recognized accrediting agencies and associations which he determines to be reliable authorities concerning the quality of training offered by educational institutions and programs. It also serves to advise the Commissioner in fulfilling his statutory obligation to publish a list of State agencies which he has determined to be reliable authorities concerning the quality of public postsecondary vocational education in their respective States, pursuant to section 438(b) of the Higher Education Act of 1965, as amended by P.L. 92–318.

The meeting of the Committee shall be open to the public from 9–11 a.m., September 25, and from 9 a.m. to 4:30 p.m., September 26, for presentations by representatives of nationally recognized and State agencies which have petitions for recognition pending before the Committee, and for review of a variety of policy items.

Under the authority of section 10(d) of the Federal Advisory Committee Act (P.L. 92–463) and clauses (4) and (6) of subsection (b) of section 552(b) of Title 5 of the United States Code, the meeting will be closed to the public from 11 a.m.–5 p.m., September 25 and from 9 a.m.–5 p.m., September 27. Closure of the meeting is to allow a free and frank discussion of the pending petitions for recognition and renewal of recognition. These petitions contain confidential financial information of institutions. In addition, matters are discussed, the release of which would amount to a clearly unwarranted invasion of privacy of individuals and groups. These portions of the petitions are exempt from disclosure under 5 U.S.C. 552(b) (4) and (6). A discussion of the petitioner and the working papers necessarily ranges back and forth from exempt and nonexempt material, and the exempt portion cannot be separated out during the Committee's deliberation. Records shall be kept of all Committee proceedings, and these will be available in the offices of the Accreditation and Institutional Eligibility Staff, Rooms 4068 and 4069, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

Signed at Washington, D.C., on August 23, 1974.

JOHN R. PROFFITT,
Director, Accreditation and Institutional Eligibility Staff, Office of Education.

[FR Doc.74–20486 Filed 9–4–74;8:45 am]

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Public Meeting

Notice is hereby given, pursuant to PL–92–463, that the next meeting of the National Advisory Council on Vocational Education will be held on October 3, 1974, from 9 a.m. to 5 p.m., local time and on October 4, 1974, from 9 a.m. to 4 p.m., local time, at the Embassy Row Hotel, Washington, D.C.

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968 (20 U.S.C. 1244). The Council is directed to advise the Commissioner of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs, supported with assistance under the act; review the administration and operation of vocational education programs under the act; including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations to the Secretary of HEW for transmittal to the Congress, and conduct independent evaluation of programs carried out under the act and publish and distribute the results thereof.

The meeting of the Council shall be open to the public. The proposed agenda includes:

October 3 and 4	New Vocational Education Legislation: A discussion with Congressmen.
	Report of the NAIEC School-to-Work Project.
	Discussion of Committee Work Plans.
	Final Report on Urban Vocational Education.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the Council's Executive Director, located in Suite 412, 425–13th Street, N.W., Washington, D.C. 20004.

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

CALVIN DELLEFIELD,
Executive Director.

[FR Doc.74–20461 Filed 9–4–74;8:45 am]

Office of the Secretary

ASSISTANT SECRETARY FOR HEALTH

Delegation of Authority

Notice is hereby given that the following delegation of authority has been made under the Health Maintenance Organization Act of 1973 (Public Law 93–222).

Delegation from the Secretary to the Assistant Secretary for Health, with authority to redelegate, of all the authorities vested in the Secretary of Health, Education, and Welfare by the Health Maintenance Organization Act of 1973 (Pub. L. 93–222), except for the provisions of Section 1315 of Public Health Service Act, as amended, and section 5 of Public Law 93–222. The reference to section 1308(c) of the Public Health Service Act, as amended, in the Secretary's delegation of April 30, 1974, is superseded (39 FR 16915, 5/10/74). This delegation is effective immediately.

Dated: August 26, 1974.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.74–20422 Filed 9–4–74;8:45 am]

OFFICE OF FACILITIES ENGINEERING AND PROPERTY MANAGEMENT

Statement of Organization, Functions, and Delegations of Authority

Part 1 of the statement of organization, functions, and delegations of authority for the Department of Health, Education, and Welfare is amended to modify section 1T80, Office of Facilities Engineering and Property Management, OFEPM, (38 FR 16406) June 22, 1973. A new Division of Construction has been established in the Office of Architectural and Engineering Services. This is accomplished by transferring to the new Division certain functions and staff formerly assigned to the Metropolitan

Engineering Staff. The functional statement of OFEPM is modified as follows to reflect this change.

Add to sec. 1T80.10 under Office of Architectural and Engineering Services a new Division of Construction.

Add to sec. 1T80.20D. a new item 4. as follows: a. Monitoring and coordinating all construction related activities utilizing DHEW funding including the provision of expert advice and assistance on construction engineering methodology and techniques, and on advanced techniques in the construction field such as phased design with construction management concepts to provide quality construction faster and at lowest practical costs.

b. Evaluating construction activities and directing preparation of reports for construction planning purposes and construction program development including recommending to the Divisions of Engineering and Architecture post evaluation surveys when deemed appropriate.

c. Analyzing construction reports from the Regional Offices to isolate problem areas, to determine the cause of the problems, and to devise solutions thereto, including periodic visits to the Regional offices to analyze problems of construction and contract management techniques.

d. Providing assistance, guidance, consultation and coordination between GSA and HEW agencies in the construction of field facilities. Also provides appropriate services on special projects of high priority as identified by the Director, OFEPM.

e. Relating to direct Federal construction in the Washington/Baltimore Metropolitan area: conducts preconstruction conferences; evaluates monthly payment requests from contractors; investigates proposed changes and approves or disapproves such changes; evaluates periodic status reports; and makes final inspection.

Revise 1T80.20A.4.a to read as follows: Performing architectural/engineering and construction related technical services as pertinent and as listed in sections 1T02a2, 1T02a4 excluding 1T02a4(2), and 1T02a5 for direct Federal construction activities in the Washington/Baltimore Metropolitan area.

Date: AUGUST 29, 1974.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.74-20423 Filed 9-4-74;8:45 am]

ORDER OF SUCCESSION

Statement of Organization, Functions, and Delegations of Authority

Part 1A of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, Office of the Secretary is amended to add a new Section 1A.10B, Order of Succession. This Order of Succession supersedes the Order of Succession published in 36 F.R. 222 (11/17/71) and reads as follows:

Section 1A.10B. *Order of Succession.* 1. The Under Secretary acts as Secretary during the absence or disability of the Secretary.

2. During the absence or disability of the Secretary and Under Secretary or in the event of a simultaneous vacancy in the offices of the Secretary and Under Secretary, the Assistant Secretary who was appointed to his office through nomination by the President and confirmation by the Senate and who is senior according to date of his commission shall act as Secretary. In the event that the commissions of two or more Assistant Secretaries bear the same date, the Secretary will make a decision establishing an order of seniority between such positions.

3. During the absence, disability, or vacancy in the office of the Secretary, the Under Secretary, and the Assistant Secretaries, the General Counsel shall perform all functions and exercise all authority of the Secretary. (P.L. 853, 84th Congress, July 31, 1956, 70 Stat. 733, 5 U.S.C. 623b.(b) (1958))

Dated: August 28, 1974.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.74-20421 Filed 9-4-74;8:45 am]

NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

Notice of Establishment and Approval of Charter

The Secretary of Health, Education, and Welfare announces his approval on August 23, 1974, of the Charter providing for the operation and functions of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research which was established by section 201(a) of Pub. L. 93-348, signed into law July 12, 1974. Subject to special provisions of law, the Panel shall be governed by the provisions of the Federal Advisory Committee Act (Public Law 92-463) setting forth standards for the formation and use of advisory committees.

In view of the legislative deadline of the establishment and appointment of members to this Commission, and in conformance with OMB Circular A-63, Part 6, the Office of Management and Budget, on August 21, 1974, waived part of the 15-day requirement between notice of establishment and filing of the charter for publication in the FEDERAL REGISTER.

This Commission shall (1) conduct a comprehensive investigation and study to identify the basic ethical principles which would underlie the conduct of biomedical and behavioral research involving human subjects; develop guidelines which should be followed in such research to assure that it is conducted in accordance with such principles; make recommendations to the Secretary for such administrative action as may be necessary, and concerning any other matter pertaining to the protection of human subjects of biomedical and behavioral research. (2) Identify the requirements for informed consent to participation in biomedical and behavioral research by children, prisoners, and the institutionalized mentally infirm. (3) Conduct an investigation and study to determine the need for a mechanism to assure that human subjects in biomedical and behavioral research not subject to regulation by the Secretary are protected. (4) Investigate the nature and extent of research involving living fetuses, the purposes for which such research has been undertaken, and alternative means for achieving such purposes. (5) Investigate the use of psychosurgery during the five-year period ending December 31, 1972. (6) Undertake a comprehensive study of the ethical, social, and legal implications of advances in biomedical and behavioral research and technology.

This Commission shall cease to exist 30 days following the submission of its final report, that report being submitted not later than ninety days after the expiration of a 24-month period, beginning on the first day of the first month after which all the members of the Commission have taken office.

Dated: August 30, 1974.

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

[FR Doc.74-20544 Filed 9-4-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 74-196]

PROPOSED COAST GUARD ACADEMY EXPANSION

Preparation of Draft Environmental Impact Statement

The Coast Guard is preparing a draft environmental impact statement for a proposed expansion of the U.S. Coast Guard Academy, New London, Connecticut.

The statement will consider this proposed expansion, including the construction of a Coast Guard Research and Development Center and a new Coast Guard Station, New London. The estimated date of filing with the Council on Environmental Quality is October 1974.

The Coast Guard requests that any person who has information that may contribute to the preparation of this draft environmental impact statement please contact the Superintendent, U.S. Coast Guard Academy, New London, Connecticut 06320.

Dated: August 28, 1974.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.74-20492 Filed 9-4-74;8:45 am]

[CGD 74-205]

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

Open Meeting

This is to give notice in accordance with section 10(a) of the Federal Advisory Committee Act (P.L. 92-463; 5 U.S.C. App. 1) of October 6, 1972 that the Chemical Transportation Industry Advisory Committee will conduct an open meeting on September 18, 1974 in Room 2232 of the Nassif Building, 400 7th Street SW., Washington, D.C. The meeting is scheduled to begin at 9:00 a.m. and is expected to last all day.

Items on the agenda are the following:

1. Call to Order.
2. Opening Remarks.
3. Committee Organization and Operating Procedures.
4. Project Status Reports:
a. Liquefied Flammable Gas Vessel Regulations.
b. Chemical Vessel Regulations.
c. Bulk Liquid Facility Regulations.
d. Bulk Liquefied Gas Facility Regulations.
e. Commercial Explosives Regulations.
f. Roll On-Roll Off Vessel Regulations.
g. Tankerman Regulations.
5. Relevant Work of the National Academy of Sciences Committee on Hazardous Materials.
6. Summary of Recent and Planned National and International Regulations and Standards.
7. Committee Comments and Recommendations.
8. Miscellaneous.
9. Adjournment.

The Chemical Transportation Industry Advisory Committee was chartered by the Commandant of the Coast Guard on August 3, 1973 to provide advice and consultation with respect to the safe water transportation of hazardous materials. Public members of the Committee serve voluntarily without compensation from the Federal Government, either travel or per diem.

Interested persons may seek additional information by writing:

Commandant (G-CMC)
U.S. Coast Guard
Washington, D.C. 20590

or by calling: 202-426-1477.

Dated: August 28, 1974.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.74-20497 Filed 9-4-74;8:45 am]

[CGD 74 203]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from June 3, 1974 to June 25, 1974 (List No. 13-74). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46 U.S.C., section 1333 of Title 43 U.S.C., and section 198 of Title 50, U.S.C. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (46 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

GAS MASKS, SELF-CONTAINED BREATHING APPARATUS, AND SUPPLIED-AIR RESPIRATORS, FOR MERCHANT VESSELS

Approval No. 160.011/37/2, Scott Demand Air-Pak IIa, Model No. 900000, self-contained one-half hour compressed air breathing apparatus, at least one extra fully charged cylinder of breathing air to be included as part of the complete unit, Scott's dwg. Nos. 900000 dated May 6, 1974; 900014 dated May 6, 1974; 800018 dated May 6, 1974; 800010 sheets 1 & 2 dated May 6, 1974 and Bureau of Mines and National Institute for Occupational Safety and Health Approval No. TC-13F-39; Scott Instruction Sheet No. 89006-01 rev. 4/74, manufactured by Scott Aviation Corporation, Lancaster, New York 14086, effective June 13, 1974. (It supersedes Approval No. 160.011/37/1 dated August 25, 1969.)

Approval No. 160.011/39/1, Scott Air-Pak IIa Pressure-Demand Model 900014 self-contained one-half hour compressed air breathing apparatus, at least one extra fully charged cylinder of breathing air to be included as part of complete unit, Scott's dwg. Nos. 900000 dated May 6, 1974; 900014 dated May 6, 1974; 800018 dated May 6, 1974; 800010 sheets 1 & 2 dated May 6, 1974; Scott's Instruction Sheet No. 89022-01 Rev. C 4/74, Bureau of Mines and National Institute for Occupational Safety and Health Approval No. TC-13F-40, manufactured by Scott Aviation Corporation, Lancaster, New York 14086, effective June 13, 1974. (It supersedes Approval No. 160.011/39/0 dated July 15, 1971.)

WATER, EMERGENCY DRINKING (IN HERMETICALLY SEALED CONTAINERS), FOR MERCHANT VESSELS

Approval No. 160.026/37/0, container for emergency provisions for lifeboats and life rafts, dwg. No. FL-1 dated May 17, 1974, Marking: ¼ Ration for lifeboats, ½ Ration for life rafts, manufactured by F & L Packing Corporation, 257 Water Street, Brooklyn, New York 11201, formerly manufactured by Globe Equipment Corporation, effective June 3, 1974. (It supersedes Approval No. 160.026/37/0 dated April 26, 1974 to show change in name of company.)

Approval No. 160.026/40/0, container for emergency provisions dwg. No. FL-2 dated May 17, 1974 and specification data sheet dated May 17, 1974, manufactured by F & L Packing Corporation, 257 Water Street, Brooklyn, New York 11201, effective June 4, 1974.

Approval No. 160.026/41/0, container for emergency drinking water dwg. No. FL-3 dated May 17, 1974, manufactured by F & L Packing Corporation, 257 Water Street, Brooklyn, New York 11201, effective June 4, 1974.

MECHANICAL DISENGAGING APPARATUS, LIFEBOAT, FOR MERCHANT VESSELS

Approval No. 160.033/52/1, Type B-1, Rottmer type releasing gear, approved for maximum working load of 14,000 pounds per set (7,000 pounds per hook), identified by assembly dwg. No. M-125-13, Rev. F dated May 5, 1969, manufactured by Marine Safety Equipment Corporation, Foot of Wycoff Road, Farmingdale, New York 07727, effective June 3, 1974. (It is an extension of Approval No. 160.033/52/1 dated August 28, 1969.)

LIFEBOATS

Approval No. 160.035/299/2, 24.0'x8.0' x3.5' aluminum, oar-propelled lifeboat, 40-person capacity, identified by construction and arrangement dwg. No. 24-9B, Rev. C dated June 27, 1969, 46 CFR 160.035-13(c) Marking, Weights: Condition "A"=2,250 pounds; Condition "B"=9,771 pounds, manufactured by Marine Safety Equipment Corporation, Foot of Wycoff Road, Farmingdale, New Jersey 07727, effective June 3, 1974. (It is an extension of Approval No. 160.035/299/2 dated August 5, 1969.)

Approval No. 160.035/477/0, 30.0'x10.0' x4.33' fibrous glass reinforced plastic (FRP), totally enclosed (covered) Class 1 motor-propelled, lifeboat, 64-person capacity, identified by general arrangement dwg. No. P-30-2M, Rev. B dated September 21, 1973 and COMDT (GMMT-3/83) letter dated June 25, 1974, 46 CFR 160.035-13(c) Marking, Weights: Condition "A"=8,297 pounds; Condition "B"=20,150 pounds, manufactured by Marine Safety Equipment Corporation, Foot of Wycoff Road, Farmingdale, New Jersey 07727, effective June 25, 1974.

Approval No. 160.035/478/0, 26.0'x9.0' x3.83' fibrous glass reinforced plastic (FRP), totally enclosed (covered) Class 1 motor-propelled, lifeboat, 42-person capacity identified by general arrangement dwg. No. P-26-2M, Rev. A dated August 27, 1973 and COMDT(GMMT-3/83) letter dated June 25, 1974, 46 CFR 160.035-13(c) Marking, Weights: Condition "A"=6,932 pounds; Condition "B"=14,785 pounds, manufactured by Marine Safety Equipment Corporation, Foot of

Wycoff Road, Farmingdale, New Jersey 07727, effective June 25, 1974.

BUOYANT CUSHIONS, UNICELLULAR PLASTIC FOAM

Approval No. 160.049/63/0, special approval for 23"x13"x2⅛" rectangular, vinyl-dipped, unicellular plastic foam buoyant cushion, dwg. No. 5335–X, Rev. 1 dated August 14, 1964, Type IV PFD, manufactured by Goodenow Manufacturing, 1301 West 18th Street, Erie, Pennsylvania 16501, effective June 3, 1974. (It is an extension of Approval No. 160.049/63/0 dated August 20, 1969.)

WORK VESTS, UNICELLULAR PLASTIC FOAM

Approval No. 160.053/7/1, unicellular plastic foam work vest as per military specification MIL–17653A, U.S.C.G. Specification Subpart 160.053, dwg. No. 21975 dated August 6, 1965, dwg. No. 8211–2 dated December 15, 1965, dwg. No. 8211/5/74 dated May 29, 1974 and dwg. No. 8211/4/74 dated April 22, 1974, Type V PFD, manufactured by Atlantic-Pacific Manufacturing Corporation, 124 Atlantic Avenue, Brooklyn, New York 11201, effective June 20, 1974. (It supersedes Approval No. 160.053/7/1 dated January 11, 1971.)

FIRE-PROTECTIVE SYSTEMS

Approval No. 161.002/9/1, supervised automatic and manual fire alarm system consisting of a control unit containing up to forty zone modules (dwgs. 55–124, 55–125, 55–127), zone module assembly (dwg. 55–126) and battery charging panel, 5 amp (dwg. 55–129) or 10 amp (dwg. 55–128), this system is intended for use with two 24-volt storage batteries, one of which is on charge while the other is supplying the system, and bells, manual alarm stations, test stations, and thermostats approved by the U.S. Coast Guard, manufactured by Henschel Corporation, Amesbury, Massachusetts 01913, effective June 6, 1974. (It is an extension of Approval No. 161.002/9/1 dated August 27, 1969.)

TELEPHONE SYSTEMS, SOUND-POWERED

Approval No. 161.005/38/2, sound-powered telephone station, desk type, with internal ringer, selective ringing, common talking, 2, 8, and 17 stations, dwg. No. 70–529–2, Alt. 0 dated October 10, 1964, for use in staterooms, offices, chart room, radio room, etc., manufactured by Henschel Corporation, Amesbury, Massachusetts 01913, effective June 6, 1974. (It is an extension of Approval No. 161.005/38/2 dated August 20, 1969.)

FLASHLIGHTS, ELECTRIC, HAND

Approval No. 161.008/13/0, N–36 watertight flashlight, Type I, size 2 (2-cell), Part Number N–36, each flashlight shall be plainly and permanently marked with the name of the manufacturer and the above part number, manufactured by Fulton Manufacturing, Division of Chromalloy American Corporation, Wauseon, Ohio 43567, effective June 6, 1974. (It is an extension of Approval No. 161.008/13/0 dated August 25, 1969.)

CARBON DIOXIDE TYPE FIRE EXTINGUISHING SYSTEMS

Approval No. 162.038/1/0, Kidde Carbon Dioxide Type Fire Extinguishing Systems, Typical Installation dwg. Nos. R–98686, Rev. C dated February 7, 1963; R–98687, Rev. C dated February 27, 1963; and L–98688, Rev. C dated February 27, 1963; and Parts List revised December 31, 1963, for parts used exclusively for the type RB Audible & Visual, Supervised Smoke Detecting Systems, see Certificate of Approval 161.002/6/0, manufactured by Walter Kidde & Company, Inc., Industrial and Marine Division, Belleville, New Jersey 07109, effective June 3, 1974. (It reinstates and supersedes Approval No. 162.038/1/0 terminated January 24, 1974.)

BACKFIRE FLAME CONTROL, GASOLINE ENGINES; FLAME ARRESTERS; FOR MERCHANT VESSELS AND MOTORBOATS

Approval No. 162.041/177/0, Bendix Model No. B175–61–2 backfire flame arresters, same as model approved by 162.041/72 with addition of external vent tube as used in model approved by 162.041/136, manufactured by Bendix Corporation, Fuel Devices Division, 696 Hart Avenue, Detroit, Michigan 48214, effective June 3, 1974.

Approval No. 162.041/178/0, Volvo Penta Model MB10A backfire flame arrester, cast aluminum housing, brass wire cloth element, stainless steel retainer and clamping screw, manufactured by Volvo of America Corporation, Rockleigh, New Jersey 07647, effective June 3, 1974.

STRUCTURAL INSULATIONS FOR MERCHANT VESSELS

Approval No. 164.007/31/1, "Cafco Blaze Shield Type D C/F" sprayed fiber type structural insulation identical to that described in Underwriters' Laboratories, Inc. report file R3749–31, assignment 69NK2439 dated September 25, 1970, approved for use without other insulating materials to meet Class A–60 requirements in a 2" thickness and not less than 12 pounds per cubic food density, manufactured by United States Mineral Products Company, Stanhope, New Jersey 07874, effective June 10, 1974. (It supersedes Approval No. 164.007/31/0 dated May 28, 1970 to show material change.)

Approval No. 164.007/47/0, "Cafco Deck-Shield C/F" sprayed fiber type structural insulation identical to that described in Underwriters' Laboratories, Inc. report file R3749–28, assignment 69CH4131 dated March 11, 1970, approved for use without other insulating materials to meet Class-60 requirements in a 1½" thickness and an 18.4 pounds per cubic foot nominal density, manufactured by United States Mineral Products Company, Stanhope, New Jersey 07874, effective June 10, 1974.

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

Approval No. 164.009/163/0, "Thermo-12" pipe and block insulation, identical to that described in Johns-Manville's letter of March 28, 1973 and in National Bureau of Standards Test Report FR 3844 dated May 24, 1973, manufactured by Johns-Manville Sales Corporation, Denver, Colorado 80217, Plants: Manville, New Jersey; Long Beach, California, effective June 4, 1974. (It supersedes Approval No. 164.009/163/0 dated July 2, 1973 to add new plant location.)

Approval No. 164.009/164/0, Marine Veneer, Colored Marine Veneer, Dekeran, and Textured Dekeran, plain or perforated, inorganic heavy density sheets as described in Johns-Manville letter of April 25, 1973, manufactured by Johns-Manville Sales Corporation, Denver, Colorado 80217, effective June 10, 1974. (It supersedes Approval No. 164.009/164/0 dated May 3, 1973 to show change of address of manufacturer.)

Dated: August 28, 1974.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.74–20500 Filed 9–4–74;8:45 am]

[CGD 74 198]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from June 4, 1974 to June 18, 1974 (List No. 14–74). These actions were taken in accordance with procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, U.S.C., section 1333 of Title 43, U.S.C., and section 198 of Title 50, U.S.C. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the

equipment affected may be used as long as it remains in good and serviceable condition.

GAS MASKS, SELF-CONTAINED BREATHING APPARATUS, AND SUPPLIED-AIR RESPIRATORS, FOR MERCHANT VESSELS

The Davis Products, Scott Aviation Division of "Automatic" Sprinkler Corporation of America, 225 Erie Street, Lancaster, New York 14086, no longer manufactures certain supplied-air respirators and Approval Nos. 160.011/3/1 and 160.011/9/1 were terminated effective June 18, 1974.

The Davis Products, Scott Aviation Division of "Automatic" Sprinkler Corporation of America, 225 Erie Street, Lancaster, New York 14086, no longer manufactures certain gas masks and Approval Nos. 160.011/11/1 and 160.011/25/1 were therefore terminated effective June 18, 1974.

STRUCTURAL INSULATIONS FOR MERCHANT VESSELS

The Johns-Manville Sales Corporation, Denver, Colorado 80217, no longer manufactures certain structural insulations and Approval Nos. 164.007/7/1 and 164.007/9/1 were therefore terminated effective June 4, 1974.

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

The Johns-Manville Sales Corporation, Denver, Colorado 80217, no longer manufactures certain incombustible materials and Approval No. 164.009/43/0 was therefore terminated effective June 4, 1974.

The Johns-Manville Sales Corporation, Denver, Colorado 80217, no longer manufactures certain incombustible materials and Approval No. 164.009/98/0 was therefore terminated effective June 10, 1974.

Dated: August 28, 1974.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.74-20498 Filed 9-4-74;8:45 am]

[CGD 74 199]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from July 16, 1974 to July 31, 1974 (List No. 15-74). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, U.S.C., section 1333 of Title 43, U.S.C., and section 198 of Title 50, U.S.C. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

SPECIAL PURPOSE WATER SAFETY BUOYANT DEVICES

The Omega Marketing, Inc., 203 Pleasant Street, Marblehead, Massachusetts 01945, no longer manufactures certain special purpose water safety buoyant devices and Approval Nos. 160.064/490/0, 160.064/491/0, 160.064/492/0, 160.064/493/0 and 160.064/494/0 were therefore terminated effective July 30, 1974.

BROMOTRIFLUOROMETANE-TYPE FIRE EXTINGUISHING SYSTEMS

The Norris Industries, Fire & Safety Equipment Division, P.O. Box 2750, Newark, New Jersey 07114, no longer manufactures certain bromotrifluoromethane type fire extinguishing systems and Approval No. 162.035/2/1 was therefore terminated effective July 31, 1974.

STRUCTURAL INSULATIONS FOR MERCHANT VESSELS

The W. R. Grace and Company, 1511 K Street, NW., Washingotn, D.C. 20005, Approval No. 164.007/33/0 was terminated due to change in composition, effective July 29, 1974.

BULKHEAD PANELS FOR MERCHANT VESSELS

The Alliance Wall Corporation, Wyncote, Pennsylvania 19095, Approval No. 164.008/53/0 expired and was terminated effective July 16, 1974.

Dated: August 28, 1974.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.74-20499 Filed 9-4-74;8:45 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-500, 50-501]

TOLEDO EDISON CO. ET AL.

Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicants' Environmental Report: Time for Submission of Views on Antitrust Matters

The Toledo Edison Company, The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the applicants), pursuant to section 103 of the Atomic Energy Act of 1954, as amended, have filed an application for authorization to construct and operate two generating units utilizing two pressurized water nuclear reactors. The application was tendered on May 10, 1974. Following a preliminary review for completeness, the Environmental Report was found to be acceptable on July 19, 1974. The Preliminary Safety Analysis Report (PSAR) was rejected on June 12, 1974, because of deficiencies in the Quality Assurance Program description. The applicants submitted a revised Quality Assurance Program on July 24, 1974, and the application was docketed on August 9, 1974. Dockets Nos. 50-500 and 50-501 have been assigned to the application and should be referenced in any correspondence relating to it.

The proposed nuclear facility, designated by the applicants as the Davis-Besse Nuclear Power Station, Units 2 and 3, is located on Lake Erie in Ottawa County, Ohio. Each unit is designed for initial operation at 2772 megawatts thermal, with a net electrical output of 906 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust matters of the application presented to the Attorney General for consideration should submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before November 4, 1974. The request should be filed in connection with Docket Nos. 50-500-A and 50-501-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20545, and at the Ida Rupp Public Library, Port Clinton, Ohio.

The Environmental Report was filed by the applicants pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51. This report, which discusses environmental considerations related to the construction and operation of the proposed facility, is being made available for public inspection at the aforementioned locations and at the Ohio State Clearinghouse, Office of the Governor, 62 East Broad Street, Columbus, Ohio 43215.

After the Environmental Report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission's Regulatory staff. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement with a request for comments from interested persons on the

draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland, this 27th day of August 1974.

For the Atomic Energy Commission.

L. P. CROCKER,
Acting Chief, Light Water Reactors Branch 2-2, Directorate of Licensing.

[FR Doc.74-20606 Filed 9-4-74;8:45 am]

[Dockets Nos. 50-500, 50-501]

TOLEDO EDISON CO. ET AL.

Hearing on Application for Construction Permits

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held by an Atomic Safety and Licensing Board (Board), to consider the application filed under the Act by the Toledo Edison Company, The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company and Pennsylvania Power Company (the applicants), for construction permits for two pressurized water nuclear reactors designated as the Davis-Besse Nuclear Power Station, Units 2 and 3 (the facilities), each of which will be designed for operation at approximately 2772 thermal megawatts with a net electrical output of approximately 906 megawatts. The proposed facilities are to be located on Lake Erie in Ottawa County, Ohio.

The hearing, which will be scheduled to begin in the vicinity of the site of the proposed facilities, will be conducted by an Atomic Safety and Licensing Board (Board) which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel, consisting of Edward Luton, Esq., Chairman, Dr. Richard F. Cole, and Dr. David L. Hetrick.

Pursuant to 10 CFR 2.785, an Atomic Safety and Licensing Appeal Board will exercise the authority and the review function which would otherwise be exercised and performed by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER at a later date.

Upon completion by the Commission's regulatory staff of a favorable safety evaluation of the application and an environmental review and upon receipt of a report by the Advisory Committee on Reactor Safeguards, the Director of Regulation will consider making affirmative findings on Items 1–3, a negative finding on Item 4, and an affirmative finding on Item 5 specified below as a basis for the issuance of construction permits to the applicants:

ISSUES PURSUANT TO THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

1. Whether in accordance with the provisions of 10 CFR 50.35(a):

(a) The applicants have described the proposed design of the facilities including, but not limited to, the principal architectural and engineering criteria for the design, and have identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicants and the applicants have identified, and there will be conducted a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of contruction of the proposed facilities, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facilities can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether the applicants are technically qualified to design and construct the proposed facilities;

3. Whether the applicants are financially qualified to design and construct the proposed facilities; and

4. Whether the issuance of permits for construction of the facilities will be inimical to the common defense and security or to the health and safety of the public.

ISSUE PURSUANT TO NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (NEPA)

5. Whether, in accordance with the requirements of 10 CFR Part 51, the construction permits should be issued as proposed.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR 2.4(n), the Board will determine: (1) without conducting a de novo evaluation of the application, whether the application and the record of the proceeding contain sufficient information, the review of the application by the Commission's regulatory staff has been adequate to support the proposed findings to be made by the Director of Regulation on Items 1–4 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the issuance of the construction permits proposed by the Director of Regulation; and (2) whether the review conducted by the Commission pursuant to NEPA has been adequate.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as issues in this proceeding, Items 1–5 above as a basis for determining whether the construction permits should be issued to the applicants.

With respect to the Commission's responsibilities under NEPA, and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with 10 CFR Part 51: (1) determine whether the requirements of section 102(2)(C) and (D) of NEPA and 10 CFR Part 51 have been complied with in this proceeding; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; and (3) determine whether the construction permits should be issued, denied, or appropriately conditioned to protect environmental values.

The Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within sixty (60) days after the notice of hearing is published or at such other time as the Board deems appropriate, for the purpose of dealing with the matters specified in 10 CFR 2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any required special prehearing conference, and within sixty (60) days after discovery has been completed or at such other time as the Board may specify, for the purpose of dealing with the matters specified in 10 CFR 2.752.

The Board will set the time and place for any special prehearing conference, prehearing conference and evidentiary hearing and the respective notices will be published in the FEDERAL REGISTER.

Pursuant to 10 CFR 2.761a, a hearing by the Board on issues pursuant to NEPA and general site suitability and certain other possible issues may be held and a decision issued prior to and separate from the hearing and decision on other issues. In the event the Board, after the hearing, makes favorable findings on such issues, the Director of Regulation may, pursuant to 10 CFR 50.10(e), authorize the applicants to conduct certain onsite work entirely at their own risk prior to completion of the remainder of the proceeding.

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may make an oral or written statement on the record. He does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of Items 1–5 above. Limited appearances will be permitted at the time of the hearing at the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission and others in the manner specified below.

Any person whose interest may be affected by the proceeding, who wishes to participate as a party in the proceeding

must file a written petition under oath or affirmation for leave to intervene in accordance with the provisions of 10 CFR 2.714. A petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have all the rights of the applicant to participate fully in the conduct of the hearing, such as the examination and cross-examination of witnesses, with respect to their contentions related to the matters at issue in the proceeding.

A petition for leave to intervene must be filed with the Secretary of the Commission and others as specified below by October 7, 1974. A petition for leave to intervene which is not timely will not be granted unless the Board determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Board has considered those factors specified in 10 CFR 2.714(a)(1)–(4) and § 2.714(d).

An answer to this notice, pursuant to the provisions of 10 CFR 2.705, must be filed by the applicants by September 25, 1974.

Papers required to be filed in this proceeding shall be filed by mail or telegram addressed to the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Docketing and Service Section, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and twenty (20) conformed copies of each such paper with the Commission. A copy of the petition or request for limited appearance should also be sent to the Chief Hearing Counsel, Office of the General Counsel, Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545, and to Leslie Henry, Esq., Fuller, Henry, Hodge & Snyder, 300 Madison Avenue, Toledo, Ohio 43604, and Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 910 17th Street NW., Washington, D.C. 20006, attorneys for the applicants.

For further details, see the application for construction permits dated August 9, 1974, and amendments thereto, and the applicants' environmental report dated August 9, 1974, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., between the hours of 8:30 a.m. and 5 p.m. on weekdays. Copies of these documents are also available at the Ida Rupp Public Library, Port Clinton, Ohio, for inspection by members of the public between the hours of 10 a.m. and 8:30 p.m., Monday through Thursday, and 10 a.m. and 5:30 p.m., Friday and Saturday. As they become available, a copy of the safety evaluation report by the Commission's Directorate of Licensing, the Commission's draft and final environmental statements, the report of the Advisory Committee on Reactor Safeguards (ACRS), the proposed construction permits, the transcripts of the prehearing conferences and of the hearing and other relevant documents, will also be available at the above locations. Copies of the Directorate of Licensing's safety evaluation report and the Commission's final environmental statement, the proposed construction permits, and the ACRS report may be obtained, when available, by request to the Deputy Director for Reactor Projects, Directorate of Licensing, United States Atomic Energy Commission, Washington, D.C. 20545.

Dated at Washington, D.C. this 28th day of August 1974.

UNITED STATES ATOMIC ENERGY COMMISSION,
GORDON M. GRANT,
Assistant Secretary of the Commission.

[FR Doc.74-20607 Filed 9-4-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26985]

AIR MANILA, INC. CHARTER PERMIT APPLICATION PHILIPPINES - UNITED STATES

Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on September 24, 1974, at 10 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Frank M. Whiting.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before September 13, 1974.

Ordinary transcript will be adequate for the proper conduct of this proceeding.

Dated at Washington, D.C., August 30, 1974.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.74-20539 Filed 9-4-74;8:45 am]

[Docket No. 25280; Order 74-8-118]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority, August 29, 1974.

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 the Traffic Conferences of the International Air Transport Association (IATA) and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter, dated August 16, 1974, sets forth a new item description and rate, applicable over the North Atlantic, and names additional rates under existing commodity descriptions as outlined in the attachment hereto.[1]

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 conditions hereinafter ordered.

Accordingly, it is ordered, that:

1. Agreement C.A.B. 24595, R-1 through R-3, be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained herein 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; and

2. The findings and approval herein shall not be deemed to modify the findings and Orders of the Board in its decision in *Agreements Adopted by IATA Relating to North Atlantic Cargo Rates,* Order 73-2-24 of February 6, 1973, Order 73-7-9 of July 5, 1973, Order 73-9-109 of September 28, 1973, Order 74-4-7 of April 2, 1974, Order 74-7-130 of July 29, 1974, and Order 74-8-54 of August 13, 1974, and are subject, where applicable, to all provisions of such orders.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may

[1] Attachment filed as part of the original document.

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 A. HOLLAND,
Secretary.

[FR Doc.74-20537 Filed 9-4-74;8:45 am]

[Docket 25513; Order 74-8117]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Fares Within the Western Hemisphere

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.; on the 29th day of August 1974.

By Order 74-4-144 (April 26, 1974) the Board tentatively disapproved fare increases proposed by the carrier members of the International Air Transport Association (IATA) for travel between the United States, on the one hand, and South America (except Venezuela, Guyana, Surinam and French Guiana) and Central America, on the other hand. The Board also tentatively disapproved fare increases proposed between Los Angeles, San Francisco, San Diego, Portland and Seattle, on the one hand, and Mexico City and Acapulco, on the other hand. By the terms of the Board's order, these disapprovals were to become final on May 30, 1974 absent submission of further economic justification by the affected carriers no later than May 15, 1974.[1]

Braniff contends that its rate of return in Central/South America service will not, in fact, exceed 12 percent and argues that, in any event, it is not proper for the Board to limit its consideration of carrier earnings to a single division when acting on fare proposals for that division. If the Board refuses to permit occasional excess earnings in a particular division, the carrier's systemwide return, which is an average of all divisions, will allegedly never achieve a fair standard. Braniff has submitted a forecast of results under existing and proposed fares for the year ending March 31, 1975, which projects rates of return of 9.3 percent and 11.3 percent, respectively. Cost escalation over Braniff's previous forecast is attributed to higher unit costs experienced in the first quarter of 1974 projected to the end of the forecast period, and Braniff alleges that further increases due to inflation in South America will be experienced during the forecast period.

Pan American contends that the increases tentatively disapproved were more than supported by its original justification, and claims that the Board's adjustments to its forecast were incorrect and unwarranted.[2] Pan American has provided a forecast of financial results in Central/South America operations for the year ending March 31, 1975, which shows rates of return of −0.3 percent (Central America) and −0.8 percent (South America), or an average of −0.6 percent under the proposed fares. Under present fares return is forecast at an average of −2.4 percent. The decline in return from its earlier forecast for a 4.6 percent return for calendar 1974 (under present fares) is attributed to increased unit costs experienced for the year ended December 31, 1973 over the year ended September 30, 1973; further escalations in fuel prices; and a slight increase in available seat-miles resulting from schedule adjustments coupled with a greater impact from introduction of B-747 service in long-haul markets.

In support of the proposed five percent increase in U.S.-Colombia fares, Avianca alleges that it will have absorbed severe fuel cost increases well in excess of both previously approved fuel-related rate increases and the increase being considered herein. Avianca also cites the high inflation rate in Colombia which it expects will average 25 percent over the next 12 months. The Colombian carrier also contends that the 12 percent rate-of-return standard used by the Board in its order of tentative disapproval is inappropriate for multilateral rate agreements, and submits that the Board's review of IATA agreements should take into account larger political and economic considerations, and should not rest solely on an analysis of the fair rate of return developed for the particular purposes of rate proceedings in the United States.

Upon full consideration of the additional data supplied by the carriers, the Board has concluded to approve the proposed increases in U.S.-Central/South America fares. Although the forecasts of both Braniff and Pan American appear to understate return on investment to some extent, on the average the U.S. carriers serving Central/South America will not be in an excess-earnings position under the proposed fares.

Compared to the initial forecast for calendar 1974, upon which the Board relied in Order 74-4-144, Braniff's new forecast of results for the year ending March 31, 1975 shows a revenue improvement of two percent, an increase in operating expenses of 20.1 percent, and an unexplained increase in interest expense from $932,000 to $3,753,000. This forecast is based on projections and adjustments from the actual results experienced during the year ended March 31, 1974. However, the base includes revenues and expenses for charter and military operations as well as scheduled commercial service, and no explanation has been given for the adjustments which have been made to produce a forecast limited to scheduled service. Thus, the two sets of figures are not comparable, and the validity of Braniff's latest forecast cannot be accurately determined. Additionally, Braniff has provided no data on capacity or traffic for any period, historic or forecast.[3]

In these circumstances, we believe a more accurate projection of results may be obtained by taking the one figure not previously available—investment—and applying it to Braniff's original forecast for calendar 1974. Braniff forecasts a system investment of $396.2 million as of March 31, 1975, which is not out of line with its reported system investment of $384.5 million as of March 31, 1974. Averaging these figures gives a system investment for calender 1974 of $390.4 million, and allocating this on the basis of operating expense gives a Central/South America investment of $76.5 million, on which Braniff's return would be 15.9 percent, rather than the 18.5 percent previously estimated by the Board.[3a]

Pan American's forecast for the year ending March 31, 1975 reflects an increase in operating expenses of $14.2 million over its initial forecast for calendar 1974. This increase is primarily attributable to higher unit costs experienced durin the last quarter of 1973, as well as a clerical error which resulted in a $3.7 million understatement of aircraft and traffic servicing expense. However, the new forecast also includes additional cost escalations of over $27 million for labor, fuel, and decreased utilization. Pan American initially projected only $13.7 million in cost escalations for these items.

The carrier attributes $23.6 million of the increase to increases in fuel prices over those experienced in calendar 1973,

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[1] The Board later extended this time period to May 31. Additional justification for the U.S.-Central/South America fare increases has been submitted by Braniff Airways, Inc. (Braniff), Pan American World Airways, Inc. (Pan American), and Aerovias Nacionales de Colombia, S.A. (Avianca). Justification for the U.S. west coast-Mexico fare increases has been submitted by Western Air Lines, Inc. (Western).

[2] Specifically, Pan American states that its forecast fuel costs were not anticipatory and were based on fuel price increases only through December 31, 1973; and that increases in historic unit costs for aircraft rentals, insurance, depreciation and amortization to reflect decreased aircraft utilization resulting from the reduced level of operations forecast were entirely proper.

[3] In Order 74-4-144, the Board stated that further justification should include "complete forecasts of revenue, expenses and returns on investment in these markets for the year ending March 31, 1975 under both existing and proposed fares, as well as forecasts of capacity and traffic for the same period. We will also require a comparable itemization of actual results for the year ended March 31, 1974. The other deficiencies in the forecasts referred to previously in this order should likewise be remedied."

[3a] The investment figure of $65.7 million for Central/South American operations used in Order 74-4-144 was based on reported system investment of $341.1 million and international investment of $76.9 million, both as of December 31, 1973.

We note that most carriers allocate investment on a block-hour basis rather than in proportion to total operating expense. This may well be more accurate, but Braniff has furnished no data which would permit a block-hour allocation, and here there is no indication that a materially different result would emerge.

and it appears that a good portion of this is anticipatory.[4] Pan American's reported fuel prices at March 31, 1974 for Central/South American operations show a 98 percent increase over 1973 (as compared to 159 percent projected by Pan American), which equates to a $14.5-million increase in total fuel costs for the forecast period. Adjusting Pan American's financial forecast accordingly results in a return on investment of 4.2 percent rather than −0.6 percent as projected by the carrier.[5]

A more serious question arises with respect to the level of operations on which the forecast is based. Not only does Pan American's new forecast reflect significant increases over those projected in its initial forecast, it also shows a substantial cost increase over actual results experienced during the year ended March 31, 1974, which must be attributed to expanded U.S.-South America operations. Whereas Pan American anticipates a 6.0 percent reduction in Central America service from the year immediately preceding the present forecast (and a resulting 10 percent reduction in operating expenses at historical unit costs), the carrier forecasts a 28 percent increase in available seat-miles in South American service, and an 11 percent ($8.1 million) increase in operating expenses. Traffic is anticipated to increase 8.7 percent, after reflecting elasticity at the proposed higher fares. However, the resulting seat load factor is forecast to drop from 53.2 percent to 45.5 percent. Although it is within managerial prerogative to increase capacity, either by adding schedules or substituting wide-body aircraft for standard equipment, we do not believe a fare increase justified on this basis is warranted at this relatively moderate load-factor level. However, Pan American's actual results for the year ended March 31, 1974 show rates of return of −4.4 percent and 4.3 percent, respectively, on Central and South American operations. Even assuming that the carrier maintained its 1973 level of operations in U.S.-South America service, these historical results would of themselves justify a fare increase, provided that it did not place the carrier in an excess-earnings position. Thus, taking into account Pan American's most recent unit-cost experience, the seven percent fare increase in the area in April 1974, and operations at historical rather than forecast levels, produce a 5.1 percent rate return for the Central and South America area including the instant fare increases of 5 percent and 3 percent, respectively. However, this figure may be overstated in that Pan American's reported May 1974 fuel costs in the area reflect a 6.9 percent increase over the March costs on which the Board's adjustments are predicated.

From our evaluation of the additional information supplied by the carriers, the Board concludes that, although Braniff will continue to be in an excess-earnings position, Pan American's return will be substandard, and that on the whole the U.S.-Central/South America service provided by U.S. carriers will not produce excess earnings as a result of the fare increases herein approved.[6]

Western, in support of the U.S. west coast-Mexico fares, alleges that its reported Form 41 return on investment of 25 percent in Latin American operations is actually overstated due to severe losses on the domestic portion of certain flights scheduled primarily to serve Mexico which are not reflected. Western states that its historical rate of return for the year ended March 31, 1974 was 22.5 percent, which will drop to 9.3 percent during the forecast period (year ending March 31, 1975) in the absence of a fare increase. With the fare increase, return is projected at 11.7 percent. The forecast rates of return are based on a level of operations which reflects a 12.3 percent increase in capacity over the base period; a 6.0 percent increase in traffic (1.1 percent after consideration of elasticity); a 13.5 percent increase in passenger revenue; and a 28.3 percent increase in operating expenses.

We are unable to conclude that the increase in U.S. west coast-Mexico fares is warranted at this time. For the past several years, including the most recent reported 12-month period, Western's Mexican operations have produced rates of return well in excess of 12 percent.[7] Western's forecast of a significant decline in earnings is based, in part, on traffic projections which appear extremely conservative in light of Western's recent experience. The carrier's U.S.-Mexico traffic increased by almost 9.7 percent during January-May 1974 over the same period in 1973, despite a January 1 fare increase of 6 percent to compensate for fuel cost increases. Yet Western now anticipates traffic growth of only 1.1 percent under the proposed fares. Thus, while Western forecasts increases in operating expenses amounting to $7.7 million, or 28.3 percent, due to escalations in fuel, labor and other costs, as well as increased capacity costs, we believe continuing normal traffic and revenue growth will offset a sufficient portion of these cost increases to preclude its return position from falling below a reasonable level in the foreseeable future. In this light, and in the absence of submissions from any other carrier providing direct west coast-Mexico service, the Board is unable to approve the proposed fare increases.

By this order the Board will also dispose of an Aeromexico filing under the provisions of IATA Resolution 072 (TC1 Creative Fares) to establish a Monterrey-Los Angeles round-trip excursion fare at $150 through March 31, 1975. The fare represents a reduction from the currently applicable excursion fare, has not been protested, and will be approved.

Pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a) and 412 thereof, the Board makes the following findings:

1. It is not found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest or in violation of the Act provided that approval is subject, where applicable, to conditions previously imposed by the Board:

Agreement CAB 24088:	*IATA Resolution*
R–2	100 (Mail 935) 001kk.
R–6	100 (Mail 935) 051 I.
R–8	100 (Mail 935) 061 I.
R–11	100 (Mail 935) 070cc.
R–12	100 (Mail 935) 071f.
R–15	100 (Mail 935) 076a.
R–16	100 (Mail 935) 084e.
R–17	100 (Mail 935) 084m.
R–18	100 (Mail 935) 084s.
R–21	100 (Mail 935) 096d.
R–22	100 (Mail 936) 071f.
R–23	100 (Mail 936) 076a.
R–24	100 (Mail 936) 084e.

[4] Pan American states that "Fuel cost for the quarter ending March 31, 1975 has been calculated at the same level as for the quarter ending December 31, 1974, the latest quarter for which Pan American has been able to *calculate its exposure* with any confidence due to the uncertainty of future worldwide price and supply trends." (emphasis added)

[5] We have also excluded increases in certain U.S.-South America expenses (aircraft rentals, insurance, depreciation and amortization) Pan American attributes to decreased aircraft utilization measured in block hours. Pan American actually anticipates an increase in block hours (and available seat-miles) in South American service. The same item for U.S.-Central America is inadequately documented, but we pass over the matter since its effect on the final result is *de minimis*. Pan American has recomputed its estimate of traffic elasticity to reflect a coefficient of −0.2 (as compared to −0.7 in its original justification). Resulting traffic loss is estimated at 0.9 percent for Central America and 0.6 percent for South America, and in light of these moderate declines Pan American submits, and we are inclined to agree, that its operations cannot be so finely tuned as to reduce the capacity offered by the amounts of traffic lost. In any event, we need not deal directly with this issue, since our evaluation of Pan American's results is based on its historical load factor.

[6] We will also approve a more recent IATA agreement involving technical adjustments to excursion fares between the United States and Brasilia which are based on the new fare levels.

[7] We do not accept Western's argument that its reported 25 percent return on investment in U.S.-Mexico operations is overstated due to losses on the domestic segments of flights which continue on to Mexico. Form 41 format constitutes the official procedures for the reporting of financial results in each market division (domestic *vis-a-vis* international in this case), and is appropriate for evaluation of fare proposals for each operating entity.

Agreement C.A.B.	IATA No.	Title	Application
24139	005xx	Special Fare Adjustment Resolution (New)	1 (U.S.-Colombia/Central America).

Agreement	*IATA Resolution*
CAB 24362	100 (Mail 952) 070cc.
CAB 24383	072–TC1 creative fares, memoranda TC1 fares 2255 and 2262.

2. It is found that the following resolutions, to the extent they would establish fares between Los Angeles, San Francisco, San Diego, Portland and Seattle, on the one hand, and Mexico City and Acapulco, on the other hand, and which are incorporated in Agreement C.A.B. 24207 as indicated, are adverse to the public interest and in violation of the Act:

Agreement C.A.B.	IATA No.	Title	Application
24207:			
R–3	001ee	Special Effectiveness Resolution (USA/Canada-Mexico) (New)	1
R–5	002	Standard Revalidation Resolution	1
R–6	051	TC1 First-Class Fares	1
R–8	061	TC1 Economy-Class Fares	1
R–9	070aa	TC1 Excursion Fares USA/Canada-Mexico (New)	1
R–10	076aa	TC1 Affinity and/or Own Use Group Fares USA-Mexico (New)	1
R–12	084ee	TC1 Group Inclusive-Tour Fares USA/Canada-Mexico	1

Accordingly, it is ordered, That:

1. Those portions of Agreements C.A.B. 24088, C.A.B. 24139, C.A.B. 24362 and C.A.B. 24383 set forth in finding paragraph 1 above be and hereby are approved; and

2. Those portions of Agreement C.A.B. 24207 set forth in finding paragraph 2 above be and hereby are disapproved to the extent they have direct application in air transportation as defined by the Act.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74–20538 Filed 9–4–74;8:45 am]

[Docket 25280; Order 74–8–116]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

AUGUST 28, 1974.

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 the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names additional specific commodity rates as set forth below, reflecting reductions from general cargo rates; and was adopted pursuant to an unprotested notice to the carriers and promulgated in an IATA letter dated August 20, 1974.

Agreement C.A.B.	Specific commodity Item No.	Description and rate
24605:		
R–1	3060	Aluminum Manufactures viz. Articles or Materials made principally of Aluminum: 214 cents per kg., minimum weight 500 kgs. From Johannesburg to New York.
R–2	1024	Fish, Live, Inedible [1] 120 cents per kg., minimum weight 300 kgs. From Nandi to Los Angeles.

[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 conditions hereinafter ordered.

Accordingly, it is ordered that:

Agreement C.A.B. 24605, R–1 and R–2, be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; 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.74–20353 Filed 9–4–74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 257–4]

ENVIRONMENTAL FINANCING AUTHORITY

Notice of Interest Rate

Pursuant to section 12 of the Federal Water Pollution Control Act Amendments of 1972 (Environmental Financing Act) and 40 CFR § 39.105–5 thereunder (39 FR 20788), notice is hereby given that the Secretary of the Treasury has determined that as of July 1974, the interest rate for obligations purchased by the Environmental Financing Authority shall be eight per cent (8%).

Dated August 27, 1974.

ALVIN L. ALM,
Assistant Administrator for Planning and Management.

[FR Doc.74–20405 Filed 9–4–74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 20060–20062; File Nos. BP–19559 etc.; FCC 74R–315]

COMMUNITY BROADCASTING, INC., ET AL.

Memorandum Opinion and Order Enlarging Issues

In re applications of Community Broadcasting Company, Inc. (WKUN), Monroe, Georgia, Docket No. 20060, File No. BP–19559; James N. Williamson and Raymond Dehler, a joint venture, Monroe, Georgia, Docket No. 20061, File No. BP–19620; Monroe Broadcasting, Inc., Monroe, Georgia, Docket No. 20062, File No. BP–19621; for construction permits.

1. This proceeding involves the mutually exclusive applications of Community Broadcasting Company, Inc. (WKUN) (Community), James N. Williamson and Raymond Dehler, A Joint Venture (Joint Venture), and Monroe Broadcasting, Inc., for a permit to construct and operate a standard broadcast station in Monroe, Georgia. The applicants seek to replace the deleted facilities of Station WMRE. See *Walton Broadcasting Company,* 43 FCC 2d 1242, 28 RR 2d 1492 (1973). By Order, 39 FR 20101, published May 31, 1974, the Chief of the Broadcast Bureau, acting pursuant to delegated authority, designated the applications for consolidated hearing. Presently before the Review Board is a petition to enlarge issues, filed June 19, 1974, by Community, requesting the addition of site availability and Rule 1.65 issues against Joint Venture.[1]

2. In its petition, Community maintains that the transmitter site originally specified by Joint Venture became unavailable immediately upon the May 14, 1974, departure from Joint Venture of Charles Haasl, owner of the site, and an original member of Joint Venture.

[1] The Board also has before it for consideration the following related pleadings: (a) opposition, filed July 3, 1974, by the Broadcast Bureau; (b) opposition, filed July 3, 1974, by Joint Venture; and (c) reply, filed July 11, 1974, by Community.

Furthermore, Community asserts that Joint Venture failed to inform the Commission of a change of its transmitter site within thirty days from the date of Mr. Haasl's departure, as required by Rule 1.65.[2] In light of the foregoing, Community avers that site availability and Rule 1.65 issues are warranted against Joint Venture.

3. Opposing enlargement, Joint Venture first contends that it was not until July 1, 1974, that it definitely learned that Haasl had contracted to sell the property in question. Therefore, Joint Venture argues, Community's request for a Rule 1.65 issue is premature. With respect to the site availability issue, Joint Venture asserts that it will soon amend its application to specify as its new site the property of deleted Station WMRE that Joint Venture purchased on May 7, 1974;[3] and therefore requests that the Review Board's disposition of the request for a site availability issue await the Administrative Law Judge's action on Joint Venture's proposed amendment. The Broadcast Bureau, in its opposition, contends that the petition does not comply with the specificity requirements of Rule 1.229, and, therefore, should be denied.

4. From the foregoing, it appears that Joint Venture no longer has available the transmitter site specified in its application. Haasl's affidavit, which is attached to Joint Venture's opposition, indicates that a contract for the sale of the site was executed on June 13, 1974, and, therefore, the site was no longer available as of that date. Moreover, although Joint Venture did in fact file a petition for leave to amend its application on August 2, 1974, to reflect a change of site, that petition, as of yet, has not been acted upon by the Administrative Law Judge. Consequently, a site availability issue will be added. See *Fine Music, Inc.*, 7 FCC 2d 187, 9 RR 2d 917 (1967). However, we do not believe that a Rule 1.65 issue is warranted. While it appears that Joint Venture may have violated the Rule, the following circumstances convince us that an inquiry at the hearing is unnecessary: first, Joint Venture notified the Commission of the May 7, 1974, acquisition of the WMRE property on June 11, 1974; second, Joint Venture informed the Commission of the loss of its original site in Mr. Haasl's July 3, 1974, affidavit; third, Joint Venture amended its application to reflect a change of site a short time after the expiration date allotted by the rules; and, fourth, the failure to timely disclose the change of site appears to be isolated and no intent to withhold or conceal the information from the Commission has been shown. *Cf. David Ortiz Radio Corp.*, — FCC 2d —, 30 RR 2d 475 (1974).

5. *Accordingly, it is ordered*, That the petition to enlarge issues, filed June 19, 1974, by Community Broadcasting Company, Inc. (WKUN) is granted to the extent indicated herein, and is denied in all other respects; and

6. *It is further ordered*, That the issues in this proceeding are enlarged by the addition of the following issue: To determine whether the transmitter site specified by James N. Williamson and Raymond Dehler, A Joint Venture, is available to it.

7. *It is further ordered*, That the burdens of proceeding and proof under the foregoing issue shall be on James N. Williamson and Raymond Dehler, A Joint Venture.

Adopted: August 27, 1974.

Released: August 29, 1974.

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

[FR Doc.74-20456 Filed 9-4-74;8:45 am]

[2] Community acknowledges that Joint Venture amended its application on June 11, 1974, to reflect Haasl's departure and the executing of a Joint Venture agreement between teh remaining participants, Messrs. Williamson and Dehler.

[3] Joint Venture states that it amended its application on June 11, 1974, to reflect the acquisition of the WMRE properties, exclusive of the transmitter and studio equipment. The amendment was accepted by the Administrative Law Judge in an Order, FCC 74M-761, released June 27, 1974.

FEDERAL COMMUNICATIONS COMMISSION

[List No. 3]

CANADIAN TELEVISION STATIONS

Supplementary List of Changes, Additions, Deletions, and Corrections

AUGUST 28, 1974.

Supplementary list of changes, additions, deletions and corrections as of September 1, 1974 to the list of Canadian television stations within 250 miles of the border issued by the Commission dated April 1, 1973.

Call sign	Licensee	Location	Radiated power (kW)	Antenna				
				Directivity	Above ground	Above MSL	Above terrain	Offset
		Channel 2 (54-60 MHz)			*Feet*	*Feet*	*Feet*	
CKGN-TV-2		Bancroft, Ontario N. 45°03'34", W. 77°12'00"	67.20 V 10.10 A	D.A.	690	2,140	949	(+)
		Channel 3 (60-66 MHz)						
CBHFT-1 (call letters changed from CBHFBT).	Canadian Broadcasting Corp.	Yarmouth, Nova Scotia N. 43°55'55", W. 66°06'10"	1.90 V	D.A.	470	620	558	(−)
CKVR-TV		Barrie, Ontario N. 44°21'05", W. 79°41'55"	100.00 V 10.00 A	Om.	1,000	2,000	1,118	(+)
CJAY-TV (call letters changed from CJAY-TV-2).	Relay Communications, Ltd.	Brandon, Manitoba N. 49°40'05", W. 100°00'40"	55.00 V 11.00 A	D.A.	1,332	2,882	1,200	(+)
		Channel 7 (174-180 MHz)						
CKY-TV (call letters changed from CJAY-TV).	Channel 7 Television, Ltd.	Winnipeg, Manitoba N. 49°34'48", W. 97°10'01"	325.00 V	Om.	925.5	1,704.5	932.5	(+)
		Channel 8 (180-186 MHz)						
CBDAT (call letters changed from CBTE-TV-1).	Canadian Broadcasting Corp.	Watson Lake, Yukon Territory N. 60°03'52", W. 128°42'52"	0.035 V 0.0035 A	D.A.	105	2,405	−29	(+)
		Channel 10 (192-198 MHz)						
CKNY-TV (call letters changed from CHCH-TV).	Tel-Ad Company, Ltd.	North Bay, Ontario N. 46°12'15", W. 79°21'05"	119.00 V 23.80 A	D.A.	340	1,18.	420	(−)
		Channel 11 (198-204 MHz)						
CBOFT-1		Chapeau, Quebec N. 45°55'15", W. 77°04'10"	0.55 V 0.06 A	D.A.	420	995	374	(+)

[SEAL]

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc.74-20458 Filed 9-4-74;8:45 am]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Notice of Meetings

In accordance with Public Law 92-463, "Federal Advisory Committee Act," Radio Technical Commission for Marine Services (RTCM) meetings scheduled for the future are as follows:

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

Special Committee No. 68, "Marine Radiotelephone Operator Education."
Notice of 1st Meeting.
Tuesday, September 17, 1974—9:30 a.m.
Conference Room 847, 1919 M Street NW., Washington, D.C.

AGENDA

1. Call to Order; Introduction of Federal Government Public Interest Designate.
2. Introduction of Attendees; Adoption of Agenda.
3. Discussion on Committee Organization.
4. Discussion on Committee Priorities.
5. Discussion of Problem Areas.
6. Acceptance of Work Assignments.
7. Other Business.
8. Establishment of Meeting Schedule.

A. Newell Garden, Chairman, SC-68, Raytheon Company, 141 Spring Street, Lexington, Massachusetts 02173, Phone: (617) 862-6600 (Ext. 414).

Special Committee No. 66, "Receiver Standards for the Maritime Mobile Service".
Notice of 24th Meeting.
Wednesday, September 18, 1974—9:00 a.m. (All-day meeting).
Conference Room A110, 1229 20th Street, NW., Washington, D.C.

AGENDA

1. Call to Order; Introduction of Federal Government Public Interest Designate.
2. Adoption of Agenda; Appointment of Rapporteurs.
3. Acceptance of SC-66 Summary Records.
4. Reports on Work Assignments.
a. Report as to whether or not information is available from USCG on the fading of VHF signals due to the roll and pitch of small craft—
b. Review of complete draft standard.
5. Continued preparation of VHF antenna standard.
6. Discussion of problem areas.
7. Solicitation of Work Assignments.
8. Other business.
9. Establishment of next meeting date.

H.R. Smith, Chairman, SC-66, ITT Mackay Marine, 441 U.S. Highway 1, Elizabeth, New Jersey 07202, Phone: (201) 527-0300.

EXECUTIVE COMMITTEE

The next Executive Committee Meeting will be on Thursday, September 19, 1974, at 9:30 a.m. in Conference Room 847, 1919 M Street, N.W., Washington, D.C.

AGENDA

1. Call to Order; Introduction of Federal Government Public Interest Designate.
2. Introduction of Attendees; Adoption of Agenda.
3. Approval of the Minutes of Executive Committee Meetings.
4. Progress Reports on Currently Active Committees.
SC-65: "Ship Radar".
SC-66: "Receiver Standards for the Maritime Mobile Service".
SC-68: "Marine Radiotelephone Operator Education".
5. Status Reports on Other Committees.
SC-57: "Maritime Mobile Satellite Communications".
SC-59: "Maritime Radiotelephone Systems".
SC-64: "MF, HF, and VHF Maritime Radioteleprinter and Data Systems and Operations".
SC-67: "Vessel Traffic Systems".
6. Reports of Standing Committees.*
7. New Membership Applications for Executive Committee Approval.
Amoco Shipping Co., Chicago, Ill. (OSS).
Steering Systems, Inc., New Orleans, La. (EMG).
Moore-McCormack Lines, Brooklyn, N.Y. (OSS).
8. Status report on "Federal Advisory Committee Act" (PL 92-463) as relating to RTCM.
9. Acceptance of SC-59 Final Information Report.
10. Discussion on draft paper, "Special Committee Procedures and Reports."
11. Report on 1975 St. Louis Assembly Meeting.
12. Appointment of Budget Committee.
13. Summary Reports and Announcements.
14. New business.
15. Establishment of next meeting date.

Agendas, working papers, and other appropriate documentation for each committee meeting are available at that meeting. Those desiring more specific information may contact either the designated Committee Chairman or the RTCM Secretariat. (Phone: (202) 632-6490)

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final reports are approved by the RTCM Executive Committee. All RTCM meetings are open to the public.

[FR Doc.74-20455 Filed 9-4-74;8:45 am]

FEDERAL MARITIME COMMISSION

PORT OF NEW ORLEANS AND J. YOUNG AND CO., INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 25, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularly. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement filed by:

Mr. Cyrus C. Guidry, Port Counsel, Board of Commissioners of the Port of New Orleans, Post Office Box 60046, New Orleans, Louisiana 70160.

Agreement No. T-2990 is a five year lease between the Port of New Orleans (Port) and J. Young & Company, Inc. (JYC) covering France Road Berth No. 5, container terminal and marshalling area, subject to renewal for an additional five year period on the terms and conditions therein set forth. As rental JYC will pay a fixed annual sum for the first two years, and thereafter $15 per container with a guaranteed minimum annual payment. All dockage and wharfage charges billed by JYC, less 3%, will also be paid to Port as additional rental. Under the terms of the agreement, JYC is to operate the facility as a public container terminal and marshalling area open to any and all shippers or receivers of containers and general cargo that may be suitably handled. JYC is to publish and file with the Federal Maritime Commission a tariff covering dockage, wharfage, and other charges for terminal services rendered by it, subject to the rights of Container Lift International, Inc., who holds a permit under an agreement entered into January 4, 1973, for the erection and operation of crane or cranes at the facility. JYC's charges, rules and regulations will be subject to review and approval by the port.

Dated: August 30, 1974.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.74-20510 Filed 9-4-74;8:45 am]

WORLD WIDE FILM TRANSPORT ET AL.

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916, (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Hans Bermann d.b.a. World Wide Film Transport, 113 W. Grand Avenue, El Segundo, California 90245.

P. J. Whelan & Co., Patrick Joseph Whelan, Jr., d.b.a. 1712 Skyline Drive, Norfolk, Virginia 23518.

Angela M. Soo Hoo, 105 E. Port Hueneme Road, Port Hueneme, California 93041.

AAA Exports, Inc., 1115 Redondo Boulevard, Inglewood, California.

OFFICERS

Madeline Vergara, President.
Priscilla Vergara, Executive Vice President.
Laurie Paxmino, Assistant Secretary.

Southern States Forwarding, Inc., 307 Baronne Building, New Orleans, Louisiana 70112.

OFFICERS

John F. Kornfeld Sr., President.
Benno Friedman, Director.
Vera Kornfeld, Secretary/Treasurer.

Trade Express, Inc., P.O. Box 91090. World Way Postal Center, Los Angeles, California 90009.

OFFICERS

Frank X. Grabrijan, President.
Leah J. Grabrijan, Vice President.
Dorothy J. Grabrijan, Director.
Tony J. Krivz, Director.
Tihomir Krecic, Director.

Oscar L. Cauci, 1418 40th Street, Brooklyn, New York 11218.

Vincent Bastidas d.b.a. Basmar Export Co., 16 Beaver Street, New York, New York 10004.

Meteoro Express Corp., Inc., Building 2145 MIAD Intl. Airport, P.O. Box 412 (IAB), Miami, Florida 33148.

OFFICERS

Silvio R. Diaz, President.
Julio Hernandez, Treasurer.
Alberto Castillo, Vice President.
Digsil C. Diaz, Secretary.

By the Federal Maritime Commission.

Dated: August 30, 1974.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.74-20509 Filed 9-4-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RI75-19]

AMERICAN PETROFINA COMPANY OF TEXAS ET AL.

Notice of Petition for Special Relief

AUGUST 28, 1974.

Take notice that on August 15, 1974, American Petrofina Company of Texas (Operator), et al., (Petitioner), P.O. Box 2159, Dallas, Texas 75221, filed a petition for special relief in Docket No. RI75-19, pursuant to § 2.76 of the Commission's General Policy and Interpretations. Petitioner requests relief from the area rate established in Opinion No. 598 for the sale of natural gas from Coquille Bay Field, Plaquemines Parish, Louisiana to Southern Natural Gas Company under its FPC Gas Rate Schedule No. 87. The proposed rate is 31.9875 cents per Mcf in lieu of the current rate of 26.9875 cents per Mcf, inclusive of tax reimbursement. In consideration for the rate increase, Petitioner proposes to install and operate compression facilities and Petitioner's contract provides that Southern shall reimburse Petitioner 5.0 cents per Mcf on all gas compressed prior to delivery to Southern. Petitioner also states that approximately 2,000 MMcf of additional gas can be delivered from the Field after compression.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 17, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-20440 Filed 9-4-74;8:45 am]

[Docket No. E-8624]

ARIZONA PUBLIC SERVICE CO.

Notice of Extension of Time and Postponement of Hearing

AUGUST 28, 1974.

On August 22, 1974, Arizona Electric Power Cooperative, Inc. and Papago Tribal Utility Authority, intervenors, filed a motion requesting an extension of procedural dates fixed in the Order of June 4, 1974, in the above-designated matter. The motion states that Staff Counsel, Arizona Public Service Company and Citizens Utilities Company, the only other intervenor, were all notified and have no objections.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of intervenor evidence.	Sept. 23, 1974.
Service of rebuttal evidence.	Oct. 7, 1974.
Hearing	Oct. 17, 1974 (10 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-20433 Filed 9-4-74;8:45 am]

[Docket No. E-8973]

ARKANSAS-MISSOURI POWER CO.

Notice of Filing of Initial Rate Schedule

AUGUST 27, 1974.

Take notice that by letter dated August 9, 1974, the Arkansas-Missouri Power Company filed with the Federal Power Commission a Rate Schedule supplementing the Interconnection Agreement between Union Electric Company and Arkansas-Missouri Power Company dated February 2, 1968 (FPC Rate Schedule No. 36) and copies of a Certificate of Concurrence dated August 9, 1974 on behalf of the Union Electric Company.

Under this Schedule the Arkansas-Missouri Power Company will deliver to the Union Electric Company 170 MW of firm power during a 22 week period beginning May 4, 1975 and continuing through October 4, 1975, and for a 15-month period beginning September 1, 1974 and continuing through November 30, 1975, during which time the Union Electric Company may return delivery of this 170 MW of firm power to the Arkansas-Missouri Power Company.

Applicant requests that this Schedule be permitted to become effective on September 1, 1974.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1974 file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-20432 Filed 9-4-74;8:45 am]

[Project No. 2488]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Notice of Application for Surrender of License (Minor)

AUGUST 29, 1974.

Public notice is hereby given that application was filed on May 20, 1974, under the Federal Power Act (16 U.S.C. 791a-825r) by Central Vermont Public Service Corporation (correspondence to: Mr. S. H. Robinson, Vice President, Operations and Construction, Central Vermont Public Service Corporation, 77 Grove Street, Rutland, Vermont 05701) for surrender of the license for its Bradford Hydroelectric Project No. 2488, located on the Waits River in Bradford Village, Orange County, Vermont. The project affects interstate commerce.

The Bradford Hydroelectric Project No. 2488 is comprised of a dam built of large cut stones capped with concrete, approximately 200 feet long, with a maximum height of 70 feet, having a 116-foot spillway section, five stanchion sections adjacent to the north abutment, and a concrete structure housing a set of trash racks and head gates; a 6.3-acre reservoir; a steel penstock five feet six inches in diameter extending 128 feet to a six-foot diameter surge tank and 80 feet of five-foot diameter penstock between the surge tank and the powerhouse; a powerhouse equipped with one 600 hp horizontal turbine with two wheels and two draft tubes, which drives two generators, each having a capacity of 180 kw; and appurtenant facilities.

The applicant proposes to surrender its license because (1) the deterioration of the two generators causes many mechanical breakdowns; (2) the internal turbine parts are considerably worn and it is not economically feasible to replace or rebuild them for the small amount of generation the station produces; (3)

both units were removed from service in 1971; and (4) a considerable amount of silt has collected in front of the headworks so that there is no reservoir storage for generation.

Applicant proposes to remove the generating equipment, surge tank and building and eventually part of the dam. Ownership of the land and dam will be retained by Central Vermont Public Service Corporation, and the only value of the project will be as an historic and scenic attraction. There are no existing recreational facilities within the project boundary nor are any contemplated. It is the intent of the applicant to revegetate the area.

Any person desiring to be heard or to make protest with reference to said application should, on or before October 7, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to 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 rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-20535 Filed 9-4-74;8:45 am]

[Docket No. CP75-42]

COLORADO INTERSTATE CORP.

Notice of Application

AUGUST 29, 1974.

Take notice that on August 15, 1974, Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP75-42 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas gathering and pipeline facilities and the sale and exchange of natural gas, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant proposes to deliver initially approximately 2,857 Mcf per day to Mountain Fuel Supply Company (Mountain Fuel) from Applicant's Canyon Creek gathering system in sec. 34, T. 13 N., R. 101 W., Sweetwater County, Wyoming, at a point of interconnection with Mountain Fuel's existing 20-inch pipeline which crosses this field.[1] Mountain Fuel will have the option to purchase up to 25 percent of the volumes received and will return the balance to Applicant from its Spearhead Ranch and Antelope area supplies, which are currently connected to Applicant's transmission system.[2] Any out-of-balance situation occurring during any month will be adjusted insofar as practicable during the following month.

The purchase agreement between Applicant and Mountain Fuel provides for a price equal to the average price which Appl: purchases in the Canyon Creek Field, plus 4 cents per Mcf for gathering and plus reimbursement for advance payments made by Applicant to producers.

In order for Applicant to make deliveries under the agreement, it will be necessary to install approximately 2,500 feet of 6-inch pipeline and a sales meter station, estimated to cost a total of $24,871. Applicant also proposes to construct field gathering facilities in the Canyon Creek Field at an estimated cost of $207,849. The total cost of the proposed facilities will be financed from working funds on hand, funds from operations, short-term borrowings, or long-term financing.

Neither Applicant nor Mountain Fuel is obligated to increase transmission capacity in order to accept deliveries of gas under this arrangement. Applicant states that it has urgent need for the gas supplies from the Canyon Creek Field in order to meet the annual requirements of its existing customers.[3]

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the commission on this application if no petition to intervene is filed with 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.74-20524 Filed 9-4-74;8:45 am]

[Docket No. RP74-77]

COLORADO INTERSTATE GAS CO.

Notice of Further Extension of Time and Postponement of Hearing

AUGUST 28, 1974.

On August 26, 1974, Staff Counsel filed a motion in the above-designated matter to extend the procedural dates fixed by order issued May 1, 1974, and modified by notice issued July 23, 1974. The motion states that Colorado Interstate Gas Company was notified and had no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of evidence by staff	Nov. 25, 1974
Service of evidence by Intervenor	Jan. 7, 1975
Service of rebuttal evidence by Colorado Interstate Gas Co	Jan. 21, 1975
Hearing	Jan. 28, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-20438 Filed 9-4-74;8:45 am]

[Docket No. RP74-77]

COLORADO INTERSTATE CORP.

Notice of Revised Changes in Rates

AUGUST 27, 1974.

Take notice that Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (CIG), on August 15, 1974, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. First Substitute Sixth Revised Sheet Nos. 5 and 6 of CIG's FPC Gas Tariff, Second Revised Volume No. 1, are proposed to be substituted for and to replace Sixth Revised

[1] Mountain Fuel has agreed to accept, on a firm basis, up to 13,000 Mcf per day of the Canyon Creek gas and any additional gas on a best efforts basis.

[2] Applications are pending in Docket Nos. CP74-62, 74-64, and 74-92 for approval of the gas exchange from the Spearhead Ranch area, and in Docket Nos. CP74-133 and CP74-144 for approval of the exchange from the Antelope area. Under the terms of the applicable agreements Applicant will purchase 25 percent of the gas delivered to its system and will return 75 percent to Mountain Fuel at Green River, Wyoming. Temporary authorizations were issued to all parties in these proceedings on June 10, 1974. The proposed Canyon Creek exchange in the instant docket would necessitate increasing the volumes under the exchange agreements involving the Spearhead Ranch and Antelope areas.

[3] The application contains data showing that, with an annual volume of 1,043,000 Mcf from Canyon Creek, Applicant expects an annual systemwide deficiency of 13,326,000 Mcf in fiscal 1975. Total recoverable reserves from the Canyon Creek Field are 10,429,000 Mcf.

Sheet Nos. 5 and 6 as filed with the Commission on March 29, 1974 in Docket No. RP74–77 and suspended by the Commission until October 1, 1974 in its order issued May 1, 1974. The purpose of the filing is to modify CIG's rate design in its pending rate increase proceeding to reflect the Commission's rate design policy as stated in the Commission's order of May 1, 1974. No change is proposed in CIG's jurisdictional test year cost of service nor in CIG's jurisdictional revenue requirements proposed in Docket No. RP74–77. CIG states that the change in rate structure is required to insure that, when the proceeding in Docket No. RP74–77 is concluded, CIG will not be required to make refunds to customers from which it overcollected demand charges while being also required to absorb undercollections of commodity charges. CIG also states that its filing herein restructures its increased rates using the Commission's 75–25 method for rate design while adhering to the unmodified Seaboard method for purposes of cost classification and allocation purposes since CIG's peak-period service capability is still closely equivalent to system capability.

CIG has requested waiver of the applicable provisions of § 154.66 of the Commission's regulations under the Natural Act. CIG states that simultaneously herewith, CIG is filing its motion to make First Substitute Sheet Nos. 5 and 6 filed herewith effective as of October 1, 1974. Said motion requests that, in the event said substitute sheets are not accepted by the Commission to be effective as of October 1, 1974, that Sixth Revised Sheet Nos. 5 and 6 as filed with the Commission on March 29, 1974 in Docket No. RP74–77 be placed into effect in lieu thereof.

Copies of this filing have been served upon the Company's jurisdictional customers and upon interested public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 12, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–20427 Filed 9–4–74;8:45 am]

[Docket No. CP74–113 and Docket No. CI74–276]

CONSOLIDATED GAS SUPPLY CORP., ET AL.

Notice of Certification of Stipulation and Settlement

AUGUST 27, 1974.

Take notice that Consolidated Gas Supply Corporation (Consolidated Supply), CNG Producing Company (CNG Producing), and Consolidated Natural Gas Company (Consolidated Natural) together with the Staff and all intervening parties tendered a proposed Stipulation of Settlement in the above-mentioned dockets to the Presiding Administrative Law Judge on August 16, 1974. The Presiding Administrative Law Judge certified this Stipulation and the record of the prehearing conference to the Commission for action on August 20, 1974.

The proceeding involves a joint application by Consolidated Supply, CNG Producing and Consolidated Natural in Docket No. CP74–113 for a certificate of public convenience and necessity authorizing the transfer of Consolidated Supply's developed natural gas producing leases and related production facilities in the Louisiana area through Consolidated Natural to CNG Producing and the abandonment of those leases by Consolidated Supply. Also involved is an application by CNG Producing in Docket No. CI74–276 for authorization to continue, as successor in interest to Consolidated Supply, thirteen, off-system sales presently being made by Consolidated Supply in the South Louisiana, and to initiate eleven sales of gas to Consolidated Supply from production onshore and offshore Louisiana.

The proposed Stipulation of Settlement indicates that the applications in the two dockets will be approved subject to the following conditions or limitations:

1. The transfer approval is to be limited to the specific developed leasehold properties set forth in the applications.

2. CNG Producing shall file annual reports with the Commission stating the number of type of wells (oil, gas, dry holes and any other) newly-drilled and/or deepened on the transferred leaseholds and the estimated reserves of oil and gas attributable to such activity. Such reports shall be filed within 90 days of the close of CNG Producing's fiscal year, the initial report due, however, no later than March 31, 1975.

3. CNG Producing shall be limited to the applicable area or nationwide rate for gas sold from reservoirs discovered by Consolidated Supply prior to the effective date of the transfer of the leaseholds involved, such rates to be determined upon the basis of the dates of initial production therefrom or the dates of the commencement of individual wells thereon, whichever is later.

4. This stipulation is without prejudice to any findings or order which have been, or may be, made hereafter by the Commission, and is without prejudice to claims or contentions which may be made by Consolidated Supply, CNG Producing, the Commission Staff or any affected party herein, in any proceedings now pending, or hereafter instituted by or against Consolidated Supply or its affiliate CNG Producing or any other companies, person or parties affected by this order.

Objections or protests to the proposed Stipulation of Settlement may be filed on or before September 18, 1974.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–20425 Filed 9–4–74;8:45 am]

[Docket No. CP73–258]

EL PASO EASTERN CO., ET AL.

Notice of Further Extension of Time

AUGUST 28, 1974.

On July 19, 1974, and July 24, 1974, the U.S. Department of Interior and the Department of Health, Education and Welfare requested an extension of time within which to comment on the Draft Environmental Impact Statement of the Staff.

On August 14, 1974, the Greenwich Township Environmental Commission, and on August 15, 1974, the U.S. Department of Commerce and the United States Coast Guard also requested such an extension.

Upon consideration, notice is hereby given that the time is further extended to and including September 16, 1974, within which comments may be filed on the Draft Environmental Impact Statement in the above matter.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–20437 Filed 9–4–74;8:45 am]

[Docket No. CP75–48]

EL PASO NATURAL GAS CO.

Notice of Application

AUGUST 28, 1974.

Take notice that on August 21, 1974, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP75–48 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of an additional exchange point between Applicant and Northwest Pipeline Corporation (Northwest) at an existing point of interconnection between the gathering systems of Applicant and Northwest in Rio Arriba County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application states that by order issued September 21, 1973, in Docket CP74–14 Applicant was authorized to abandon its Northwest Division System facilities to Northwest. The application further states that as part of the implementation of such divestiture, Applicant and Northwest entered into the San Juan Gathering Agreement dated January 31, 1974, as amended, to provide for the mutual sharing and exchange of gas in the San Juan Basin area after divestiture. Applicant states that by order issued January 22, 1974, in Docket Nos. CP73–331, et al., the Commission approved such gathering arrangement and authorized Applicant and Northwest to operate two existing points of interconnection between their gathering systems in order

to make necessary exchange deliveries of gas.

Applicant requests authorization by this application to add a third point of exchange for use as an exchange balancing delivery point between gathering systems in the San Juan area to provide each party with greater flexibility and reliability in making balanced exchange deliveries. The application indicates that this proposed point will be operated by Applicant, together with the two existing exchange points to effectuate the authorized exchange of gas between parties in accordance with the San Juan Gathering Agreement.

Applicant states that Northwest will seek appropriate Commission authorization to enable performance by it under the abovedescribed agreement.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-20445 Filed 9-4-74;8:45 am]

[Docket No. RP74-57]

EL PASO NATURAL GAS CO.

Notice of Tariff Filing

AUGUST 28, 1974.

Take notice that on August 16, 1974, El Paso Natural Gas Company (El Paso) filed, pursuant to Part 154 of the Commission's regulations under the Natural Gas Act, the following tariff sheets modifying the rates heretofore made effective at Docket Nos. RP74-57 and RP72-155:

Original Volume No. 1

First Substitute Twelfth Revised Sheet No. 3-B.

Third Revised Volume No. 2

Substitute Second Revised Sheet No. 1-D.

Original Volume No. 2A

Substitute Fourth Revised Sheet No. 1-C.

El Paso states that the rates set forth on the tendered tariff sheets reflect: (i) the elimination from the rates which became effective on July 10, 1974, in Docket No. RP74-57 the amounts related to increased special overriding royalty and production payments as directed by the Commission orders issued July 15, 1974, and August 8, 1974, at Docket Nos. RP74-22 and RP74-57, et al., and (ii) the inclusion in such rates amounts relating to facilities for which permanent certificate authorization is pending in Docket No. CP74-47 as directed by ordering paragraph (B) of the Commission's order issued August 12, 1974, at Docket No. CP74-47, and RP74-57, et al.

El Paso further states that the amount to be eliminated from such rates associated with the increased special overriding royalty and production payments is $20,806,852, equivalent to a decrease of 1.99¢ per Mcf in the rates made effective on July 10, 1974, at Docket No. RP74-57, and that the amount to be included in such rates related to facilities, for which permanent certification is pending at Docket No. CP74-47, is $1,587,008, equivalent to an increase of approximately 0.02¢ per Mcf in the rates the subject of Docket No. RP74-57.

El Paso requested that the tariff sheets be permitted to become effective as of July 10, 1974.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before September 9, 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, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-20442 Filed 9-4-74;8:45 am]

[Docket Nos. G-13202, RP67-9]

EL PASO NATURAL GAS CO.

Notice of Report of Refunds

AUGUST 29, 1974.

Take notice that on August 5, 1974, El Paso Natural Gas Company (El Paso) tendered for filing a report of intended disposition of producer-supplier refunds retained pending flow through to certain of El Paso's former jurisdictional customers. El Paso states that the intended disposition is in accordance with the Stipulations and Agreement approved by the Commission in the above-docketed proceedings.

El Paso states that the principal jurisdictional refunds amount to $86,150.04.

El Paso requests that the instant disposition of refunds be its final disposition. El Paso also requests Commission approval to authorize El Paso to flow through the subject refund amounts concurrently with, and as a part of, El Paso's flow through of refund amounts pending in Docket Nos. RP71-14, et al.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 9, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-20536 Filed 9-4-74;8:45 am]

[Docket Nos. RP74-19, etc.]

FLORIDA GAS TRANSMISSION CO.

Notice of Further Extension of Time and Postponement of Hearing

AUGUST 29, 1974.

On August 23, 1974, Florida Gas Transmission Company filed a motion for an extension of the procedural dates fixed by notice issued August 5, 1974, in the above-designated matter. The motion states that neither Staff Counsel nor counsel for any active intervenor was opposed to this.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Rebuttal evidence	Sept. 25, 1974.
Hearing	Oct. 9, 1974 (10 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-20525 Filed 9-4-74;8:45 am]

[Docket No. RI75–20]

JOHN C. GRAVES

Notice of Petition for Special Relief

AUGUST 28, 1974.

Take notice that on July 29, 1974, John C. Graves (Petitioner), 505 Union Center, Wichita, Kansas 67202, filed a petition for special relief in Docket No. RI75–20, pursuant to Order No. 481. Petitioner seeks a rate of 40 cents per Mcf for the sale of natural gas to Cities Service Gas Company, from certain oil and gas leaseholds covering these described lands:

W/2 of Section Thirty (30), Township Thirty-three (33) South, Range Fourteen (14) West, Barber County, Kansas.

In consideration thereof Petitioner states that it will install water removal equipment on its Lenkner No. 1 Well to prevent premature abandonment.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 17, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–20439 Filed 9–4–74;8:45 am]

[Docket No. E–8967]

IDAHO POWER CO.

Notice of Transmission Agreement

AUGUST 27, 1974.

Take notice that by letter dated August 6, 1974, the Idaho Power Company filed with the Federal Power Commission an Operation Agreement between the Idaho Power Company and Pacific Power & Light Company dated September 22, 1969. The agreement provides for the operation and maintenance of a 1500 MW steam electric generating plant located in the Nine Mile area in Sweet Water County in southwestern Wyoming (herinafter referred to as the Jim Bridger Project). The first 500 MW generating unit is scheduled for commercial operation by October of 1967. The second 500 MW unit is scheduled to be completed in 1975 and a third unit is scheduled for completion prior to 1979.

Under the provisions of the Operation Agreement, Idaho Power Company will make available to Pacific Power & Light Company capacity in its transmission system for transmission by transfer or displacement in amounts equivalent to the transmission that would occur with its existing transmission system up to 1000 MW.

The operation agreement also provides for the utilization by either party for its own system loads of any unused capability of the other party in the project.

Applicant requests that the transmitted agreement be accepted for filing by the Commission and become effective 30 days thereafter.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1974 file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–20431 Filed 9–4–74;8:45 am]

[Docket No. E–8815]

IOWA PUBLIC SERVICE CO.

Notice of Filing of Proposed Settlement Agreement

AUGUST 28, 1974.

Take notice that on August 21, 1974, Iowa Public Service Company (IPSC) submitted for filing a proposed settlement agreement for electric service to Lincoln Light and Power Company, Farmers Cooperative Light and Power Company, and ten municipalities.[1]

The proposed rate increase filed on May 29, 1974, and designated as IPSC First Revised Sheet No. 1, FPC Electric Tariff, Original Volume No. 1 is amended by this proposed settlement agreement.

The agreement provides for an increase in overall rates of approximately $200,560, which is a reduction of $92,649 from the increase filed on May 29, 1974.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 9, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–20434 Filed 9–4–74;8:45 am]

[1] The municipal customers are the Iowa Cities of Anthon, Auburn, Aplington, Denver, Dunkerton, Fonda, Hudson, Livermore, Pocahontas and Sergeant Bluffs.

[Docket No. CP74–278]

KANSAS-NEBRASKA NATURAL GAS COMPANY, INC.

Notice of Modification of Hearing Date

AUGUST 28, 1974.

On August 23, 1974, Farmland Industries, Inc., an intervenor, filed a motion to commence the hearing, fixed by notice of August 16, 1974, one day earlier. The motion states that the applicant, the Staff and the other intervenors have no objection to the change.

Upon consideration, notice is hereby given that the hearing in the above matter will commence on September 9, 1974, at 2:00 p.m., e.d.t.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–20441 Filed 9–4–74;8:45 am]

[Docket No. RP74–70]

MICHIGAN GAS STORAGE CO.

Notice of Further Extension of Time and Postponement of Hearing

AUGUST 28, 1974.

On August 22, 1974, Michigan Gas Storage Company filed a motion for an extension of procedural dates fixed by order issued April 29, 1974, and extended by notice dated July 10, 1974.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

Service of Rebuttal Evidence by Michigan Gas Storage Co., September 17, 1974.
Hearing, October 3, 1974 (10:00 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–20436 Filed 9–4–74;8:45 am]

[Docket No. E–8906]

MISSISSIPPI POWER CO.

Amendment to Interconnection Agreement

AUGUST 27, 1974.

Take notice that by letter dated July 12, 1974, the Mississippi Power Company tendered for filing with the Federal Power Commission an amendment to an interconnection agreement dated November 12, 1970, between the Mississippi Power Company and the South Mississippi Electric Power Association. The 1970 agreement has been designated as Mississippi Power Company Rate Schedule FPC No. 108.

The amendment tendered for filing provides for the establishment of a second interconnection point near Purvis, Mississippi, which will be utilized with respect to service rendered under the interconnection agreement. Service through the Purvis interconnection point is expected to begin by October 1, 1974.

Applicant also submitted an agreement between the Mississippi Power Company and the South Mississippi Electric Power Association establishing an interim interconnection point near Cleo, Mississippi. Service through this interim point will be discontinued upon establishment of the interconnection point near Purvis, Mississippi.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-20424 Filed 9-4-74;8:45 am]

[Docket No. CP75-47]

MISSISSIPPI RIVER TRANSMISSION CORP.

Notice of Application

AUGUST 28, 1974.

Take notice that on August 19, 1974, Mississippi River Transmission Corporation (Applicant), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP75-47 an application pursuant to sections 7(c) and 7(b) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation and operation of natural gas pipeline compression facilities, and for permission to abandon certain existing compression facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to modernize its Perryville, Louisiana, Compressor Station by replacing seven 1,000 horsepower and two 1,200 horsepower horizontal engines with three new 2,080 horsepower integral angle engines. This will result in a reduction of the total horsepower at the Station from the present 12,000 horsepower to 8,840 horsepower.

Applicant states that the proposed abandonment involves the retirement of certain of the oldest compressors on Applicant's system. Applicant also states that the replacement of these units will result in improvements in the operating dependability and efficiency of Applicant's system, and thereby reduce the system's fuel gas requirements.

The application states that the program proposed herein involves no change in Applicant's sales and sales volumes and will not change total system delivery capacity. Applicant indicates that the estimated cost of the construction proposed herein will be $3,385,000, and will initially be financed from available funds and short term borrowings.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-20444 Filed 9-4-74;8:45 am]

[Docket No. RP74-97]

MONTANA-DAKOTA UTILITIES CO.

Notice of Filing of Tariff Sheets

AUGUST 28, 1974.

Take notice that on August 8, 1974, Montana-Dakota Utilities Company (MDU) tendered for filing to its FPC Gas Tariff, Original Volume No. 4; Substitute Original Sheet No. 3A, Substitute First Revised Sheet No. 16A, Substitute Original Sheet No. 16B, Substitute Original Sheet No. 16C, Substitute Original Sheet No. 16D, and Original Sheet No. 16E. According to MDU, these sheets are being filed in compliance with the order issued on July 15, 1974, in this docket whereby the Commission ordered MDU to make certain changes in its proposed Purchased Gas Cost Adjustment Provision.

MDU proposes an effective date of July 16, 1974, for this filing and requests waiver of Commission regulations requiring 30 days notice and a Statement of the Nature, the Reasons and the Basis for the proposed change.

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 September 6, 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.74-20443 Filed 9-4-74;8:45 am]

[Docket No. RP75-12-1]

NORTHERN NATURAL GAS CO.

Notice of Petition for Extraordinary Relief

AUGUST 27, 1974.

Public notice is hereby given that on August 14, 1974, Northern Natural Gas Company (Northern) filed a petition for extraordinary relief pursuant to § 1.7(a) of the Commission's rules of practice and procedure. Northern requests Commission authorization to provide natural gas service to its existing utility customers in accordance with its presently effective Agricultural Crop Drying Service Rate Schedule ACDS-1 in order to make available, on a best efforts basis, volumes of gas for the drying of seed, grain and other agricultural crops. Northern estimates that it will have available for sale under ACDS-1 Rate Schedule a total of 750,000 Mcf for the period of September 15, 1974 through March 15, 1975.

On September 28, 1973, the Commission issued an order at Docket No. CP74-63 in Northern's application to provide natural gas service to its existing utility customers pursuant to a new Agricultural Crop Dryer Service, Rate Schedule ACDS-1. The Commission's order authorized Northern to provide natural gas service to its existing utility customers up to a maximum of 750,000 Mcf for a six month period pursuant to Rate Schedule ACDS-1 of its FPC Gas Tariff, Third Revised Volume No. 1. Due to favorable weather during the drying season and less than projected curtailment below contract demand, crop drying volumes sold on Northern's system during the period from September 15, 1973, through March 15, 1974, under ACDS-1 Rate Schedule totaled only 140,078 Mcf.

Northern states that its ACDS-1 Rate Schedule was designed to provide special relief for Northern utility customers during the projected crop drying season when curtailment of volumes below their

firm entitlements would result in irrecoverable losses from inadequate supplies of crop drying fuel. Volumes under ACDS–1 would be made available by Northern on a best efforts basis pursuant to advanced operating arrangements on a daily basis. Northern states that service under ACDS–1 Rate Schedule is predicated upon utilizing existing facilities and no new facilities are proposed.

A shortened notice period in this proceeding may be in the public interest. Any person desiring to be heard or to make protest with reference to said petition should on or before September 13, 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 C.F.R. 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 petition is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–20426 Filed 9–4–74;8:45 am]

[Docket No. CP75–41]

NORTHERN NATURAL GAS CO.

Notice of Application

AUGUST 29, 1974.

Take notice that on August 13, 1974, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska filed in Docket No. CP75–41, an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate certain branchline and meter station facilities and for permission and approval to abandon certain branchline and meter station facilities, all located near Garden City, Kansas, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate 0.2 mile of 6-inch, 2.9 miles of 8-inch and 1.3 miles of 12-inch branchline and a new town border meter station to ensure the continuation of reliable and adequate service to the community of Garden City, Kansas. Further, applicant proposes to abandon its existing Garden City TBS #1 and TBS #16 measuring facilities and 1.3 miles of 8-inch branchline which will no longer be required.

Applicant states that these proposed facility changes are required to offset delivery capacity (pressure) decline occurring in supply sources fueling Garden City and will enable Applicant to maintain adequate and reliable service to that area during the 1974–75 heating season. Applicant indicates no additional services are proposed to be rendered as a result of the instant application.

The application states that the estimated cost of the proposed facilities is $536,400, which will be financed from cash on hand and from funds generated from operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval of the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–20528 Filed 9–4–74;8:45 am]

[Docket No. E–8963]

NORTHERN STATES POWER CO.

Notice of Rate Filing

AUGUST 27, 1974.

Take notice that by letter dated August 2, 1974, Northern States Power Company filed with the Federal Power Commission copies of an agreement between the Northern States Power Company of Wisconsin and the city of Cornell, Wisconsin. This electric service resale agreement supersedes an agreement dated April 18, 1968, and Supplement No. 2 to this agreement (FPC Rate Schedule No. 47). Applicant states that the agreement has been negotiated with the City of Cornell at this time to accommodate the latter's request for a change in delivery voltage from 2,400 volts to 4,160 volts.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1974 file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–20435 Filed 9–4–74;8:45 am]

[Project No. 2370]

PENNSYLVANIA ELECTRIC CO.

Notice of Application for Approval of Revised Exhibit R (Recreational Use Plan) for Constructed Project

AUGUST 29, 1974.

Public notice is hereby given that an application has been filed under the Federal Power Act (16 USC 791a–825r) by Pennsylvania Electric Company (correspondence to: Mr. W. R. Thomas, Secretary and Treasurer, Pennsylvania Electric Company, 1001 Broad Street, Johnstown, Pennsylvania 15907) for Commission approval of a revised Exhibit R (recreational use plan) for Deep Creek Project No. 2370, located on Deep Creek in Garrett County, Maryland near the Village of Oakland.

According to the revised Exhibit R, the present development for the 65 miles of project boundary includes (1) three miles occupied by commercial establishment; (2) two miles by clubs and organizations; (3) 36 miles by private cottages; and (4) the remainder abuts either public roads or undeveloped land which is wooded to the water's edge.

The applicant proposes to develop recreational facilities at two locations on the project reservoir. Both locations will provide boat access, while one will provide other recreational facilities. Further, the applicant proposes to lease to the State of Maryland the project reservoir and associated buffer strip. Under the proposed lease, the State would supervise all receational activities at the project including use by the public, abutting property owners, owners of nearby lots, commercial interests and all others.

Any person desiring to be heard or to make protest with reference to said application should on or before October 8, 1974, file with the Federal Power Commission, Washington, D.C. 20426, peti-

tions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to 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.74-20529 Filed 9-4-74;8:45 am]

[Docket No. G-2629]

PHILLIPS PETROLEUM CO.

Notice of Petition To Amend

AUGUST 29, 1974.

Take notice that on August 2, 1974, Phillips Petroleum Company (Petitioner), Bartlesville, Oklahoma 74004, filed in Docket No. G-2629 a petition to amend the order of the Commission issued in the subject docket on September 28, 1956, pursuant to section 7(c) of the Natural Gas Act authorizing the sale of natural gas to Northern Natural Gas Company (Northern) from the Spraberry Plant, Midland County, Texas, so as to add certain undeveloped and previously unconnected leases not presently connected to Petitioner's gathering system, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The petition states that by order issued September 28, 1956, Petitioner was authorized to sell gas to Northern from the Spraberry Plant pursuant to the terms and provisions of Residue Gas Purchase Contract dated February 8, 1952, on file as Petitioner's FPC Gas Rate Schedule No. 18. The February 8, 1952, contract expired by its own terms on December 1, 1973, and the parties entered into a replacement contract dated October 30, 1973, to be effective on December 1, 1973. This new contract was filed with the Commission on November 13, 1973, and was accepted by Commission letter dated December 10, 1973, to be effective December 14, 1973. Said contract was designated as Petitioner's FPC Gas Rate Schedule No. 533, superseding, in part, FPC Gas Rate Schedule No. 18.

Petitioner states that by amendment dated June 21, 1974, entitled "Agreement Committing Acreage To And Amending Spraberry Plant Residue Gas Purchase Agreement Dated October 30, 1973," Petitioner and Northern agreed to amend the October 30, 1973, contract to add certain undeveloped leases and certain leases not presently connected to Petitioner's gathering system. This acreage was formerly committed to Northern under Residue Gas Purchase Contract dated February 9, 1962; however, Petitioner asserts the parties recognize that such acreage cannot be adequately developed and explored under existing price provisions of the 1962 contract. Petitioner further asserts the parties recognize that Petitioner is unable to connect new gas since the purchase costs under new plant supply contracts exceed revenue derived from the 1962 contract. Therefore, Northern and Petitioner agreed to the release of this acreage from said contract.

Petitioner proposes by this petition to add this released acreage and to sell gas produced therefrom to Northern. Petitioner proposes to sell such gas at a price of 50.0 cents per Mcf at 14.65 psia exclusive of tax reimbursement and Btu adjustment; however, Petitioner states that it is willing to accept the national ceiling rate determined in accordance with the Commission's Opinion No. 699 and order issued June 21, 1974, in Docket No. R-389-B (51 FPC ____).

Petitioner estimates initial sales volume at 30,000 Mcf of gas per month.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 23, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-20526 Filed 9-4-74;8:45 am]

[Docket No. CP75-39]

SOUTHERN NATURAL GAS CO.

Notice of Application

AUGUST 29, 1974.

Take notice that on August 12, 1974, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP75-39 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations thereunder (18 CFR 157.7(b)), for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing August 7, 1974, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally co-extensive with said system.

The application states that the total cost of the proposed facilities will not exceed $7,000,000, with no single offshore project costing in excess of $1,750,000, and no single onshore project costing in excess of $1,000,000. Applicant states that these costs will be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-20527 Filed 9-4-74;8:45 am]

[Docket No. E-8753]

SOUTHWESTERN PUBLIC SERVICE CO.

Notice of Amendment to Contract

AUGUST 29, 1974.

Take notice that on August 15, 1974, Southwestern Public Service Company (Southwestern) tendered for filing amendments to its contracts with Cochran Power and Light Company and with Community Public Service Company. The original contracts were filed with the Commission on April 25, 1974.

Southwestern states that the amendments to its contracts are intended to cure possible anti-competitive language

which was delineated in the Commission's order of June 28, 1974.

Southwestern requests the Commission to accept the amended contractual language and terminate its investigation without further hearing.

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 September 13, 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.74-20530 Filed 9-4-74;8:45 am]

[Docket No. RP73-3]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Purchased Gas Cost Adjustments to Rates and Charges

AUGUST 27, 1974.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on August 16, 1974, tendered for filing certain revised tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1 to become effective October 1, 1974. Pursuant to the Purchased Gas Adjustment Clause (PGA Clause) contained in its Tariff, Transco proposes to increase its rates effective October 1, 1974, to reflect the net effect of a current purchased gas cost increase and a deferred adjustment decrease.

Transco states that Second Substitute Tenth Revised Sheet No. 5 and Second Substitute Seventh Revised Sheet No. 6 included in Appendix A of the filing reflect a net rate increase of 0.8¢ per Mcf which is the result of a 2.3¢ per Mcf current gas cost increase and a Deferred Adjustment decrease of 1.5¢ per Mcf. The resulting Deferred Adjustment of (0.2)¢ is designed to reflect the credit balance in the Company's unrecovered purchase gas cost account as of June 30, 1974.

The Company states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspections.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-20428 Filed 9-4-74;8:45 am]

[Docket No. E-8956]

VIRGINIA ELECTRIC & POWER CO.

Notice of Letter Agreement Filing

AUGUST 27, 1974.

Take notice that by letter dated August 2, 1974, the Virginia Electric & Power Company filed with the Federal Power Commission a letter agreement dated July 17, 1974, between itself and the City of Washington, North Carolina, confirming the amendment of Supplement B issued May 7, 1971. The agreement extends Applicant's 7,200/12,500 volt service for two additional years, from December 31, 1976 to December 31, 1978. The Virginia Electric & Power Company requests that this letter agreement become effective as of June 18, 1974, the date of acceptance by the City of Washington.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1974 file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-20429 Filed 9-4-74;8:45 am]

[Docket No. E-8946]

WISCONSIN POWER & LIGHT CO.

Notice of Filing of New Service Schedule Agreement

AUGUST 27, 1974.

Take notice that by letter dated July 25, 1974, Wisconsin Power & Light Company tendered for filing with the Federal Power Commission a Service Schedule to the Interconnection Agreement dated February 1, 1965 between the Wisconsin Power & Light Company and Madison Gas & Electric Company.

This Service Schedule sets the contract energy charges equal to the selling party's total fuel expense of FPC Accounts 501 and 547 per net kwh generated for the three month period beginning four months prior to the first day of the calendar month of contract energy delivery multiplied by 1.20.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1974 file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-20430 Filed 9-4-74;8:45 am]

[Docket No. RP74-102]

NORTHERN NATURAL GAS CO.

Change of Hearing Date

AUGUST 30, 1974.

On July 22, 1974, a notice was issued postponing the hearing fixed by order issued June 28, 1974, in the above-designated matter until September 4, 1974. It is necessary to change the date of the hearing to September 5, 1974, because of a conflict in the schedule of the Administrative Law Judge.

Notice is hereby given that the hearing in the above matter is postponed to September 5, 1974, at 10 a.m., e.d.t.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-20633 Filed 9-4-74;8:45 am]

[Docket No. RP74-102]

NORTHERN NATURAL GAS CO.

Redesignation of Docket Number

AUGUST 30, 1974.

Take notice that the curtailment proceeding, presently designated as Northern Natural Gas Company (Northern), Docket No. RP74-80—curtailment is herein redesignated as Docket No. RP74-102.

The June 28, 1974, order in Docket No. RP74-80 establishing hearing procedures, the July 15, 1974 order in Docket No. RP74-80 granting intervention, the July 22, 1974, notice in Docket No. RP74-80 postponing the hearing date, the July 26, 1974, order in Docket No. RP74-80—curtailment granting intervention and all subsequent documents pertaining to the curtailment provisions filed by Northern in Docket No. RP74-80 shall be hereby designated as Docket No. RP74-102.

All interventions granted in Docket No. RP74-80 or RP74-80—curtailment

will be construed as interventions in Docket No. RP74–102.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–20634 Filed 9–4–74;8:45 am]

FEDERAL RESERVE SYSTEM

CANTON BANCORPORATION, INC.

Formation of Bank Holding Company

Canton Bancorporation, Inc., Canton, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 85 per cent of the voting shares of Bank of Canton, Canton, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than September 24, 1974.

Board of Governors of the Federal Reserve System, August 26, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74–20471 Filed 9–4–74;8:45 am]

CROCKER NATIONAL CORP.

Proposed Acquisition of Western Bradford Trust Company, a De Novo Corporation

Crocker National Corporation, San Francisco, California, 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 engage in a joint venture with Bradford Computer & Systems, Inc., New York, New York, and thereby to acquire voting shares of Western Bradford Trust Company, San Francisco, California, a de novo Corporation. Notices of the application were published on July 19, 1974, in the San Francisco Chronicle, the San Francisco Examiner and the Daily Commercial News, newspapers circulated in San Francisco, California and also on July 19, 1974, in the Los Angeles Daily Journal and the Los Angeles Times, newspapers circulated in Los Angeles, California.

Applicant states that the proposed subsidiary would perform corporate agency and related shareholder services and corporate trust functions associated with bond issues. 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 San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secertary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 28, 1974.

Board of Governors of the Federal Reserve System, August 26, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74–20470 Filed 9–4–74;8:45 am]

FIRST COMMERCE CORP.

Order Approving Acquisition of First Boeing Data Services, Inc.

First Commerce Corporation, New Orleans, Louisiana, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to engage in a joint venture with Boeing Computer Services, Inc., Dover, New Jersey ("Boeing"). The joint venture would be carried out through First Boeing Data Services, Inc., New Orleans, Louisiana ("Company"), which would engage de novo in computer and recordkeeping services associated with a full range of financial data processing services. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(8)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (39 FR 10189). The time for filing comments and views has expired, and the Board has considered the application and all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)).

Applicant controls one bank with aggregate deposits of $762 million, representing approximately 8 per cent of the total deposits in commercial banks in Louisiana, and is the second largest commercial banking organization in the State.[1] Applicant, through its banking subsidiary, First National Bank of Commerce, New Orleans, Louisiana ("Bank"), performs a full range of internal bank related data processing and other computer services authorized for national banks pursuant to a ruling of the Comptroller of the Currency (12 CFR 7.3500).

Boeing, a wholly-owned subsidiary of The Boeing Company, Seattle, Washington, is primarily a processor of scientific data, and is engaged in providing data processing services to its parent company and to certain other aeronautically related customers. In addition, since 1972, Boeing has been increasing and diversifying its services and presently offers such financial services as payroll, labor distribution, accounts payable, inventory, department and job cost, general ledger, accounts receivable, and billing services.

As part of the proposal, Applicant will transfer to Company the five existing data processing centers of Bank, which are located in Louisiana in the cities of New Orleans, Lafayette, Houma, Ruston, and Lake Charles, and all of Bank's existing data processing operations. Company, which will use Boeing data processing products, will provide to Applicant and its customers bookkeeping and data processing services, storage and processing of banking, financial or related economic data, such as performing payroll, accounts receivable or payable, and billing servies. While both Bank and Boeing offer similar financially related data processing services, consummation of the proposal would not eliminate any significant existing competition. Company will primarily serve customers in the State of Louisiana, an area from which Boeing derives a small amount of business. On the other hand, the combination of Applicant's familiarity with the financial and commercial needs of the area and Boeing's expertise in the data processing field will result in a viable competitive entity which would be capable of effectively competing not only with the regional but also with the large national data processing firms presently located in this area.

It is the Board's opinion, on the basis of the above and other facts of record, that the proposed acquisition would not have an adverse effect on existing competition. Furthermore, it does not appear that the proposal would foreclose the development of significant potential competition in view of the size of Company, the numerous other potential entrants, and the large number of competitors in the market. The Board concludes that consummation of the proposed acquisition would have no significant adverse effects on existing or potential competition in any relevant area.

The Board finds that the proposed joint venture would result in public benefits in terms of increased and improved services. The formation of the joint venture should enable Applicant to provide highly sophisticated data processing services at a lower cost. In addition, the joint venture would expand on the quality and the efficiency of the services presently offered by Bank.

There is no evidence in the record in this case indicating that consummation

[1] All banking data are as of December 31, 1973 and reflect holding company formations and acquisitions approved by the Board through July 1, 1974.

of the present proposal to engage in a joint venture would result in undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or other adverse effects.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4(c)(8), that consummation of this proposal can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modifications or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasions thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[2] effective August 28, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-20468 Filed 9-4-74;8:45 am]

FIRST TENNESSEE NATIONAL CORP.

Order Amending Requirement for Divestiture of Ownership of Real Estate

By Order dated September 5, 1973, the Board approved an application of First Tennessee National Corporation, Memphis, Tennessee, a bank holding company within the meaning of the Bank Holding Company Act, to acquire not less than 99 per cent of the voting shares of Pence Mortgage Company, Louisville, Kentucky ("Company"). The Board's Order required divestiture of certain real property held for development by two of Company's subsidiaries within six months after consummation of the acquisition. The acquisition of Company by Applicant was consummated on October 1, 1973. By April 1, 1974, six months after consummation, Applicant had divested all of the property except one tract known as "Stray Winds". Applicant has demonstrated that it has made active efforts to sell the remaining tract of land. However, the sale of the tract has been hindered by economic conditions and natural forces in the form of a tornado.

By letter dated August 1, 1974, Applicant requested that the Board grant an extension of time during which the remaining property may be divested. Applicant has indicated that active efforts to sell the property are continuing.

The Board has concluded that the request should be granted. Accordingly, the Board's Order of September 5, 1973 is hereby amended to authorize retention of the remaining tract of land subject to the condition that Applicant divest such real estate property at the earliest possible date, but in no event later than eighteen months from the date of consummation of the proposal.

By order of the Board of Governors,[1] effective August 28, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-20473 Filed 9-4-74;8:45 am]

FIRST VIRGINIA BANK OF ROANOKE VALLEY

Order Approving Application for Merger of Banks

Before the Federal Reserve Bank of Richmond acting under delegated authority from the Board of Governors of the Federal Reserve System.

First Virginia Bank of Roanoke Valley, Roanoke, Virginia (Applicant), a member State bank of the Federal Reserve System, has applied to the Board of Governors of the Federal Reserve System for prior approval pursuant to the Bank Merger Act (12 U.S.C. 1828(c)) to merge with The Farmers National Bank of Salem, Salem, Virginia (Farmers), the resulting bank to continue as a member State bank under the charter of Applicant with the name of Applicant. As an incident to the merger, the seven existing offices of Farmers would become authorized branch offices of the resulting bank.

As required by the Bank Merger Act, notice of the proposed merger, in form approved by the Board of Governors, has been published and reports on competitive factors have been requested from the Attorney General, the Comptroller of the Currency and the Federal Deposit Insurance Corporation.

The Federal Reserve Bank of Richmond (Reserve Bank), acting under authority delegated by the Board of Governors of the Federal Reserve System (12 CFR Part 265), has considered the application and all comments and reports received in the light of the factors set forth in the Bank Merger Act.

The relevant banking market for purposes of the proposed merger is the Roanoke SMSA, which includes the cities of Roanoke and Salem and the counties of Roanoke, Craig and Botetourt. The Applicant was established in this market in late 1972 as a wholly-owned, de novo subsidiary of First Virginia Bankshares Corporation, Falls Church, Virginia, a registered bank holding company. As of December 31, 1973, the latter controlled 20 banks with aggregate deposits of approximately $813 million and was ranked sixth in size among Virginia banking organizations. The closest of such banks to Applicant is 18 miles south of Salem beyond the Appalachian Mountains. In the Roanoke market, Applicant operates three offices and is the smallest of 14 competing banks with total deposits of approximately $854,000 as of June 30, 1973. This represents 0.1 percent of the total deposits in a banking market where one bank controls 43.8 percent of such deposits and the four leading banks control 84.6 percent.

Farmers, an independent bank, competes with Applicant in the relevant market through four offices in Salem and three in Roanoke County. These offices, as of June 30, 1973, held total deposits of approximately $35 million, representing 5.3 percent of the total market deposits.

The merger of Farmers into Applicant would result in the latter, and its parent company, holding only 5.4 percent of total market deposits. Applicant would replace Farmers as the fifth largest Roanoke bank while the relative position of its parent, First Virginia Bankshares Corporation, in the State (sixth) would be unchanged. In view of this and the small market shares of Farmers and Applicant, the Reserve Bank finds that the merger of the two would not have any significant effects on competition in the banking market. Moreover, the merger of Applicant and Farmers would result in a bank that should be a more vigorous competitor for the larger banks, which apparently dominate the market.

The financial and managerial resources and the future prospects of the two banks proposing to merge and the resulting institution have been considered. Both banks appear to be capably managed, however, Farmer's earnings have not been strong and its present capital is not considered to be adequate. First Virginia Bankshares Corporation intends to provide capital funds for the resulting bank, and, therefore, the financial and managerial aspects of the merger and the future prospects of the resulting bank are regarded as lending support toward approval.

Applicant offers a full line of banking services to the Roanoke market, however, Farmers does not. To the extent that such full services will be available at all offices of the resulting bank, public benefit considerations weigh in favor of approval of the application.

On the basis of the record in this case, the application is approved for the reasons summarized above. However, the transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board of Governors of the Federal Reserve System or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Federal Reserve Bank of Richmond, acting pursuant to delegated authority for the Board of Gov-

[2] Voting for this action: Vice-Chairman Mitchell and Governors Sheehan, Bucher, Holland and Wallich. Absent and not voting: Chairman Burns and Governor Brimmer.

[1] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Bucher, Holland and Wallich. Absent and not voting: Chairman Burns and Governor Brimmer.

ernors of the Federal Reserve System, effective August 22, 1974.

[SEAL] ROBERT P. BLACK,
President.

[FR Doc.74-20466 Filed 9-4-74;8:45 am]

INDUSTRIAL BANK OF JAPAN, LTD.

Formation of Bank Holding Company

The Industrial Bank of Japan, Ltd., Tokyo, Japan, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 99.92 per cent of the voting shares of The Industrial Bank of Japan Trust Company, New York, New York, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 24, 1974.

Board of Governors of the Federal Reserve System, August 28, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-20469 Filed 9-4-74;8:45 am]

ROSELAND STATE CO.

Formation of Bank Holding Company

Roseland State Company, Roseland, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 per cent of the voting shares of Roseland State Bank, Roseland, Nebraska. 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)).

Roseland State Company, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(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 engage in general insurance agency activities through Roseland Insurance Agency, Roseland, Nebraska. Notice of the application was published on July 25, 1974, in The Hastings Daily Tribune, a newspaper circulated in Adams County, Nebraska.

Applicant states that the proposed subsidiary would engage in the following activities: Sale of fire and casualty, credit life, accident and health and life insurance. Such insurance activities will be conducted in a community having less than 5,000 people. 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 Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 24, 1974.

Board of Governors of the Federal Reserve System, August 28, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-20472 Filed 9-4-74;8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

CLARENCE MAGGARD COAL CO., INC. AND SPRING HOLLOW COAL CO.

Applications for Renewal Permits of Electric Face Equipment Standard and Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Electric Face Equipment Standard prescribed by the Federal Coal Mine Health and Safety Act of 1969 have been received for items of equipment in underground coal mines as follows:

(1) ICP Docket No. 4068-000, Clarence Maggard Coal Co., Inc., Mine No. 8, Mine ID No. 15 04426 0, Hazard, Kentucky.
ICP Permit No. 4068-003-R-1 (Kersey 944 Rubber Tired Tractor, I.D. No. 104),
ICP Permit No. 4068-004-R-1 (Kersey BJ Rubber Tired Tractor, I.D. No. 101),
ICP Permit No. 4068-005-R-1 (Kersey BJ Rubber Tired Tractor, I.D. No. 102).

(2) ICP Docket No. 4210-000, Spring Hollow Coal Company, Mine No. 3, Mine ID No. 44 00793 0, Harman, Virginia,
ICP Permit No. 4210-003 (Stacy Loading Machine, I.D. No. 3).

In accordance with the provisions of § 504.7(b) of Title 30, Code of Federal Regulations, notice is hereby given that requests for public hearing as to an application for a renewal permit may be filed on or before Sept. 20, 1974. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW, Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

AUGUST 29, 1974.

[FR Doc.74-20414 Filed 9-4-74;8:45 am]

KAISER STEEL CORP.

Application for Renewal Permit and Notice of Opportunity for Public Hearing

Application for Renewal Permit for Noncompliance with the Mandatory Dust Standard (2.0 mg/m³) has been received as follows:

ICP Docket No. 20479, Kaiser Steel Corporation, Sunnyside Mine No. 1, Mine ID No. 42 00093 0, Sunnyside, Utah,
Section ID No. 025-0 (3rd South),
Section ID No. 026-0 (15th Right),
Section ID No. 029-0 (17th Left Outside),
Section ID No. 030-0 (Left Bleeders),
Section ID No. 031-0 (1st Left).

In accordance with the provisions of section 202(b)(4) (30 U.S.C. 842(b)(4)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Pub. L. 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed on or before Sept. 20, 1974. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

AUGUST 29, 1974.

[FR Doc.74-20415 Filed 9-4-74;8:45 am]

NATIONAL COMMISSION FOR THE REVIEW OF FEDERAL AND STATE LAWS RELATING TO WIRETAPPING AND ELECTRONIC SURVEILLANCE

NOTICE OF MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice hereby is given that the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, established under the authority of section 804 of Pub. L. 90-351,

June 19, 1968, as amended by section 20 of Pub. L. 91–644, January 2, 1971, will meet in the Rayburn Office Building at 9:30 a.m., September 16, 1974, in Room 2141, and at 9:30 a.m., September 17, 1974, in Room 2216, Washington, D.C.

The purpose of the meeting is to receive evidence and to hear testimony from representatives of the Justice and Treasury Departments concerning the use of wiretapping and electronic surveillance under the authority of Chapter 119 of Title 18, United States Code.

The meeting of the Commission will be open to the public, and interested persons are invited to attend. Under the rules of the Commission, copies of which may be obtained from its offices, any person desiring to present any matter to the Commission shall request authorization therefor by filing a written request with the Offices of the Commission at 1875 Connecticut Avenue, NW, Washington, D.C. 20009, not later than seven days prior to the meeting. The request shall include a concise description of the material to be presented. Within three days of receipt of such a request, the Chairman will notify the requesting person of his decision on the request.

KENNETH J. HODSON,
Executive Director.

[FR Doc.74–20402 Filed 9–4–74;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 August 30, 1974 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529).

NEW FORMS

DEPARTMENT OF AGRICULTURE

Economic Research Service: An Evaluation of the ASCS Public Access Pilot Program, Form ____, Single time, NRD/Planchon, Hunters, farmers.

DEPARTMENT OF DEFENSE

Department of the Navy: Government Industry Data Exchange Program (GIDEP) ALERT, Form, Form DD 1938, Occasional, Sheftel, Major defense contractor govt labs.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education: Alcohol Education Media Materials Survey, Form OE 372, Single time, Lowry, Educational TV stations.

National Institute of Education:
- Student Questionnaire C (Self Concept Measure), Form NIE 68, Occasional, Planchon, Students (Grades 4–6).
- Student Questionnaire B (Measurement of Student Attitude), Form NIE 67, Occasional, Planchon, Students (Grades 4–6).
- Student Questionnaire A (Measure of Locus of Control), Form NIE 66, Occasional, Planchon, Students (grades 4–6).

Social and Rehabilitation Service: Comprehensive Service Needs Study Survey Schedule, Form ____, Single time, Sunderhauf, Severely handicapped individuals.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration: State Agency Schedule for Equipment Purchases for SSA Disability Program, Form SSA 871, Quarterly, Lowry, State agencies.

EXTENSIONS

DEPARTMENT OF TRANSPORTATION

U.S. Coast Guard:
- Application and Permit to Handle Explosives or Other Dangerous Cargo, Form CG 4260, Occasional, Evinger (x).
- Account of Wages and Effects of Deceased or Deserting Seaman, Form CG 1517, Occasional, Evinger (x).
- Private Aids to Navigation Application, Form CG 2554, Occasional, Evinger (x).

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74–20588 Filed 9–4–74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[811–1651]

BARCLAY GROWTH FUND, INC.

Application for Order Declaring That Company Has Ceased To Be an Investment Company

AUGUST 29, 1974.

Notice is hereby given that the Barclay Growth Fund, Inc. ("Applicant"), 55 Water Street, New York, New York 10041, registered as an open-end, diversified management investment company under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section (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 the representations set forth therein, which are summarized below.

Applicant, under the name Barclay Fund, Inc., was incorporated under the laws of the State of New York on February 19, 1968 and registered under the Act on May 15, 1968 by filing a Notification of Registration on Form N–8A.

The application states that at a Special Meeting of the Shareholders of Applicant held on April 30, 1974, a resolution was adopted approving (1) an Agreement and Plan of Reorganization ("Agreement") which provided among other things for the acquisition by National Investors Corporation ("National Investors") of substantially all of the securities and cash of Applicant in exchange for Capital Stock of National Investors, Inc. (2) the subsequent dissolution of Applicant. On May 7, 1974 the transactions contemplated by the Agreement were consummated. The Certificate of Dissolution of Applicant was filed by the Secretary of State of the State of New York on May 22, 1974.

Applicant has no assets other than $35,000 retained in order to pay Applicant's remaining liabilities and its costs of liquidation. It is anticipated that the payment of such liabilities and costs of liquidation will require application of the entire $35,000.

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 September 23, 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 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 the 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 postponement thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-20517 Filed 9-4-74;8:45 am]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Proposed Amendments to Option Plan

Notice is hereby given that the Chicago Board Options Exchange, Inc. (CBOE) has filed proposed amendments to its Option Plan pursuant to Rule 9b-1 under the Securities Exchange Act of 1934 (17 CFR 240.9b-1). CBOE proposes to amend Rules 602(c), 610(f), 610(h), 801, 802, 803, 805 and 806 of the Chicago Board Options Exchange Clearing Corporation (the Corporation). The Corporation's proposed amendments are primarily designed to eliminate the right of a Clearing Member to whom an exercise notice has been assigned (the Assigned Clearing Member) to retender the exercise notice.

The retender right, which is set forth in Rules 805 and 806 of the Corporation, was designed to serve two purposes. First it was designed to assure that assigned clearing members who had eliminated their short positions prior to the assignments of the exercise notice would not be obligated to honor the assignment. Under the Corporation's present Rule 803, exercise notices are assigned three times during each business day (other than the expiration date). The first two of the assignments are based on the positions of Clearing Members at the close of business on the preceding day. Since those positions may have been reduced or eliminated prior to the time of day when an exercise notice is assigned, the Assigned Clearing Member has been given the right of retender under Rule 805 to the extent the number of contracts subject to the exercise notice exceeds the Member's short position at the time the notice was issued.

Second, the right of the retender was thought to be useful to the performance by market-makers of their market-making functions. Accordingly, under Rule 805 a market-maker is permitted to retender to the extent the number of contracts subject to the exercise notice exceeds his short position at the time of retender.

After its experience with these procedures, the Corporation has reached the conclusion that it is not necessary to assign exercise notices three times during the day. Rather, the Corporation believes that it appears to be more feasible to assign the notices only once daily at the end of the day after the Corporation's position records have been updated to reflect that day's transactions. The Corporation further explains that the provision for retender by market-makers has been useful, but it has not been used sufficiently in its present form to justify the additional paperwork required by the retender process. For these reasons, as well as the desire to standardize option terms, the Corporation has concluded to eliminate the right of retender.

The Corporation believes the following rule changes are deemed advisable or necessary if the retender right is to be eliminated:

Rules 805 and 806 would be deleted in their entirety.

Rule 801 would be amended to provide that exercise notices on every day other than the expiration date must be filed by 3:00 p.m. Chicago time (4:00 New York time), which is two hours earlier than the present requirement. CBOE explains that this change is deemed necessary to accomplish the paperwork for a single run of assignments for the day. The times set forth in the proposed amendment to Rule 801 as well as Rule 803 are also designed to be standardized with comparable cut-off times in the American Stock Exchange Rules.

Rule 802 would be amended to eliminate the reference to acceptance of exercise notices prior to noon, since it will no longer matter at what time during the day notices are filed. The other proposed change in Rule 802 is simply a drafting change designed to avoid duplication of a provision of Rule 803.

Rule 803 would be amended to eliminate references to the retender right and the early assignment of exercise notices. In addition, it would make it clear that, with certain limited exceptions, the assignments would always be effective as of the following business day (thus eliminating a source of confusion under the existing rules). The exceptions would be those set forth in Rule 901 (relating to the time the Delivery Advice is issued) and Rules 912 and 913(d). The latter two exceptions—Rule 913(d) being a rule to be proposed in a filing to be made under separate cover—are designed to assure that a holder who exercises prior to an "ex-dividend" date will be entitled to receive the dividend, even though the exercise assignment notice is dated as of the following day for other purposes.

Rules 602(c), 610(f) and 610(h) would be amended to eliminate the reference to the retender right.

The Corporation hopes that the proposed amendments could be made effective at an early date, so that the procedures could be put into place in time to handle the bulk of the exercises of October 1974 options.

The proposed amendments will become effective upon the 30th day after this notice appears in the FEDERAL REGISTER, 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 amendments 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 amendments are and all such comments will be made available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street, NW., Washington, D.C.

[SEAL] SHIRLEY E. HOLLIS, *Assistant Secretary.*

AUGUST 20, 1974.

[FR Doc.74-20522 Filed 9-4-74;8:45 am]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Proposed Amendments to Option Plan

Notice is hereby given that the Chicago Board Options Exchange, Inc. (CBOE) has filed proposed amendments to its Option Plan pursuant to Rule 9b-1 under the Securities Exchange Act of 1934 (17 CFR 240.9b-1). CBOE proposes to amend new subparagraphs (bbb), (ccc), (ddd) and (eee) of Article I, Section 1 and Article VII, Sections 1 and 5 of the bylaws of the Chicago Board Options Exchange Clearing Corporation (the Corporation); amend Rules 101(i), 602(c) and 904; and adopt Rules 913, 914, and 915 of the Corporation.

These amendments are deemed by the Corporation to be advisable or necessary to permit it to establish interfaces with other clearing corporations, such as the Midwest Securities Company (MSTC), for the purpose of facilitating stock deliveries between its Clearing Members in respect of exercised options. When the amendments become effective, the Corporation intends to establish a CNS account with MSTC, with all of the Corporation's Clearing Members having subaccounts therein. The only positions that Clearing Members would maintain in these subaccounts, which will be called "exercise settlements accounts", will be CNS long value positions; short value positions and free positions—disregarding loan positions and provisions for borrowing stock in an exercise settlement account. Furthermore, MSTC would directly furnish Clearing Members with activity and position reports concerning their exercise settlement account. On the exercise settlement date for an options exercise, the activity report would show all of a Clearing Member's net settling transaction in the account, as well as other activity, on that day. Thereafter, the positions resulting from such transactions would be carried to MSTC on a continuing basis through its CNS system, and clearing members would deal directly with MSTC in making deliveries in respect to other short value and free positions, in making daily mark-to-the-market payments in respect of value positions, in making or receiving payments for stock that has been delivered to or by MSTC, and achieving automatic dividend protection under MSTC rules. Clearing members could transfer stock held in free or long value positions through bookkeeping entries to other MSTC positions or to the extent MSTC maintains interfaces with other clearing corporations.

The Corporation explains the purpose of the proposed arrangement is to achieve the maximum netting of security transactions in order to eliminate unnecessary paperwork, certificate handling and money movement, and to permit the delivery of stocks through bookkeeping entries at interfaced clearing corporations.

Inasmuch as the Corporation is the issuer of options, it will remain responsible for delivery of the underlying stock until the exercising Clearing Member has received delivery of the stock or it has been transferred by bookkeeping entry from the long value position in the exercise settlement account to a free position or to another position of the exercising Clearing Member. Thus, if MSTC should be unable to make delivery of stock held in a long value position for a period of 30 calendar days, the Clearing Member could, under proposed Rule 915, buy in the Corporation and receive as damages the difference between the price paid and the MSTC settlement price for the stock on the preceding day. For example, assume an option is exercised at an exercise price of 50, that on exercise settlement date the market price (and MSTC settlement price) for the stock is 60, that the Clearing Member unsuccessfully seeks to obtain delivery from MSTC for 30 days, that at the end of the 30-day period the MSTC settlement price is 100, and that on the following day the Corporation is bought in at a price of 102. Under the proposed Rule 915, the Corporation would be obligated to pay the Clearing Member $2 per share, since the Clearing Member would have previously received the difference between 100 and 50 through daily marks-to-the-market at MSTC. Under proposed Rule 915(e), Clearing Members could also buy in the Corporation if MSTC failed to get its obligations with respect to an exercise settlement account or if it should become insolvent.

The following is a description given by the Corporation with respect to the other rule changes. The proposed new subparagraphs in Article I Section 1 of the by-laws would add definitions of the terms "correspondent clearing corporation," "exercise settlement accounts," "free position," and "long value position." The proposed amendment to Rule 101(i) corrects a typographical error in the definition of "exercise settlement account."

The proposed amendments to Section 1 and 5 of Article VII of the by-laws would expand the availability of the clearing fund to cover losses sufficient in connection with the correspondent clearing corporation.

Proposed new Rule 913 spells out the procedure to be employed in settling exercises through correspondent clearing corporations. In this connection, it should be noted that, although the above discussions relate to MSTC, the rules are intended to be broad enough to cover arrangements with any clearing corporation having a CNS system.

Proposed new Rule 914 would prohibit Clearing Members from maintaining a long value position in excess of 30 consecutive days. It also contains the agreement of Clearing Members to be subject to the rules and procedures of the correspondent clearing corporations.

The proposed amendment to Rule 602 (c) would permit a Clearing Member to withdraw his margin in respect to an exercised contract on the day following exercise settlement date, since a mark-to-the-market payment would have been by it to the correspondent clearing corporation.

The proposed amendment to Rule 904 would provide for good delivery to be determined in accordance with the rules of the principal exchange on which the underlying security is traded.

It is the hope of the Corporation that the new rules can be made effective in time to permit an interface with MSTC that will be usable in connection with the exercise of the October 1974 series of options.

The proposed amendments will become effective upon the 30th day after this notice appears in the FEDERAL REGISTER, 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 amendments 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 amendments are and all such comments will be made available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street, NW., Washington, D.C.

[SEAL] SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 20, 1974.

[FR Doc.74–20523 Filed 9–4–74;8:45 am]

[File No. 500–1]

EQUITY FUNDING CORPORATION OF AMERICA

Suspension of Trading

AUGUST 29, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, warrants to purchase the stock, 9½% debentures due 1990, 5½% convertible subordinated debentures due 1991, and all other securities of Equity Funding Corporation of America 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 August 30, 1974 through September 8, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–20512 Filed 9–4–74;8:45 am]

[811–753]

HERITAGE SECURITIES, INC. AND MONTHLY PURCHASE PLAN TO ACCUMULATE SHARES OF MUTUAL INVESTING FOUNDATION-MIF FUND

Application for Order Declaring That Company Has Ceased To Be an Investment Company

AUGUST 30, 1974.

Notice is hereby given that the Monthly Purchase Plan to Accumulate Shares of Mutual Investing Foundation-MIF Fund (formerly Monthly Purchase Plan to Accumulate Shares of Mutual Income Foundation) (the "Applicant"), 246 North High Street, Columbus, Ohio 43216, a unit investment trust registered under the Investment Company Act of 1940 (the "Act"), and Heritage Securities, Inc. ("Heritage"), the Sponsor and Depositor of Applicant, have filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that the 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 the representations set forth therein, which are summarized below.

Applicant registered under the Act by filing a Notification of Registration on Form N–8A and a Registration Statement on Form N–8B–2 with the Commission on November 23, 1956.

Applicant was created for the purpose of permitting the purchase of shares of Mutual Investing Foundation-MIF Fund ("Fund"), an open-end, diversified management investment company, through monthly payments over a long term. The Applicant offered monthly purchase plans, both with and without insurance, to purchase shares of the Fund from May 1, 1957, until February 29, 1964.

As of October 31, 1973, all of Applicant's monthly payment plans were either completed by a full payment and delivery of the shares of the Fund or had been liquidated in accordance with the terms set forth in the Applicant's monthly purchase plan. Because there are no longer any funds being held by the Applicant, and there are no longer any monthly purchase plans being offered by the Applicant, Heritage and the National Bank of Detroit (custodian of the plans) entered into a termination agreement. This termination agreement, dated November 28, 1973, provided notice to the National Bank of Detroit that the Applicant's Monthly Purchase Plan had been completely liquidated and that the proceeds of the liquidation had been distributed to the Planholders. The custodianship of the Applicant's Monthly Purchase Plan has thus been terminated. Consequently, application has been made

to the Commission for an order pursuant to section 8(f) of the Act that the Applicant has ceased to be an investment company as defined by the Act.

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 taking effect 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 September 24, 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 by the Commission as of course following, 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.74–20519 Filed 9–4–74;8:45 am]

[File No. 500–1]

INDUSTRIES INTERNATIONAL, INC.

Suspension of Trading

AUGUST 29, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Industries 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 August 30, 1974 through September 8, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–20514 Filed 9–4–74;8:45 am]

[File No. 500–1]

OPEN ROAD INDUSTRIES, INC.

Suspension of Trading

AUGUST 29, 1974.

The common stock of Open Road Industries, Inc. being traded on the American and Pacific Stock Exchanges pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Open Road Industries, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such 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 1:45 P.M. (EDT) on August 29, 1974 through midnight (EDT) on September 7, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–20511 Filed 9–4–74;8:45 am]

[File No. 24FW–1595]

PETROLEUM ENERGY INVESTORS, LTD.

Order Permanently Suspending Exemption

AUGUST 29, 1974.

I. Miller Management Services, Inc. ("MMS"), a California corporation organized December 7, 1970, with offices located at 2483 East Bayshore, Suite 208, Palo Alto, California, filed with the Commission on July 18, 1973, a Form 1–A Notification with attached exhibits, including an offering circular, relating to an offering of 100 limited partnership units at an offering price of $5,000 per unit in Petroleum Energy Investors, Ltd. ("Petroleum"), 2483 East Bayshore, Suite 208, Palo Alto, California 94303, a limited partnership to be formed to acquire, explore and develop oil and gas properties in Oklahoma, Texas and other states. MMS was to act as general partner for Petroleum. The purpose of this filing was to obtain an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to section 3(b) thereof and regulation A promulgated thereunder.

II. The Commission on May 2, 1974, temporarily suspended the Regulation A exemption of Miller Management Services, Inc. stating it had reasonable cause to believe that:

A. The notification and offering circular contained untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, particularly with respect to:

1. The failure to disclose all promoters and affiliates;

2. The failure to disclose the sale of unregistered securities;

3. the failure to disclose a temporary restraining order and subsequent preliminary injunction against the issuer and its president, Follis O. Miller; and

4. the failure to disclose that the issuer had been placed in receivership.

B. The terms and conditions of Regulation A had not been complied with in that:

No Regulation A exemption was available to MMS under the provisions of Rule 252(c)(4) and Rule 252(d)(2) in that MMS, Follis O. Miller and Sant Pallan, an affiliate of MMS, were subject to a decree of a court of competent jurisdiction of the State of California preliminarily enjoining and restraining such persons from engaging in any violations of the California Securities Act.

C. The proposed offering, if made, would have been in violation of section 17 of the Securities Act of 1933, as amended.

III. No hearing having been requested by Miller Management Services, Inc. within thirty days after the entry of an order temporarily suspending the exemption of the Issuer under Regulation A, the Commission finds that it is in the public interest and for the protection of investors that the exemption of the Issuer under Regulation A be permanently suspended;

It is ordered, pursuant to Rule 261(a) of the General Rules and Regulations under the Securities Act of 1933, as amended, that the exemption of Miller Management Services, Inc. under Regulation A be, and it hereby is, permanently suspended.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–20516 Filed 9–4–74;8:45 am]

THIRD EMPIRE FUND, INC.

[811–1333]

Application for Order That Company Has Ceased To Be an Investment Company

AUGUST 29, 1974.

Notice is hereby given that Third Empire Fund, Inc. ("Applicant"), 701 William Penn Place, Pittsburgh, Pennsyl-

vania 15230, registered as an open-end, diversified management investment company 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 the representations set forth therein, which are summarized below.

Applicant was organized as a corporation under the laws of the State of Maryland on September 3, 1965, and registered under the Act on October 1, 1965, by filing a Notification of Registration on Forms N–8A and N–8B1.

Applicant represents that on April 26, 1974 its shareholders approved an Agreement of Merger, various Supplemental Agreements of Merger, and Articles of Merger merging the Applicant into Fifth Empire Fund, Inc. ("Fifth Empire"), an open-end investment company registered under the Act.

The merger was effective on May 15, 1974 when the shares capital stock of the Applicant were converted into shares of Fifth Empire based on the relative net asset values of the two funds. In accordance with the laws of the State of Maryland and pursuant to the Plan and Agreement of Merger, the Applicant's corporate status ceased as of May 15, 1974.

The Applicants further represents that it has no remaining assets and does not intend to conduct business as a registered investment company.

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 September 23, 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 the 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.74–20521 Filed 9–4–74;8:45 am]

[File No. 500–1]

TR–3 INTERNATIONAL INC.

Suspension of Trading

AUGUST 28, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of TR–3 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 2:45 P.M. (EDT) on August 28, 1974 through midnight (EDT) on September 6, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–20518 Filed 9–4–74;8:45 am]

[70–5542]

UTAH POWER & LIGHT CO.

Proposed Issue and Sale of Notes and Exception From Competitive Bidding

AUGUST 28, 1974.

Notice is hereby given that Utah Power & Light Company ("Utah"), 1407 West North Temple Street, P.O. Box 899, Salt Lake City, Utah 84110, an electric utility company and a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rule 50(a)(5) 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.

Utah proposes to issue and sell, from time to time prior to September 30, 1975, short-term notes in the form of commercial paper and notes to banks, in an aggregate amount not exceeding $80,000,000 at any one time outstanding. The determination of the type of note to be issued will be based on achieving the lowest net effective cost of the borrowings to Utah, the ability of the market to absorb Utah's commercial paper in the amount required, Utah's need to regularly incur bank borrowings and issue commercial paper and the ability of Utah to draw upon these sources of funds. Utah intends to utilize the proceeds of the sale of its notes for construction expenditures estimated to be approximately $99,000,000 for 1974 and $202,000,000 for 1975. Utah anticipates repaying the notes through the issue and sale of long-term debt and equity securities and through internally generated funds.

The proposed bank notes will mature not more than nine months after the date of issue, and will provide for payment in whole or in part at any time without penalty or premium. The notes will bear interest at the prime commercial rate then in effect for unsecured loans at the bank in which the note is issued, and any change in such rate shall become effective on date of the changes in the prime commercial rate at the bank to which the note is issued. Utah anticipates that it will be able to obtain lines of credit for the proposed borrowing with the fourteen commercial banks listed below up to the maximum amount indicated for each bank. Utah states that there are no specific compensating balances required by the lending banks, that a normal level of working capital is maintained by Utah to meet its cash needs and that such working capital is kept in the lending banks in approximate proportion to the lines of credit used by Utah in each bank. Such working capital has recently averaged 15% of the lines of credit maintained with the banks, and assuming a prime rate of interest of 12% and assuming that the balances maintained were required as compensating balances, the effective cost of the notes would be approximately 14%.

Name of bank	*Maximum amount to be borrowed*
The Continental Bank & Trust Co., Salt Lake City, Utah	$600,000
First Security Bank of Utah, N.A., Salt Lake City, Utah	5,500,000
Walker Bank & Trust Co., Salt Lake City, Utah	3,000,000
Zions First National Bank, Salt Lake City, Utah	2,500,000
United Bank of Denver, Denver, Colo	3,500,000
Bank of Utah, Ogden, Utah	300,000
Commercial Security Bank, Ogden, Utah	1,200,000
First Security State Bank, Salt Lake City, Utah	300,000
Valley Bank & Trust Co., South Salt Lake, Utah	800,000
The Chase Manhattan Bank, N.A., New York, N.Y	17,000,000
Morgan Guaranty Trust Co. of New York, New York, N.Y	14,700,000
Mellon National Bank & Trust Co., Pittsburgh, Pa	14,600,000
Harris Trust and Savings Bank, Chicago, Ill	8,000,000
Irving Trust Co., New York, N.Y	8,000,000
Total	80,000,000

The proposed commercial paper will be in the form of promissory notes with varying maturities not to exceed nine months, will be issued in denominations of not less than $100,000 and will not be prepayable prior to maturity. The commercial paper will be sold by Utah di-

rectly to a dealer in commercial paper; however, no commercial paper will be issued having a maturity of more than 60 days at an effective interest cost that exceeds the effective interest cost at which Utah could borrow from banks, unless Utah finds it impractical to do otherwise. No commission or fee will be payable in connection with the issue and sale of commercial paper. The dealer will reoffer and sell the commercial paper at a discount rate of ⅛ of 1% per annum less than the prevailing discount rate to Utah to not more than 200 customers of the dealer identified and designated in a list (non-public) prepared in advance by the dealer. No additions will be made to such list of customers without the approval of this Commission. No sale will be made to any purchasers unless and until such purchasers have received a current report of the financial condition of Utah. It is expected that such commercial paper will be held to maturity by the purchasers, but, if any such purchaser wishes to resell prior to maturity, the dealer will repurchase the paper for resale to others on said list of customers.

Utah requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper. Utah states that the proposed commercial paper notes will have a maturity of nine months or less, that current rates for commercial paper for such prime borrowers as Utah are published daily in financial publications and that it is not practical to invite bids for the purchase of commercial paper. Utah also requests authority to file certificates under Rule 24 on a quarterly basis with respect to the issue and sale of notes hereafter consummated pursuant to this proceeding.

Expenses to be incurred in connection with the proposed transaction are estimated to be less than $4,000. Utah states that the Idaho Public Utilities Commission has jurisdiction over the proposed transaction 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 September 19, 1974, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from 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.74-20520 Filed 9-4-74;8:45 am]

[File No. 500-1]

ZENITH DEVELOPMENT CORP.

Suspension of Trading

AUGUST 29, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Zenith Development Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from August 30, 1974 through September 8, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-20513 Filed 9-4-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 1091]

PENNSYLVANIA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of August, because of the effects of a certain disaster, damage resulted to property located in the State of Pennsylvania;

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 Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions 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 Westmoreland County, Pennsylvania and adjacent affected areas, suffered damage or destruction resulting from flooding which occurred on or about August 12, 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, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to October 28, 1974. EIDL applications will not be accepted subsequent to May 27, 1975.

Dated: August 27, 1974.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-20462 Filed 9-4-74;8:45 am]

TARIFF COMMISSION

[337-36]

DOXYCYCLINE

Notice of Hearing

Notice is hereby given that the United States Tariff Commission will hold a public hearing in connection with investigation No. 337-36, Doxycycline, on Tuesday, September 10, 1974, at 10 a.m., e.d.t., in the Hearing Room of the Tariff Commission Building, Eighth and E Streets, N.W., Washington, D.C., for the purpose of hearing oral arguments on the motion filed by International Rectifier Corp., and USV Pharmaceutical Corp. seeking a stay of the Commission's investigation during the pendency of two parallel Federal court actions, namely, *International Rectifier Corp.* v. *American Cyanamid Co., Pfizer, Inc., et al.*, D. Minn. 4-74-372, and *Pfizer, Inc.*, v. *International Rectifier Corp. and USV Pharmaceutical Corp.*, D. Minn. 4-73 Civ. 188.

Requests for appearances at the hearing should be filed, in writing, with the Secretary of the Commission at his office in Washington, D.C., by no later than noon, Friday, September 6, 1974.

Notice of the institution of the investigation and the ordering of a public hearing for July 9, 1974, was published in the FEDERAL REGISTER on May 29, 1974 (39 FR 18723-24). Notice of the withholding of proceedings and postponement of the public hearing scheduled for July 9, 1974, was published in the FEDERAL REGISTER on June 20, 1974 (39 FR 22196-97).

Issued: September 3, 1974.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.74-20653 Filed 9-4-74;8:45 am]

DEPARTMENT OF LABOR

Office of Federal Contract Compliance

CITY OF OAKLAND AND PORT OF OAKLAND EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS FOR FEDERALLY ASSISTED CONSTRUCTION CONTRACTS

Notice of Hearing

On July 12, 1974, in accordance with 41 CFR 60-1.4(b)(2) (39 FR 2365, Janu-

ary 21, 1974), the Director of the Office of Federal Contract Compliance announced his determinations in the FEDERAL REGISTER (39 FR 25710) and (39 FR 25711) that the Port of Oakland Affirmative Action Provisions for Public Works Contracts and the City of Oakland Affirmative Action Provisions for Public Works Contracts are not inconsistent with Executive Order 11246, as amended, and not incompatible with the implementation of the Federal Alameda Plan.

Pursuant to 41 CFR 60–1.4(b)(2), the Associated General Contractors of California appealed the OFCC Director's determinations to the Assistant Secretary of Labor for Employment Standards by requesting a hearing on each of the affirmative action plans. Inasmuch as the aforementioned EEO requirements of the City of Oakland and the Port of Oakland are almost identical, it is deemed proper to consolidate the appeal of both plans into one hearing. Accordingly, an administrative law judge has been designated to conduct a hearing commencing on September 19, 1974, at 9:30 a.m., in Room 315, City Hall, 14th and Washington Streets, Oakland, California, 94612, to make proposed findings and a recommended decision to the Assistant Secretary of Labor for Employment Standards upon the basis of the record before the administrative law judge as to each of the plans. In accordance with 41 CFR 60–1.4(b)(2), evidence may be presented at the hearing relevant to the issue of whether the City and/or the Port Affirmative Action Provisions for Public Works are inconsistent with Executive Order 11246, as amended, or incompatible with the effective implementation of the Federal Alameda Plan.

We have given the Associated General Contractors of California and the City of Oakland and the Port of Oakland notice of their opportunity to participate in the hearing by registered mail, return receipt requested. All other persons, organizations and other entities affected by the OFCC Director's determination may attend and participate in the hearing. Each participant shall have the right to counsel and a fair opportunity to present his case, including such cross examination as the administrative law judge may deem appropriate in the circumstances.

Interested persons, organizations and other entities affected by the OFCC Director's determination wishing to participate in the hearing should so notify Mr. H. Stephen Gordon, Chief Administrative Law Judge, U.S. Department of Labor, care of Altero D'Agostini, Regional Solicitor, P.O. Box 36017 Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102, by registered mail, return receipt requested, by the close of business, September 13, 1974. The notice of intention to participate (original and three copies) must state the name and address of the person to appear, and the approximate amount of time required for the presentation. In addition, to the extent practicable, the notice should also include, or be accompanied by, a general statement of the position to be taken with regard to the aforementioned Affirmative Action Provisions for Public Works Contracts and of the evidence to be adduced in support of that position. The use of prepared statements by participants, subject to cross-examination, is authorized. All documents intended to be submitted for the record at the hearing should be submitted in duplicate.

Signed at Washington, D.C., this 30th day of August, 1974.

FRANCIS F. DOWD,
Acting Chief Administrative Law Judge, U.S. Department of Labor.

[FR Doc.74–20578 Filed 9–4–74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 584]

ASSIGNMENT OF HEARINGS

AUGUST 30, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 139626 Sub 1, Ruse Transfer Co., now being assigned hearing November 5, 1974 (1 day), at Omaha, Nebr., in a hearing room to be later designated.

MC 124211 Sub 233, Hilt Truck Line, Inc., now being assigned continued hearing November 6, 1974 (3 days), at Omaha, Nebr., in a hearing room to be later designated.

MC 51146 Sub 332, Schneider Transport, Inc., now being assigned hearing November 11, 1974 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC–C–8060, The Maxwell Co., Et Al-V-American Bulk Transport, Inc. (Formerly), Eldon Miller, Inc., and MC–C–8411, American Bulk Transport Co.—Investigation and Revocation of Certificates, now assigned October 1, 1974, at Kansas City, Mo., will be held in Room 609, Federal Office Bldg., 911 Walnut Street.

I & S No. 8968, Fuel Related Increases, X–305–A, now being assigned hearing December 2, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

FF–C–55, Air Transportation Motor Service, Inc., dba Air Trans, Stone's Express, Inc., and John Morton Investigation of Operations, now being assigned hearing October 30, 1974 (1 day), at Boston, Mass., in a hearing room to be later designated.

MC 128343 Sub 27, C-Line, Inc., now being assigned hearing October 31, 1974 (2 days), at Boston, Mass., in a hearing room to be later designated.

MC 139247 Sub 1, Cooper Brothers, Inc., now being assigned hearing November 21, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 117119 Sub 499, Willis Shaw Frozen Express, Inc., now being assigned hearing December 2, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 111729 Sub 421, Purolator Courier Corp., now being assigned hearing December 3, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 135387 Sub 2, Habor Transfer, Inc., now being assigned hearing December 3, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 27817 Sub 111, H. C. Gabler, Inc., now being assigned hearing December 9, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 136343 Sub 26, Milton Transportation, Inc., now being assigned hearing December 11, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 60787 Sub 5, Garrison Van and Warehouse Corp., Inc., now being assigned hearing December 16, 1974, at the Offices of the Insterstate Commerce Commission, Washington, D.C.

MC 109478 Sub 132, Worster Motor Lines, Inc., now being assigned hearing December 17, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74–20575 Filed 9–4–74;8:45 am]

FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

AUGUST 30, 1974.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's Rules of Practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Alaska Docket No. 74–229–MP/A filed August 13, 1974. Applicant: ALASKA TOUR AND MARKETING SERVICES, INC., Suite 312, Park Place Bldg., Seattle, Wash. 98101. Applicant's representative: Robert Gundorf (same address as applicant). Certificate of public convenience and necessity sought to operate a passenger service as follows: Transportation of *Passengers and their baggage,* in limousine common carrier by bus(es), between the airport at Homer on the one hand, and, hotels/motels, and/or other points of passenger arrival or departure within a five mile radius on the other hand. Tour and sightseeing and charter, between all points within a 25 mile radius of Homer, including Homer, Alaska.

HEARING: Date, time, and place not shown. Requests for porcedural information should be addressed to the Alaska Transportation Commission, 1000 MacKay Building, 338 Denali Street, Anchorage, Alaska, 99501, and should *not* be directed to the Interstate Commerce Commission.

Alaska Docket No. 74-235-MP/A filed August 19, 1974. Applicant: INSIDE ALASKA TOURS, INC., 345 N.E. 8th Ave., Portland, Oreg. 97232. Applicant's representative: Andrew E. Hoge, 921 West Sixth Ave., Anchorage, Alaska 99501. Certificate of public convenience and necessity sought to operate a passenger service as follows: Transportation of *Passengers*, between Fairbanks, Alaska and Prudhoe Bay, Alaska and all intermediate points within five mile radius via Alaska Highway No. 2 and the pipeline haul road by sightseeing tour and charter authority and within a 50 mile radius of Prudhoe Bay, Alaska including Prudhoe Bay, Alaska by sightseeing, tour and charter authority.

HEARING: Date, time, and place not shown. Requests for procedural information should be addressed to the Alaska Transportation Commission, 1000 MacKay Building, 338 Denali Street, Anchorage, Alaska, 99501, and should *not* be directed to the Interstate Commerce Commission.

California Docket No. 55096 filed August 2, 1974. Applicant: RELIABLE DELIVERY SERVICE, INC., 7701 East Rosecrans Avenue, Paramount, Calif. 90723. Applicant's representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, Calif. 90010. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of (A) *General Commodities*, Except: (1) Used household and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A; (2) Automobiles, trucks and buses, viz: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses, and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis, when such commodities require special equipment; (3) Livestock, viz: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, sows, steers, stags or swine; (4) Commodities requiring protection from heat by the use of ice (either water or solidified carbon dioxide) or by mechanical refrigeration; (5) Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles; (6) Commodities when transported in bulk in dump trucks or in hopper-type trucks; (7) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; (8) Logs; (9) Furniture, new or used, as described under that heading in the Western Classification 77, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof, stoves, refrigerators and lamp standards or electric lamps and shades when the furniture or other articles are tendered to the carrier loose (not in packages nor completely wrapped); (10) All commodities in bulk; (11) Articles of extraordinary value as set forth in Rule 3 of Western Classification 77, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof; (12) Commodities injurious or contaminating to other lading; (13) Commodities which, because of size or weight, require special equipment or handling; and (14) Explosives as described in and subject to the regulations of agent H. A. Campbell's Tariff No. 10. (B) BETWEEN: (1) Between all points and places in the Los Angeles Basin Territory, as described in Appendix A attached hereto, on the one hand, and all points and places and within 15 miles laterally of the following highways: (a) U.S. Highway 395 between Escondido and Temecula; and (b) State Highway 86 between Coachella and the Imperial County Line.

Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118, approximately two miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway No. 99; northwesterly along U.S. Highway No. 99 to the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway No. 60; southwesterly along U.S. Highways Nos. 60 and 395 to the county road approximately one mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to the right of way of The Atchison, Topeak & Santa Fe Railway Company; southwesterly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U.S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway No. 395; southeasterly along U.S. Highway No. 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County Boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shore line of the Pacific Ocean to point of beginning.

Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time, and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should *not* be directed to the Interstate Commerce Commission.

California Docket No. 55110 filed August 13, 1974. Applicant: BOB'S DELIVERY SERVICE, INC., a corporation, 150 S. Ninth Avenue, City of Industry, Calif. 91744. Applicant's representative: Donald Murchison, 9454 Wilshire Blvd., Suite 400, Beverly Hills, Calif. 90212. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, between all points and places in the Los Angeles Basin Territory as described in Note A. Applicant shall not transport any shipment of: (1) Used household goods and personal effects not packed in accordance with the crated property requirements set forth in Item 5 of Minimum Rate Tariff 4-B; (2) Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (3) Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine; (4) Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment; (5) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids, in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles; (6) Commodities when transported in bulk in dump trucks or in hopper-type trucks; (7) Commodities when transported in motor vehicles equipped for

mechanical mixing in transit; and (8) Logs.

Note A.: Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County Boundary Line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway 118, approximately two miles west of Chatsworth; easterly along State Highway 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary of the City of San Fernando to Maclay Avenue; northeasterly along Maclay and its prolongation to the Los Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest Boundary to Mill Creek Road (State Highway 38); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Yucaipa Boulevard to Interstate Highway 10; northwesterly along Interstate Highway 10 to Redlands Boulevard; northwesterly along Redlands Boulevard to Barton Road; westerly along Barton Road to La Cadena Drive; southerly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to State Highway 60; southeasterly along State Highway 60 and U.S. Highway 395 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to State Highway 79; southerly along State Highway 79 to State Highway 74; thence westerly to the corporate boundary of the City of Hemet; southerly, westerly, and northerly along said corporate boundary to the Atchison, Topeka & Santa Fe right-of-way; southerly along said right-of-way to Washington Road; Southerly along Washington Road through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to Winchester Road (State Highway 79) to Jefferson Avenue; southerly along Jefferson Avenue to U.S. Highway 395; southerly along U.S. Highway 395 to the Riverside County-San Diego County Boundary Line; westerly along said boundary line to the Orange County-San Diego County Boundary Line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning, including the point of March Air Force Base.

Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time, and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should *not* be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-20553 Filed 9-4-74;8:45 am]

[Notice 14]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

AUGUST 30, 1974.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Passengers, 1969 (49 CFR 1041.2 (c) (9) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2 (c) (9).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2 (c) (9) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 678) (Cancels Deviation Nos. 459 and 642), GREYHOUND LINES, INC.-EAST, Box 6903, 1400 W. Third Street, Cleveland, Ohio 44101, filed August 22, 1974. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *passengers and their baggage,* and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: (a) From Pittsburgh, Pa., over U.S. Highway 22 to junction Interstate Highway 79, thence over Interstate Highway 79 to junction Interstate Highway 70, thence over Interstate Highway 70 to Columbus, Ohio, with the following access routes: (1) from Washington, Pa., over city streets to junction Interstate Highway 70, thence over Interstate Highway 70 to junction Interstate Highway 79, (2) from Washington, Pa., over U.S. Highway 40, to Interstate Highway 70 west of Washington, Pa., (3) From Wheeling, W. Va. via city streets to junction Interstate Highway 70, (4) from St. Clairsville, Ohio over U.S. Highway 40 to junction Interstate Highway 70, (5) From St. Clairsville, Ohio over Ohio Highway 9 to junction Interstate Highway 70; (6) From Cambridge, Ohio over Ohio Highway 209 to its junction with Interstate Highway 70, south of Cambridge, Ohio; and (7) From Zanesville, Ohio over city streets to junction Interstate Highway 70, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Pittsburgh, Pa. over U.S. Highway 19 to Washington, Pa., thence over U.S. Highway 40 to Columbus, Ohio, and return over the same route.

No. MC-36364 (Deviation No. 3), MISSOURI, KANSAS AND OKLAHOMA COACH LINES, INC. (doing business as M.K. & O. Lines), 321 South Cincinnati, Tulsa, Okla. 74103, filed July 31, 1974. Applicant's representative: John L. Arrington, Jr., Fifth Floor Oklahoma Natural Building, Tulsa, Okla. 74119. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *passengers and their baggage,* and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From the beginning of Cimarron Turnpike at U.S. Highway 64 near Westport, Okla., in Pawnee County, Okla., over Cimarron Turnpike to its termination at Interstate Highway 35 north of Perry, Okla., in Noble County, Okla., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Keystone, Okla., over U.S. Highway 64 to Enid, Okla., and return over the same route.

No. MC-114271 (Deviation No. 11) CONTINENTAL CRESCENT LINES, INC., P.O. Box 8435, Jackson, Miss. 39024, filed August 22, 1974. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *passengers and their baggage,* and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Pinson, Ala., over Alabama Highway 79 to Birmingham, Ala., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Pinson, Ala., over Alabama Highway 75 to Birmingham, Ala., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-20556 Filed 9-4-74;8:45 am]

[Notice 28]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

AUGUST 30, 1974.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting

from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC–33641 (Deviation No. 64), IML FREIGHT, INC., 2175 So. 3270 West, P.O. Box 2277, Salt Lake City, Utah 84110, filed August 16, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Lansing, Mich., over U.S. Highway 127 to junction Interstate Highway 96, thence over Interstate Highway 96 to Detroit, Mich., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Lansing, Mich., over U.S. Highway 127 to Jackson, Mich., thence over Interstate Highway 94 (formerly U.S. Highway 12) to Detroit, Mich., and return over the same route.

No. MC–33641 (Deviation No. 65), IML FREIGHT, INC., 2175 So. 3270 West, P.O. Box 2277, Salt Lake City, Utah 84110, filed August 16, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Flint, Mich., over Interstate Highway 75 to Detroit, Mich., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Flint, Mich., over U.S. Highway 23 to Ann Arbor, Mich., thence over Interstate Highway 94 to Detroit, Mich., and return over the same route.

No. MC–33641 (Deviation No. 66), IML FREIGHT, INC., 2175 So. 3270 West, P.O. Box 2277, Salt Lake City, Utah 84110, filed August 16, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From the junction of Interstate Highway 94 and Interstate Highway 69 over Interstate Highway 69 to junction U.S. Highway 27 near Charlotte, Mich., thence over U.S. Highway 27 to Lansing, Mich., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From the junction of Interstate Highway 69 and Interstate Highway 94 over Interstate Highway 94 to Jackson, Mich., thence over U.S. Highway 127 to Lansing, Mich., and return over the same route.

No. MC–33641 (Deviation No. 67), IML FREIGHT, INC., 2175 So. 3270 West, P.O. Box 2277, Salt Lake City, Utah 84110, filed August 22, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From the junction of Interstate Highway 94 and U.S. Highway 23, over U.S. Highway 23 to junction Michigan Highway 50 near Dundee, Mich., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From the junction of U.S. Highway 23 and Interstate Highway 94 (formerly U.S. Highway 12) over Interstate Highway 94 (U.S. Highway 12) to Jackson, Mich., thence over Michigan Highway 50 to junction U.S. Highway 23 near Dundee, Mich., and return over the same route.

No. MC–33641 (Deviation No. 68), IML FREIGHT, INC., 2175 So. 3270 West, P.O. Box 2277, Salt Lake City, Utah 84110, filed August 22, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From the junction of Michigan Highway 50 and U.S. Highway 23 near Dundee, Mich., over U.S. Highway 23 to junction U.S. Highway 223 near Sylvania, Ohio, thence over U.S. Highway 223 to Toledo, Ohio and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From the junction of Michigan Highway 50 and U.S. Highway 23 near Dundee, Mich., over Michigan Highway 50 to Monroe, Mich., thence over U.S. Highway 24 to Toledo, Ohio and return over the same route.

No. MC–33641 (Deviation No. 69), IML FREIGHT, INC., 2175 So. 3270 West, P.O. Box 2277, Salt Lake City, Utah, 84110, filed August 22, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Detroit Mich., over Interstate Highway 75 to Toledo, Ohio and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Detroit, Mich., over Interstate Highway 94 (formerly U.S. Highway 12) to Jackson, Mich., thence over Michigan Highway 50 to Monroe, Mich., thence over U.S. Highway 24 to Toledo, Ohio and return over the same route.

No. MC–33641 (Deviation No. 70), IML FREIGHT, INC., 2175 So. 3270 West, P.O. Box 2277, Salt Lake City, Utah 84110, filed August 22, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Ft. Wayne, Ind., over Interstate Highway 60 to Indianapolis, Ind., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Ft. Wayne, Ind., over U.S. Highway 30 to junction U.S. Highway 41 near Schererville, Ind., thence over U.S. Highway 41 to junction U.S. Highway 52, thence over U.S. Highway 52 to Indianapolis, Ind., and return over the same route.

No. MC–4132 (Deviation No. 22), EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, P.O. Box 10125, Dallas, Tex. 75207, filed August 20, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From San Bernardino, Calif., over Interstate Highway 15 to junction California Highway 138, thence over California Highway 138 to junction California Highway 14, thence over California Highway 14 to junction California Highway 58, thence over California Highway 58 to Bakersfield, Calif., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From San Bernardino, Calif., over Interstate Highway 10 and U.S. Highway 66 to Los Angeles, Calif., thence over U.S. Highway 99 to Bakersfield, Calif., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–20554 Filed 9–4–74;8:45 am]

[Notice 71]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

AUGUST 30, 1974.

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by the new Special Rule 1100.247 of the Commission's Rules of Practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications *as filed* by applicant, and may include de-

scriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 115162 (Sub-Nos. 5, 158, and 203) (Notice of filing of petition to modify its certificates) filed August 16, 1974. Petitioner: Poole Truck Line, Inc., P.O. Box 500, Evergreen, Ala. 36401. Petitioner's representative: Robert E. Tate (same address as petitioner). Petitioner presently holds a motor *common carrier* certificate in No. MC 115162 (Sub-Nos. 5, 158, and 203) issued March 2, 1971, November 25, 1969, and September 28, 1971 respectively, authorizing as pertinent transportation over irregular routes, (1) in Sub-5, of *athletic, gymnastic, and sporting goods equipment*, from points in Lee County, Ala., to points in Iowa, Michigan, Minnesota, and Wisconsin, (2) in Sub-158, of *physical fitness, gymnastic, athletic, and sporting goods equipment*, from points in Lee County, Ala., to points in Kentucky, Illinois (except points in the Chicago, Ill., Commercial Zones, as defined by the Commission) Indiana, Ohio (except points in the Akron, Cleveland, and Cincinnati Commercial Zones, as defined by the Commission), Pennsylvania (except points in the Philadelphia, Pa., Commercial Zone, as defined by the Commission), and West Virginia, and (3) in Sub-203, of *physical fitness, gymnastic, athletic, and sporting goods equipment*, from points in Lee County, Ala., to points in Louisiana, Mississippi, and Texas. By the instant petition, petitioner seeks (1) in Sub-No. 5, to add: *Materials and supplies* used in the manufacture of athletic, gymnastic and sporting goods equipment, from points in Iowa, Michigan, Minnesota, and Wisconsin, to points in Lee County, Ala."; (2) in Sub-No. 158, to add: "*Materials and supplies* used in the manufacture of physical fitness, gymnastic, athletic, and sporting goods equipment, from points in Kentucky, Illinois (except points in the Chicago, Ill., Commercial Zones, as defined by the Commission), Indiana, Ohio (except points in the Akron, Cleveland, and Cincinnati Commercial Zones, as defined by the Commission), Pennsylvania (except points in the Philadelphia, Pa., Commercial Zone, as defined by the Commission), and West Virginia, to points in Lee County, Ala.; and (3) in Sub-No. 203, to add: "*Materials and supplies* used in the manufacture of physical fitness, gymnastic, athletic, and sporting goods equipment, from points in Louisiana, Mississippi, and Texas, to points in Lee County, Ala." Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 116763 (Sub-No. 40) (Notice of filing of petition to modify certificate) filed August 19, 1974. Petitioner: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Petitioner's representative: H. M. Richters (same address as petitioner). Petitioner presently holds a motor *common carrier* certificate in No. MC 116763 (Sub-No. 40) issued February 18, 1965, authorizing transportation over irregular routes, of *fruit butter, preserves, jellies, syrup, and ice cream toppings*, in containers, from Orrville, Ohio, to points in Connecticut, Massachusetts, New Hampshire, Rhode Island, Vermont, and that part of Maine on and south of Maine Highway 25, including Portland and Bangor, Maine, with no transportation for compensation on return except as otherwise authorized. By the instant petition, petitioner seeks to add the commodities: "*Condiments, jams, sauces, juices, drinks, ketchup, pickles, peanut butter, peanut butter and jelly combined, cauliflower, peppers, and vegetables*, in containers" to the authority described above. In the alternative, if the Commission deems the above commodity description to be impractical, the petitioner requests the commodity description be modified to read "*Foodstuffs*, in containers". Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 127999 (Sub-No. 1) (Correction of a notice of filing of petition to modify its permit), filed July 29, 1974, published in the FEDERAL REGISTER issue of August 14, 1974, republished as corrected in the FEDERAL REGISTER issue of August 21, 1974, and in third publication as corrected this issue. Petitioner: DUNN-RITE TRUCKING SERVICE, INC., 111 South Kensico Avenue, White Plains, N.Y. 10601. Petitioner's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Petitioner presently holds a motor *contract carrier* permit in No. MC 127999 (Sub-No. 1), issued March 26, 1968, authorizing, as pertinent, transportation, over irregular routes, of *New Furniture*, (1) between New Rochelle, White Plains, Forest Hills, and the Boroughs of Bronx and Brooklyn, N.Y., and Paramus, N.J.; and (2) between New Rochelle, White Plains, Forest Hills, and the Boroughs of Bronx and Brooklyn, N.Y., and Paramus, N.J., on the one hand, and, on the other, points in New Jersey on, north, and east of a line beginning at Atlantic City, N.J., and extending along U.S. Highway 30 to junction U.S. Highway 206, and thence along U.S. Highway 206 to Trenton, N.J.; (1) and (2) above, under a continuing contract or contracts with Mallary, Inc., of New Rochelle, N.Y. By the instant petition, petitioner seeks to modify its permit to read: "*New Furniture*, (1) Between New York, White Plains and Yonkers, N.Y., Ramsey, N.J., and Norwalk, Conn.; and (2) between points in New York, White Plains and Yonkers, N.Y., Ramsey, N.J., and Norwalk, Conn., on the one hand, and, on the other, points in New Jersey on, north and east of a line beginning at Atlantic City, N.J., and extending along U.S. Highway 30 to its intersection with U.S. Highway 206, thence over U.S. Highway 206 to Trenton, N.J., points in Fairfield County, Conn., Westchester, Putnam, Rockland, Nassau and Suffolk Counties, N.Y. and New York, N.Y., under a continuing contract or contracts with Klein Sleep Products, Inc. of White Plains, N.Y." Note: The purpose of this republication is to correct the purpose of this petition to include a modification in the territorial description as well as a substitution of the contracting shipper. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under Sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 C.F.R. 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-12023. (NOVO PACKAGE DELIVERY, INC.—PURCHASE (PORTION)—HOURLY MESSENGERS, INC., doing business as H. M. PACKAGE DELIVERY SERVICE), published in the November 7 and 21, 1973 issues of the FEDERAL REGISTER. Application filed August 20, 1974, for temporary authority under section 210a(b).

No. MC-F-12213 (Supplemental) (C & H TRANSPORTATION CO., INC.—PURCHASE (PORTION)—A. A. MARTIN TRANSPORTATION CO., INC., published in the May 15, 1974 and July 10, 1974, issues of the FEDERAL REGISTER.

Under the proposed transaction vendee proposes to tack the authority sought with its present authority to perform service between New Hampshire and southern Maine, on the one hand, and, points through the United States, on the other. The joinder of vendee's present rights with those sought to be acquired will require observance of a 25 mile radius of Boston, Mass., gateway.

After the authority sought herein is authorized and the transaction consummated, vendee herein intends to file an application to eliminate any existing gateways.

No. MC-F-12233. Authority sought for purchase by McGUIRE LUMBER AND SUPPLY, INC., Wylliesburg, VA 23976, of the operating rights of RUSSELL BEVERLEY TRUCKING COMPANY, INCORPORATED, P.O. Box 8811, Richmond, VA 23225, and for acquisition by PENDLETON R. McGUIRE, Wylliesburg, Va. 23976, of control of such rights

through the purchase. Applicants' attorney: 1100 17th St., NW., Washington, D.C. 20036. Operating rights sought to be transferred: *Malt beverages,* as a *common carrier* over irregular routes, from Baltimore, Md., to Richmond, Va.; and return with *empty malt-beverage containers; fertilizer,* from Baltimore, Md., to Richmond, Va.; *lumber,* from Richmond and Pemberton, Va., to Washington, D.C., and Harrisburg and Philadelphia, Pa., from Richmond, Va., to points in Maryland, from Baltimore, Md., to points in Virginia; slate, from Arvonia, Va., to Washington, D.C., Annapolis and Baltimore, Md., and points in Maryland within 25 miles of Washington, D.C., and points in North Carolina, with restriction; *luggage, beach chairs, card tables, book racks, novelties, and excelsior,* from Petersburg, Va., to Baltimore, Md., Philadelphia, Pa., Newark, N.J., and New York, N.Y.; *luggage, beach chairs, card tables, book racks, and novelties,* from Petersburg, Va., to Washington, D.C., Norfolk, Va., and Annapolis, Md.; excelsior, from Hallsboro, Va., to New York, N.Y., Baltimore, Md., Philadelphia, Pa., and Newark, N.J.; *canned goods, sulphur, borax, castor oil, extracts, tapioca, flour, nuts, such commodities* as are used in the manufacture of luggage, and *sugar,* from New York, N.Y., to Petersburg, Va.; *canned goods, sulphur, borax, castor oil, extracts, tapioca, flour, nuts, such commodities* as are used in the manufacture of luggage, *sugar, and roofing,* from Philadelphia, Pa., to Petersburg, Va.; *sulphur, borax, castor oil, and extracts,* from Jersey City, Camden, and Bayonne, N.J., to Petersburg, Va.; *sugar, canned goods, and such commodities* as are used in the manufacture of luggage, from Baltimore, Md., to Petersburg, Va.; *such commodities* as are used in the manufacture of luggage, from Newark, Trenton, Dunellen, New Brunswick, and Hackensack, N.J., Wilmington and Yorklyn, Del., and Washington, D.C., to Petersburg, Va.;

Canned goods and *bananas,* from Norfolk, Va., to Petersburg, Va.; *canned goods,* from Lewes, Bridgeville, and Milford, Del., Havre de Grace, Aberdeen, Hillsboro, Frederick, Westminster, Cambridge, Colora, Federalsburg, Fruitland, Hagerstown, Hebron, Preston, and Salisbury, Md., Bridgeton, Swedesboro, Vincentown, and Vineland, N.J., and Hanover, Pa., to Petersburg, Va.; *petroleum products,* in drums, cases, barrels, and kits, from Newark, N.J., to Washington, D.C., and South Washington, Richmond, Orange, Warsaw, Windsor, and Petersburg, Va.; *bananas, brooms,* and *roofing materials,* from Baltimore, Md., to Petersburg, Va.; *feed, produce, canned foods, dried beans, dried fruits,* and *groceries,* from Petersburg, Va., to Henderson and Warrenton, N.C., and return with *rejected shipments; paper chip board,* from Roanoke Rapids, N.C., to Petersburg, Va.; and return with *paper scrap board,* with restriction; *ink,* in bulk, in tank vehicles, from Richmond, Va., to points in North Carolina and South Carolina; *foodstuffs,* in vehicles equipped with mechanical refrigeration, from Richmond and Norfolk, Va., to points in North Carolina on and east of U.S. Highway 1, with restriction. Vendee is authorized to operate as a *common carrier* in Maryland, Virginia, North Carolina, Pennsylvania, Tennessee, West Virginia, Delaware, Ohio, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, Maine, Illinois, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12294. Authority sought for purchase by R. F. TRUESDELL, INC., 1616 W. 47th St., Ashtabula. OH 44004, of the operating rights of RICHARD STICKEL, doing business as STICKEL TRUCKING CO., 1615 E. Crawford Ave., Connellsville, PA 15425, and for acquisition by R. F. TRUESDELL, 436 Jennie Jewel Drive, Orlando, FL 32806, of control of such rights through the purchase. Applicants' attorney: Edwin C. Reminger, 731 Leader Bldg., Cleveland, OH 44114. Operating rights sought to be transferred: *Finished men's pants,* as a *contract carrier,* over irregular routes, from Connellsville, Pa., to Cleveland, Ohio, and return with *empty containers* used in the above operation, and *cloth* used in the manufacture of the above described commodity. Vendee is authorized to operate as a *contract carrier* in Ohio, Pennsylvania, New York, West Virginia, New Jersey, North Carolina, South Carolina, Georgia, Florida, Delaware, Maryland, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, Alabama, Kentucky, Louisiana, Mississippi, Tennessee, and Virginia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12295. Authority sought for purchase by CARLSON TRANSPORT, INC., P.O. Box R, Byron, IL 61010, of the operating rights and property of WILLIAM G. BECK, Route 1, Box 410, Wilson Rd., New Buffalo, MI 49117, and for acquisition by ELMER W. CARLSON, also of Byron, IL 61010, of control of such rights and property through the purchase. Applicants' attorneys: Edward G. Bazelon, 39 S. LaSalle St., Chicago, IL 60603, and Loser & Loser, 320 N. Meridian St., Indianapolis, IN 46204. Operating rights sought to be transferred: *Sand,* as a *contract carrier* over irregular routes, from Michigan City, Inc., to certain specified points in Michigan, Illinois, and Ohio, from points in Berrien County, Mich., to certain specified points in Indiana, Illinois, and Ohio, from Oregon, Ill., to certain specified points in Indiana, Michigan, and Ohio, from Oregon, Ill., and points in Berrien County, Mich., to points in that part of Indiana south of U.S. Highway 40, from Oregon, Ill., Michigan City, Ind., and points in Berrien County, Mich., to certain specified points in Ohio, with restrictions. Vendee is authorized to operate as a *common carrier* in Illinois, Iowa, Wisconsin, Indiana, Ohio, Michigan, Kentucky, Minnesota, Missouri, and West Virginia. Application has not been filed for temporary authority under section 210a(b).

NOTE:—MC–134369 (Sub-No. 5), is a matter directly related.

No. MC–F–12296. Authority sought for purchase by TWIN CITY FREIGHT, INC., 2280 Ellis Ave., St. Paul, MN 55114, of a portion of the operating rights and property of UNITED-BUCKINGHAM FREIGHT LINES, INC., P.O. Box 192, Littleton, CO 80120, and for acquisition by ROBERT W. ELSHOLTZ, W. E. ELSHOLTZ, JR., AND W. E. ELSHOLTZ, SR., all of St. Paul, MN 55114, of control of such rights and property through the purchase. Applicants' attorneys: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58102, and Alvin J. Meiklejohn, Jr., Suite 1600 Lincoln Center, 1660 Lincoln St., Denver, C 80203. Operating rights sought to be transferred: *General Commodities,* with the usual exceptions, as a *common carrier* over regular routes, between Bismarck, and Velva, N. Dak., serving all intermediate points; and the off-route points of Garrison, N. Dak., between Fertile, Minn., and Grand Forks, N. Dak., serving all intermediate points; and various off-route points, between Thief River Falls, Minn., and Baudette (formerly Spooner), Minn., serving various intermediate and off-route points, between Moorhead and Crookston, Minn., serving no intermediate points, between Jamestown, and Minot, N. Dak., serving all intermediate points; and various off-route points, between Carrington, and Fessenden, N. Dak., serving all intermediate points, between Turtle Lake, N. Dak., and junction U.S. Highway 83 and North Dakota Highway 200 (formerly North Dakota Highway 7), between junction U.S. Highway 83 and North Dakota Highway 37, east of Garrison, N. Dak., and the Garrison Dam Site on the Missouri River, near Mannhaven, N. Dak., serving all intermediate points; and all off-route points within 15 miles of the Garrison Dam Site, between junction U.S. Highway 83 and unnumbered highway, near Coleharbor, N. Dak., and the Garrison Dam Site on the Missouri River, near Mannhaven, N. Dak., serving all intermediate points; and all off-route points within 15 miles of the Garrison Dam Site, between junction U.S. Highway 83 and unnumbered highway, at or near Underwood, N. Dak., and the Garrison Dam Site on the Missouri River, near Mannhaven, N. Dak., serving all intermediate points; and all off-route points within 15 miles of the Garrison Dam Site, between Bismarck, N. Dak., and Sidney, Mont., serving the intermediate points of Wibaux and Glendive, Mont.; *general commodities,* with the usual exceptions over irregular routes, between points in Minnesota within 35 miles of Breckenridge, Minn., including Breckenridge, Minn., on the one hand, and, on the other, certain specified points in North Dakota, between certain specified points in North Dakota, between points in Wibaux, Mont.; *salt,* from Williston, N. Dak., and points within 10 miles thereof, to points in Colorado, Iowa, Montana, Nebraska, South Dakota, and that part of Wisconsin on and west of Wisconsin Highway 13. Vendee is authorized to

operate as a *common carrier* in Colorado, Idaho, Illinois, Indiana, Iowa, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, Washington, Wisconsin and Wyoming. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC-111496 (Sub-No. 18), is a matter directly related.

No. MC-F-12297. Authority sought for purchase by JOHN T. SISK, Route 2, Box 182-B, Culpeper, VA 22701, of the operating rights and property of LANE TRANSFER CO., INC., Brandy Station, VA 22714. Applicants' attorney: Frank B. Hand, Jr., P.O. Box 163, Berryville, VA 22611. Operating rights sought to be transferred: *Steel wire*, as a *contract carrier* over irregular routes, from Baltimore, Md., to the plant site of the Rochester Corporation at Culpeper, Va.; *steel wire rope*, from the plant site of the Rochester Corporation at Culpeper, Va., to Baltimore, Md.; *concrete products*, from the plant site of Smith Cattleguard Company at Midland, Va., to points in North Carolina, Maryland, and the District of Columbia, with restrictions. Vendee is authorized to operate as a *contract carrier* in Virginia, Maryland, Pennsylvania, North Carolina, West Virginia, Delaware, New Jersey and the District of Columbia, and as a *common carrier* in Virginia, New York, Maryland, Pennsylvania, West Virginia, New Jersey, Delaware, Connecticut, Ohio, North Carolina, South Carolina, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

[SEAL] ROBERT L. OSWALD,
Secretary.

By the Commission.

[FR Doc.74-20555 Filed 9-4-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

AUGUST 30, 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 September 16, 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-504 (Sub-No. E7), filed May 26, 1974. Applicant: HARPER MOTOR LINES, INC., P.O. Box 6985, Atlanta, Ga. 30315. Applicant's representative: B. K. McClain (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cotton and cotton goods* from points in Georgia, to points in New Jersey, Connecticut, Massachusetts, and Rhode Island, and Wilmington, Del., and Baltimore, Md., and points in Maryland on and west of Interstate Highway 83, including points in Maryland in the Del-Mar Peninsula and points in Pennsylvania on and east of U.S. Highway 15 from the New York-Pennsylvania State line to Harrisburg, Pa., thence along Interstate Highway 83 to Pennsylvania-Maryland State line, and points in New York on and east of Interstate Highway 81. (2) *Cotton and cotton goods* from points in Georgia, except points in Dade, Walker, Chattooga, Catoosa, Whitfield, Murray, Gilmer, Fannin, Union, Lumpkin, White, Townes, Habersham, and Rabun Counties, to points in Maryland west of Interstate Highway 83 (except Baltimore, Md.), and points in Pennsylvania east of a line beginning at the New York-Pennsylvania State line, thence along U.S. Highway 15 to Harrisburg, Pa., thence along Interstate Highway 83 to the Pennsylvania-Maryland State line. (3) *Cotton and cotton goods* from points in Georgia on and east of U.S. Highway 29 beginning at the Alabama-Georgia State line to Atlanta, Ga., thence along U.S. Highway 23 to Cornelia, Ga., thence along U.S. Highway 123 to the Georgia-South Carolina State line to points in New York west of Interstate Highway 81. (4) *Cotton and cotton goods* from points in Georgia, (except points north of U.S. Highway 29 from the Alabama-Georgia State line, to Atlanta, Ga., thence along U.S. Highway 278 to the Georgia-South Carolina State line) to points in Virginia (except points west of U.S. Highway 220). The purpose of this filing is to eliminate the gateway of Sanford, N.C.

No. MC-504 (Sub-No. E9), filed May 24, 1974. Applicant: HARPER MOTOR LINES, INC., P.O. Box 6985, Atlanta, Ga. 30315. Applicant's representative: B. K. McClain (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cotton and cotton goods* from points in North Carolina in Arnett, Lee, Sampson, Hoke, Cumberland, Bladen, Robeson, Scotland, Richmond, Moore, Anson Montgomery, Union, Stanly, Cabarrus, Rowan, Randolph, Davidson, Davie, Forsyth, Guilford, Alamance, Chatham, Durham, Orange, Wake, Johnston, Brunswick, Columbus, Iredell, Mecklenburg, Wayne, Lenoir, Jones, Onslow, Duplin, Pender, New Hanover, Alexander, Caldwell, Burke, Catawba, Lincoln, Cleveland, Gaston, Polk, Rutherford, McDowell, Yancey, Madison, Buncombe, Harwood, Henderson, Transylvania, Jackson, Swain, Graham, Cherokee, and Macon Counties, to points in New York, Connecticut, Massachusetts, Rhode Island, and points in New Jersey, on and north of Interstate Highways 78 and 287. (2) *Cotton and cotton goods* from points in North Carolina in Arnett, Lee, Sampson, Hoke, Cumberland, Bladen, Robeson, Scotland, Richmond, Moore, Anson, Montgomery, Union, Stanly, Cabarrus, Rowan, Randolph, Davidson, Davie, Forsyth, Guilford, Alamance, Chatham, Durham, Orange, Wake, Johnston, Iredell, Mecklenburg, Columbus, Brunswick, Alexander, Caldwell, Burke, Catawba, Lincoln, Cleveland, Gaston, Polk, Rutherford, McDowell, Yancey, Maddson, Buncombe, Harwood, Henderson, Transylvania, Jackson, Swain, Graham, Cherokee, and Macon Counties; Goldsboro, North Carolina, and points in Wayne, Duplin, Pender, and New Hanover Counties on and west of U.S. Highway 117, to Wilmington, Delaware, and points in New Jersey, south of Interstate Highways 78 and 287. The purpose of this filing is to eliminate the gateway of Sanford, N.C.

No. MC-2368 (Sub-No. E54), filed May 29, 1974. Applicant: BRALLEY-WILLETT TANK LINES, P.O. Box 495, Richmond, Va. 23204. Applicant's representative: Wilmer B. Hill, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils* (except liquid cocoa butter), in bulk, in tank vehicles, from points in Tennessee (except Chattanooga), to points in Delaware, that part of Maryland east of U.S. Highway 15, that part of Virginia on and east of U.S. Highway 1, Washington, D.C., that part of Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along Interstate Highway 83 to Harrisburg, Pa., thence along Interstate Highway 81 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC-2368 (Sub-No. E55), filed May 29, 1974. Applicant: BRALLEY-WILLETT TANK LINES, P.O. Box 495, Richmond, Va. 23204. Applicant's representative: Wilmer B. Hill, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils* except liquid cocoa butter), in bulk, in tank vehicles, from Washington, D.C., to points in North Carolina, South Carolina, Tennessee (except Chattanooga), those in West Virginia on, south, and west of a line beginning at the Kentucky-West Virginia State line and extending east along Interstate Highway 64 to Charleston, W. Va., thence along Interstate Highway 77 to the West Virginia-Virginia State line, and that part of Virginia on and south of a line beginning at the Virginia-West Virginia State line and proceeding along Virginia Highway 311 to Roanoke, Va., thence along U.S. Highway 460 to its junction with U.S. Highway 360, thence along U.S. Highway 360 to Richmond, Va., thence along Interstate Highway 64 to its junction with

Interstate Highway 264, thence along Interstate Highway 264 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC–2368 (Sub-No. E56), filed May 29, 1974. Applicant: BRALLEY-WILLETT TANK LINES, P.O. Box 495, Richmond, Va. 23204. Applicant's representative: Wilmer B. Hill, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, (except liquid cocoa butter), in bulk, in tank vehicles, from points in Delaware, to points in Tennessee (except Chattanooga), South Carolina, North Carolina on and west of Interstate Highway 95, West Virginia on and south of U.S. Highway 60, Virginia on, west, and south of a line beginning at the Virginia-North Carolina State line and extending along Interstate Highway 95 to Richmond, thence along Interstate Highway 64 to the Virginia-West Virginia State line. The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC–2368 (Sub-No. E57), filed May 29, 1974. Applicant: BRALLEY-WILLET TANK LINES, P.O. Box 495, Richmond, Va. 23204. Applicant's representative: Wilmer B. Hill, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils* (except liquid cocoa butter), in bulk, in tank vehicles, from points in South Carolina on and south of Interstate Highway 26, to points in Virginia on, east, and north of a line commencing at the Maryland-Virginia State line and proceeding along U.S. Highway 15 to its junction with U.S. Highway 29 thence along U.S. Highway 29 to its junction with Interstate Highway 64 thence along Interstate Highway 64 to its junction with Interstate Highway 264 thence along Interstate Highway 264 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC–2368 (Sub-No. E58) filed May 29, 1974. Applicant: BRALLEY-WILLETT TANK LINES, P.O. Box 495, Richmond, Va. 23204. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils* (except liquid cocoa butter), in bulk, in tank vehicles, from points in South Carolina on and east of Interstate Highway 95, to points in West Virginia on and north of U.S. Highway 50. The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC–2368 (Sub-No. E59), filed May 29, 1974. Applicant: BRALLEY-WILLETT TANK LINES, P.O. Box 495, Richmond, Va. 23204. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils* (except liquid cocoa butter), in bulk, in tank vehicles, from points in South Carolina, to points in Pennsylvania, Washington, D.C., Maryland, and Delaware. The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC–2368 (Sub-No. E78), filed May 29, 1974. Applicant: BRALLEY-WILLETT TANK LINES, P.O. Box 495, Richmond, Va. 23204. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, (except liquid cocoa butter), in bulk, in tank vehicles, from points in Virginia on, east and north of a line beginning at the Virginia-District of Columbia line and extending along U.S. Highway 1 to Richmond, Va., thence along Interstate Highway 64 to its junction with Interstate Highway 264 thence along Interstate Highway 264 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC–2368 (Sub-No. E79), filed May 29, 1974. Applicant: BRALLEY-WILLETT TANK LINES, P.O. Box 495, Richmond, Va. 23204. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils* (except liquid cocoa butter), in bulk, in tank vehicles from points in Virginia on, and west, and south of a line beginning at the Virginia-North Carolina State line and extending along Interstate Highway 95 to Richmond, thence along Interstate Highway 64 to the Virginia-West Virginia State line, to points in Delaware. The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC–2368 (Sub.-No. E80), filed May 29, 1974. Applicant: BRALLEY-WILLETT TANK LINES, P.O. Box 495, Richmond, Va. 23204. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils* (except liquid cocoa butter), in bulk, in tank vehicles, from points in Virginia, on, and east of Interstate Highway 95, to points in Tennessee (except Chattanooga). The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC–5470 (Sub-No. E67), filed May 29, 1974. Applicant: TAJON, INC., R.D. 5, Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McEligat, 918 16th St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal* (that can be unloaded by dumping), in dump vehicles, between Pittsburgh, Pa., and points in Pennsylvania within the radius of 60 miles of a railhead at Pittsburgh, on the one hand, and, on the other, points in Arkansas, Alabama, Florida, Georgia, Louisiana, Mississippi, Missouri, Tennessee, and Wisconsin, restricted against the transportation of traffic between the storage facilities of the S. H. Bell Company at Braddock, Pa., and East Liverpool, Ohio, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate the gateway of a railhead at Pittsburgh, Pa. (Allegheny County).

No. MC–5470 (Sub-No. E 69), filed May 29, 1974. Applicant: TAJON, INC., R.D. 5, Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McEligat, 918 16th St., NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron* (that can be unloaded by dumping), in dump vehicles, between Pittsburgh, Pa., and points in Pennsylvania within the radius of 60 miles of railhead at Pittsburgh, on the one hand, and, on the other, points in Arkansas, Alabama, Florida, Georgia, Louisiana, Mississippi, Missouri, Tennessee, and Wisconsin, restricted against the transportation of traffic between the storage facilities of the S. H. Bell Company at Braddock, Pa., and East Liverpool, Ohio, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa. (Allegheny County).

No. MC–8958 (Sub-No. E4), filed June 4, 1974. Applicant: THE YOUNGSTOWN CARTAGE CO., 825 West Federal Street, Youngstown, Ohio 44501. Applicant's representative: Mr. John P. McMahon, Suite 1800, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* of the kind used in construction and manufacture, and *contractors' equipment and machinery*, between points in Massachusetts, Rhode Island, Connecticut, Delaware, and that part of Maryland on and east of U.S. Highway 15, and the District of Columbia, on the one hand, and, on the other, points in that part of Ohio on, east, and north of a line beginning at Lake Erie, thence along U.S. Highway 21 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Ohio-West Virginia State line. The purpose of this filing is to eliminate the gateway of points in that part of Pennsylvania on and east of U.S. Highway 15.

No. MC–8958 (Sub-No. E5), filed June 4, 1974. Applicant: THE YOUNGSTOWN CARTAGE CO., 825 West Federal Street, Youngstown, Ohio 44501. Applicant's representative: Mr. John P. McMahon, Suite 1800, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* of the kind used in construction and manufacture,

and *contractor's equipment and machinery*, (1) between points in Massachusetts, Rhode Island, Connecticut, Delaware, and those parts of Pennsylvania and Maryland on and east of U.S. Highway 15, on the one hand, and, on the other, points in that part of Ohio on, north, and west of a line beginning at the West Virginia-Ohio State line, thence along U.S. Highway 22 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Ohio-Kentucky State line (points in that part of Pennsylvania on and east of U.S. Highway 15, and Niles, Ohio) * ; and (2) between points in New York and New Jersey, on the one hand, and, on the other, points in that part of Ohio on, north, and west of a line beginning at the West Virginia-Ohio State line, thence along U.S. Highway 22 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Ohio-Kentucky State line (Niles, Ohio) *. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC-13569 (Sub-No. E1), filed June 5, 1974. Applicant: THE LAKE SHORE MOTOR FREIGHT COMPANY; 1200 S. State Street, Girrard, Ohio 44420. Applicant's representative: A. David Millner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *General commodities*, (except those of unusual value, livestock, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in those parts of Ohio and Pennsylvania bounded by a line beginning at Lorain, Ohio, thence along Lake Erie to Erie, Pa., thence along Pennsylvania Highway 8 to Franklin, thence along U.S. Highway 62 to Mercer, thence along U.S. Highway 19 to junction U.S. Highway 422, thence along U.S. Highway 422 to Butler, thence along Pennsylvania Highway 8 to Pittsburgh, thence along U.S. Highway 30 to Lisbon, Ohio, thence along Ohio Highway 45 to Salem, thence along U.S. Highway 62 to Canton, thence along U.S. Highway 30 to Massillon, thence along Ohio Highway 21 to junction Ohio Highway 82, thence along Ohio Highway 82 to junction Ohio Highway 57, thence along Ohio Highway 57 to Lorain, on the one hand, and, on the other, points in Essex, Union, Berger, Passaic, Hudson, and Middlesex Counties, N.J. (points in that part of Pennsylvania bounded by a line beginning at Pottsville, thence along Pennsylvania Highway 61 to Reading, thence along Pennsylvania Highway 10 to Oxford, thence along U.S. Highway 1 to the Maryland-Pennsylvania State line, thence along the Maryland-Pennsylvania State line to the Susquehanna River, thence along the Susquehanna River to Millersburg, thence along U.S. Highway 209 to Pottsville) * ;

(B) *Iron and steel and iron and steel articles, and steel mill supplies* (except commodities in bulk, and those requiring special equipment), between the plant site of the Bethlehem Steel Corporation located at Burns Harbor, Ind., on the one hand, and, on the other, points in that part of New York south of U.S. Highway 104 and west of U.S. Highway 11, that part of Pennsylvania west of a line beginning at the Pennsylvania-New York State line, thence along U.S. Highway 11 to Pittston, thence along U.S. Highway 309 to Hazelton, thence along Pennsylvania Highway 93 to junction U.S. Highway 209, thence along U.S. Highway 209 to Pottsville, thence along Pennsylvania Highway 61 to Reading, thence along Pennsylvania Highway 10 to Oxford, thence along U.S. Highway 1 to the Pennsylvania-Maryland State line, and that part of West Virginia west of U.S. Highway 19 and north of U.S. Highway 60, including points and places on the indicated portions of the highways specified; (C) *iron and steel articles* (except commodities in bulk, and those requiring special equipment), from the plant site of Jones & Laughlin Steel Corporation, in Putnam County, Ill., to points in that part of New York south of U.S. Highway 104 and west of U.S. Highway 11, that part of Pennsylvania west of a line beginning at the Pennsylvania-New York State line, thence along U.S. Highway 11 to Pittston, thence along U.S. Highway 309 to Hazelton, thence along Pennsylvania Highway 93 to junction U.S. Highway 209, thence along U.S. Highway 209 to Pottsville, thence along Pennsylvania Highway 61 to Reading, thence along Pennsylvania Highway 10 to Oxford, thence along U.S. Highway 1 to the Pennsylvania-Maryland State line, and that part of West. Virginia west of U.S. Highway 19 and north of U.S. Highway 60, including points and places on the indicated portions of the highways specified; and (D) *materials, equipment and supplies* used in the manufacturing and processing of iron and steel articles (except commodities in bulk, and those requiring special equipment), from those destinations points specified in (C) above to the plant site of Jones & Laughlin Steel Corporation, in Putnam County, Ill. (points in that part of Ohio on, north, and east of a line beginning at East Liverpool, thence along U.S. Highway 30 to Lisbon, thence along Ohio Highway 45 to Salem, thence along U.S. Highway 62 to Canton, thence along U.S. Highway 30 to Massillon, thence along Ohio Highway 21 to junction Ohio Highway 82, thence along Ohio Highway 82 to junction Ohio Highway 57, thence along Ohio Highway 57 to Lake Erie) *. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC-34231 (Sub-No. E2), filed May 15, 1974. Applicant: D & H TRUCKING, INC., P.O. Box 9158, Tulsa, Okla. 74107. Applicant's representative: Marion F. Jones, Suite 1600, Lincoln Center, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products and *machinery, materials, equipment and supplies* used in or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, and *machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way (1) between points in Alfalfa, Beaver, Cimarron, Craig, Grant, Harper, Kay, Nowata, Osage, Ottawa, Texas, Washington, Woods, and Woodward Counties, Okla., on the one hand, and, on the other, points in Arkansas; (2) between points in Coal, Garvin, Johnston, Marshall, Pontotoc, Pottawatomie and Seminole Counties, Okla., on the one hand, and, on the other, points in Baxter, Boone, Carroll, Clay, Craighead, Fulton, Green, Independence, Izard, Jackson, Lawrence, Marion, Mississippi, Poinsett, Randolph, and Sharp Counties, Ark.; (3) between points in Carter, Jefferson, Love, Murray, and Stephens Counties, Okla., on the one hand, and, on the other, points in Baxter, Benton, Boone, Carroll, Clay, Craighead, Fulton, Green, Izard, Lawrence, Madison, Marion, Mississippi, Newton, Randolph, and Sharp Counties, Ark.;

(4) Between points in Adair, Cherokee, Comanche, Cotton, Hughes, Kiowa, McIntosh, Muskogee, and Tillman Counties, Okla., on the one hand, and, on the other, points in Baxter, Clay, Craighead, Crittenden, Fulton, Green, Izard, Lawrence, Marion, Mississippi, Poinsett, Randolph, and Sharp Counties, Ark., (5) between points in Beckham, Greer, Harmon, Jackson, Lincoln, Okfuskee, Oklahoma, Okmulgee, and Washita Counties, Okla., on the one hand, and, on the other, points in Baxter, Benton, Boone, Carroll, Clay, Craighead, Crittenden, Cross, Fulton, Greene, Independence, Izard, Jackson, Lawrence, Lee, Madison, Marion, Mississippi, Newton, Poinsett, Randolph, Saint Francis, Searcy, Sharp, and Stone Counties, Ark.; (6) between points in Caddo, Grady, and McClain Counties, Okla., on the one hand, and, on the other, points in Baxter, Benton, Boone, Carroll, Clay, Cleburne, Craighead, Crittenden, Cross, Fulton, Green, Independence, Izard, Jackson, Lawrence, Madison, Marion, Mississippi, Newton, Poinsett, Randolph, Saint Francis, Searcy, Sharp, Stone, Van Buren, White, and Woodruff Counties, Ark.; (7) between points in Blaine, Canadian, Creek, Custer, Kingfisher, Logan, Payne, Roger Mills, Tulsa, and Wagoner Counties, Okla., on the one hand, and, on the other, points in Arkansas, Baxter, Benton, Boone, Carroll, Chicot, Clay, Cleburne, Craighead, Crittenden, Cross, Desha, Fulton, Green, Independence, Izard, Jackson, Lawrence, Lee, Madison, Marion,

Mississippi, Monroe, Newton, Phillips, Poinsett, Prairie, Randolph, Saint Francis, Searcy, Sharp, Stone, White, and Woodruff Counties, Ark.;

(8) Between points in Delaware, Dewey, Ellis, Garfield, Major, Mayes, Noble, Pawnee, and Rogers Counties, Okla., on the one hand, and, on the other, points in Arkansas, Ashley, Baxter, Benton, Boone, Bradley, Calhoun, Carroll, Chicot, Clark, Clay, Cleburne, Cleveland, Columbia, Conway, Craighead, Crittenden, Cross, Dallas, Desha, Drew, Faulkner, Fulton, Garland, Grant, Greene, Hempstead, Hot Springs, Independence, Izard, Jackson, Jefferson, Lafayette, Lawrence, Lee, Lincoln, Lonoke, Madison, Marion, Miller, Mississippi, Montgomery, Monroe, Nevada, Newton, Quachita, Perry, Phillips, Pike, Poinsett, Pope, Prairie, Pulaski, Randolph, Saint Francis, Saline, Searcy, Sharp, Stone, Union, Van Buren, White, Woodruff, and Yell Counties, Ark.; (9) between points in Oklahoma on the one hand, and, on the other, points in Colorado, (except between points in Cimarron County, Okla., on the one hand, and, on the other, points in Alamosa, Baca, Bent, Conejos, Costilla, Huerfano, Las Animas, Otero, Prowers, and Pueblo Counties, Colo.; (10) between points in Oklahoma on the one hand, and, on the other, points in Illinois (except between points in McCurtain County, Okla., on the one hand, and, on the other, points in Alexandria, Franklin, Gallatin, Hamilton, Hardin, Jackson, Johnson, Nassac, Perry, Pope, Pulaski, Randolph, Saline, Union, and Williamson Counties, Ill.); (11) between points in Alfalfa, Beaver, Cimarron, Craig, Ellis, Garfield, Grant, Harper, Kay, Major, Noble, Nowata, Osage, Ottawa, Pawnee, Rogers, Texas, Washington, Woods, and Woodward Counties, Okla., on the one hand, and, on the other points in Louisiana;

(12) Between points in Blaine, Creek, Dewey, Delaware, Kingfisher, Logan, Mayes, Payne, Roger Mills, Tulsa, and Wagoner Counties, Okla., on the one hand, and, on the other, points in Arcadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Calcasieu, Cameron, Concordia, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermillion, Washington, West Baton Rouge, and West Feliciana Counties, La.; (13) between points in Oklahoma, on the one hand, and, on the other, points in Missouri (except between points in McCurtain County, Okla., on the one hand, and, on the other, points in Butler, Dunklin, Mississippi, New Madrid, Pemiscot, Scott, and Stoddard Counties, Mo.; (14) between points in Oklahoma, on the one hand, and, on the other, points in Nebraska; (15) between points in Adair, Alfalfa, Beaver, Cherokee, Craig, Creek, Delaware, Garfield, Grant, Kay, Harper, Haskell, McIntosh, Mayes, Muskogee, Noble, Nowata, Okmulgee, Osage, Ottawa, Pawnee, Payne, Rogers, Sequoyah, Texas, Tulsa, Wagoner, Washington, and Woods Counties, Okla., on the one hand, and, on the other points in New Mexico; (16) between points in Otoka, Choctaw, Coal, Garvin, Hughes, Johnston, Lincoln, McCurtain, Murray, Okfuskee, Pontotoc, Pottawatomis, Pushmataha, Seminole, and Stephens Counties, Okla., on the one hand, and, on the other, points in Bernalillo, Catron, Colfax, DeBaca, Dona Ana, Grant, Guadalupe, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinney, Mora, Otero, Quay, Rio Arriba, Sandoval, San Juan, San Miquel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, and Valencia Counties, N. Mex.; (17) between points in Bryan, Carter, Love, and Marshall Counties, Okla., on the one hand, and, on the other, points in Bernalillo, Catron, Colfax, Harding, Los Alamos, McKinley, Mora, Rio Arriba, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Union, and Valencia Counties, N. Mex.; (18) between points in Beckham, Comanche, Cotton, Greer, Harmon, Jackson, Jefferson, Kiowa, and Tillman Counties, Okla., on the one hand, and, on the other, points in McKinley, Rio Arriba, San Juan, and Taos Counties, N. Mex.;

(19) Between points in Latimer, Leflore, and Pittsburg Counties, Okla., on the one hand, and, on the other, points in Bernalillo, Catron, Chaves, Colfax, DeBaca, Dona Ana, Grant, Guadalupe, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Mora, Otero, Quay, Rio Arriba, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, and Valencia Counties, N. Mex.; (20) between points in Blaine, Caddo, Canadian, Custer, Grady, McClain, Oklahoma, Roger Mills, and Washita Counties, Okla., on the one hand, and, on the other, points in Bernalillo, Catron, Colfax, Dona Ana, Grant, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Mora, Otero, Rio Arriba, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, and Valencia Counties, N. Mex.; (21) between points in Dewey, Ellis, Kingfisher, Logan, Major, and Woodward Counties, Okla., on the one hand, and, on the other, points in Bernalillo, Catron, Chaves, Colfax, DeBaca, Dona Ana, Eddy, Grant, Guadalupe, Harding, Hidalgo, Lea, Lincoln, Los Alamos, Luna, McKinley, Mora, Otero, Quay, Rio Arriba, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, and Valencia Counties, N. Mex.; (22) between points in Cimarron County, Okla., on the one hand, and, on the other, points in Bernalillo, Catron, Dona Ana, Eddy Grant, Hidalgo, Lea, Lincoln, Los Alamos, Luna, McKinley, Mora, Otero, San Juan, Sierra, Socorro, Torrance, and Valencia Counties, N. Mex.; and (23) between points in Oklahoma on the one hand, and, on the other, points in Wyoming. The purpose of this filing is to eliminate the gateway of points in Kansas.

No. MC–65112 (Sub-No. E5) (Correction), filed May 30, 1974, published in the FEDERAL REGISTER on August 15, 1974. Applicant: FOGARTY BROS. TRANSFER, INC., P.O. Box 3402, Tampa, Fla. 33601. Applicant's representative: Thomas R. Kingsley, 1819 H St., 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 that part of Virginia on and west of U.S. Highway 81, on the one hand, and, on the other, points in Arizona, New Mexico (except Colfax, Union, and Taos Counties), and those in Texas on and south of a line beginning at the Texas-New Mexico State line, thence along U.S. Highway 180 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Texas-Louisiana State line. The purpose of this filing is to eliminate the gateways of points in Florida and Dallas, Fort Worth, or Houston, Texas. The purpose of this correction is to include the word "except" which was inadvertently omitted from the description of the New Mexico territory above, and to correct the Texas territorial description above, which was inadvertently published as ". . . thence along U.S. Highway 80 . . ." to read ". . . thence along U.S. Highway 180 . . .".

No. MC–65112 (Sub-No. E6) (Correction), filed May 30, 1974, published in the FEDERAL REGISTER August 15, 1974. Applicant: FOGARTY BROS. TRANSFER, INC., P.O. Box 3402, Tampa, Fla. 33601. Applicant's representative: Thomas R. Kingsley, 1819 H St., 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 that part of Maryland, on and west of U.S. Highway 15, on the one hand, and, on the other, points in Yuma, Maricopa, Yavapai, Pima, Pinal, Santa Cruz, Gila, Graham, Greenlee, and Cochise Counties, Ariz., points in Lea, Eddy, Otero, Dona Ana, Sierra, Luna, Grant, and Hidalgo Counties, N. Mex., and points in that part of Texas on and south of a line beginning at the Texas-New Mexico State line, thence along U.S. Highway 180 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Texas-Louisiana State line. The purpose of this filing is to eliminate the gateways of points in Florida and Dallas, Fort Worth, or Houston, Texas. The purpose of this correction is to correct the spelling of Yavapai County, Ariz., and to correct the Texas territorial description above, which was inadvertently published as ". . . thence along U.S. Highway 80 . . .", to read ". . . thence along U.S. Highway 180 to junction U.S. Highway 80 . . .".

No. MC–65112 (Sub-No. E13) (correction), filed May 30, 1974, published in the FEDERAL REGISTER on August 15, 1974. Applicant: FOGARTY BROS. TRANSFER, INC., P.O. Box 3402, Tampa, Fla. 33601. 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 that part of New York on and east of New York Highway 7, on the one hand, and on the other, points in Arizona, points in Hidalfo, Grant, Luna, Dona Ana, Otero, Eddy, and Lea Counties, N. Mex., and points in that part of Texas on and south of a line beginning at the Texas-New Mexico State line, thence along U.S. Highway 180 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Texas-Louisiana State line.

The purpose of this filing is to eliminate the gateway of Dallas, Fort Worth, or Houston, Texas, and points in Florida. The purpose of this correction is to correct the spelling of Luna County, N. Mex., which was inadvertently published as Luma County, N. Mex.

No. MC–82492 (Sub-No. E9), filed May 14, 1974. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, when moving in vehicles equipped with mechanical refrigeration, from Archbold, Ohio, to Aberdeen, Sioux Falls and Watertown, S. Dak., points in Iowa and Nebraska, and those in Minnesota on and south of U.S. Highway 12, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the plant site and warehouse facilities, of Beatrice Foods Co., at Archbold, Ohio. The purpose of this filing is to eliminate the gateway of Plymouth, Ind., to all points (except points in the Minneapolis-St. Paul commercial zone), and Bentheim, Mich., to points in the Minneapolis-St. Paul commercial zone.

No. MC–107064 (Sub-No. E94), 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: *Feed and feed ingredients* (except cottonseed products, animal fats, and vegetable oils), in bulk, from points in New Mexico to points in Alabama. The purpose of this filing is to eliminate the gateway of Amarillo, Tex.

No. MC–107064 (Sub-No. E95), 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: *Feed and feed ingredients* (except cottonseed products, animal fats, and vegetable oils) in bulk, from points in New Mexico, to points in Mississippi. The purpose of this filing is to eliminate the gateway of Amarillo, Tex.

No. MC–107064 (Sub-No. E97), 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: *Feed and feed ingredients* (except cottonseed products, animal fats, and vegetable oils), in bulk, from points in New Mexico, to points in Arkansas. The purpose of this filing is to eliminate the gateway of Amarillo, Tex.

No. MC–107064 (Sub-No. E98), 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: *Feed and feed ingredients* (except cottonseed products, animal oils, and vegetable oils), in bulk, from points in Arizona, to points in Alabama. The purpose of this filing is to eliminate the gateway of Amarillo, Tex.

No. MC–107064 (Sub-No. E99), 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: *Feed and feed ingredients*, (except animal fats, vegetable oils, and cottonseed products), in bulk, from points in Arizona to points in Mississippi. The purpose of this filing is to eliminate the gateway of Amarillo, Tex.

No. MC–107064 (Sub-No. E100), 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: *Feed and feed ingredients*, (except cottonseed products, animal fats, and vegetable oils), from points in Arizona to points in Arkansas. The purpose of this filing is to eliminate the gateway of Amarillo, Tex.

No. MC–107064 (Sub-No. E101), 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: *Feed and feed ingredients*, (except cottonseed products, animal fats, and vegetable oils) from points in Arizona to points in Florida. The purpose of this filing is to eliminate the gateway of Amarillo, Tex.

No. MC–107064 (Sub-No. E103), 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: *Feed and feed ingredients*, (except cottonseed products, animal fats, and vegetable oils), in bulk, from points in Arizona to points in Louisiana. The purpose of this filing is to eliminate the gateway of Amarillo, Tex.

No. MC–107064 (Sub-No. E104), 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: *Feed and feed ingredients* (except cottonseed products, animal fats, and vegetable oils), in bulk, from points in Colorado to points in Alabama. The purpose of this filing is to eliminate the gateway of Amarillo, Tex.

No. MC–107064 (Sub-No. E105), 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: *Feed and feed ingredients* (except vegetable oils, cottonseed products, and animal fats), in bulk, from points in Colorado to points in Mississippi. The purpose of this filing is to eliminate the gateway of Amarillo, Tex.

No. MC–107064 (Sub-No. E106), 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: *Feed and feed ingredients* (except cottonseed products, animal fats, and vegetable oils), in bulk from points in Colorado to points in Louisiana. The purpose of this filing is to eliminate the gateway of Amarillo, Tex.

No. MC–107064 (Sub-No. E107), 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: *Feed and feed ingredients* (except cottonseed products animal fats, and vegetable oils), in bulk, from points in Colorado to points in Florida. The purpose of this filing is to eliminate the gateway of Amarillo, Tex.

No. MC–107403 (Sub-No. E232) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER August 2, 1974. Applicant: MATLACK, INC., 10 West 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 Indiana to points in New York, east of U.S. Highway 11. The purpose of this filing is to eliminate the gateway of Zanesville, Ohio and Lewistown, Pa. The purpose of this correction is to correctly describe the origin territory.

No. MC–107403 (Sub-No. E643), filed July 18, 1974. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's represent-

ative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid resins*, in bulk, in tank vehicles, from points in New Castle County, Del., Hartford, and Cecil Counties, Md., Northampton, Lehigh, Berks, Chester, Bucks, Montgomery, and Philadelphia, Pa., to points in Texas. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa., Wheeling, W. Va., Newark, Ohio, and Valparaiso, Ind.

No. MC–107515 (Sub-No. E60), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd., N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from the plantsite or warehouses of Pet Milk Co., at Allentown, Pa., to points in Missouri (except St. Louis, Mo.) restricted to traffic originating at the named plantsite or warehouse. The purpose of this filing is to eliminate the gateway of the plant site of Food Specialties of Kentucky, Division of Oscar Ewing, Inc., in Jefferson County, Ky.

No. MC–107515 (Sub-No. E61), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in mechanically refrigerated vehicles, from the plant site or warehouses of Pet Milk Co., at Allentown, Pa., to points in Utah and Idaho, restricted to traffic originating at the named plantsite or warehouses. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC–107515 (Sub-No. E62), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Scranton, Pa., to points in Texas, Arkansas, and that part of Oklahoma on and south of a line beginning at the Arkansas-Oklahoma State line, thence along Interstate Highway 40 to junction the Muskogee Turnpike, thence along the Muskogee Turnpike to Tulsa, thence along U.S. Highway 64 to the Oklahoma-New Mexico State line, restricted to transportation in vehicles equipped with mechanical refrigeration. The purpose of this filing is to eliminate the gateways of (1) Richmond, Va., and (2) Florence, Ala.

No. MC–107515 (Sub-No. E63), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd., N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from York, Pa., to points in Texas, Arkansas, and that part of Oklahoma, on and south of a line beginning at the Oklahoma-Arkansas State line, thence along Oklahoma Highway 33 to junction to Tulsa, thence along Oklahoma Highway 20 to junction Oklahoma Highway 18, thence along Oklahoma Highway 18 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction Interstate Highway 35, thence along Interstate Highway 35 to the Kansas-Oklahoma State line, restricted to transportation in vehicles equipped with mechanical refrigeration. The purpose of this filing is to eliminate the gateways of (1) Richmond, Va., and (2) Florence, Ala.

No. MC–107515 (Sub-No. E64), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd., N.E., Atlanta, Ga. 30326. 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 vehicles equipped with mechanical refrigeration, from Harrisburg, Pa., to points in that part of Texas on and south U.S. Highway 66. The purpose of this filing is to eliminate the gateways of (1) Richmond, Va., and (2) Montgomery, Ala.

No. MC–107515 (Sub-No. E65), filed May 29, 1974. (Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd., N.E., Atlanta, Ga. 30326. 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), and *frozen foods*, from Scranton, Pa., to points in Alabama; Georgia, Florida, Tennessee, Louisiana, Mississippi, and that part of Kentucky on and south of a line beginning at the Kentucky, thence along U.S. Highway 460 to junction Kentucky Highway 1427, thence, along Kentucky Highway 1427 to junction Kentucky Highway 11, thence along Kentucky Highway 11 to junction Kentucky Highway 52, thence along Kentucky Highway 52 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction Kentucky Highway 78, thence along Kentucky Highway 78 to junction Kentucky Highway 70, thence along Kentucky Highway 70 to junction Kentucky Highway 210, thence along Kentucky Highway 210 to junction Kentucky Highway 61, thence along Kentucky Highway 61 to junction Kentucky Highway 86, thence along Kentucky Highway 86 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Ohio River, restricted to transportation in vehicles with mechanical refrigeration. The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC–107515 (Sub-No. E66), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen foods*, from York, Pa., to points in North Carolina and South Carolina, restricted to transportation in vehicles equipped with mechanical refrigeration. The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC–107515 (Sub-No. E68), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. N.E., Atlanta, Ga. 30326. 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 to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except commodities in bulk, in tank vehicles), from Oklahoma City, Okla., to Evansville, Ind., the District of Columbia, points in Connecticut, Massachusetts, Rhode Island, Delaware, Kentucky, Maine, Maryland, Vermont, New Hampshire, West Virginia, Virginia, New Jersey, New York, Pennsylvania, and that part of Ohio on and south of a line beginning at the Ohio-Indiana State line, thence along U.S. Highway 40 to junction Interstate Highway 71, thence along Interstate Highway 71 to junction Interstate Highway 90, thence along Interstate Highway 90 to the Ohio-New York State line. The purpose of this filing is to eliminate the gateway of Booneville, Miss.

No. MC–107515 (Sub-No. E83), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettelbaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* from Adair County, Okla., to the District of Columbia, points in Connecticut, Delaware, Maryland, Mississippi, Michigan, New Jersey, New York, Pennsylvana, Rhode Island, Ohio, and that part of Indiana on and east of a line beginning at the Indiana-Kentucky State line, thence along Indiana Highway 66 to injunction Indiana Highway 37, thence along Indiana Highway 37 to junction

U.S. Highway 421, thence along U.S. Highway 421 to junction Indiana Highway 29, thence along Indiana Highway 29 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction Indiana 39, thence along Indiana Highway 39 to the Michigan-Indiana State line. The purpose of this filing is to eliminate the gateway of the plant site of Food Specialties of Kentucky, Division of Oscar Ewing, Ind., in Jefferson County, Ky.

No. MC–107515 (Sub-No. E84), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettelbaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from Chickasha, Enid, Elk City, and Woodward, Okla., to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway of New Albany, Miss.

No. MC–107515 (Sub-No. E85), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. N.E., Atlanta, Ga. 30326: Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and cured meats*, from Oklahoma City, Okla., to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway of Atlanta, Ga.

No. MC–107515 (Sub-No. E89), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Philadelphia, Pa., to points in North Carolina and South Carolina, restricted to transportation in vehicles equipped with mechanical refrigeration. The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC–107515 (Sub-No. E91), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd., N.E., Atlanta, Ga. 30326. 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), and *frozen foods*, from Harrisburg, Pa., to points in Alabama, Georgia, Florida, Tennessee, Louisiana, Mississippi, and that part of Kentucky on and south of a line beginning at the Kentucky-Illinois State line, thence along Kentucky Highway 91 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction Kentucky Highway 109, thence along Kentucky Highway 109 to junction U.S. Alternate Highway 41, thence along U.S. Alternate Highway 41 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction Kentucky Highway 52, thence along Kentucky Highway 52 to junction Kentucky Highway 30, thence along Kentucky Highway 30 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Kentucky 40, thence along Kentucky Highway 40 to the Kentucky-West Virginia State line, restricted to the transportation of traffic in vehicles equipped with mechanical refrigeration. The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC–107515 (Sub-No. E92), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd., N.E., Atlanta, Ga. 30326. 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), and *frozen foods*, from Philadelphia, Pa., to points in Alabama, Georgia, Florida, Tennessee, Kentucky, Louisiana, and Mississippi, restricted to transportation of traffic in vehicles equipped with mechanical refrigeration. The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC–107515 (Sub-No. E93), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd., N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from New York, N.Y., to points in North Carolina, and South Carolina. The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC–107515 (Sub-No. E95), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd., N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from Milton, Pa., to points in Georgia and Florida, restricted to the transportation of shipment originating at the named origin. The purpose of this filing is to eliminate the gateway of Henderson, N.C.

No. MC–107515 (Sub-No. E96), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd., N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (except frozen fruits, frozen berries, and frozen vegetables), from the plantsite or warehouse of Pet Milk Co. at Allentown, Pa., to points in Missouri, Oklahoma, and Texas, restricted to traffic originating at the named plantsite or warehouse; and destined to the named destination points. The purpose of this filing is to eliminate the gateway of the plantsite of Holloway House, Inc., at Lafayette, Ind.

No. MC–107515 (Sub-No. E100), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308; Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen Bakery products*, from the plant site of warehouses of Pet Milk Co., at Allentown, Pa., to points in Colorado, restricted to traffic originating at the named plantsite or warehouses. The purpose of this filing is to eliminate the gateway of the plantsite of Chef Pierre, Inc., at Traverse City, Mich.

No. MC–107515 (Sub-No. E105), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308; Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd., N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Harrisburg, Pa., to points in Texas, Arkansas, and that part of Oklahoma on and south of a line beginning at the Arkansas-Oklahoma State line, thence along Interstate Highway 40 to junction Muskogee Turnpike, thence along Muskogee Turnpike to Tulsa, thence along U.S. Highway 64 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction Oklahoma Highway 11, thence along Interstate Highway 11 to junction Oklahoma Highway 34, thence along Oklahoma Highway 34 to the Oklahoma-Kansas State line, restricted to transportation in vehicles equipped with mechanical refrigeration. The purpose of this filing is to eliminate the gateways of (1) Richmond, Va., and (2) Florence, Ala.

No. MC–107515 (Sub-No. E109), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Road, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Oklahoma City and Elk City, Okla., to the District of Columbia, and points in those parts of Virginia, Maryland, and Delaware on and east of Interstate Highway 95, that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, thence along Interstate Highway 83 to junction U.S. Highway 30, thence along

U.S. Highway 30 to junction U.S. Highway 222, thence along U.S. Highway 222 to junction Pennsylvania Turnpike Northeast Extension, thence along Pennsylvania Turnpike Northeast Extension to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New York State line, that part of New Jersey on and east of a line beginning at the New Jersey-Pennsylvania State line, thence along Interstate Highway 80 to junction New Jersey Highway 94, thence along New Jersey Highway 94 to the New York-New Jersey State line, and that part of New York on and east of a line beginning at the New York-Pennsylvania State line, thence along Interstate Highway 84 to junction Interstate Highway 87, thence along Interstate Highway 87 to the International Boundary line between the United States and Canada. The purpose of this filing is to eliminate the gateway of Ayden, N.C.

No. MC–107515 (Sub-No. E110), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell; Suite 375; 3379 Peachtree Rd., N.E.; Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Elk City, Okla., to the District of Columbia, points in Connecticut, New Jersey, Massachusetts, those parts of Virginia, Delaware, and Maryland on and east of Interstate Highway 95, that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, thence along Interstate Highway 83 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 222, thence along U.S. Highway 222 to junction Pennsylvania Turnpike Northeast Extension, thence along Pennsylvania Turnpike Northeast Extension to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New York State line, and that part of New York on and east of a line beginning at the New York-Pennsylvania State line, thence along Interstate Highway 84 to junction Interstate Highway 87, thence along Interstate Highway 87 to the International Boundary line between the United States and Canada. The purpose of this filing is to eliminate the gateway of Ayden, N.C.

No. MC–107515 (Sub-No. E129), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettelbaum, Suite 375, 3379 Peachtree Rd. N.E., Atlanta, Ga. 30326. Authority sought to operate as *a common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Swedesboro and Glassboro, N.J., to points in Arkansas, Louisiana, Mississippi, Oklahoma, Texas, that part of Tennessee on and west of U.S. Highway 27, that part of Florida on and west of Florida Highway 79, and that part of Alabama on and west of a line beginning at the Alabama-Georgia State line, thence along U.S. Highway 78 to Alabama Highway 19, thence along Alabama Highway 19 to junction U.S. Highway 431, thence along U.S. Highway 431 to junction Alabama Highway Highway 37, thence along Alabama Highway 37 to junction Alabama Highway 26, thence along Alabama Highway 26 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction Alabama Highway 93, thence along Alabama Highway 93 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Alabama Highway 27, thence along Alabama Highway 27 to the Alabama-Florida State line. The purpose of this filing is to eliminate the gateways of Jackson or Columbus, Ohio.

No. MC–109542 (Sub-No. E1), filed May 15, 1974. Applicant: ELLIS TRANSFER AND STORAGE, INC., 1953 West Evans St., Florence, S.C. 29501. Applicant's representative: J. C. Tomlinson (same as above). Authority sought to operate as a *common carrier*, by motor over irregular routes, transporting: *Household goods*, between points in Florence and Darlington Counties, S.C. on the one hand, and, on the other, points in Tennessee and points in that part of Virginia on, west, and north of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 501 to South Boston, thence along Virginia Highway 304 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction U.S. Highway 360, thence along U.S. Highway 360 to Richmond, thence along Virginia Highway 5 to Williamsburg, thence along the Colonial National Historic Parkway to the Chesapeake Bay (except points in Virginia east of the Chesapeake Bay). The purpose of this filing is to eliminate the gateway of points in North Carolina within 35 miles of Clover, S.C.

No. MC–110525 (Sub-No. E301), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien, (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 points in Maryland to points in Wyoming. The purpose of this filing is to eliminate the gateways of S. Charleston, W. Va., and Addyston, Ohio.

No. MC–110686 (Sub-No. E1), filed May 9, 1974. Applicant, McCORMICK DRAY LINE, INC., Avis, Pa. Applicant's representative: William O. Turney, 2001 Mass. Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

(1) *Machinery and machine parts*, from points in that part of New York on and east of a line beginning at the International Boundary line between the United States and Canada, thence along Interstate Highway 81 to Cortland, thence along New York Highway 13 to Elmira, thence along New York Highway 14 to the New York-Pennsylvania State line, to points in Kentucky on and south of Interstate Highway 64 (Muncie, Pa.) *.

(2) *Machinery and machine parts*, from points in that part of New York on and north of a line beginning at the New York-Pennsylvania State line, thence along U.S. Highway 209, to junction U.S. Highway 44, thence along U.S. Highway 44 to the New York-Connecticut State line, and on and east of New York Highway 19, to points in Virginia (Muncy, Pa.) *.

(3) *Machinery and machine parts*, from points in that part of New York on and east of New York Highway 14, to points in West Virginia (Muncy, Pa.) *.

(4) *Machinery and machine parts*, from points in that part of New Jersey on and north of a line beginning at Trenton, thence along New Jersey Highway 33 to junction New Jersey Highway 71, thence along New Jersey Highway 71 to Asbury Park, to points in Kentucky (Muncy, Pa.) *.

(5) *Machinery and machine parts*, from points in that part of New Jersey on and north of a line beginning at Trenton, thence along U.S. Highway 1 to junction New Jersey Highway 18, thence along New Jersey Highway 18 to junction Interstate Highway 95, thence along Interstate Highway 95 to Newark, thence along Interstate Highway 78 to the Hudson River, to points in West Virginia (Muncy, Pa.) *.

(6) *Machinery and machine parts*, from points in that part of New Jersey north of a line beginning at the New Jersey-Pennsylvania State line, thence along Interstate Highway 80 to junction Garden State Parkway, thence along the Garden State Parkway to junction New Jersey Highway 6, thence along New Jersey Highway 6 to the Hudson River (Muncy, Pa.) *.

(7) *Machinery and machine parts* (except those requiring special handling because of size or weight), from points in Ohio to points in Connecticut (Muncy, Pa.) *.

(8) *Machinery and machine parts* (except those requiring special handling because of size or weight, from points in Ohio to points in Rhode Island (Muncy, Pa.) *.

(9) *Machinery and machine parts* (except those requiring special handling because of size or weight, from points in Ohio, to points in Massachusetts (Muncy, Pa.) *.

(10) *Machinery and machine parts* (except those requiring special handling because of size or weight) from points in that part of Maryland west of a line beginning at the Maryland-Pennsylvania State line, thence along U.S. Highway 11 to Hagerstown, thence along U.S. Highway 40 to Frederick, thence along Interstate Highway 70S to junction Interstate Highway 495, thence along Interstate Highway 495 to the Potomac River, to points in that part of Massachusetts north and east of a line beginning at the Massachusetts-New York State line, thence along U.S. Highway 20 to Pittsfield, thence along Massachusetts

Highway 9 to Northampton, thence along U.S. Highway 5 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction Massachusetts Highway 32, thence along Massachusetts Highway 32 to the Massachusetts-Connecticut State line (Muncy, Pa.)*.

(11) *Machinery and machine parts* (except those requiring special handling because of size or weight), from points in that part of Maryland west of Interstate Highway 81, to points in Rhode Island (Muncy, Pa.)*.

(12) *Machinery and machine parts* (except those requiring special handling because of size or weight), from points in that part of Maryland west of Interstate Highway 81, to points in Connecticut north of a line beginning at the Connecticut-New York State line, thence along Interstate Highway 84 to Waterbury, thence along Connecticut Highway 66 to Middletown, thence along Connecticut Highway 9 to junction Interstate Highway 95, thence along Interstate Highway 95 to the Connecticut River, and points east of the Connecticut River (Muncy, Pa.)*.

(13) *Iron and steel articles* (except those commodities which because of size or weight require the use of special equipment), from points in Kentucky, to points in Connecticut (Avis, Pa.)*.

(14) *Iron and steel articles* (except those commodities which because of size or weight require the use of special equipment), from points in Kentucky, to points in that part of New York on and east of New York Highway 19 (Avis, Pa.)*.

(15) *Iron and steel articles* (except those commodities which because of size or weight require the use of special equipment), from points in Kentucky to points in that part of New Jersey north of New Jersey Highway 33 (Avis, Pa.)*.

(16) *Iron and steel articles* (except commodities which because of size or weight require the use of special equipment), from points in that part of Virginia on and west of a line beginning at the Virginia-Maryland State line, thence along U.S. Highway 522 to Sperryville, thence along Virginia Highway 231 to Madison, thence along U.S. Highway 29 to Charlottesville, thence along Interstate Highway 64 to Zion Crossroads, thence along U.S. Highway 15 to the Virginia–North Carolina State line, and on and east of a line beginning at the Virginia–North Carolina State line, thence along U.S. Highway 52 to junction Interstate Highway 81, thence along Interstate Highway 81 to Newbern, thence along Virginia Highway 100 to the Virginia–West Virginia State line, to points in that part of New York on, north, and west of a line beginning at the New York–Pennsylvania State line, thence along New York Highway 14 to Elmira, thence along New York Highway 17 to Binghamton thence along New York Highway 7 to the New York-Vermont State line (Avis, Pa.)*.

(17) *Iron and steel articles*, as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C 209, from points in Kentucky to points in Massachusetts, restricted against the transportation of those commodities which because of size or weight require the use of special equipment (Avis, Pa.)*.

(18) *Steel* (except steel which because of size or weight requires the use of special equipment), from Newark, N.J., to points in Kentucky and Tennessee (the plant sites of Avco Corporation, Darling Valve and Manufacturing Company, or Met-Fab, Inc., at Williamsport, Pa.)*.

(19) *Boilers*, from the plant site of E. S. Space Conditioning, Inc., located at or near Harrisonburg, Va., to points in Massachusetts, Rhode Island, that part of Connecticut on and north of a line beginning at Danbury, thence along Connecticut Highway 58 to Bridgeport, and that part of New York on and north of Interstate Highway 84, restricted against the transportation of commodities which because of size or weight require the use of special equipment or special handling) (Williamsport, Pa.)*.

(20) *Steel forgings* (except steel forgings which because of size, shape, weight, or inherent character require the use of special equipment or special handling), from the plant site of Canton Drop Forging and Manufacturing Co., at or near Canton, Ohio, and the plant site of Transue and Williams Steel Forging Corporation, at or near Alliance, Ohio, to Jersey City, N.J., and New York, N.Y. (Williamsport, Pa.)*.

(21) *Iron and steel forgings*, as are iron and steel articles, as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from the plant site of Canton Drop Forgings and Manufacturing Co., at or near Canton, Ohio, and the plant site of Transue and Williams Steel Forging Corporation, at or near Alliance, Ohio, to points in Massachusetts, restricted against the transportation of iron and steel forgings which because of size, shape, weight, or inherent character require the use of special equipment or special handling (those points in the Williamsport, Pa., Commercial Zone, within 10 miles of Jersey City, Pa.)*.

(22) *Wire rope* (except wire rope requiring special handling), from Williamsport, Pa., to points in Ohio (Muncy, Pa.)*.

(23) *Copper wire*, from Bayway, Carteret and Roebling, N.J., and Hastings on the Hudson and Laurel Hill, N.Y., to points in that part of West Virginia on and west of U.S. Highway 19 (Jersey Shore, Pa.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC–111545 (Sub-No. E514), filed June 2, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies*, moving in connection therewith, between points in that part of Michigan on and south of a line beginning at East Tawas, thence along U.S. Highway 23 to junction Michigan Highway 61, thence along Michigan Highway 61 to junction U.S. Highway 27, thence along U.S. Highway 27, to junction U.S. Highway 10, thence along U.S. Highway 10 to Ludington, on the one hand, and, on the other, points in that part of Minnesota on and south of a line beginning at Duluth, thence along U.S. Highway 61 to junction Minnesota Highway 23, thence along Minnesota Highway 23 to St. Cloud, thence along U.S. Highway 52 to junction Minnesota Highway 28, thence along Minnesota Highway 28 to the Minnesota-North Dakota State line, restricted to the transportation of commodities which are transported on trailers. The purpose of this filing is to eliminate the gateway of Dubuque, Iowa.

No. MC–111545 (Sub-No. E515), filed June 2, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies*, moving in connection therewith, between points in that part of North Carolina within 150 miles of Charlotte, N.C. on the one hand, and, on the other, points in Mississippi and Tennessee, within 175 miles of Chattanooga, Tenn. restricted to the transportation of commodities which are transported on trailers. The purpose of this filing is to eliminate the gateway of points in those parts of North Carolina and South Carolina within 150 miles of Charlotte, N.C., and within 175 miles of Chattanooga, Tenn.

No. MC–111545 (Sub-No. E516), filed June 2, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds, or more, and *related machinery, tools, parts and supplies*, moving in connection therewith, between points in that part of Illinois on, west, and north of a line beginning at the Missouri-Illinois State line, thence along U.S. Highway 36 to junction Illinois Highway 57, thence along Illinois Highway 57 to junction Illinois Highway 61, thence along Illinois Highway 61 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction U.S. Highway 67, thence along U.S. Highway 67, to junction Illinois Highway 116, thence along Illinois Highway 116, to junction Illinois Highway 41, thence along Illinois Highway 41 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Illinois Highway 78, thence along Illinois

Highway 78 to junction Illinois Highway 2, thence along Illinois Highway 2 to the Illinois-Wisconsin State line, on the one hand, and, on the other, points in that part of Tennessee on, south, and east of a line beginning at the Alabama-Tennessee State line, thence along U.S. Highway 431 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Tennessee Highway 50, thence along Tennessee Highway 50 to junction Tennessee Highway 55, thence along Tennessee Highway 55 to junction U.S. Highway 70S, thence along U.S. Highway 70S to junction U.S. Highway 70, thence along U.S. Highway 70 to Kingston, thence along Tennessee Highway 58 to junction Tennessee Highway 72, thence along Tennessee Highway 72 to junction U.S. Highway 129, thence along U.S. Highway 129 to the Tennessee-North Carolina State line, restricted to the transportation of commodities which are transported on trailers. The purpose of this filing is to eliminate the gateway of Clinton or Keokuk, Iowa.

No. MC–111545 (Sub-No. E518), filed June 2, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, (except buses), and *related machinery, tools, parts and supplies* from points in Texas, to points in Connecticut, Delaware, Maine, New Hampshire, Rhode Island, Vermont, Maryland, Massachusetts, and the District of Columbia, restricted to the transportation of commodities when moving on trailers, and, restricted against the transportation of machinery, equipment, material and supplies used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment and supplies used in or in connection with the construction, operation, repair, servicing, and picking up thereof. The purpose of this filing is to eliminate the gateways of points in Mississippi within 175 miles of Chattanooga, Tenn., and Toccoa, Ga.

No. MC–111545 (Sub-No. E521), filed June 2, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith between points in that part of Alabama within 175 miles of Chattanooga, Tenn., on the one hand, and, on the other, points in that part of North Carolina within 150 miles of Charlotte, N.C., restricted to the transportation of commodities which are transported on trailers. The purpose of this filing is to eliminate the gateway of Asheville, N.C.

No. MC–111545 (Sub-No. E525), filed June 2, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heat exchangers or equalizers* for air, gas, or liquids, (2) *Machinery and equipment* for heating, cooling, conditioning, humidifying, dehumidifying, and moving of air, gas or liquids, and (3) *parts, attachment, and accessories* for use in the installation and operation of (1) and (2) above, from points in that part of Iowa on and east of a line beginning at the Iowa-Minnesota State line, thence along U.S. Highway 63 to Waterloo, thence along U.S. Highway 218 to the Iowa-Missouri State line, to points in that part of Louisiana on and south of a line beginning at the Louisiana-Texas State line, thence along Louisiana Highway 8 to Trout, thence along U.S. Highway 84 to the Louisiana-Mississippi State line, restricted in (1), (2), and (3) above to the transportation of commodities which, because of size or weight, require the use of special equipment. The purpose of this filing is to eliminate the gateway of the plant and warehouse facilities of the Trane Company at Clarksville, Tenn.

No. MC–113908 (Sub-No. L37), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverage base*, used as alcoholic liquors and neutral spirits, in bulk, in tank vehicles from Auburndale and Lake Alfred, Fla., to Reedley, Calif. The purpose of this filing is to eliminate the gateway of Cicero, Ill.

No. MC–113908 (Sub-No. E38), filed June 4, 1974. Applicant: ERIKSON TRANSPORT CORP., P.O. Box 3180, Glen Stone Station, Springfield, Missouri 65804. Applicant's representative: John E. Jandera 641 Harrison St. Topeka, Kansas 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats and animal oils*, in bulk, in tank vehicles, from the plant site of Wilson and Co., Inc., at or near Cherokee, Iowa, to points in Ohio, Pennsylvania, and the Lower Peninsula of Michigan. The purpose of this filing is to eliminate the gateway of the plant site of Armour Grocery Products, Co., near Aurora, Ill.

No. MC–113908 (Sub-No. E40), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glen Stone Station, Springfield, Miss. 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kansas 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Fremont, Bailey, and Belding, Mich., to points in Louisiana, Oklahoma, Texas, points in that part of Arkansas on and west of a line beginning at the Missouri-Arkansas on and west of a line beginning at the Missouri-Arkansas State line, thence along U.S. Highway 63 to junction U.S. Highway 61 thence along U.S. Highway 61, to the Arkansas-Tennessee State line, and points in that part of Colorado on, south, and west of a line beginning at the Nebraska-Colorado State line, thence along Colorado Highway 71 to junction U.S. Highway 34, thence along U.S. Highway 34 to the Colorado-Nebraska State line. The purpose of this filing is to eliminate the gateway of Nixa, Mo.

No. MC–113908 (Sub-No. E41), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kansas 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Fremont, Bailey, and Belding, Mich., to points in Oklahoma, and points in that part of Arkansas on, west, and south of a line beginning at the Missouri-Arkansas State line, thence along U.S. Highway 63 to junction U.S. Highway 167, thence along U.S. Highway 167 to junction U.S. Highway 64, thence along U.S. Highway 64 to the Arkansas-Tennessee State line. The purpose of this filing is to eliminate the gateway of Marionville, Mo.

No. MC–113908 (Sub-No. E42), filed June 4, 1974. (Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65804. 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: *Vinegar*, in bulk, in tank vehicles, from Fremont, Bailey, and Belding, Mich., to points in Oklahoma, points in that part of Colorado on, west, and south of a line beginning at the Nebraska-Oklahoma State line, thence along Oklahoma Highway 71 to junction U.S. Highway 34, thence along U.S. Highway 34 to the Oklahoma-Nebraska State line, and points in that part of Texas on, west, and north of a line beginning at the Texas-Louisiana State line, thence along U.S. Highway 190 to junction U.S. Highway 69, thence along U.S. Highway 69 to Port Arthur. The purpose of this filing is to eliminate the gateway of Wichita, Kans.

No. MC–113908 (Sub-No. E43), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65804. Applicant's representative: John

E. Jandera, 641 Harrison St., Topeka, Kansas 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from Lake Alfred, Fla., to Helena, Montana. The purpose of this filing is to eliminate the gateway of Bardstown, Ky.

No. MC–113908 (Sub-No. E46), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65804. 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: *Vinegar*, in bulk, in tank vehicles, from North Rose, N.Y., to points in California. The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC–113908 (Sub-No. E47), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION; P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65804. 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: *Vinegar, vinegar stock, and apple juice*, in bulk, in tank vehicles, from Corpus Christi, Tex., and points in Starr, Hidalgo, Willacy, and Cameron Counties, Tex., to points in New York, Pennsylvania, and points in that part of Ohio on, east, and north of a line beginning at Vermilion, thence along Ohio Highway 511 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-Indiana State line. The purpose of this filing is to eliminate the gateway of Belding, Mich.

No. MC–113908 (Sub-No. E48), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65804. 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: *Animal and poultry feed ingredients* (except animal fats, animal oils, vegetable oils, and blends thereof), from Verona, Mo., to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, points in that part of Kentucky on and east of U.S. Highway 25, and points in that part of South Carolina on and east of U.S. Highway 251. The purpose of this filing is to eliminate the gateway of West Alexandria, Ohio.

No. MC–113908 (Sub-No. E49), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION. P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65804. 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: *Liquid animal and poultry feed supplements* (except animal fats, animal oils, vegetable oils, and blends thereof), in bulk, in tank vehicles, from Springfield and Verona, Mo., to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, points in that part of Kentucky on and east of U.S. Highway 25, and points in that part of Tennessee on and east of U.S. Highway 25W. The purpose of this filing is to eliminate the gateway of West Alexandria, Ohio, and Chattanooga, Tenn.

No. MC–113908 (Sub-No. E50), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65804. 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: *Choline chloride*, in bulk, in tank vehicles, to points in Washington, California, Nevada, Arizona, Texas (except Harris County), Arkansas, points in that part of New Mexico south of U.S. Highway 60, and points in Girardeau, Bollinger, Scott, Wayne, Stoddard, Mississippi, Butler, New Madrid, Pemiscot, Ripley, and Carter Counties, Mo. The purpose of this filing is to eliminate the gateway of Springfield, Mo.

No. MC–113908 (Sub-No. E51), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION. P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65804. 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: *Choline chloride*, in bulk, in tank vehicles, from Kansas City, Kans., to points in South Carolina, Maine, Rhode Island, Delaware, District of Columbia, Virginia, North Carolina, Georgia, Florida, points in that part of Alabama on and east of a line beginning at the Alabama-Georgia State line, thence along U.S. Highway 11 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Alabama Highway 1, thence along Alabama Highway 1 to the Alabama-Florida State line, points in that part of West Virginia on, east, and south of a line beginning at the West Virginia-Kentucky State line, thence along U.S. Highway 119 to junction Virginia Highway 39, thence along Virginia Highway 39 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction U.S. Highway 50, thence along U.S. Highway 50 to the West Virginia-Virginia State line, and points in that part of Tennessee on and east of a line beginning at the Tennessee-Georgia State line, thence along U.S. Highway 11 to junction Tennessee Highway 33, thence along Tennessee Highway 33 to the Virginia-Tennessee State line. The purpose of this filing is to eliminate the gateway of Chattanooga, Tenn.

No. MC–113908 (Sub-No. E52), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65804. 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: *Fruit juice and fruit juice concentrates*, in bulk, in tank vehicles, from points in Texas to Lawton, Mich., North East, Pa., and Brocton, Watkins Glen, and Westfield, N.Y. The purpose of this filing is to eliminate the gateway of Springdale, Ark.

No. MC–113908 (Sub-No. E53), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65804. 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: *Apple juice*, in bulk, in tank vehicles, to points in Colorado, Kansas, Nebraska, points in that part of Iowa north and west of a line beginning at the Iowa-South Dakota State line, thence along U.S. Highway 218 to junction U.S. Highway 30, thence along U.S. Highway 30, to the Iowa-Nebraska State line, points in that part of Minnesota east and north of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 71 to junction U.S. Highway 212, thence along U.S. Highway 212 to the Minnesota-South Dakota State line, and points in that part of Missouri on and west of U.S. Highway 71. The purpose of this filing is to eliminate the gateway of Belding, Mich.

No. MC–113908 (Sub-No. E69), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65804. Applicants' 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: *Nitrogen fertilizer solutions*, in bulk, in tank vehicles, from Springfield and Verona, Mo., to points in Tennessee, and points in that part of Mississippi on, south, and east of a line beginning at the Arkansas-Mississippi State line, thence along Mississippi Highway 8 to junction U.S. Highway 49W, thence along U.S. Highway 49W to junction U.S. Highway 49, thence along U.S. Highway 49 to junction Mississippi Highway 13, thence along Mississippi Highway 13 to junction Mississippi Highway 35, thence along Mississippi Highway 35 to the Mississippi–Louisiana State line. The purpose of this filing is to eliminate the gateway of Blytheville, Ark.

No. MC–113908 (Sub-No. E70), filed June 4, 1974. Applicant: ERICKSON

TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 68603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Fremont, Bailey, and Belding, Mich., to points in Colorado, Oklahoma, Nevada, and points in that part of Texas on, north, and west of a line beginning at the Texas-Louisiana State line, thence along Texas Highway 21 to junction Texas Highway 90, thence along Texas Highway 90 to junction Texas Highway 6, thence along Texas Highway 6 to junction Texas Highway 36, thence along Texas Highway 36 to junction Texas Highway 60, thence along Texas Highway 60 to Matagorda. The purpose of this filing is to eliminate the gateway of Hutchinson or Wichita, Kans.

No. MC–113908 (Sub-No. E71), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65804. 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: *Vinegar*, in bulk, in tank vehicles, from points in California and Washington, to points in Oklahoma, and points in that part of Arkansas, on, west, and south of a line beginning at the Arkansas-Missouri State line, thence along U.S. Highway 63 to junction U.S. Highway 167, thence along U.S. Highway 167 to junction U.S. Highway 70, thence along U.S. Highway 70 to the Arkansas-Tennessee State line. The purpose of this filing is to eliminate the gateway of Marionville, Mo.

No. MC–113908 (Sub-No. E72), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65804. 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: *Lard*, in bulk, in tank vehicles, from the plant site of Wilson & Co., Inc., at or near Cherokee, Iowa, to points in Arkansas and Kansas (except points in Cheyenne County). The purpose of this filing is to eliminate the gateway of St. Joseph, Mo.

No. MC–113908 (Sub-No. E83), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Missouri 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kansas 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, used as liquid instant food base, preheated, in bulk, in tank vehicles, from Evansville, Ind., to Washington, California, Nevada, Utah, Colorado, Kansas, Arizona, Texas (except points in Harris County), Oklahoma, and points in that part of Missouri west and south of a line beginning at the Missouri-Kansas State line, thence along U.S. Highway 160 to junction Missouri Highway 37, thence along Missouri Highway 37 to Missouri-Arkansas State line. The purpose of this filing is to eliminate the gateway of Springfield, Mo.

No. MC–113908 (Sub-No. E84), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Missouri 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kansas 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar*, in bulk, in tank vehicles, from Grimes, Iowa, to Chattanooga, Tenn. The purpose of this filing is to eliminate the gateway of Cicero, Ill.

No. MC–113908 (Sub-No. E85), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Missouri 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kansas 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine vinegar*, in bulk, in tank vehicles, from Lake Alfred, Fla., to points in that part of California in and north of Alpine, San Mateo, Santa Clara, Stanislaus, and Tuolumne Counties. The purpose of this filing is to eliminate the gateway of points in Minnesota.

No. MC–113908 (Sub-No. E86), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Missouri 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kansas 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar*, in bulk, in tank vehicles, from Grimes, Iowa, to points in Yuma County, Ariz., and points in that part of California on, south, and west of a line beginning at Santa Monica, thence along U.S. Highway 60 to junction California Highway 99, thence along California Highway 99 to the United States-New Mexico International Boundary line near San Ysidro. The purpose of this filing is to eliminate the gateway of the plant site of Lonza, Inc., at or near Mapleton, Ill.

No. MC–113908 (Sub-No. E87), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Missouri 65804. Applicant's representative: John E. Jandera, 641 Harrison Street Topeka, Kansas 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glycerine, soap stock, liquid soap, and fatty acids*, from the plant site of the Armour Grocery Products Co., near Aurora, Ill., to points in Arizona, California, Nevada, New Mexico, Oklahoma, Texas, points in that part of Arkansas on and west of Arkansas Highway 77, points in that part of Colorado in and south of Mesa, Pitkins, Lake Park, Teller, Paso, Lincoln, and Kit Carson Counties, points in that part of Kansas on, south, and west of a line beginning at the Kansas-Nebraska State line, thence along U.S. Highway 159 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Kansas Highway 52, thence along Kansas Highway 52 to the Kansas-Missouri State line, points in that part of Missouri on, south, and west of a line beginning at the Missouri-Kansas State line, thence along U.S. Highway 54 to junction Missouri Highway 5, thence along Missouri Highway 5 to the Missouri-Arkansas State line, points in that part of Washington on and west of U.S. Highway 97, and points in Utah (except points in Box Elder, Cache, and Rich Counties). The purpose of this filing is to eliminate the gateway of Springfield, Mo.

No. MC–113908 (Sub-No. E88), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Missouri 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kansas 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Choline chloride*, in bulk, in tank vehicles, from the plant sites of Lonza, Inc., at or near Mapleton, Ill., to Springfield, Ark., and Fort Worth, Tex. The purpose of this filing is to eliminate the gateway of Kansas City, Kans.

No. MC–113908 (Sub-No. E89), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Missouri 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kansas 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar stock and vinegar*, in bulk, in tank vehicles, from points in California and Washington, to Lake Wales, Fla. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC–113908 (Sub-No. E91), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kansas 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal and poultry feed supplements* (except animal oils, vegetable oils, and blends thereof), in bulk, in tank vehicles, from Springfield, and Verona, Mo., to points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, District of Columbia, Virginia, North Carolina, South Carolina, Georgia, Florida, points in that part of Alabama on and east of a line beginning at the Georgia-Alabama State line, thence along U.S. Highway 11 to junction U.S.

Highway 31, thence along U.S. Highway 31 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Alabama Highway 1, thence along Alabama Highway 1 to the Alabama-Florida State line, points in that part of Tennessee on and east of a line beginning at the Tennessee-Georgia State line, thence along U.S. Highway 11 to junction Tennessee Highway 33, thence along Tennessee Highway 33 to the Tennessee-Virginia State line, points in that part of West Virginia on, east, and south of a line beginning at the West Virginia-Maryland State line, thence along U.S. Highway 50 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction West Virginia Highway 39, thence along West Virginia Highway 39 to junction U.S. Highway 119, thence along U.S. Highway 119 to the West Virginia-Kentucky State line, and points in that part of New York on and east of New York Highway 30. The purpose of this filing is to eliminate the gateway of West Alexandria, Ohio or Chattanooga, Tenn.

No. MC–113908 (Sub-No. E 92), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Nica, Mo., to points in California. The purpose of this filing is to eliminate the gateway of points in Colorado.

No. MC–113908 (Sub-No. E 94), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar stock, and vinegar* (1) from points in California and Washington (except points in Lincoln, Pend Oreille, Ferry, and Stevens Counties), to points in New York and Pennsylvania; and (2) from points in California and Washington, to Lake Wales, Fla., and points in Arkansas. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC–113908 (Sub-No. E95), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Formaldehyde*, in bulk, in tank vehicles, from Demopolis, Ala., to points in Washington, California, Nevada, Utah, Arizona, Colorado, Kansas, points in that part of New Mexico on, north, and west of a line beginning at the New Mexico-Texas State line, thence along U.S. Highway 60 to junction U.S. Highway 54, thence along U.S. Highway 54 to the New Mexico-Texas State line, points in that part of Oklahoma north of Oklahoma Highway 9, and points in that part of Missouri west of a line beginning at the Iowa-Missouri State line, thence along Missouri Highway 15 to junction Missouri Highway 19, thence along Missouri Highway 19 to the Missouri-Arkansas State line. The purpose of this filing is to eliminate the gateway of Springfield, Mo.

No. MC–113908 (Sub-No. E97), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65804. 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: *Choline chloride*, in bulk, in tank vehicles, from Springfield and Verona, Mo., to Des Moines, Iowa, Port Huron, Mich., and points in Maryland. The purpose of this filing is to eliminate the gateway of the plant site of the Thompson-Hayward Chemical Company at or near Kansas City, Kans.

No. MC–113908 (Sub-No. E99), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65804. 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: *Vinegar*, in bulk, in tank vehicles, from Nixa, Mo., to points in California. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC–115554 (Sub-No. E16), filed June 14, 1974. Applicant: SCOTT'S TRANSPORTATION SERVICE, INC., P.O. Box 1634, Des Moines, Iowa 50306. Applicant's representative: James R. Madler, 1255 North Sandburg Terrace, Chicago, Ill. 60610. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refrigerators, refrigeration and electrical equipment, appliances, and parts, materials, and supplies* used in the manufacture, repair, and distribution of such commodities between points in Illinois, on the one hand, and, on the other points in Washington, Oregon, California, Nevada, Idaho, Montana, Utah, Wyoming, North Dakota, and South Dakota. The purpose of this filing is to eliminate the gateway of Amana, Iowa.

No. MC–116514 (Sub-No. E1), filed May 17, 1974. Applicant: EDWARDS TRUCKING, INC., P.O. Box 428, Hemingway, S.C. 29554. Applicant's representative: Edward G. Villalon, Suite 1032–13th and Pennsylvania Ave., NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wool*, imported from any foreign county, (1) from Charleston and North Charleston, S.C., to Woonsocket, R.I., South Barre and North Chelmsford, Mass., Albany, Ga., and Whiteville and McAdenville, N.C. The purpose of this filing is to eliminate the gateway of Jamestown, S.C. (2) from Charleston, S.C., to Roanoke, Va., Adamston, Pa., Woonsocket, R.I., Brooklyn, Salamanca, and Mamaroneck, N.Y., Boston, Barre, and South Barre, Mass., Elizabeth and West Caldwell, N.J., and points in that part of North Carolina on and east of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 601 to junction Interstate Highway 85, thence along Interstate Highway 85 to Greensboro, thence along U.S. Highway 220 to the North Carolina-Virginia State line; the purpose of this filing is to eliminate the gateway of Johnsonville, S.C. *Synthetic fibers and synthetic fiber waste*, between points in that part of North Carolina on and east of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 601 to junction Interstate Highway 85, thence along Interstate Highway 85 to Greensboro ,thence along U.S. Highway 220 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateway of Johnsonville, S.C.

No. MC–119531 (Sub-No. E168), filed May 25, 1974. Applicant: SUN EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Paul F. Berry, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Supplies used in the manufacture of pulpboard (except in bulk), from points in Kentucky (except points east of U.S. Highway 127) and points in Missouri, to Cleveland, Ohio. The purpose of this filing is to eliminate the gateway of the plant and warehouse sites of Weyerhaeuser Company at Columbus, Ind.

No. MC–119531 (Sub-No. E170), filed May 25, 1974. Applicant: SUN EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Paul F. Berry, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard and pulpboard products*, from the plant and warehouse sites of Weyerhaeuser Company at Columbus, Ind., to points in Michigan on and east of a line beginning at the Michigan-Ohio State line and extending along U.S. Highway 23 to Bay City, restricted against the transportation of the above-named commodities destined to the plant and warehouse sites of paper mills in that part of Michigan on and south of Interstate Highway 96, and on and west of U.S. Highway 27. The purpose of this filing is to eliminate the gateway of the plant and warehouse sites of Fremont Container Company at Fremont, Ohio.

No. MC–119531 (Sub-No. E171), filed May 25, 1974. Applicant: SUN EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor ve-

hicle, over irregular routes, transporting: *Glass containers and closures therefor* and paper cartons used in the packaging of glassware and glass containers, from Winchester, Ind., to points in Pennsylvania, restricted to shipments originating at Winchester, Ind.

The purpose of this filing is to eliminate the gateways of the plant site of the Liquid Box Corporation, Worthington, Ohio, or the plant site of Continental Can Company, Worthington, Ohio.

No. MC–119531 (Sub-No. E172), filed May 25, 1974. Applicant: SUN EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and fiber cylindrical containers, and molded plastic containers*, from Massillon, Ohio, to points in Iowa and Wisconsin. The purpose of this filing is to eliminate the gateway of Addison, Ill.

No. MC–119531 (Sub-No. E173), filed May 25, 1974. Applicant: SUN EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Paul F. Beery, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper containers*, from Mt. Vernon, Ohio to points in Missouri. The purpose of this filing is to eliminate the gateway of the plant and warehouse sites of Weyerhaeuser Company at Columbus, Ind.

No. MC–119531 (Sub-No. E199), filed May 25, 1974. Applicant: SUN EXPRESS, INC., 5391 Wooster Rd., Cincinnati, Ohio 45226. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper cartons*, from Three Rivers, Mich. to points in Wisconsin. The purpose of this filing is to eliminate the gateway of Rockdale, Ill.

No. MC–119531 (Sub-No. E200), filed May 25, 1974. Applicant: SUN EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Paul F. Beery, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberboard containers*, from Mt. Vernon, Ohio, to points in Minnesota. The purpose of this filing is to eliminate the gateway of Anderson, Ind.

No. MC–119531 (Sub-No. E201), filed May 25, 1974. Applicant: SUN EXPRESS, INC., 5391 Wooster Rd., Cincinnati, Ohio 45226. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glassware, glass containers and closures therefor*, from the facilities of Metro Glass, a division of Kraftco Corp. at Jersey City and Carteret, N.J., to points in Missouri. The purpose of this filing is to eliminate the gateway of the plant and warehouse sites of Midland Glass Co., Inc., at or near Terre Haute, Ind.

No. MC–119531 (Sub-No. E211), filed May 29, 1974. Applicant: SUN EXPRESS, INC., 5391 Wooster Rd., Cincinnati, Ohio 45226. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard shipping containers*, other than corrugated, (1) from Seymour, Ind., to points in New York, New Jersey, and points in Pennsylvania on and north of the Pennsylvania Turnpike, and Philadelphia, Pa.; and (2) from Seymour, Ind., to points in Maryland. The purpose of this filing is to eliminate the gateways of (a) Cleveland, Ohio for (1) above, and (b) Mt. Vernon, Ohio for (2) above.

No. MC–119531 (Sub-No. E 212), filed May 29, 1974. Applicant: SUN EXPRESS, INC., 5391 Wooster Rd., Cincinnati, Ohio 45226. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio, 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard shipping containers*, other than corrugated, from Seymour, Ind., (a) to points in Wisconsin, (b) to points in New Jersey and New York, and (c) to points in West Virginia. The purpose of this filing is to eliminate the gateways of (1) Rockdale, Ill., for (a) above, (2) Cleveland, Ohio for (b) above, and (3) Circleville, Ohio for (3) above.

No. MC–119531 (Sub-No. E 213), filed May 29, 1974. Applicant: SUN EXPRESS, INC., 5391 Wooster Rd., Cincinnati, Ohio 45226. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberboard cartons*, from Washington, Pa., to points in Missouri and points in Illinois on and south of U.S. Highway 36. The purpose of this filing is to eliminate the gateway of the plant and warehouse sites of Weyerhaeuser Company at Columbus, Ind.

No. MC–119531 (Sub-No. E214), filed May 29, 1974. Applicant: SUN EXPRESS, INC., 5391 Wooster Rd., Cincinnati, Ohio 45226. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Honeycomb paper products* (except in bulk), from the plant and warehouse sites of Union Camp Corporation at Glens Falls, N.Y., to points in West Virginia on and west of Interstate Highway 77. The purpose of this filing is to eliminate the gateway of Coshocton, Ohio.

No. MC–120646 (Sub-No. E1), filed May 13, 1974. Applicant: BRADLEY FREIGHT LINES, INC., P.O. Box 5875, Ashville, N.C. 28803. 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: *Textile products*, (1) between points in South Carolina, on the one hand, and, on the other, points in Ohio (except Akron, and points within 25 miles thereof, and except Cleveland and points in the Cleveland, Ohio, Commercial Zone), Indiana, Michigan, Illinois, Wisconsin, Missouri, Arkansas, Texas, Oklahoma, Kansas, Nebraska, Iowa, South Dakota, North Dakota, and Minnesota; (2) between points in South Carolina on and north of a line beginning at the South Carolina-Georgia State line and extending along U.S. Highway 29 to Anderson, thence along U.S. Highway 76 to junction South Carolina Highway 72, thence along South Carolina Highway 72 to Whitmire, thence along U.S. Highway 176 to Union, thence along South Carolina Highway 49 to junction South Carolina Highway 322, thence along South Carolina Highway 322 to Rock Hill, thence along South Carolina Highway 5 to the South Carolina-North Carolina State line, on the one hand, and, on the other, points in Florida, on and south of Florida Highway 60; and (3) between points in South Carolina on and north of U.S. Highway 78, on the one hand, and, on the other, points in Louisiana. The purpose of this filing is to eliminate the gateway of Oconee Mills at Westminister, S.C.

No. MC–126537 (Sub-No. E1), filed May 12, 1974. Applicant: KENT I. TURNER, KENNETH E. TURNER, AND ERVIN TURNER doing business as TURNER EXPEDITING SERVICE, P.O. Box 21333, Louisville, Kentucky 40202. Applicant's representative: George M. Catlett, Suite 703–706, McClure Bldg., Frankfort, Kentucky, 40601. Authority sought to operate as a *common carrier*, by motor over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Lexington, Ky., and John F. Kennedy Airport, Jamaica, N.Y., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Standiford Field, Louisville, Ky.

No. MC–127487 (Sub-No. E1), filed May 8, 1974. Applicant: HOLT MOTOR EXPRESS, INC., 701 North Broadway, Gloucester City, N.J. 08030. Applicant's representative: Alan Kahn, Two Penn Center, Suite 1920, Kennedy Blvd. at 15th St., Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, lumber, meats, perishable food products, films, dairy products, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points within a radius of 200 miles of Philadelphia, on the one hand, and, on the other, Audubon, Berlin, Beverly,

Bridgeton, Camden, Collingswood, Delair, Gloucester, Gibbstown, Merchantville, Millville, Newport, Paulsboro, Riverton, Salem, Trenton, Vineland, Westfield, and Yardville, N.J., Wilmington and Yorklyn, Del., and Philadelphia, Pa. (except (1) between points in Connecticut, New York, Massachusetts, Pennsylvania, and Rhode Island within a radius of 200 miles of Philadelphia, on the one hand, and, on the other, Trenton, Westfield, and Yardville, N.J., (2) between points in Delaware, Maryland, Pennsylvania, Virginia, and West Virginia within 200 miles of Philadelphia, on the one hand, and, on the other, Wilmington and Yorklyn, Del., and (3) between points in New Jersey and Delaware, on the one hand, and, on the other, Audubon, Berlin, Beverly, Bridgeton, Camden, Collingswood, Delair, Gloucester, Gibbstown, Merchantville, Millville, Newport, Paulsboro, Riverton, Salem, Trenton, Vineland, Westfield, and Yardville, N.J., and Wilmington and Yorklyn, Del.); and (2) *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, lumber, meats, perishable food products, films, alcholic beverages, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points within a radius of 200 miles of Philadelphia, Pa. (except points in New Jersey and Delaware), on the one hand, and, on the other, Absecon, Longport, Ocean City, Pleasantville, Somers Point, N.J., and points in Cape May County, N.J. The purpose of this filing is to eliminate the gateway of Gloucester City, N.J.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74–20552 Filed 9–4–75;8:45 am]

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PART II

FEDERAL ENERGY ADMINISTRATION

■

ADMINISTRATIVE PROCEDURES AND SANCTIONS

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

Revision of Procedural Regulations

A notice of proposed rulemaking containing a complete revision of Part 205 was issued by the Federal Energy Administration ("FEA") on July 5, 1974 (39 FR 25602, July 11, 1974). Comments were invited from interested persons, to be submitted by July 29, 1974. In response, approximately 50 comments were received by the FEA. All comments, including those received subsequent to July 29, 1974, have been considered. The amendment published here contains revisions to the proposed procedural rules which reflect the FEA's consideration of those comments and incorporate certain changes suggested therein. In addition, this amendment contains technical changes to Parts 211, 212 and 215 that will conform these parts to the revised Part 205.

A discussion of the major changes to the procedural rules as proposed in the July 5, 1974 notice and of certain of the comments received regarding the proposed rules follows.

General

Many of the comments reflected dissatisfaction with the seemingly discretionary nature of the notice requirements, and stated that too much discretion has been reserved to the FEA and that due process required that a higher degree of responsibility for notice be assumed by the FEA. In order to meet this objection, the notice provisions have been revised to require service of notice by the FEA upon any person readily identifiable by the FEA as one who will be aggrieved by the FEA action, and to provide for notice to be served on other participants in a proceeding, at the FEA's discretion, of comments submitted by third persons.

Service requirements have also been expanded to include service of orders upon all persons readily identifiable by the FEA as aggrieved by such orders. This will insure timely notice in the event an appeal is filed. A discretionary public notice provision has also been added to some subparts for use in those situations when the FEA finds that public participation would benefit its consideration of the issues involved, or when the group to whom the notice is required is too large to permit individual service.

Objections were raised to the timeliness section that appears in several subparts, *e.g.*, § 205.27. The comments expressed some concern about the open-ended nature of the time limitations. As originally written, these sections provided that a person could treat an application, petition or request as denied if the FEA failed to act within 60 days, but there were several situations in which that deadline could be suspended or extended by the FEA. These sections have been modified for all subparts except Subpart D-Exceptions and Subpart H-Appeals to allow a 90-day period for FEA action that cannot be extended or suspended by the FEA. It is anticipated that this change will be responsive to the majority of the objections.

Subpart A—General Provisions

The changes made in Subpart A are largely technical. However, it was determined in response to the comments received that the requirements regarding the designation of a duly authorized representative were too stringent. Therefore, the representation requirement has been simplified: any person filing documents with the FEA as a duly authorized representative need simply include a certification as to his authority. Also in response to comments, § 205.9(f) has been changed to provide for notice to and an opportunity for comment by any person whose claim of confidentiality has been disputed by the FEA or a State Office prior to public disclosure of the information for which confidential treatment has been claimed.

Subpart C—Adjustment

The most significant change to the proposed procedures is the reestablishment of the States' role in reviewing applications for assignment by new end-users. Although information available to the FEA prior to the July 5 rulemaking had indicated that the States were dissatisfied with having authority only to deny such applications or recommend them for FEA approval, the States who submitted comments almost unanimously rejected their proposed removal from the assignment process. The FEA recognizes the expertise and commitment of the State Offices, and will continue their function in the allocation system under this amendment.

The amendment revises the proposed "contents" of application section in this subpart, as well as in Subpart B, to require only the appropriate FEA form as an application (at the present time, the appropriate FEA form is the FEA–17). However, the "contents" section retains, as §§ 203.34(b) and 205.24(b), respectively, a description of the information that should be included in an application if an appropriate FEA form is not available because it is being revised or for other reasons.

In an effort to expedite the processing of applications that have been recommended for approval by a State Office, a new paragraph has been added to the "timeliness" section in this subpart. It provides that an applicant may treat as denied and therefore appeal from such denial, any such application not acted upon by the FEA within 30 days. This provision should facilitate processing of those applications already thoroughly investigated by a State Office.

Subpart D—Exception

This subpart contains a new timeliness provision that is responsive both to the comments and to the needs of the agency. The provision requires the FEA to notify all persons who have received notice of the proceeding when it has received all substantive information deemed necessary to process the application. If the FEA fails to act within 90 days of the service of such notice, the applicant may treat the application as having been denied in all respects. There is, however, an absolute 150-day time limit on FEA action on any application filed under this subpart, at the end of which period the applicant may treat the application as having been denied in all respects if the FEA has not acted.

Subpart F—Interpretation

This subpart now requires that appeals from interpretations, whether issued by the General Counsel or a Regional Counsel, be filed with the National Office of Exceptions and Appeals. This step was taken to insure greater uniformity among the regions in the application of the regulations.

Subpart H—Appeal

The appeal subpart has been changed to include a provision for an appeal from a prenotification order and it provides that appeals from all interpretations shall be filed with the National Office of Exceptions and Appeals. Many comments were critical of the lack of a timeliness section in the appeals subpart. Accordingly, it has been amended to include a timeliness section which parallels that in Subpart D, except that there is a 120-day time limit for FEA action on appeals. At the end of the 120-day period the appellant may treat the appeal as denied in all respects, and may seek judicial review thereof.

Subpart L—Rulemaking

This subpart is revised to provide that a petition for rulemaking, expressly designated as such, shall receive some response from the FEA. Therefore, this amendment requires that the FEA either institute a rulemaking, notify the petitioner that no rulemaking will be instituted and state the reasons therefor, or notify the petitioner that the matter is under ongoing consideration.

Subpart M—Conferences, Hearings and Public Hearings

Many of the comments received reflected a misunderstanding of the function of conferences and hearings within the FEA procedural system. Such conferences and hearings, despite their potential importance to the smooth functioning of the FEA programs involved, are not adjudicatory hearings within the meaning of the Administrative Procedure Act (5 U.S.C. 551 et. seq. (1970)) ("APA"). The APA section on adjudications applies "* * * in every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing * * *." (5 U.S.C. 554). There exists no such statutory requirement for FEA decisionmaking.

The FEA does believe, however, that due process considerations are served by the conferences and hearings as provided in these regulations. The informality of the procedures is intended to facilitate communication between the FEA and members of the public: It is in the public interest to provide access to the FEA at all stages of a proceeding, and the con-

ference procedure is designed with this goal in mind. The limitation of the more formal hearing procedure to exceptions and appeals is consonant with the greater importance of these two proceedings. Further, it is anticipated that any significant issue raised in the preliminary stages of a proceeding will also be raised on appeal, when there may be expanded participation in the proceeding and a hearing may be requested.

As structured the conference and hearing procedures provide for maximum access and flexibility, and minimum delay and red tape. The interest of the public in expeditious and informed action by the FEA is advanced, as is the FEA's commitment to openness in its dealings with the public.

SUBPART P—INVESTIGATIONS, VIOLATIONS, SANCTIONS, AND JUDICIAL ACTIONS

In Subpart P the only major change from the proposed rulemaking has been the inclusion of a section relating to FEA investigations. This section primarily describes the functions and authority of investigators. It imposes the requirement that a person be informed as to the general purpose for which information and documentary evidence is sought, and provides for the confidentiality of information received during the course of an investigation, including the identity of the person investigated and any other person who provides information during the investigation.

SUBPART Q—STATE OFFICES

Subpart Q has been significantly changed from that which was proposed in the July 5 rulemaking. It reflects the reestablishment of States' role in processing of applications for assignment by new end-users and significantly modifies the procedures for the state set-aside system.

There was considerable objection to the specificity of the procedures for the set-aside as provided in the proposed regulations. Many expressed concern that the greater flexibility and responsiveness of the State Offices would be lost as a result of the additional requirements, particularly since many State Offices have developed sophisticated telephone application procedures.

In response to the comments received from the States, the FEA has revised the Subpart Q procedures to permit both verbal and written applications. However, there is certain minimum information that must be obtained from an applicant to process the application and to insure that the statutory and regulatory criteria for granting an assignment are met.

The timeliness section of this subpart has been changed to provide for a 10-day limit for action on set-aside applications. This more closely reflects the time constraints within which a State Office must act on an application if the set-aside system is to be effective. There is, however, an absolute 90-day limit for action on applications by new end-users for assignment.

As provided in the proposed rulemaking, the procedural regulations require the States to publish proposed procedural regulations in newspapers of statewide circulation and to provide an opportunity for comment on such regulations. Despite some State opposition to this section, absent publication of State procedures in the FEDERAL REGISTER the Federal Energy Administration Act of 1974 requires that notice of a proposal to establish such procedures be given adequate dissemination, and publication in newspapers is specifically contemplated by the Act. This amendment also retains certain minimum standards for any appellate procedures established by the States.

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

In consideration of the foregoing, Chapter II of Title 10 of the Code of Federal Regulations is amended as set out below, effective September 1, 1974.

Issued in Washington, D.C., August 29, 1974.

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

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

1. Part 205 of this chapter is revised to read as follows:

Subpart A—General Provisions

Sec.
205.1 Purpose and scope.
205.2 Definitions.
205.3 Appearance before the FEA or a State Office.
205.4 Filing of documents.
205.5 Computation of time.
205.6 Extension of time.
205.7 Service.
205.8 Subpoenas; witness fees.
205.9 General filing requirements.
205.10 Effective date of orders.
205.11 Order of precedence.
205.12 Address for filing documents with FEA.
205.13 Where to file.
205.14 Ratification of prior directives, orders, and actions.
205.15 Public docket room.

Subpart B—Adjustment

205.20 Purpose and scope.
205.21 What to file.
205.22 Where to file.
205.23 Notice.
205.24 Contents.
205.25 FEA evaluation.
205.26 Decision and order.
205.27 Timeliness.
205.28 Appeal.

Subpart C—Assignment

205.30 Purpose and scope.
205.31 What to file.
205.32 Where to file.
205.33 Notice.
205.34 Contents.
205.35 FEA evaluation.
205.36 Decision and order.
205.37 Timeliness.
205.38 Appeal.
205.39 Temporary assignment.

Subpart D—Exception

Sec.
205.50 Purpose and scope.
205.51 What to file.
205.52 Where to file.
205.53 Notice.
205.54 Contents.
205.55 FEA evaluation.
205.56 Decision and order.
205.57 Timeliness.
205.58 Appeal.

Subpart E—Exemption

205.70 Purpose and scope.
205.71 Procedures.
205.72 What to file.
205.73 Where to file.
205.74 Contents.
205.75 FEA evaluation.
205.76 Decision and order.
205.77 Timeliness.
205.78 Appeal.

Subpart F—Interpretation

205.80 Purpose and scope.
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205.82 Where to file.
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205.84 FEA evaluation.
205.85 Decision and effec
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Subpart G—Other Proceedings

205.90 Purpose and scope.
205.91 What to file.
205.92 Where to file.
205.93 Contents.
205.94 FEA evaluation.
205.95 Decision and order.
205.96 Timeliness.
205.97 Appeal.

Subpart H—Appeal

205.100 Purpose and scope.
205.101 Who may file.
205.102 What to file.
205.103 Where to file.
205.104 Notice.
205.105 Contents.
205.106 FEA evaluation.
205.107 Decision and order.
205.108 Appeal of a remedial order.
205.109 Timeliness.

Subpart I—Stay

205.120 Purpose and scope.
205.121 What to file.
205.122 Where to file.
205.123 Notice.
205.124 Contents.
205.125 FEA evaluation.
205.126 Decision and order.

Subpart J—Modification or Rescission

205.130 Purpose and scope.
205.131 What to file.
205.132 Where to file.
205.133 Notice.
205.134 Contents.
205.135 FEA evaluation.
205.136 Decision and order.
205.137 Timeliness.

Subpart K—Rulings

205.150 Purpose and scope.
205.151 Criteria for issuance.
205.152 Modification or rescission.
205.153 Comments.
205.154 Appeal.

Subpart L—Rulemaking

205.160 Purpose and scope.
205.161 What to file.
205.162 Where to file.

Subpart M—Conferences, Hearings, and Public Hearings

205.170 Purpose and scope.
205.171 Conferences.

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205.172 Hearings.
205.173 Public hearings.

Subpart N—Complaints

205.180 Purpose and scope.
205.181 What to file.
205.182 Where to file.
205.183 Contents.
205.184 FEA evaluation.
205.185 Decision.

Subpart O—Notices of Probable Violation and Remedial Orders

205.190 Purpose and scope.
205.191 Notice of probable violation.
205.192 Remedial order.
205.193 Remedial order for immediate compliance.
205.194 Remedies.
205.195 Appeal.

Subpart P—Investigations, Violations, Sanctions, and Judicial Actions

205.200 Investigations.
205.201 Violations.
205.202 Sanctions.
205.203 Injunctions.

Subpart Q—State Offices

205.210 Purpose and scope.
205.211 Who may apply.
205.212 What to file.
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205.214 Notice.
205.215 Contents.
205.216 State Office evaluation.
205.217 Decision and order.
205.218 Timeliness.
205.219 Appeal.
205.220 Establishment of procedures.

Subpart R—Office of Private Grievances and Redress

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205.230 Purpose and scope.
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205.232 What to file.
205.233 Where to file.
205.234 Notice.
205.235 Contents.
205.236 FEA evaluation of request.
205.237 Decision and response.

AUTHORITY: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159; Federal Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185.

Subpart A—General Provisions

§ 205.1 Purpose and scope.

(a) This part establishes the procedures to be utilized and identifies the sanctions that are available in proceedings before the Federal Energy Administration and State Offices, in accordance with Parts 210, 211, 212, and 215 of this chapter.

(b) This subpart defines certain terms and establishes procedures that are applicable to each proceeding described in this part.

§ 205.2 Definitions.

The definitions set forth in other parts of this chapter shall apply to this part, unless otherwise provided. In addition, as used in this part, the term:

"Action" means an order, interpretation, notice of probable violation or ruling issued, or a rulemaking undertaken by the FEA or, as appropriate, by a State Office.

"Adjustment" means a modification of the base period volume or other measure of allocation entitlement in accordance with Part 211 of this chapter.

"Aggrieved", for purposes of administrative proceedings, describes and means a person with an interest sought to be protected under the FEAA or EPAA who is adversely affected by an order or interpretation issued by the FEA or a State Office.

"Appropriate Regional Office or appropriate State Office" means the office located in the State or FEA region in which the product will be physically delivered.

"Assignment" means an action designating that an authorized purchaser be supplied at a specified entitlement level by a specified supplier.

"Conference" means an informal meeting, incident to any proceeding, between FEA or State officials and any person aggrieved by that proceeding.

"Duly authorized representative" means a person who has been designated to appear before the FEA or a State Office in connection with a proceeding on behalf of a person interested in or aggrieved by that proceeding. Such appearance may consist of the submission of applications, petitions, requests, statements, memoranda of law, other documents, or of a personal appearance, verbal communication, or any other participation in the proceeding.

"EPAA" means the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159).

"Exception" means the waiver or modification of the requirements of a regulation, ruling or generally applicable requirement under a specific set of facts.

"Exemption" means the release from the obligation to comply with any part or parts, or any subpart thereof, of this chapter.

"FEA" means the Federal Energy Administration, created by the FEAA and includes the FEA National Office and Regional Offices.

"FEAA" means the Federal Energy Administration Act of 1974 (Pub. L. 93-275).

"Federal legal holiday" means New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, and any other day appointed as a national holiday by the President or the Congress of the United States.

"Interpretation" means a written statement issued by the FEA General Counsel or a Regional Counsel, in response to a written request, that applies the regulations, rulings, and other precedents previously issued by the FEA to the particular facts of a prospective or completed act or transaction.

"Notice of probable violation" means a written statement issued to a person by the FEA that states one or more alleged violations of the provisions of this chapter or any order issued pursuant thereto.

"Order" means a written directive or verbal communication of a written directive, if promptly confirmed in writing, issued by the FEA or a State Office. It may be issued in response to an application, petition or request for FEA action or in response to an appeal from an order, or it may be a remedial order or other directive issued by the FEA or a State Office on its own initiative. A notice of probable violation is not an order. For purposes of this definition a "written directive" shall include telegrams, telecopies and similar transcriptions.

"Person" means any individual, firm, estate, trust, sole proprietorship, partnership, association, company, joint-venture, corporation, governmental unit or instrumentality thereof, or a charitable, educational or other institution, and includes any officer, director, owner or duly authorized representative thereof.

"Proceeding" means the process and activity, and any part thereof, instituted by the FEA or a State Office, either on its own initiative or in response to an application, complaint, petition or request submitted by a person, that may lead to an action by the FEA or a State Office.

"Remedial order" means a directive issued by the FEA requiring a person to cease a violation or to eliminate or to compensate for the effects of a violation, or both.

"Ruling" means an official interpretative statement of general applicability issued by the FEA General Counsel and published in the FEDERAL REGISTER that applies the FEA regulations to a specific set of circumstances.

"State Office" means a State Office of Petroleum Allocation certified by the FEA upon application pursuant to Part 211 of this chapter.

Throughout this part the use of a word or term in the singular shall include the plural and the use of the male gender shall include the female gender.

§ 205.3 Appearance before the FEA or a State Office.

(a) A person may make an appearance, including personal appearances in the discretion of the FEA, and participate in any proceeding described in this part on his own behalf or by a duly authorized representative. Any application, appeal, petition, request or complaint filed by a duly authorized representative shall contain a statement by such person certifying that he is a duly authorized representative, unless an FEA form requires otherwise. Falsification of such certification will subject such person to the sanctions stated in 18 U.S.C. 1001 (1970).

(b) Suspension and disqualification: The FEA or a State Office may deny, temporarily or permanently, the privilege of participating in proceedings, including oral presentation, to any individual who is found by the FEA—

(1) To have made false or misleading statements, either verbally or in writing;

(2) To have filed false or materially altered documents, affidavits or other writings;

(3) To lack the specific authority to represent the person seeking an FEA or State Office action; or

(4) To have engaged in or to be engaged in contumacious conduct that substantially disrupts a proceeding.

§ 205.4 Filing of documents.

(a) Any document, including, but not limited to, an application, request, complaint, petition and other documents submitted in connection therewith, filed with the FEA or a State Office under this chapter is considered to be filed when it has been received by the FEA National Office, a Regional Office or a State Office. Documents transmitted to the FEA must be addressed as required by § 205.12. All documents and exhibits submitted become part of an FEA or a State Office file and will not be returned.

(b) Notwithstanding the provisions of paragraph (a) of this section, an appeal, a response to a denial of an appeal or application for modification or recision in accordance with §§ 205.106(a)(3) and 205.135(a)(3), respectively, a reply to a notice of probable violation, the appeal of a remedial order or remedial order for immediate compliance, a response to denial of a claim of confidentiality, or a comment submitted in connection with any proceeding transmitted by registered or certified mail and addressed to the appropriate office is considered to be filed upon mailing.

(c) Hand-delivered documents to be filed with the Office of Exceptions and Appeals shall be submitted to Room 8002 at 2000 M Street, NW., Washington, D.C. All other hand-delivered documents to be filed with the FEA National Office shall be submitted to the Executive Secretariat at 12th and Pennsylvania Avenue, NW., Washington, D.C. Hand-delivered documents to be filed with a Regional Office shall be submitted to the Office of the Regional Administrator. Hand-delivered documents to be filed with a State Office shall be submitted to the office of the chief executive officer of such office.

(d) Documents received after regular business hours are deemed filed on the next regular business day. Regular business hours for the FEA National Office are 8 a.m. to 4:30 p.m. Regular business hours for a Regional Office or a State Office shall be established independently by each.

§ 205.5 Computation of time.

(a) *Days.* (1) Except as provided in paragraph (b) of this section, in computing any period of time prescribed or allowed by these regulations or by an order of the FEA or a State Office, the day of the act, event, or default from which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or Federal legal holiday, in which event the period runs until the end of the next day that is neither a Saturday, Sunday, nor a Federal legal holiday.

(2) Saturdays, Sundays or intervening Federal legal holidays shall be excluded from the computation of time when the period of time allowed or prescribed is 7 days or less.

(b) *Hours.* If the period of time prescribed in an order issued by the FEA or a State Office is stated in hours rather than days, the period of time shall begin to run upon actual notice of such order, whether by verbal or written communication, to the person directly affected, and shall run without interruption, unless otherwise provided in the order, or unless the order is stayed, modified, suspended or rescinded. When a written order is transmitted by verbal communication, the written order shall be served as soon thereafter as is feasible.

(c) *Additional time after service by mail.* Whenever a person is required to perform an act, to cease and desist therefrom, or to initiate a proceeding under this part within a prescribed period of time after issuance to such person of an order, notice, interpretation or other document and the order, notice, interpretation or other document is served by mail, 3 days shall be added to the prescribed period.

§ 205.6 Extension of time.

When a document is required to be filed within a prescribed time, an extension of time to file may be granted by the office with which the document is required to be filed upon good cause shown.

§ 205.7 Service.

(a) All orders, notices, interpretations or other documents required to be served under this part shall be served personally or by registered or certified mail or by regular United States mail (only when service is effected by the FEA or a State Office), except as otherwise provided.

(b) Service upon a person's duly authorized representative shall constitute service upon that person.

(c) Service by registered or certified mail is complete upon mailing. Official United States Postal Service receipts from such registered or certified mailing shall constitute *prima facie* evidence of service.

§ 205.8 Subpoenas; witness fees.

(a) The Administrator of the FEA, his duly authorized agent, the FEA General Counsel, or the agency official designated to conduct a hearing or public hearing convened in accordance with Subpart M of this part may sign and issue subpoenas either on his own initiative or, upon an adequate showing that the information sought will materially advance the proceeding, upon the request of any person participating in that proceeding.

(b) A subpoena may require the attendance of a witness, or the production of documentary or other tangible evidence in the possession or under the control of the person served, or both.

(c) A subpoena may be served personally by any person who is not an interested person and is not less than 18 years of age, or by certified or registered mail.

(d) Service of a subpoena under the person named therein shall be made by delivering a copy of the subpoena to such person and by tendering the fees for one day's attendance and mileage as specified by paragraph (f) of this section. When a subpoena is issued at the instance of any officer or agency of the United States, fees and mileage need not be tendered at the time of service. Delivery of a copy of a subpoena and tender of the fees to a natural person may be made by handing them to the person, leaving them at his office with the person in charge thereof, leaving them at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein, by mailing them by registered or certified mail to him at his last known address, or by any method whereby actual notice is given to him and the fees are made available prior to the return date. When the person to be served is not a natural person, delivery of a copy of the subpoena and tender of the fees may be effected by handing them to a registered agent for service, or to any officer, director, or agent in charge of any office of such person, or by mailing them by registered or certified mail to such representative at his last known address or by any method whereby actual notice is given to such representative and the fees are made available prior to the return date. If any person is an entity with offices and operations in more than one jurisdiction, such person may designate one address to which any subpoena may be served by filing such designation with the General Counsel at the address specified in § 205.12.

(e) The original subpoena bearing a certificate of service shall be filed with the FEA office with the responsibility for the proceeding in connection with which the subpoena was issued.

(f) A witness subpoenaed by the FEA shall be paid the same fees and mileage as would be paid to a witness in a proceeding in the district courts of the United States. The witness fees and mileage shall be paid by the person at whose instance the subpoena was issued.

(g) Notwithstanding the provisions of paragraph (f) of this section, and upon request, the witness fees and mileage shall be paid by the FEA when it is shown that:

(1) The presence of the subpoenaed witness will materially advance the proceeding; and

(2) The person at whose instance the subpoena was issued would suffer a serious hardship if required to pay the witness fees and mileage.

The designated FEA official issuing the subpoena shall make the determination required by this paragraph.

(h)(1) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 10 days after the date of service of such subpoena, apply to the designated FEA official who issued the subpoena, or if he is unavailable, to the Administrator, to quash or modify such subpoena. The application shall contain a brief statement of the reasons relied upon in support of the action sought therein.

(2) The Administrator or such other designated FEA official specified in paragraph (h)(1) of this section may (i) deny the application, (ii) quash or modify the subpoena, or (iii) condition denial of the application to quash or modify the subpoena upon the satisfaction of

certain just and reasonable requirements. Such denial may be summary.

(i) If there is a refusal to obey a subpoena served upon any person under the provisions of this section, the FEA may request the Attorney General to seek the aid of the District Court of the United States for any district in which such person is found to compel such person, after notice, to appear and give testimony, or to appear and produce the subpoenaed documents before the agency, or both.

§ 205.9 General filing requirements.

(a) *Purpose and scope.* The provisions of this section shall apply to all documents required or permitted to be filed with the FEA or with a State Office.

(b) *Signing.* All applications, petitions, requests, appeals, comments or any other documents that are required to be signed, shall be signed by the person filing the document or a duly authorized representative. Any application, appeal, petition, request, complaint or other document filed by a duly authorized representative shall contain a statement by such person certifying that he is a duly authorized representative, unless an FEA form otherwise requires. (A false certification is unlawful under the provisions of 18 U.S.C. 1001 (1970)).

(c) *Labeling.* An application, petition, or other request for action by the FEA or a State Office should be clearly labeled according to the nature of the action involved (*e.g.*, "Application for Assignment") both on the document and on the outside of the envelope in which the document is transmitted.

(d) *Obligation to supply information.* A person who files an application, petition, complaint, appeal or other request for action is under a continuing obligation during the proceeding to provide the FEA or a State Office with any new or newly discovered information that is relevant to that proceeding. Such information includes, but is not limited to, information regarding any other application, petition, complaint, appeal or request for action that is subsequently filed by that person with any FEA office or State Office.

(e) *The same or related matters.* A person who files an application, petition, complaint, appeal or other request for action by the FEA or a State Office shall state whether, to the best knowledge of that person, the same or related issue, act or transaction has been or presently is being considered or investigated by any FEA office, other Federal agency, department or instrumentality; or by a State Office, a state or municipal agency or court; or by any law enforcement agency; including, but not limited to, a consideration or investigation in connection with any proceeding described in this part. In addition, the person shall state whether contact has been made by the person or one acting on his behalf with any person who is employed by the FEA or any State Office with regard to the same issue, act or transaction or a related issue, act or transaction arising out of the same factual situation; the name of the person contacted; whether the contact was verbal or in writing; the nature and substance of the contact; and the date or dates of the contact.

(f) *Request for confidential treatment.* (1) If any person filing a document with the FEA or a State Office claims that some or all the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552 (1970)), is information referred to in 18 U.S.C. 1905 (1970), or is otherwise exempt by law from public disclosure, and if such person requests the FEA or a State Office not to disclose such information, such person shall file together with the document a second copy of the document from which has been deleted the information for which such person wishes to claim confidential treatment. The person shall indicate in the original document that it is confidential or contains confidential information and may file a statement specifying the justification for non-disclosure of the information for which confidential treatment is claimed. If the person states that the information comes within the exception in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information, such person shall include a statement specifying why such information is privileged or confidential. If the person filing a document does not submit a second copy of the document with the confidential information deleted, the FEA or a State Office may assume that there is no objection to public disclosure of the document in its entirety.

(2) The FEA or a State Office retains the right to make its own determination with regard to any claim of confidentiality. Notice of the decision by the FEA or a State Office to deny such claim, in whole or in part, and an opportunity to respond shall be given to a person claiming confidentiality of information no less than five days prior to its public disclosure.

(g) *Separate applications, petitions or requests.* Each application, petition or request for FEA action shall be submitted as a separate document, even if the applications, petitions, or requests deal with the same or a related issue, act or transaction, or are submitted in connection with the same proceeding.

§ 205.10 Effective date of orders.

Any order issued by the FEA or a State Office under this chapter is effective as against all persons having actual notice thereof upon issuance, in accordance with its terms, unless and until it is stayed, modified, suspended, or rescinded. An order is deemed to be issued on the date, as specified in the order, on which it is signed by an authorized representative of the FEA or a State Office, unless the order provides otherwise.

§ 205.11 Order of precedence.

(a) If there is any conflict or inconsistency between the provisions of this part and any other provision of this chapter, the provisions of this part shall control with respect to procedure.

(b) Notwithstanding paragraph (a) of this section, Subpart I of Part 212 of this chapter shall control with respect to prenotification and reporting and Subpart J of Part 212 of this chapter shall control with respect to accounting and financial reporting requirements.

§ 205.12 Addresses for filing documents with the FEA.

(a) All applications, requests, petitions, appeals, reports, FEA or FEO forms, written communications and other documents to be submitted to or filed with the FEA National Office in accordance with this chapter shall be addressed as provided in this section. The FEA National Office has facilities for the receipt of transmissions via TWX and FAX. The FAX is a 3M full duplex 4 or 6 minute (automatic) machine.

FAX Numbers	*TWX Numbers*
(202) 254-6175	(701) 822-9454
(202) 254-6461	(701) 822-9459

(1) Documents for which a specific address and/or code number is not provided in accordance with paragraphs (2)-(7) below shall be addressed as follows: Federal Energy Administration, Attn: (name of person to receive document, if known, or subject), Washington, D.C. 20461.

(2) Documents to be filed with the Office of Exceptions and Appeals, as provided in this part or otherwise, shall be addressed as follows. Office of Exceptions and Appeals, Federal Energy Administration, Attn: (name of person to receive document, if known, and/or labeling as specified in § 205.9(c)), Washington, D.C. 20461.

(3) Documents to be filed with the Office of General Counsel, as provided in this part or otherwise, shall be addressed as follows: Office of the General Counsel, Federal Energy Administration, Attn: (name of person to receive document, if known, and/or labeling as specified in § 205.9(c)), Washington, D.C. 20461.

(4) Documents to be filed with the Office of Private Grievances and Redress, as provided in this part or otherwise, shall be addressed as follows: Office of Private Grievances and Redress, Federal Energy Administration, Attn: (name of person to receive document, if known and/or labeling as specified in § 205.9(c)), Washington, D.C. 20461.

(5) All other documents filed, except those concerning price (see paragraph (a)(6) of this section), those designated as FEA or FEO forms (see paragraph (a)(7) of this section), and "Surplus Product Reports" (see paragraph (a)(8) of this section), but including those pertaining to compliance and allocation (adjustment and assignment) of allocated products, are to be identified by one of the code numbers stated below and addressed as follows: Federal Energy Administration, Code ——, labeling as specified in § 205.9(c), Washington, D.C. 20461.

CODE NUMBERS

Product:	Code
Crude oil	10
Naphtha and gas oil	15
Propane, butane and natural gasoline	25
Other products	30
Bunker fuel	40
Residual fuel (nonutility)	50
Motor gasoline	60
Middle distillates	70
Aviation fuels	80
Submissions by specific entities:	
Electric utilities	45
Department of Defense	55

(6) Documents pertaining to the price of covered products, except those to be submitted to other offices as provided in this part, shall be addressed to the Federal Energy Administration, Code 1000, Attn: (name of person to receive document, if known, and/or labeling as specified in § 205.9(c)), Washington, D.C. 20461.

(7) Documents designated as FEA or FEO forms shall be submitted in accordance with the instructions stated in the form.

(8) "Surplus Product Reports" shall be submitted to the Federal Energy Administration, Post Office Box 19407, Washington, D.C. 20036.

(b) All reports, applications, requests, notices, complaints, written communications and other documents to be submitted to or filed with an FEA Regional Office in accordance with this chapter shall be directed to one of the following addresses, as appropriate:

REGION 1

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont; Regional Office, Federal Energy Administration, 150 Causeway Street, Boston, Massachusetts 02114.

REGION 2

New Jersey, New York, Puerto Rico, Virgin Islands; Regional Office, Federal Energy Administration, 26 Federal Plaza, New York, New York 10007.

REGION 3

Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia; Regional Office, Federal Energy Administration, Federal Office Building, 1421 Cherry Street, Philadelphia, Pennsylvania 19102.

REGION 4

Alabama, Canal Zone, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina; Regional Office, Federal Energy Administration, 1655 Peachtree Street NW., Atlanta, Georgia 30309.

REGION 5

Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin; Regional Office, Federal Energy Administration, 175 West Jackson Street, Chicago, Illinois 60604.

REGION 6

Arkansas, Louisiana, New Mexico, Oklahoma, Texas; Regional Office, Federal Energy Administration, 212 North Saint Paul Street, Dallas, Texas 75201.

REGION 7

Iowa, Kansas, Missouri, Nebraska; Regional Office, Federal Energy Administration, Federal Office Building, P.O. Box 15000, 112 East 12th Street, Kansas City, Missouri 64106.

REGION 8

Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming; Regional Office, Federal Energy Administration, Post Office Box 26247, Belmar Branch, Denver, Colorado 80226.

REGION 9

American Samoa, Arizona, California, Guam, Hawaii, Nevada, Trust Territory of the Pacific Islands; Regional Office, Federal Energy Administration, 111 Pine Street, San Francisco, California 94111.

REGION 10

Alaska, Idaho, Oregon, Washington; Regional Office, Federal Energy Administration, Federal Office Building, 909 First Avenue, Room 3098, Seattle, Washington 98104.

§ 205.13 Where to file.

(a) Except as otherwise specifically provided in other subparts of this part, all documents to be filed with the FEA pursuant to this part shall be filed with the appropriate FEA Regional Office, except that all documents shall be filed with the FEA National Office that relate to:

(1) The allocation and pricing of crude oil pursuant to Subpart C of Part 211 and Part 212 of this chapter;

(2) Refinery yield controls pursuant to Subpart C of Part 211 of this chapter;

(3) The allocation and pricing of butane and natural gasoline pursuant to Subpart E of Part 211 and Part 212 of this chapter;

(4) The allocation and pricing of aviation fuel pursuant to Subpart H of Part 211 and Part 212 of this chapter, filed by civil air carriers and public air carriers;

(5) The allocation and pricing of residual fuel oil pursuant to Subpart I of Part 211 and Part 212 of this chapter, filed by electric utilities;

(6) The allocation and pricing of naphtha and gas oil pursuant to Subpart J of Part 211 and Part 212 of this chapter;

(7) The allocation and pricing of other products pursuant to Subpart K of Part 211 and Part 212 of this chapter;

(8) An application for an exemption under Subpart E of this part; requests for a rulemaking proceeding under Subpart L of this part or for the issuance of a ruling under Subpart K of this part; and petitions to the Office of Private Grievances and Redress under Subpart R of this part;

(9) The pricing of products pursuant to Part 212 of this chapter, filed by a refiner; and

(10) The allocation of crude oil and other allocated products to meet Department of Defense needs pursuant to Part 211 of this chapter.

(b) Applications by end-users and wholesale purchasers for an allocation under the state set-aside system in accordance with § 211.17 shall be filed with the appropriate State Office.

(c) Applications to a State Office or an FEA Regional Office shall be directed to the office located in the state or region in which the allocated product will be physically delivered. An applicant doing business in more than one state or region must apply separately to each State or region in which a product will be physically delivered, unless the State Offices or Regional Offices involved agree otherwise.

§ 205.14 Ratification of prior directives, orders and actions.

All interpretations, orders, notices of probable violation or other directives issued, all proceedings initiated, and all other actions taken in accordance with Part 205 as it existed prior to the effective date of this amendment, are hereby confirmed and ratified, and shall remain in full force and effect as if issued under this amended Part 205, unless or until they are altered, amended, modified or rescinded in accordance with the provisions of this part.

§ 205.15 Public docket room.

There shall be established at the FEA National Office, 12th and Pennsylvania Avenue, NW., Washington, D.C., a public docket room in which shall be made available for public inspection and copying:

(a) A list of all persons who have applied for an exception, an exemption, or an appeal, and a digest of each application;

(b) Each decision and statement setting forth the relevant facts and legal basis of an order, with confidential information deleted, issued in response to an application for an exception or exemption or at the conclusion of an appeal;

(c) The comments received during each rulemaking proceeding, with a verbatim transcript of the public hearing if such a public hearing was held; and

(d) Any other information required by statute to be made available for public inspection and copying, and any information that the FEA determines should be made available to the public.

Subpart B—Adjustment

§ 205.20 Purpose and scope.

This subpart establishes the procedures for filing an application for an adjustment or a request for FEA validation of an adjustment as provided in Part 211, and the procedures for the consideration of such applications and requests by the FEA or a State Office, as appropriate.

§ 205.21 What to file.

(a) A person filing under this subpart shall file an "Application for Adjustment," which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) An application shall be the appropriate FEA form. If such form is not current or available, the application shall

consist of the information required in § 205.24(b).

(c) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 205.9 (f) shall apply.

§ 205.22 Where to file.

(a) A wholesale purchaser shall submit an application for adjustment to his supplier prior to its submission to the FEA. The supplier shall certify that to the best of the supplier's knowledge the information contained in the application is correct and accurate and, within 10 days of receipt of the application, shall file the certification and the application with the FEA office specified in § 205.13, at the address provided in § 205.12.

(b) If the supplier cannot make such certification, the supplier shall file the application and provide an explanation for the absence of the certification.

(c) A request for FEA validation of an application for adjustment for unusual growth in accordance with § 211.13(b) or increased current requirements in accordance with § 211.13(d) shall be filed with the appropriate Regional Office at the address provided in § 205.12. Such request for validation shall be made not sooner than ten days after the certification has been presented to the supplier.

§ 205.23 Notice.

(a) The FEA shall serve notice on any person readily identifiable by the FEA as one who will be aggrieved by the FEA action and may serve notice on any other person that written comments regarding the application for adjustment will be accepted if filed within 10 days of service of the notice; or may determine that notice should be published in the FEDERAL REGISTER.

(b) Any person submitting written comments to the FEA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9 (f), to the applicant. The person shall certify to the FEA that he has complied with the requirements of this paragraph. The FEA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 205.24 Contents.

(a) The application shall be the appropriate FEA form, which shall be completed in accordance with instructions that accompany the form. If there is not a current FEA form appropriate or available, the applicant shall file an application that contains the information required by paragraph (b) of this section.

(b) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the requested action; and a full discussion of the pertinent provisions and facts contained in any relevant documents. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the application shall be submitted to the FEA upon its request. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted. The application shall also include the following information:

(1) Description of applicant's business or end use of the product;

(2) The anticipated use of the product in applicant's operation, including the present and anticipated needs of priority customers, if applicable;

(3) An estimate of the anticipated effect that denial of the requested adjustment would have on the applicant's operations;

(4) A description of the extent to which the applicant has investigated the possibilities of converting to an alternative fuel or product, and the applicant's conclusion as to the feasibility of making that conversion;

(5) The identification of any previous order relevant to the present application that has been issued to the applicant or to any person who controls or is controlled by the applicant;

(6) A certification of the accuracy of the application by the chief executive officer of the applicant or his duly authorized representative; and

(7) A statement that the increased allocations shall be used only for the purpose stated in the application, shall not be diverted to other uses, and that if needs decline the applicant shall file an amended application for a downward adjustment to its base period use.

§ 205.25 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit and accept submissions from third persons relevant to any application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference, if, in its discretion, it considers that such will advance its evaluation of the application.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the FEA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application with prejudice.

(b) *Criteria.* An application for adjustment will only be granted or validated in the circumstances permitted or required by Part 211 of this chapter. In considering such an application, the FEA will apply the criteria stated in § 4(b) of the EPAA.

§ 205.26 Decision and order.

(a) Upon consideration of the application or request and other relevant information received or obtained during the proceeding, the FEA shall issue an appropriate order.

(b) The order shall include a brief written statement summarizing the factual and legal basis upon which the order was issued. The order shall provide that any person aggrieved thereby may file an appeal with the FEA Office of Exceptions and Appeals or the appropriate Regional Office in accordance with Subpart H of this part.

(c) The FEA shall serve a copy of the order upon the applicant and any other person who participated in the proceeding and upon any other person readily identifiable by the FEA as one who is aggrieved by such order.

§ 205.27 Timeliness.

If the FEA fails to take action on any application filed under this subpart within 90 days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 205.28 Appeal.

Any person aggrieved by an order issued by the FEA under this subpart may file an appeal with the FEA Office of Exceptions and Appeals or with the appropriate Regional Office in accordance with Subpart H of this part. The appeal shall be filed within 30 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart C—Assignment

§ 205.30 Purpose and scope.

This subpart establishes the procedures for the filing of an application for an assignment, other than an application for assignment under the state set-aside system as provided in Subpart Q of this part.

§ 205.31 What to file.

(a) A person filing under this subpart shall file an "Application for Assignment" or an "Application for Temporary Assignment" as provided in § 205.39, which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) An application shall be the appropriate FEA form. If such form is not available, the application shall consist of the information required in § 205.34(b).

(c) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.32 Where to file.

(a) Except as provided in paragraph (b), all applications for assignment shall be filed with the office specified in § 205.13, at the address provided in § 205.12.

(b) All applications for assignment by a new end-user who cannot agree on an allocation requirement with his supplier or who cannot locate a supplier shall be filed with the appropriate State Office.

§ 205.33 Notice.

(a) The FEA shall serve notice on any person readily identifiable by the FEA as one who will be aggrieved by the FEA action and may serve notice on any other person that written comments regarding the application for assignment will be accepted if filed within 10 days of service of the notice; or may determine that notice should be published in the FEDERAL REGISTER.

(b) Any person submitting written comments to the FEA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to the applicant. The person shall certify to the FEA that it has complied with the requirements of this paragraph. The FEA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 205.34 Contents.

(a) The application shall be the appropriate FEA form, which shall be completed in accordance with the instructions that accompany the form. If there is not a current FEA form appropriate or available, the applicant shall file an application that contains the information required by paragraph (b) of this section.

(b) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the requested action; and a full discussion of the pertinent provisions and facts contained in any relevant documents. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the application shall be submitted to the FEA upon its request. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted. In addition to such information, the applicant shall include the following information:

(1) Description of applicant's business;

(2) The anticipated use of the allocated product in applicant's operation, including present and anticipated needs of priority customers, if applicable;

(3) An estimate of the anticipated effect that denial of the requested assignment would have on the applicant's operation;

(4) A description of the extent to which the applicant has investigated the possibilities of converting to an alternative fuel or product, and the applicant's conclusion as to the feasibility of making such conversion;

(5) A description of applicant's efforts to find other suppliers;

(6) The identification of any previous assignment order relevant to the present application that has been issued to the applicant or to any person that controls or is controlled by the applicant.

(7) A statement as to whether the applicant had no supplier during the requisite base period, or as to whether the applicant's base period supplier or new supplier is unable to supply his requirements;

(8) The identification of any persons who will be aggrieved by the FEA action sought, including potential suppliers; and

(9) Wholesale purchasers shall provide documentary evidence justifying its proposed base period volume as normal and reasonable for its intended use.

§ 205.35 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit and accept submissions from third persons relevant to any application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference, if, in its discretion, it considers that a conference will advance its evaluation of the application.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the FEA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application with prejudice.

(b) *Criteria.* (1) An application for assignment may be granted in the situations specified in Part 211 of this chapter when such assignment will assure an allocation that to the maximum extent possible provides for—

(i) The protection of public health, safety, and welfare, (including maintenance of residential heating, such as individual homes, apartments, and similar occupied dwelling units) and the national defense;

(ii) Maintenance of all public services (including facilities and services provided by municipally, cooperatively, or investor owned utilities or by any State or local government or authority, and including transportation facilities and services which serve the public at large);

(iii) Maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities, and services directly related thereto;

(iv) Preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, non-branded independent marketers, and branded independent marketers;

(v) The allocation of suitable types, grades, and quality of crude oil to refineries in the United States to permit such refineries to operate at full capacity;

(vi) Equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, non-branded independent marketers, branded independent marketers, and among all users;

(vii) Allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of, exploration for, and production or extraction of, fuels, and for required transportation related thereto;

(viii) Economic efficiency; and

(ix) Minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

(2) In the assignment of a base period volume to a wholesale purchaser, as defined in § 211.51, the FEA also shall consider the criteria provided in Part 211 of this chapter and FEA guidelines, rulings and decisions on appeal.

(3) In connection with the assignment of a supplier or a base period volume to a person planning to construct a synthetic natural gas plant after May 1, 1974, or to expand an existing one, the FEA also shall consider the criteria provided in § 211.29 of this chapter and FEA guidelines, rulings and decisions on appeal.

(4) In selecting a supplier for an assignment, the FEA shall consider the goal of equalizing allocation fractions among suppliers and the capability of the supplier to provide the product to an applicant on short notice.

(c) If an assignment is sought in connection with circumstances not referred to in Part 211 of this chapter, application for an exception should be filed with the FEA Office of Exceptions and Appeals at the address provided in § 205.12.

§ 205.36 Decision and order.

(a) Upon consideration of the application and other relevent information received or obtained during the proceeding, the FEA shall issue an appropriate order.

The order shall state the duration of the assignment, which may be for the duration of the allocation program or for any lesser period specified therein.

(b) The order shall include a brief written statement summarizing the factual and legal basis upon which the order was issued. The order shall provide that any person aggrieved thereby may file an appeal with the FEA Office of Exceptions and Appeals or the appropriate Regional Office in accordance with Subpart H of this part.

(c) Prior to issuance of an assignment order, the FEA shall contact the proposed supplier for the purpose of determining the accuracy of the facts upon which it intends to base the proposed assignment order and the impact such order may have upon the proposed supplier's operations, and to give the supplier a reasonable opportunity to comment on the proposed order. To the extent a proposed supplier's comments present facts or other information that materially differs from those in the application, the applicant shall be advised and given an opportunity to respond verbally. The notice and comment provided herein may be in writing if time permits.

(d) The FEA shall serve a copy of the order upon the person who thereby will be directed to supply the product or to establish a base period volume, the applicant and upon any other person readily identifiable by the FEA as one who is aggrieved by said order.

§ 205.37 Timeliness.

(a) If the FEA fails to take action on any application filed under this subpart within 90 days of filing, the applicant may treat the application as having been denied in all respect and may appeal therefrom as provided in this subpart.

(b) Notwithstanding the provisions of paragraph (a) of this section, if the FEA fails to take action on any application recommended for approval by a State Office pursuant to Subpart Q of this part within 30 days of receipt of such application by the FEA, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 205.38 Appeal.

(a) Any person aggrieved by an order issued by the FEA under this subpart may file an appeal with the FEA Office of Exceptions and Appeals or with the appropriate Regional Office in accordance with Subpart H of this part. The appeal shall be filed within 30 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

(b) If an appeal is filed in connection with the issuance of an temporary assignment order in accordance with § 205.39, and subsequent to such appeal an assignment order from which said person also appeals is issued to the recipient of the temporary assignment order, the appeal from both the temporary assignment order and the subsequent assignment order shall be consolidated and considered in the same appellate proceeding.

§ 205.39 Temporary assignment.

(a) In certain circumstances and upon receipt of an application from a wholesale purchaser-reseller, other than one who requires an assignment to supply wholesale purchaser-consumers or end-users experiencing hardship or emergency, the FEA may issue a temporary assignment order to certain wholesale purchaser-resellers. End-users, wholesale purchaser-consumers and wholesale purchaser-resellers supplying end-users and wholesale purchaser-consumers experiencing hardship or emergency requirements shall apply to the appropriate State Office for an assignment from the state set-aside system, in accordance with Subpart Q of this part for emergency or hardship requirements. The ordering of a temporary assignment shall occur only in dire circumstances and when it is not feasible to issue an assignment order that conforms to the FEA guidelines, including, but not limited to, the requirement that assignment orders for a month be issued, to the maximum extent possible, by the 15th of the preceding month. Temporary assignments are intended to be issued when circumstance do not permit the issuance of an assignment order in the normal time period, *i.e.*, prior to the 15th day of the month preceeding the month for which there is the requirement for the assignment. Thus, a temporary assignment is an "off-phase" order. The "Application for Temporary Assignment" is to conform to the requirements of § 205.-34, except that such requirements may be waived in whole or in part by the FEA for good cause shown. The application shall fully describe why the assignment must be made out of phase with the normal issuance of assignment orders. A temporary assignment order shall have a duration of not longer than 60 days. It is intended that a temporary assignment order shall be a one-time order that pertains to a specific situation, and it may not be extended by issuance of another temporary assignment order. If the applicant anticipates the requirement for an assignment of longer than 60 days duration, he shall file contemporaneously with the application for a temporary assignment, or as soon thereafter as feasible, an "Application for Assignment."

(b) A temporary assignment order shall conform to the requirements of § 205.35 and shall be issued only upon a finding that circumstances do not permit issuance of an assignment on-phase with the processing of assignment orders in accordance with FEA guidelines, which finding shall be stated in the order.

(c) The supplier selected shall be given notice of the temporary assignment order at least 24 hours in advance of its issuance.

(d) A temporary assignment order shall be appealable in accordance with § 205.38.

Subpart D—Exception

§ 205.50 Purpose and scope.

(a) This subpart establishes the procedures for applying for an exception from a regulation, ruling or generally applicable requirement based on an assertion of serious hardship or gross inequity and for the consideration of such application by the FEA.

(b) A request for an interpretation or other specific action which includes, or could be construed to include, an application for an exception may be treated solely as a request for an interpretation or other action, and processed as such by FEA.

(c) The filing of an appliction for an exception shall not constitute grounds for non-compliance with the requirements of the regulation, ruling or generally applicable requirement from which an exception is sought, unless a stay has been issued in accordance with Subpart I of this part.

§ 205.51 What to file.

(a) A person filing under this subpart shall file an "Application for Exception," which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.52 Where to file.

(a) Except as provided in paragraph (b) of this section, all applications for exception shall be filed with the Office of Exceptions and Appeals at the address provided in § 205.12.

(b) All applications for exception to Part 212 that relate to the retail sale of motor gasoline, heating oil, diesel fuel, or propane shall be filed with the appropriate Regional Office at the address provided in § 205.12.

§ 205.53 Notice.

(a) The applicant shall send by United States mail a copy of the application and any subsequent amendments or other documents relating to the application, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to each person who is reasonably ascertainable by the applicant as a person who will be aggrieved by the FEA action sought. The copy of the application shall be accompanied by a statement that the person may submit comments regarding the application to the FEA office with which the application was filed within 10 days. The application

filed with the FEA shall include certification to the FEA that the applicant has complied with the requirements of this paragraph and shall include the names and addresses of each person to whom a copy of the application was sent.

(b) Notwithstanding the provisions of paragraph (a) of this section, if an applicant determines that compliance with paragraph (a) of this section would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and practicable to notify; and

(2) Include with the application a description of the persons or class or classes of persons to whom notice was not sent.

The FEA may require the applicant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the FEDERAL REGISTER.

(c) The FEA shall serve notice on any other person readily identifiable by the FEA as one who will be aggrieved by the FEA action sought and may serve notice on any other person that written comments regarding the application will be accepted if filed within 10 days of service of such notice.

(d) Any person submitting written comments to the FEA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9 (f), to the applicant. The person shall certify to the FEA that he has complied with the requirements of this paragraph. The FEA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

(e) At regular intervals, the FEA shall publish a list of all persons who have applied for an exception under this subpart, with a brief description of the factual situation and the relief requested.

§ 205.54 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the requested action; and a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the application. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the application. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted.

(b) The applicant shall state whether he requests or intends to request that there be a conference or hearing regarding the application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference or hearing is held when it will be most beneficial. The request and the FEA's determination regarding it shall be made in accordance with Subpart M of this part.

(c) The application shall include a discussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the particular action sought therein.

(d) The application shall specify the exact nature and extent of the relief requested.

§ 205.55 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit and accept submissions from third persons relevant to any application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the FEA may consider any other source of information. The FEA on its own initiative may convene a hearing or conference, if, in its discretion, it considers that such hearing or conference will advance its evaluation of the application.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request additional information is not submitted by the applicant, the FEA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application with prejudice. If the applicant fails to provide the notice required by § 205.53, the FEA may dismiss the application without prejudice.

(b) *Criteria.* (1) The FEA shall only consider an application for an exception when it determines that a more appropriate proceeding is not provided by this part.

(2) An application for an exception may be granted to alleviate or prevent serious hardship or gross inequity.

(3) An application for an exception shall be decided in a manner that is, to the extent possible, consistent with the disposition of previous applications for exception.

(4) With regard to an exception from the provisions of Part 215 of this chapter, the criteria shall be those provided in such part.

§ 205.56 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the FEA shall issue an order granting or denying the application.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order shall provide that any person aggrieved thereby may file an appeal with the FEA Office of Exceptions and Appeals or the appropriate Regional Office in accordance with Subpart H of this part.

(c) The FEA shall serve a copy of the order upon the applicant, any other person who participated in the proceeding and upon any other person readily identifiable by the FEA as one who is aggrieved by such order. A copy of each order, with such modification as is necessary to insure the confidentiality of information protected from disclosure under 18 U.S.C. 1905 and 5 U.S.C. 552, will be on file in the public docket room described in § 205.15. If such copy contains information that has been claimed by an applicant or other person to be confidential, notice of the FEA's intention to place a copy in the docket room and an opportunity to respond shall be given to such person no less than five days prior to its placement in such room. The Office of Exceptions and Appeals shall publish periodically a digest of all orders issued.

§ 205.57 Timeliness.

(a) When the FEA has received all substantive information deemed necessary to process any application filed under this subpart, the FEA shall serve notice of that fact upon the applicant and all other persons who received notice of the proceeding pursuant to the provisions of § 205.53; and if the FEA fails to take action on the application within 90 days of serving such notice, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

(b) Notwithstanding the provisions of paragraph (a) of this section, if the FEA fails to take action on the application within 150 days from the filing of the application, the applicant may treat it as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 205.58 Appeal.

Any person aggrieved by an order issued by the FEA under this subpart may file an appeal with the FEA Office of Exceptions and Appeals or with the appropriate Regional Office in accordance with Subpart H of this part. The appeal must be filed within 30 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of this part and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart E—Exemption

§ 205.70 Purpose and scope.

This subpart establishes the procedures for filing an application for exemption and the consideration of such by the FEA. The applicant must be seeking an exemption from no less than an entire

part, or subpart thereof, of this chapter. This subpart does not include the procedures for exemption of a product as provided in section 4(g) of the EPAA.

§ 205.71 Procedures.

(a) An exemption may be effected only by amendment to the regulations. Although an application for an exemption is a request for a rulemaking, the application is not subject to the procedures of Subpart L. If a rulemaking proceeding is convened, however, it shall be held in accordance with Subpart L.

(b) An application for an exemption shall be submitted separate and apart from any other application, appeal, petition or other request submitted in accordance with this part. If an application for exemption is included with any other application, appeal, petition, or other request, the application for exemption will not be processed, nor will it be severed for separate consideration.

§ 205.72 What to file.

A person filing under this subpart shall file an "Application for Exemption," which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

§ 205.73 Where to file.

An application for exemption shall be filed with the Office of Private Grievances and Redress at the address provided in § 205.12.

§ 205.74 Contents.

The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the FEA action sought. The application shall identify the part or parts, or subparts thereof, of this chapter from which the exemption is sought; describe the business or other reason that would justify such exemption; identify the persons or classes of persons and acts or transactions that would be affected by such exemption and describe any adverse impact; describe the benefit to the person making the application, or others, that would result if the exemption were effected; and explain the reasons why the action sought by the application cannot be accomplished by any other proceeding provided in this part. Upon request, the applicant shall submit copies of relevant contracts, agreements, leases, instruments, and other documents that are representative of those that would be affected by the granting of the requested exemption.

§ 205.75 FEA evaluation.

(a) *Processing.* All applications for exemption shall be evaluated by FEA to determine if the institution of rulemaking is warranted and if the FEA action sought by the application could more appropriately be considered in any other proceeding provided by this part.

(b) *Criteria.* (1) Rulemaking proceedings for the purpose of considering an application for exemption will be instituted only if the FEA in its discretion determines that such a proceeding would be appropriate. Among the factors that the FEA will evaluate in making a determination with respect to a rulemaking are—

(i) The impact that granting the exemption would have on the regulatory scheme and objectives;

(ii) The number of persons who would be exempted; and

(iii) The economic justification for such exemption.

(2) The FEA may summarily deny an application for exemption if—

(i) The exemption sought is not from a part or parts, or a subpart thereof, of this chapter;

(ii) The granting of an exemption to the person making the application would not have sufficient national impact, economic or otherwise, to warrant rulemaking proceedings for the purpose of considering an amendment to the regulation;

(iii) It is determined that the statutory criteria cannot be met; or

(iv) It is determined that another proceeding provided by this part is more appropriate.

§ 205.76 Decision and order.

(a) Upon consideration of the application and other relevant information obtained during the proceeding, the FEA shall issue an appropriate order. If the application is not denied, the order shall provide for publication of a notice of proposed rulemaking regarding the application in the FEDERAL REGISTER.

(b) The order shall include a written statement setting forth the relevant facts and legal basis for the decision. The order denying the application shall state that any person aggrieved thereby may file an appeal with Office of Exceptions and Appeals in accordance with Subpart H of this part.

§ 205.77 Timeliness.

(a) If the FEA fails to take action on any application filed under this subpart within 90 days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 205.78 Appeal.

Any person aggrieved by an order issued by the FEA under this subpart that denies an application for exemption may file an appeal with the Office of Exceptions and Appeals in accordance with Subpart H of this part. The appeal must be filed within 30 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart F—Interpretation

§ 205.80 Purpose and scope.

(a) This subpart establishes the procedures for the filing of a formal request for an interpretation and for the consideration of such request by the FEA. Interpretations shall be in writing and shall only be issued by the FEA General Counsel or by a Regional Counsel. Responses, which may include verbal or written responses to general inquiries or to other than formal written requests for interpretation filed with the General Counsel or a Regional Counsel are not interpretations and merely provide general information.

(b) A request for interpretation that includes, or could be construed to include an application for an exception or an exemption may be treated solely as a request for interpretation and processed as such.

§ 205.81 What to file.

(a) A person filing under this subpart shall file a "Request for Interpretation," which should be clearly labeled as such both on the request and on the outside of the envelope in which the request is transmitted, and shall be in writing and signed by the person filing the request. The person filing the request shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the person filing the request wishes to claim confidential treatment for any information contained in the request or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.82 Where to file.

A request for interpretation shall be filed with the General Counsel or with the appropriate Regional Counsel at the address provided in § 205.12.

§ 205.83 Contents.

(a) The request shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the request and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable) and a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the request. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the request. When the request pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction must be submitted.

(b) The request for interpretation shall include a discussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the particular interpretation sought therein.

§ 205.84 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in a request and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may accept submissions from third persons relevant to any request for interpretation provided that the person making the request is afforded an opportunity to respond to all third person submissions. In evaluating a request for interpretation, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference, if, in its discretion, it considers that such conference will advance its evaluation of the request.

(2) The FEA shall issue its interpretation on the basis of the information provided in the request, unless that information is supplemented by other information brought to the attention of the General Counsel or a Regional Counsel during the proceeding. The interpretation shall, therefore, depend for its authority on the accuracy of the factual statement and may be relied upon only to the extent that the facts of the actual situation correspond to those upon which the interpretation was based.

(3) If the FEA determines that there is insufficient information upon which to base a decision and if upon request additional information is not submitted by the person requesting the interpretation, the FEA may refuse to issue an interpretation.

(b) *Criteria.* (1) The FEA shall base an interpretation on the FEAA and EPAA and the regulations and published rulings of the FEA as applied to the specific factual situation.

(2) The FEA shall take into consideration previously issued interpretations dealing with the same or a related issue.

§ 205.85 Decision and effect.

(a) Upon consideration of the request for interpretation and other relevant information received or obtained during the proceeding, the General Counsel or a Regional Counsel shall issue a written interpretation.

(b) The interpretation shall contain a statement of the information upon which it is based and a legal analysis of and conclusions regarding the application of rulings, regulations and other precedent to the situation presented in the request.

(c) Only those persons to whom an intrepretation is specifically addressed and other persons upon whom the FEA serves the interpretation and who are directly involved in the same transaction or act may rely upon it. No person entitled to rely upon an interpretation shall be subject to civil or criminal penalties stated in Suppart P of this part for any act taken in reliance upon the interpretation, notwithstanding that the interpretation shall thereafter be declared by judicial or other competent authority to be invalid.

(d) An interpretation may be rescinded or modified at any time. Rescission or modification may be effected by notifying persons entitled to rely on the interpretation that it is rescinded or modified. This notification shall include a statement of the reasons for the recission or modification and, in the case of a modification, a restatement of the interpretation as modified.

(e) An interpretation is modified by a subsequent amendment to the regulations or ruling to the extent that it is inconsistent with the amended regulation or ruling.

§ 205.86 Appeal.

Any person aggrieved by an interpretation issued by the FEA, whether by the General Counsel or a Regional Counsel, under this subpart may file an appeal with the FEA Office of Exceptions and Appeals in accordance with Subpart H of this part. The appeal must be filed within 30 days of service of the interpretation from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of this part and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart G—Other Proceedings

§ 205.90 Purpose and scope.

This subpart establishes the procedures for the filing of such other applications, petitions, or requests as may be required or permitted from time to time under the provisions of this chapter, but does not supplant any procedures presently provided for in this part, including petitions to the Office of Private Grievances and Redress filed in accordance with Subpart R of this part. This subpart specifically provides for applications by motor gasoline retail sales outlets in accordance with the provisions of § 211.106 and petitions to use multiple allocation fractions in accordance with the provisions of § 211.10(b) of this chapter.

§ 205.91 What to file.

(a) A person filing under this subpart shall file an "Application (petition or request, if applicable) for (identify action requested)," which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the person wishes to claim confidential treatment for any information contained in the application, petition, request, or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.92 Where to file.

(a) All applications, petitions or requests not described in other subparts of this part shall be filed in accordance with any FEA forms and instructions that relate thereto. If no such forms and instructions have been issued by the FEA, all such applications, petitions or requests shall be filed with the FEA office specified in § 205.13, at the address provided in § 205.12.

(b) An application by a motor gasoline retail sales outlet in accordance with the provisions § 211.106 shall be filed with the Regional Office for the region in which the retail sales outlets are located. Applications which involve retail sales outlets located in more than one region shall be filed with the appropriate Regional Office in each affected region.

(c) An application to use multiple allocation fractions in accordance with the provisions of § 211.10(b) shall be filed with the FEA National Office at the address provided in § 205.12.

§ 205.93 Contents.

(a) Any application, petition or request filed under this subpart shall contain all the information that the FEA by regulation, ruling, form or other instruction may require.

(b) An application by a motor gasoline retail sales outlet in accordance with § 211.106 of this chapter shall conform to the requirements of FEA Ruling 1974–13 and any future amendments to or modifications of that ruling.

§ 205.94 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an application, petition or request and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit and accept submissions from third persons relevant to any application, petition or request provided that the person who filed is afforded an opportunity to respond to all third person submissions. In evaluating an application, petition or request, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference, if, in its discretion, it considers that such conference will advance its evaluation of the application, petition or request.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the FEA may dismiss the application, petition or request without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application, petition or request with prejudice.

(b) *Criteria.* In considering an application, petition or request, the FEA will apply the criteria stated in any FEA regulation, ruling, form or instruction that relates to such application, petition or request.

§ 205.95 Decision and order.

(a) Upon consideration of the application, petition or request and other relevant information received or obtained during the proceeding, if FEA action is required, the FEA shall issue an appropriate order.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The

order shall provide that any person aggrieved thereby may file an appeal with the FEA Office of Exceptions and Appeals or the appropriate Regional Office in accordance with Subpart H of this part.

(c) The FEA shall serve a copy of the order upon the person who filed and any other person who participated in the proceeding and may serve a copy of the order upon any person who is readily identifiable as one who is aggrieved by said order.

§ 205.96 Timeliness.

If the FEA fails to take action on any application filed under this subpart within 90 days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 205.97 Appeal.

Any person aggrieved by an order issued by the FEA under this subpart may file an appeal with the FEA Office of Exceptions and Appeals or with the appropriate Regional Office in accordance with Subpart H of this part. The appeal shall be filed within 30 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of this part and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart H—Appeal

§ 205.100 Purpose and scope.

(a) This subpart establishes the procedures for the filing of an administrative appeal of FEA actions taken under Supparts B, C, D, E, F, G, or O of this part or Subpart I of Part 212 and the consideration of such appeal by the FEA. Appeals of orders issued by State Offices shall be in accordance with Subpart R.

(b) A person who has appeared before the FEA in connection with a matter arising under Subparts B, C, D, E, F, G or O of this part or Subpart I of Part 212 has not exhausted his administrative remedies until an appeal has been filed under this subpart and an order granting or denying the appeal has been issued.

§ 205.101 Who may file.

Any person aggrieved by an order or interpretation issued by the FEA under Subpart B, C, D, E, F, G or O of this part or Subpart I of Part 212 may file an appeal under this subpart.

§ 205.102 What to file.

(a) A person filing under this subpart shall file an "Appeal of Order" or an "Appeal of Interpretation," which should be clearly labeled as such both on the appeal and on the outside of the envelope in which the appeal is transmitted, and shall be in writing and signed by the person filing the appeal. The appellant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the appellant wishes to claim confidential treatment for any information contained in the appeal or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.103 Where to file.

(a) When the order upon which the appeal is based was issued by the FEA National Office, the appeal shall be filed with the Office of Exceptions and Appeals at the address provided in § 205.12.

(b) When the order upon which the appeal is based was issued by a Regional Office, the appeal shall be filed with that Regional Office at the address provided in § 205.12.

(c) When the appeal is based upon an interpretation, whether issued by the General Counsel or a Regional Counsel, the appeal shall be filed with the Office of Exceptions and Appeals of the address provided in § 205.12.

§ 205.104 Notice.

(a) The appellant shall send by United States mail a copy of the appeal and any subsequent amendments or other documents relating to the appeal, or a copy from which confidential information has been deleted in accordance with § 205.9 (f), to each person who is reasonably ascertainable by the appellant as a person who will be aggrieved by the FEA action sought, including those who participated in the prior proceeding. The copy of the appeal shall be accompanied by a statement that the person may submit comments regarding the appeal to the FEA office with which the appeal was filed within 10 days. The appeal filed with the FEA shall include certification to the FEA that the appellant has complied with the requirements of this paragraph and shall include the names and addresses of each person to whom a copy of the appeal was sent.

(b) Notwithstanding the provisions of paragraph (a) of this section, if an appellant determines that compliance with paragraph (a) of this section would be impracticable, the appellant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and possible to notify; and

(2) Include with the appeal a description of the persons or class or classes of persons to whom notice was not sent.

The FEA may require the appellant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the FEDERAL REGISTER.

(c) The FEA shall serve notice on any other person readily identifiable by the FEA as one who will be aggrieved by the FEA action sought and may serve notice on any other person that written comments regarding the appeal will be accepted if filed within 10 days of service of that notice.

(d) Any person submitting written comments to the FEA with respect to an appeal filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to the appellant. The person shall certify to the FEA that it has complied with the requirements of this paragraph. The FEA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 205.105 Contents.

(a) The appeal shall contain a concise statement of grounds upon which it is brought and a description of the relief sought. It shall include a discussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the appeal. If the appeal includes a request for relief based on significantly changed circumstances, there shall be a complete description of the events, acts, or transactions that comprise the significantly changed circumstances, and the appellant shall state why, if the significantly changed circumstance is new or newly discovered facts, such facts were not or could not have been presented during the prior proceeding. For purposes of this subpart, the term "significantly changed circumstances" shall mean—

(1) The discovery of material facts that were not known or could not have been known at the time of the prior proceeding;

(2) The discovery of a law, regulation, interpretation, ruling, order or decision on an appeal or an exception that was in effect at the time of the proceeding upon which the order or interpretation is based and which, if such had been made known to FEA, would have been relevant to the proceeding and would have substantially altered the outcome; or

(3) A substantial change in the facts or circumstances upon which an outstanding and continuing order or interpretation affecting the appellant was issued, which change has occurred during the interval between issuance of the order or interpretation and the date of the appeal and was caused by forces or circumstances beyond the control of the appellant.

(b) A copy of the order or interpretation that is the subject of the appeal shall be submitted with the appeal.

(c) The appellant shall state whether to the best of his knowledge the same or a related issue, act or transaction that is the subject of the appeal has been or presently is being considered or investigated by any FEA office, other Federal agency, department or instrumentality; or by a State Office, a state or municipal agency or court, or by any law enforcement agency; including, but not limited to, a consideration or investigation in connection with an FEA proceeding described in this part, other than the proceeding from which the appeal is taken. In addition, the appellant shall state whether contact has been made by the appellant or one acting on his behalf with any person who is employed by the FEA or any State Office subsequent to service of the order or interpretation that is being appealed with regard to the issue, act or transaction that is the subject

of the appeal; the name of the person contacted; whether the contact was verbal or in writing; the nature and substance of the contact; and the date or dates of the contact. An appellant shall comply with this paragraph in lieu of § 205.9(e)).

(d) The appellant shall state whether he requests or intends to request that there be a conference or hearing regarding the appeal. Any request not made at the time the appeal is filed shall be made as soon thereafter as possible, to insure that the conference or hearing is held when it will be most beneficial. The request and the FEA's determination regarding it shall be made in accordance with Subpart M of this part.

§ 205.106 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an appeal and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit and accept submissions from third persons relevant to any appeal provided that the appellant is afforded an opportunity to respond to all third person submissions. In evaluating an appeal, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference or hearing if, in its discretion, it considers that such conference or hearing will advance its evaluation of the appeal.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if, upon request, the necessary additional information is not submitted, the FEA may dismiss the appeal with leave to amend within a specified time. If the failure to supply additional information is repeated or willful, the FEA may dismiss the appeal with prejudice. If the appellant fails to provide the notice required by § 205.104, the FEA may dismiss the appeal without prejudice.

(3) *Failure to satisfy requirements.* (i) If the appellant fails to satisfy the requirements of paragraph (b)(1) of this section, the FEA may issue an order denying the appeal. The order shall state the grounds for the denial and a copy of the order shall be served upon the appellant and any other person who participated in the proceeding.

(ii) The order denying the appeal shall become a final order of the FEA within 10 days of its service upon the appellant, unless within such 10-day period an amendment to the appeal that corrects the deficiencies identified in the order is filed with the Office of Exceptions and Appeals or the appropriate Regional Office.

(iii) Within 10 days of the filing of such amendment, as provided in paragraph (b)(1) of this section, the FEA shall notify the appellant whether the amendment corrects the specified deficiencies. If the amendment does not correct the deficiencies, that notice shall be an order dismissing the appeal as amended. Such order shall be a final order of the FEA of which appellant may seek judicial review.

(b) *Criteria.* (1) An appeal may be summarily denied if—

(i) It is not filed in a timely manner, unless good cause is shown; or

(ii) It is defective on its face for failure to state, and to present facts and legal argument in support thereof, that the FEA action was erroneous in fact or in law, or that it was arbitrary or capricious.

(2) The FEA may deny any appeal if the appellant does not establish that—

(i) The appeal was filed by a person aggrieved by an FEA action;

(ii) The FEA's action was erroneous in fact or in law; or

(iii) The FEA's action was arbitrary or capricious.

The denial of an appeal shall be a final order of FEA of which the appellant may seek judicial review.

§ 205.107 Decision and order.

(a) Upon consideration of the appeal and other relevant information received or obtained during the proceeding, the FEA shall enter an appropriate order, which may include the modification of the order or interpretation that is the subject of the appeal.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order shall state that it is a final order of the FEA of which the appellant may seek judicial review.

(c) The FEA shall serve a copy of the order upon the appellant, any other person who participated in the proceeding and upon any other person readily identifable by the FEA as one who is aggrieved by such order.

(d) A copy of each order, with such modification as is necessary to insure the confidentiality of information protected from disclosure under 18 U.S.C. 1905 and 5 U.S.C. 552, will be filed in the public docket room described in § 205.15. If such copy contains information that has been claimed by an appellant or other person, to be confidential, notice of the FEA's intention to place a copy in the docket room and an opportunity to respond shall be given to such person no less than five days prior to its placement in such room.

§ 205.108 Appeal of a remedial order.

The appeal of a remedial order shall be in accordance with the procedures stated in this subpart, *except:*

(a) The appeal must be filed within 10 days of the service of the remedial order; and

(b) If the appeal is of a remedial order that was issued subsequent to a notice of probable violation that relates to an order or interpretation previously issued by the FEA, with respect to which there was an exhaustion of administrative remedies, no issues will be considered on the current appeal that were raised in that prior proceeding.

(c) If an issue raised on an appeal of a remedial order is also being considered in connection with any other FEA proceeding, the FEA may consolidate such issues and consider them in the appellate proceeding for the remedial order.

§ 205.109 Timeliness.

(a) When the FEA has received all substantive information deemed necessary to process any appeal filed under this subpart, the FEA shall serve notice of that fact upon the appellant and all other persons who received notice of the proceeding pursuant to the provisions of § 205.104; and if the FEA fails to take action on the appeal within 90 days of serving such notice, the appellant may treat the appeal as having been denied in all respects and may seek judicial review thereof.

(b) Notwithstanding the provisions of paragraph (a) of this section, if the FEA fails to take action on the appeal within 120 days of the filing of the appeal, the appellant may treat it as having been denied in all respects and may seek judicial review thereof.

Subpart I—Stay

§ 205.120 Purpose and scope.

This subpart establishes the procedures for the application for and granting of a stay by the FEA. An application for a stay will only be considered—

(a) Incident to or pending an appeal from an order of the FEA;

(b) Incident to an application for an exception from the application of any FEA regulations, rulings, or generally applicable requirements when the stay sought is of the same regulation, ruling or generally applicable requirement from which the exception is sought; or

(c) Pending judicial review.

All FEA orders, regulations, rulings, and generally applicable requirements shall be complied with unless and until an application for a stay is granted.

§ 205.121 What to file.

(a) A person filing under this subpart shall file an "Application for Stay," which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.122 Where to file.

(a) An application for stay of an FEA order incident to an appeal from such order shall be filed with the Office of Exceptions and Appeals or with the appropriate Regional Office at the address provided in § 205.12.

(b) An application for stay of the application of any or all FEA regulations, rulings, or generally applicable requirements incident to an application for an exception therefrom shall be filed with the Office of Exceptions and Appeals or with the appropriate Regional Office as

specified in § 205.52 at the address provided in § 205.12.

(c) An application for stay of an FEA order or of the application of any FEA regulations, rulings or generally applicable requirements pending judicial review shall be filed with the office that issued the order of which judicial review is sought.

§ 205.123 Notice.

(a) When administratively feasible, the FEA shall notify each person readily identifiable by the FEA as one who would be aggrieved by the FEA action sought that the applicant has filed for a stay and that the FEA will accept written comment on the application.

(b) Any person submitting written comments to the FEA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9 (f), to the applicant. The person shall certify to the FEA that it has complied with the requirements of this paragraph. The FEA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 205.124 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the application and to the FEA action sought. Such facts shall include, but not be limited to, all information that relates to the satisfaction of the criteria in § 205.125(b).

(b) The application shall include a description of the proceeding incident to which the stay is being sought. This description shall contain a discussion of all FEA actions relevant to the proceeding.

(c) The applicant shall state whether he requests or intends to request that there be a conference regarding the application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference is held when it will be most beneficial. The request and the FEA's determination regarding it shall be made in accordance with Subpart M of this part.

§ 205.125 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit and accept submissions from third persons relevant to any application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference, if, in its discretion, it considers that such conference will advance its evaluation of the application.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request additional information is not submitted by the applicant, the FEA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application with prejudice.

(3) The FEA shall process applications for stay as expeditiously as possible. When administratively feasible, the FEA shall grant or deny the application for stay within 10 business days after receipt of the application.

(4) Notwithstanding the provision for notice to third parties in § 205.123(a), the FEA may make a decision on an application for stay prior to the receipt of written comments.

(b) *Criteria.* The grounds for granting a stay are: (1) A showing that irreparable injury will result in the event that the stay is denied;

(2) A showing that denial of the stay will result in a more immediate serious hardship or gross inequity to the applicant than to the other persons affected by the proceeding;

(3) A showing that it would be desirable for public policy or other reasons to preserve the *status quo ante* pending a decision on the merits of the appeal or exception;

(4) A showing that it is impossible for the applicant to fulfill the requirements of the original order; and

(5) A showing that there is a likelihood of success on the merits.

§ 205.126 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the FEA shall issue an order granting or denying the application.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the decision, and the terms and conditions of the stay.

(c) The FEA shall serve a copy of the order upon the applicant, any other person who participated in the proceeding and upon any other person readily identifiable by FEA as one who is aggrieved by such decision.

(d) The grant or denial of a stay is not an order of the FEA subject to administrative review.

(e) In its discretion and upon a determination that such is in accordance with the objectives of the regulations and the FEAA, or EPAA, the FEA may order a stay on its own initiative.

Subpart J—Modification or Rescission

§ 205.130 Purpose and scope.

This subpart establishes the procedures for the filing of an application for modification or rescission of an FEA order or interpretation. An application for modification or rescission is a summary proceeding that will be initiated only if the criteria described in § 205.135(b) are satisfied.

§ 205.131 What to file.

(a) A person filing under this subpart shall file an "Application for Modification (or Rescission)", which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 205.9 (f) shall apply.

§ 205.132 Where to file.

(a) When the order or interpretation sought to be modified or rescinded was issued by the FEA National Office, the application shall be filed with the Office of Exceptions and Appeals at the address provided in § 205.12.

(b) When the order or interpretation sought to be modified or rescinded was issued by a Regional Office, the application shall be filed with that Regional Office at the address provided in § 205.12.

§ 205.133 Notice.

(a) The applicant shall send by United States mail a copy of the application and any subsequent amendments or other documents relating to the application, from which confidential information has been deleted in accordance with § 205.9 (f), to each person who is reasonably ascertainable by the applicant as a person who will be aggrieved by the FEA action sought, including persons who participated in the prior proceeding. The copy of the application shall be accompanied by a statement that the person may submit comments regarding the application to the FEA office with which the application was filed within 10 days. The application filed with the FEA shall include certification to the FEA that the applicant has complied with the requirements of this paragraph and shall include the names and addresses of each person to whom a copy of the application was sent.

(b) Notwithstanding paragraph (a) of this section, if an applicant determines that compliance with paragraph (a) of this section would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and possible to notify; and

(2) Include with the application a description of the persons or class or classes of persons to whom notice was not sent.

The FEA may require the applicant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the FEDERAL REGISTER.

(c) The FEA shall serve notice on any other person readily identifiable by the FEA as one who will be aggrieved by the FEA action sought and may serve notice on any other person that written com-

ments regarding the application will be accepted if filed within 10 days of service of that notice.

(d) Any person submitting written comments to the FEA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9 (f), to the applicant. The person shall certify to the FEA that it has complied with the requirements of this paragraph. The FEA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 205.134 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the requested action; and a full description of the pertinent provisions and relevant facts contained in any relevant documents. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the application shall be submitted to the FEA upon its request. A copy of the order or interpretation of which modification or rescission is sought shall be included with the application. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted.

(b) The applicant shall state whether he requests or intends to request that there be a conference regarding the application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference is held when it will be most beneficial. The request and the FEA's determination regarding it shall be made in accordance with subpart M of this part.

(c) The applicant shall fully describe the events, acts, or transactions that comprise the significantly changed circumstances, as defined in § 205.135(b)(2), upon which the application is based. The applicant shall state why, if the significantly changed circumstance is new or newly discovered facts, such facts were not or could not have been presented during the prior proceeding.

(d) The application shall include a discussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations and decisions on appeal and exception relied upon to support the action sought therein.

§ 205.135 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit and accept submissions from third persons relevant to any application for modification or rescission provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application for modification or rescission, the FEA may convene a conference, on its own initiative, if, in its discretion, it considers that such conference will advance its evaluation of the application.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the FEA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application with prejudice. If the applicant fails to provide the notice required by § 205.133, the FEA may dismiss the application without prejudice.

(3) *Failure to satisfy requirements.* (i) If the applicant fails to satisfy the requirements of paragraph (b)(1) of this section, the FEA shall issue an order denying the application. The order shall state the grounds for the denial.

(ii) The order denying the application shall become final within 10 days of its service upon the applicant, unless within such 10 day period an amendment to correct the deficiencies identified in the order is filed with the Office of Exceptions and Appeals or the appropriate Regional Office.

(iii) Within 10 days of the filing of such amendment, the FEA shall notify the applicant whether the amendment corrects the specified deficiencies. If the amendment does not correct the deficiencies, the notice shall be an order dismissing the application as amended. Such order shall be a final order of the FEA of which the applicant may seek judicial review.

(b) *Criteria.* (1) An application for modification or rescission of an order or interpretation shall be processed only if—

(i) The application demonstrates that it is based on significantly changed circumstances; and

(ii) The 30-day period within which a person may file an appeal has lapsed or, if an appeal has been filed, a final order has been issued.

(2) For purposes of this subpart, the term "significantly changed circumstances" shall mean—

(i) The discovery of material facts that were not known or could not have been known at the time of the proceeding and action upon which the application is based;

(ii) The discovery of a law, regulation, interpretation, ruling, order or decision on appeal or exception that was in effect at the time of the proceeding upon which the application is based and which, if such had been made known to the FEA, would have been relevant to the proceeding and would have substantially altered the outcome; or

(iii) There has been a substantial change in the facts or circumstances upon which an outstanding and continuing order or interpretation of the FEA affecting the applicant was issued, which change has occurred during the interval between issuance of such order or interpretation and the date of the application and was caused by forces or circumstances beyond the control of the applicant.

§ 205.136 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the FEA shall issue an order granting or denying the application.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order shall state that it is a final order of which the applicant may seek judicial review.

(c) The FEA shall serve a copy of the order upon the applicant, any other person who participated in the proceeding and upon any other person readily identifiable by the FEA as one who is aggrieved by such order.

§ 205.137 Timeliness.

(a) If the FEA fails to take action on any application filed under this subpart within 90 days of filing, the applicant may treat the application as having been denied in all respects and may seek judicial review thereof.

Subpart K—Rulings

§ 205.150 Purpose and scope.

This subpart establishes the criteria for the issuance of interpretative rulings by the General Counsel. All rulings shall be published in the FEDERAL REGISTER. Any person is entitled to rely upon such ruling, to the extent provided in this subpart.

§ 205.151 Criteria for issuance.

(a) A ruling may be issued, in the discretion of the General Counsel, whenever there have been a substantial number of inquiries with regard to similar factual situations or a particular section of the regulations.

(b) The General Counsel may issue a ruling whenever it is determined that it will be of assistance to the public in applying the regulations to a specific situation.

§ 205.152 Modification or rescission.

(a) A ruling may be modified or rescinded by:

(1) Publication of the modification or rescission in the FEDERAL REGISTER; or

(2) A rulemaking proceeding in accordance with Subpart L of this part.

(b) Unless and until a ruling is modified or rescinded as provided in paragraph (a) of this section, no person shall be subject to the sanctions or penalties stated in Subpart P of this part for actions taken in reliance upon the ruling, notwithstanding that the ruling shall thereafter be declared by judicial or

other competent authority to be invalid. Upon such declaration, no person shall be entitled to rely upon the ruling.

§ 205.153 Comments.

A written comment on or objection to a published ruling may be filed at any time with the General Counsel at the address specified in § 205.12.

§ 205.154 Appeal.

There is no administrative appeal of a ruling.

Subpart L—Rulemaking

§ 205.160 Purpose and scope.

(a) This subpart establishes the procedures that govern a rulemaking proceeding. The initiation of a rulemaking proceeding is within the sole discretion of the FEA.

(b) Rulemaking by the FEA shall be in accordance with the Administrative Procedure Act (5 U.S.C. 551, *et seq.* (1970)) and the FEAA.

§ 205.161 What to file.

(a) *Comments in connection with a rulemaking.* Any comments filed in connection with a rulemaking shall be filed in accordance with the instructions in the Notice of Proposed Rulemaking published in the FEDERAL REGISTER. Such comments shall be in writing and signed by the person filing them.

(b) *Petition for rulemaking.* (1) Any person may at any time file a petition regarding any FEA regulation or amendment thereto or, by letter, request that a rulemaking proceeding be instituted. Such petition or request shall be signed by the person filing it.

(2) Upon due consideration of a petition for rulemaking, expressly designated as such, the FEA shall either: (i) institute a rulemaking as proposed or as modified in its discretion; (ii) notify the petitioner in writing that it does not intend to institute a rulemaking as proposed or as modified and stating the reasons therefore; or (iii) notify the petitioner in writing that the matter is under continuing consideration and that no decision can be made at that time because of the inadequacy of available information, changing circumstances or other reasons as set forth therein.

§ 205.162 Where to file.

All comments filed in connection with a rulemaking shall be submitted in accordance with the instructions in the Notice of Proposed Rulemaking. Any other petition or request shall be filed with the FEA General Counsel at the address provided in § 205.12.

Subpart M—Conferences, Hearings, and Public Hearings

§ 205.170 Purpose and scope.

This subpart establishes the procedures for requesting and conducting an FEA conference, hearing, or public hearing. Such proceedings shall be convened in the discretion of the FEA, consistent with the requirements of the FEAA.

§ 205.171 Conferences.

(a) The FEA in its discretion may direct that a conference be convened, on its own initiative or upon request by a person, when it appears that such conference will materially advance the proceeding. The determination as to who may attend a conference convened under this subpart shall be in the discretion of the FEA, but a conference will usually not be open to the public.

(b) A conference may be requested in connection with any proceeding of the FEA by any person who might be aggrieved by that proceeding. The request may be made in writing or verbally, but must include a specific showing as to why such conference will materially advance the proceeding. The request shall be addressed to the FEA office that is conducting the proceeding.

(c) A conference may only be convened after actual notice of the time, place, and nature of the conference is provided to the person who requested the conference.

(d) When a conference is convened in accordance with this section, each person may present views as to the issue or issues involved. Documentary evidence may be presented at the conference, but will be treated as if submitted in the regular course of the proceedings. A transcript of the conference will not usually be prepared. However, the FEA in its discretion may have a verbatim transcript prepared.

(e) Because a conference is solely for the exchange of views incident to a proceeding, there will be no formal reports or findings unless the FEA in its discretion determines that such would be advisable.

§ 205.172 Hearings.

(a) The FEA in its discretion may direct that a hearing be convened, on its own initiative or upon request by a person, when it appears that such hearing will materially advance the proceeding. The determination as to who may attend a hearing convened under this subpart shall be in the discretion of the FEA, but a hearing will usually not be open to the public.

(b) A hearing may only be requested in connection with an application for an exception or an appeal. Such request may be by the applicant, appellant, or any other person who might be aggrieved by the FEA action sought. The request shall be in writing and shall include a specific showing as to why such hearing will materially advance the proceeding. The request shall be addressed to the FEA office that is considering the application for an exception or the appeal.

(c) The FEA will designate an agency official to conduct the hearing, and will specify the time and place for the hearing.

(d) A hearing may only be convened after actual notice of the time, place, and nature of the hearing is provided both to the applicant or appellant and to any other person readily identifiable by the FEA as one who will be aggrieved by the FEA action involved. The notice shall include, as appropirate:

(1) A statement that such person may participate in the hearing; or

(2) A statement that such person may request a separate conference or hearing regarding the application or appeal.

(e) When a hearing is convened in accordance with this section, each person may present views as to the issue or issues involved. Documentary evidence may be presented at the hearing, but will be treated as if submitted in the regular course of the proceedings. A transcript of the hearing will not usually be prepared. However, the FEA in its discretion may have a verbatim transcript prepared.

(f) The official conducting the hearing may administer oaths and affirmations, rule on the presentation of information, receive relevant information, dispose of procedural requests, determine the format of the hearing, and otherwise regulate the course of the hearing.

(g) Because a hearing is solely for the exchange of views incident to a proceeding, there will be no formal reports or findings unless the FEA in its discretion determines that such would be advisable.

§ 205.173 Public hearings.

(a) A public hearing shall be convened incident to a rulemaking:

(1) When the proposed rule or regulation is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses; or

(2) When the FEA determines that a public hearing would materially advance the consideration of the issue. A public hearing may be requested by any interested person in connection with a rulemaking proceeding, but shall only be convened on the initiative of the FEA unless otherwise required by statute.

(b) A public hearing may be convened incident to any proceeding when the FEA in its discretion determines that such public hearing would materially advance the consideration of the issue.

(c) A public hearing may only be convened after publication of a notice in the FEDERAL REGISTER, which shall include a statement of the time, place, and nature of the public hearing.

(d) Interested persons may file a request to participate in the public hearing in accordance with the instructions in the notice published in the FEDERAL REGISTER. The request shall be in writing and signed by the person making the request. It shall include a description of the person's interest in the issue or issues involved and of the anticipated content of the presentation. It shall also contain a statement explaining why the person would be an appropriate spokesperson for the particular view expressed.

(e) The FEA shall appoint a presiding officer to conduct the public hearing. An agenda shall be prepared that shall provide, to the extent practicable, for the

presentation of all relevant views by competent spokespersons.

(f) A verbatim transcript shall be made of the hearing. The transcript, together with any written comments submitted in the course of the proceeding, shall be made available for public inspection and copying in the public docket room, as provided in § 205.15.

(g) The information presented at the public hearing, together with the written comments submitted and other relevant information developed during the course of the proceeding, shall provide the basis for the FEA decision.

Subpart N—Complaints

§ 205.180 Purpose and scope.

This subpart establishes the procedures for the filing and consideration of complaints relating to alleged violations of the general regulations of Part 210, the allocation regulations of Part 211, the price regulations of Part 212 of this chapter and/or the low sulphur regulations of Part 215 of this chapter, or any ruling or order issued thereunder.

§ 205.181 What to file.

(a) A person filing under this subpart shall file a "Complaint," which should be clearly labeled as such both on the complaint and on the outside of the envelope in which the complaint is transmitted, and shall be in writing and signed by the person filing the complaint. The complainant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart. Verbal complaints that otherwise satisfy the requirements of this subpart will be accepted, but written verification may be requested by the FEA.

(b) The requirements of this section and § 205.183 may be satisfied by filing a form FEA–1.

§ 205.182 Where to file.

A complaint shall be filed with the FEA office specified in § 205.13 at the address provided in § 205.12.

§ 205.183 Contents.

The complaint shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the complaint and to the FEA action sought. Such facts shall include the names and addresses of all persons involved (if reasonably ascertainable) and a description of the events that led to the complaint. It shall include a statement describing the regulation, ruling, order or interpretation that allegedly has been violated.

§ 205.184 FEA evaluation.

(a) *Processing.* The FEA may initiate an investigation of any statement in a complaint and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit and accept submissions relevant to a complaint from third persons to the proceeding. In evaluating a complaint, the FEA may consider any other source of information. The FEA on its own initiative may order a conference if, in its discretion, it considers such conference will advance its evaluation of the complaint.

(b) *Confidentiality of information.* Information received in the investigation of a complaint, including the identity of the complainant and any other person who provides information during the proceeding, shall remain confidential under the investigatory file exception to public disclosure unless, upon proper notice to the complainant and an opportunity to respond, the FEA determines that disclosure would be in the public interest.

§ 205.185 Decision.

After consideration of a written complaint and other relevant information received or obtained during the proceeding, the FEA may:

(a) Issue a notice of probable violation or remedial order for immediate compliance in accordance with the provisions of Subpart O of this part;

(b) Determine that no violation has occurred or that a notice of probable violation or a remedial order for immediate compliance would not be appropriate; or

(c) Take such other action as it deems appropriate.

Subpart O—Notice of Probable Violation and Remedial Order

§ 205.190 Purpose and scope.

(a) This subpart establishes the procedures for determining the nature and extent of violations of the FEA regulations and the procedures for issuance of a notice of probable violation, a remedial order or a remedial order for immediate compliance.

(b) When any report required by the FEA or any audit or investigation discloses, or the FEA otherwise discovers, that there is reason to believe a violation of any provision of this chapter, or any order issued thereunder, has occurred, is continuing or is about to occur, the FEA may conduct proceedings to determine the nature and extent of the violation and may issue a remedial order thereafter. The FEA may commence such proceeding by serving a notice of probable violation or by issuing a remedial order for immediate compliance.

§ 205.191 Notice of probable violation.

(a) The FEA may begin a proceeding under this subpart by issuing a notice of probable violation if the FEA has reason to believe that a violation has occurred, is continuing, or is about to occur.

(b) Within 10 days of the service of a notice of probable violation, the person upon whom the notice is served may file a reply with the FEA office that issued the notice of probable violation at the address provided in § 205.12. The FEA may extend the 10-day period for good cause shown.

(c) The reply shall be in writing and signed by the person filing it. The reply shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the notice of probable violation. Such facts shall include a complete statement of the business or other reasons that justify the act or transaction, if appropriate; a detailed description of the act or transaction; and a full discussion of the pertinent provisions and relevant facts reflected in any documents submitted with the reply. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the reply. When the notice of probable violation pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information regarding the entire transaction shall be submitted.

(d) The reply shall include a discussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations, and decisions on appeals and exceptions relied upon to support the particular position taken.

(e) The reply should indicate whether the person requests or intends to request a conference regarding the notice. Any request not made at the time of the reply shall be made as soon thereafter as possible to insure that the conference is held when it will be most beneficial. A request for a confernce must conform to the requirements of Subpart M of this part.

(f) If a person has not filed a reply with the FEA within the 10-day period provided, and the FEA has not extended the 10-day period, the person shall be deemed to have conceded the accuracy of the factual allegations and legal conclusions stated in the notice of probable violation.

(g) If the FEA finds, after the 10-day period provided in § 205.191(b), that no violation has occurred, is continuing, or is about to occur, or that for any reason the issuance of a remedial order would not be appropriate, it shall notify, in writing, the person to whom a notice of probable violation has been issued that the notice is rescinded.

§ 205.192 Remedial order.

(a) If the FEA finds, after the 10-day period provided in § 205.191(b), that a violation has occurred, is continuing, or is about to occur, the FEA may issue a remedial order. The order shall include a written opinion setting forth the relevant facts and the legal basis of the remedial order.

(b) A remedial order issued under this section shall be effective upon issuance, in accordance with its terms, until stayed, suspended, modified, or rescinded. A remedial order shall remain in effect notwithstanding the filing of an application to modify or rescind it under Subpart J of this part.

(c) A remedial order may be referred at any time to the Department of Justice for appropriate action in accordance with Subpart P of this part.

§ 205.193 Remedial order for immediate compliance.

(a) Notwithstanding the provisions of §§ 205.191 and 205.192, the FEA may issue a remedial order for immediate compliance, which shall be effective upon

issuance, and until rescinded or suspended, if it finds:

(1) There is a strong probability that a violation has occurred, is continuing or is about to occur;

(2) Irreparable harm will occur unless the violation is remedied immediately; and

(3) The public interest requires the avoidance of such irreparable harm through immediate compliance and waiver of the procedures afforded under §§ 205.191 and 205.192.

(b) A remedial order for immediate compliance shall be served promptly upon the person against whom such order is issued by telex or telegram, with a copy served by registered or certified mail. The copy shall contain a written statement of the relevant facts and the legal basis fo rthe remedial order for immediate compliance, including the findings required by paragraph (a) of this section.

(c) The FEA may rescind or suspend a remedial order for immediate compliance if it appears that the criteria set forth in paragraph (a) of this section are no longer satisfied. When appropriate, however, such a suspension or rescission may be accompanied by a notice of probable violation issued under § 205.191.

(d) If at any time in the course of a proceeding commenced by a notice of probable violation the criteria set forth in paragraph (a) of this section are satisfied, the FEA may issue a remedial order for immediate compliance, even if the 10-day period for reply specified in § 205.191(b) has not expired.

(e) At any time after a remedial order for immediate compliance has become effective, the FEA may refer such order to the Department of Justice for appropriate action in accordance with Subpart P of this part.

§ 205.194 Remedies.

A remedial order or a remedial order for immediate compliance may require the person to whom it is directed to roll back prices, to refund amounts paid to such person that are in excess of the amount permitted under Part 212 of this chapter, or to take such other action as the FEA determines is necessary to eliminate or to compensate for the effects of a violation.

§ 205.195 Appeal.

(a) No notice of probable violation issued pursuant to this subpart shall be deemed to be an action of which there may be an administrative appeal pursuant to Subpart H.

(b) Any person to whom a remedial order or a remedial order for immediate compliance is issued under this subpart may file an appeal with the FEA Office of Exceptions and Appeals or with the appropriate Regional Office in accordance with Subpart H of this part. The appeal must be filed within 10 days of service of the order from which the appeal is taken.

Subpart P—Investigations, Violations, Sanctions, and Judicial Actions

§ 205.200 Investigations.

(a) *General.* The FEA may, in its discretion, initiate investigations relating to compliance by any person with any rule, regulation, or order promulgated by the FEA, any decree of court relating thereto, or any other agency action. The FEA encourages voluntary cooperation with its investigations. When the circumstances warrant, however, the FEA may issue subpoenas in accordance with and subject to § 205.8. The FEA may conduct investigative conferences and hearings in the course of any investigation in accordance with Subpart M of this part.

(b) *Investigators.* Investigations will be conducted by representatives of the FEA who are duly designated and authorized for such purposes. Such representatives have the authority to administer oaths and receive affirmations in any matter under investigation by the FEA.

(c) *Notification.* Any person who is under investigation by the FEA in accordance with this section and who is requested to furnish information or documentary evidence shall be notified as to the general purpose for which such information or evidence is sought.

(d) *Termination.* When the facts disclosed by an investigation indicate that further action is unnecessary or unwarranted at that time, the investigative file will be closed without prejudice to further investigation by the FEA at any time that circumstances so warrant.

(e) *Confidentiality.* Information received in an investigation under this section, including the identity of the person investigated and any other person who provides information during the investigation, shall, unless otherwise determined by the FEA, remain confidential under the investigatory file exception to public disclosure.

§ 205.201 Violations.

Any practice that circumvents or contravenes or results in a circumvention or contravention of the requirements of any provision of this chapter or any order issued pursuant thereto is a violation of the FEA regulations stated in this chapter.

§ 205.202 Sanctions.

(a) *General.* Any person who violates any provision of this chapter or any order issued pursuant thereto shall be subject to penalties and sanctions as provided herein.

(1) The provisions herein for penalties and sanctions shall be deemed cumulative and not mutually exclusive.

(2) Each day that a violation of the provisions of this chapter or any order issued pursuant thereto continues shall be deemed to constitute a separate violation within the meaning of the provisions of this chapter relating to criminal fines and civil penalties.

(b) *Criminal penalties.* Any person who willfully violates any provision of this chapter or any order issued pursuant thereto shall be subject to a fine of not more than $5,000 for each violation. Criminal violations are prosecuted by the Department of Justice upon referral by the FEA.

(c) *Civil penalties.* (1) Any person who violates any provision of this chapter or any order issued pursuant thereto shall be subject to a civil penalty of not more than $2,500 for each violation. Actions for civil penalties are prosecuted by the Department of Justice upon referral by the FEA.

(2) When the FEA considers it to be appropriate or advisable, the FEA may compromise and settle and collect civil penalties.

(d) *Other penalties.* Willful concealment of material facts, or false or fictitious or fraudulent statements or representations, or willful use of any false writing or document containing false, fictitious or fraudulent statements pertaining to matters within the scope of the EPAA or FEAA by any person shall subject such person to the criminal penalties provided in 18 U.S.C. 1001 (1970).

§ 205.203 Injunctions.

Whenever it appears to the Administrator of the FEA, or his delegates, that any person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of any regulation or order issued under this chapter, the Administrator, or his delegate, may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices and, upon a proper showing, a temporary restraining order or a preliminary restraining order or a preliminary or permanent injunction shall be granted without bond. The relief sought may include a mandatory injunction commanding any person to comply with any such order or regulation, or the return of money received in violation of any such order or regulation.

Subpart Q—State Offices

§ 205.210 Purpose and scope.

This subpart establishes the procedures that govern applications for assignment under the state set-aside system, and applications for assignment by new end-users.

§ 205.211 Who may apply.

(a) *Set-aside.* A wholesale purchaser-consumer or an end-user, as defined in § 211.51, seeking an assignment from the state set-aside system as provided by § 211.17 to meet a hardship or emergency requirement, and a wholesale purchaser-reseller, as defined in § 211.51, seeking an assignment to enable him to supply such wholesale purchaser-consumers and end-

users, may apply for an assignment under the state set-aside system.

(b) *Assignment.* A new end-user may apply for an assignment of an allocated product or a supplier.

§ 205.212 What to file.

(a) *Set-aside.* Application for assignment from a state set-aside system may be by the appropriate FEA form, by other written communication or by verbal, including telephonic request.

(b) *Assignment.* Applications for assignment by new end-users shall satisfy the requirements of Subpart C of this part.

(c) If any applicant wishes to claim confidential treatment for any information contained in an application or other documents filed under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.213 Where to file.

(a) *Set-aside.* All applications shall be filed with, or verbal requests made to, the State Office located in the State in which the product will be physically delivered and in which the applicant is located.

(b) *Assignment.* All applications for assignment shall be filed with the State Office located in the State in which the product will be physically delivered.

§ 205.214 Notice.

(a) *Set-aside.* The State Office may notify any person that it determines will be aggrieved by the assignment that comments regarding the application will be accepted.

(b) *Assignment.* The notice requirements of Subpart C of this part shall apply.

§ 205.215 Contents.

(a) *Set-aside.* (1) The State Office shall insure that an applicant provide sufficient information in an application for an assignment from the state set-aside system, whether such application is in writing or by verbal request, to enable the State Office to determine that the proposed allocation satisfies the objectives of the EPAA and part 211 of this chapter. With respect to verbal applications, the State Offices shall establish internal procedures for the recording and verification of any information provided by an applicant. At a minimum, the information received by the State Office should be that required by form FEA–20. Such information shall include, but not be limited to:

(i) The identification of any previous assignment order from the state set-aside system that was issued to the applicant or to any person that controls or is controlled by the applicant; and

(ii) A statement that the applicant's base period supplier or new supplier is unable to supply his requirements or, if the applicant does not have a supplier, a statement that he has contacted two suppliers that could supply the allocated product and the identification of those suppliers.

(2) If the applicant is a wholesale purchaser-reseller, the application shall contain a description of the wholesale purchaser-consumers and end-users that will be supplied and their hardship and emergency requirements.

(b) *Assignment.* Applications for an assignment by new end-users shall conform to the requirements of Subpart C of this part.

§ 205.216 State office evaluation.

(a) *Set-aside*—(1) *Processing.* (i) The State Office may initiate an investigation of any statement in an application, whether written or verbal, and utilize in its evaluation any relevant facts obtained by such investigation. The State Office may solicit and accept submissions from third persons relevant to any application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the State Office may consider any other source of information. The State Office on its own initiative may convene a conference, if, in its discretion, it considers that a conference will advance its evaluation of the application.

(ii) If the State Office determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the State Office may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the State Office may dismiss the application with prejudice.

(2) *Criteria.* (i) There shall be assignments only to wholesale purchaser-consumers and end-users located within the State who demonstrate hardship or emergency requirements (or to wholesale purchaser-resellers to enable them to supply such persons) with respect to propane, middle distillate, motor gasoline and residual fuel oil (except that used by utilities or as bunker fuel for maritime shipping).

(ii) Any assignment ordered by a State Office shall conform to the requirements of section 4(b)(1) of the EPAA and 10 CFR 211.17.

(b) *Assignment*—(1) *Processing.* (i) The State Office may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The State Office may solicit and accept submissions from third persons relevant to any application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the State Office my consider any other source of information. The State Office on its own initiative may convene a conference, if, in its discretion, it considers that a conference will advance its evaluation of the application.

(ii) If the State Office determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the State Office may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the State Office may dismiss the application with prejudice.

(2) *Criteria.* (i) The State Office shall consider, among other relevant criteria, the quantity of allocated product previously sold or purchased at the end-user's site, the projected volume as calculated prior to construction of the end-user's site, the volume sold or purchsed by other similar end-users operating in circumstances similar to applicant's and the criteria in § 211.13(c)(1).

(ii) To be recommended for approval by a State Office, an application must conform to the requirements of the EPAA and 10 CFR Part 211.

(3) *Recommendations to the FEA.* (i) The State Office shall recommend in writing to the FEA those applications for assignment, other than applications for assignment from the state set-aside system, that it has determined warrant the issuance of an assignment order in accordance with Subpart C of this part, stating therein the reasons for the recommendation. The State Office may recommend that the application be approved as filed or with modification. Included with such recommendation shall be copies of all documents relevant to the proceeding, including the application.

(ii) Upon consideration of the recommendation and other relevant information received or obtained during the proceeding, the FEA will enter an appropriate order.

§ 205.217 Decision and order.

(a) *Set-aside.* (1) Upon consideration of the application, whether written or verbal, and other relevant information received or obtained during the proceeding, the State Office shall issue an order (for purposes of this section, an order may be the "authorizing document" referred to in § 211.17(e) of this chapter) denying or granting the application.

(2) The order shall include a brief written statement summarizing the factual and legal basis upon which the order was issued. The order shall provide that any person aggrieved thereby may file an appeal with the State Office in accordance with the procedures of such office.

(3) The order shall state that it is effective upon issuance and shall expire within 10 days of its issuance unless the applicant presents his copy of the order to the prime supplier or a designated local representative of such prime supplier within those 10 days.

(4) The State Office shall serve a copy of the order upon the applicant, the designated state representative of the prime supplier assigned to the applicant and any other person readily identifiable as one who will be aggrieved by said order.

(b) *Assignment.* (1) Upon consideration of an application and other relevant information received or obtained during the proceeding, the State Office may recommend to the FEA that such application be approved either as filed or with

modification, or, as provided in Part 211 of this chapter, may deny the application in whole or in part.

(2) The order denying an application for assignment shall include a brief written statement summarizing the factual and legal basis upon which it was issued. The order shall provide that any person aggrieved thereby may file an appeal with the State Office in accordance with its appeals procedures.

(3) The State Office shall serve a copy of the order upon the applicant and any other person who participated in the proceeding or who is readily identifiable by the State Office as a person who is aggrieved by the order.

§ 205.218 Timeliness.

(a) *Set-aside.* (1) If the State Office fails to take action on an application, whether verbal or written, within 10 days of filing (if the application is verbal, it shall be considered to be filed on the date that it is verbally communicated to the State Office), the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

(2) Notwithstanding paragraph (a) of this section, the State Office may temporarily suspend the running of the 10-day period if it finds that additional information is necessary or that the application was improperly filed. The temporary suspension shall remain in effect until the State Office serves upon the person notice that the additional information has been received and accepted or that the application has been properly filed, as appropriate. Unless otherwise provided in writing by the State Office, the 10-day period shall resume running on the first day that is not a Saturday, Sunday, or Federal legal holiday and that follows the day on which the State Office serves upon the person the notice described in this paragraph.

(b) *Assignment.* If the State Office fails to take action on any application filed under this subpart within 90 days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 205.219 Appeal.

(a) *Set-aside.* Any person aggrieved by a state set-aside assignment order issued by the State Office may file an appeal with the State Office in accordance with the procedures established by such office. The appeal shall be filed within 15 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

(b) *Assignment.* (1) Any person aggrieved by an order that denies an application for assignment may file an appeal with the State Office in accordance with the procedures established by such office. The appeal shall be filed within 30 days of service of the order from which the appeal taken. There has not been an exhaustion of administrative remedies until an appeal has been filed and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

(2) The appeal of the denial by the FEA of a State Office's recommendation that an application for assignment be granted shall be in accordance with the procedures stated in Subpart H of this part.

§ 205.220 Establishment of procedures.

(a) The establishment of procedures for the appeal of orders of assignment under the state set-aside system, the stay of such orders, the appeal of an order denying an application for assignment, or any other procedures shall be conducted in a manner designed to give as much notice of the procedures and as much opportunity for participation in the establishment thereof as is feasible. The notice of a proposal to establish procedures shall be published in a sufficient number of newspapers of statewide circulation calculated to receive the widest possible attention, shall be posted in a prominent location in the State Office and shall be widely circulated within the State by other appropriate methods. The State shall provide an opportunity for interested persons to present their views, including oral presentations, at least ten days before the proposed procedures become effective.

(b) Any appellate procedures established shall provide, at a minimum, for notice to persons aggrieved by the order that is the subject of the appeal, a final order that signals the exhaustion of administrative remedies and fully states the facts and legal basis for the order, and mandatory service of the order upon persons who participated in the appellate proceeding and upon any other persons readily identifiable by the State Office as one who is aggrieved by such order.

Subpart R—Office of Private Grievances and Redress

§ 205.230 Purpose and scope.

(a) This subpart establishes the procedures for the FEA Office of Private Grievances and Redress.

(b) The Office shall receive and consider petitions that seek special redress, relief or other extraordinary assistance apart from or in addition to the other proceedings described in this part. Such petitions shall include those seeking special assistance based on an assertion that the FEA or a State Office is not complying with the FEAA, EPAA, FEA regulations, orders or rulings, or otherwise.

(c) The Office also shall receive applications for exemption filed in accordance with Subpart E of this part. Such applications shall be processed by the Office in accordance with that subpart. Therefore the procedures provided in this subpart shall only be applicable to "Petitions for Special Redress or Other Relief."

§ 205.231 Who may file.

Any person aggrieved by the regulations contained in 10 CFR Ch. II may file a petition under this subpart.

§ 205.232 What to file.

The person aggrieved shall file a "Petition for Special Redress or Other Relief," which shall be clearly labeled as such both on the petition and on the outside of the envelope in which it is transmitted, and shall be in writing and signed by the person filing it. The petition shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

§ 205.233 Where to file.

A petition shall be filed with the FEA Office of Private Grievances and Redress at the address provided in § 205.12.

§ 205.234 Notice.

(a) The person filing the petition, except a petition that asserts that the FEA or a State Office is not complying with the FEAA, EPAA, FEA regulations, orders or rulings or otherwise, shall send by United States mail a copy of the petition and any subsequent amendments or other documents relating to the petition, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to each person who is reasonably ascertainable by the petitioner as a person who will be aggrieved by the FEA action sought. The copy of the petition shall be accompanied by a statement that the person may submit comments regarding the petition to the Office of Private Grievances and Redress within 10 days. The copy filed with the Office shall include certification to the FEA that the requirements of this paragraph have been complied with and shall include the names and addresses of each person to whom a copy of the petition was sent.

(b) Notwithstanding the provisions of paragraph (a) of this section, if the petitioner determines that compliance with paragraph (a) of this section would be impracticable, the petitioner shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and practicable to notify; and

(2) Include with the petition a description of the persons or class or classes of persons to whom notice was not sent.

The FEA may require the petitioner to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the FEDERAL REGISTER.

(c) The FEA shall serve notice on any other person readily identifiable by the FEA as one who will be aggrieved by the FEA action sought that written comments regarding the petition will be accepted if filed within 10 days of service of that notice.

(d) Any person submitting written comments to the FEA regarding a petition filed under this subpart shall send a

copy of the comments, or a copy from from which confidential information has been deleted in accordance with § 205.9 (f), to the petitioner. The person shall certify to the FEA that it has complied with the requirements of this paragraph. The FEA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 205.235 Contents.

The petition small contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the petition and to the FEA action sought. Such facts shall include, but not be limited to, the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction, if applicable; a description of the acts or transactions that would be affected by the requested action; a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the petition, and an explanation of how the petitioner is aggrieved by the regulation. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the petition shall be submitted to the FEA upon its request. When the petition pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction must be submitted.

§ 205.236 FEA evaluation of request.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in a petition and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit and accept submissions from third persons relevant to any petition provided that the petitioner is afforded an opportunity to respond to all third person submissions. In evaluating a petition, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference, if, in its discretion, it considers that such will advance its evaluation of the petition.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if, upon request, the necessary additional information is not submitted, the FEA may dismiss the petition without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the petition with prejudice. If the petitioner fails to provide the notice required by § 205.234, the FEA may dismiss the petition without prejudice.

(b) *Criteria.* (1) The FEA will dismiss without prejudice a "Petition for Special Redress or Other Relief" if it determines that another more appropriate proceeding is provided by this part. Upon that determination, the Office will transmit the petition to the FEA Office responsible for such other proceeding and the petition thereafter will be processed as an application or request for such other FEA action. The petitioner shall be given a reasonable period of time to conform the petition to the procedural requirements of the other proceeding, if necessary.

(2) The FEA will dismiss with prejudice a "Petition for Special Redress or Other Relief" filed by a person who has exhausted his administrative remedies with respect to any proceeding provided by this part, as provided in Subpart H, and received a final order therefrom that deals with the same issue or transaction; and, similarly, will dismiss with prejudice such petition if filed by a person who has not exhausted his administrative remedies as provided in this part.

§ 205.237 Decision and response.

(a) Upon consideration of the petition and other relevant information received or obtained during the proceeding, the FEA will issue an order granting or denying the petition, except a petition regarding the FEA or a State Office. The latter petition will be considered to be advice only and no order shall be issued in response thereto.

(b) The order denying or granting the petition shall include a written statement setting forth the relevant facts and legal basis for the order. Such order shall state that it is a final order of the FEA of which the petitioner may seek judicial review.

PART 210—GENERAL ALLOCATION AND PRICE RULES

Subpart F [Deleted]

2. Part 210 of this chapter is amended by deleting Subpart F—Violations, Sanctions, and Judicial Action in its entirety.

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

3. Section 211.10 is amended in paragraph (b) by deleting the last sentence in that paragraph and inserting the following in lieu thereof:

§ 211.10 Supplier's method of allocation.

* * * * *

(b) *Allocation fraction.* * * * Suppliers with two or more distribution subsystems or regions independent of one another may apply to the FEA National Office, in accordance with Subpart G of Part 205 of this chapter, for permission to use multiple allocation fractions whenever use of a single allocation fraction would be impracticable or inconsistent with the objectives of the program.

* * * * *

4. Section 211.12 is amended by revising paragraphs (e)(2)(ii), (e)(3), (f)(2) and (h) to read as follows:

§ 211.12 Purchaser's allocation entitlement.

* * * * *

(e) *New wholesale purchasers.* * * *

(2) *New wholesale purchaser-reseller.* * * *

(ii) Wholesale purchaser-resellers without a base period supplier or a new supplier as provided in § 211.10(e)(1) must apply to FEA for assignment to a supplier and for assignment of a base period volume in accordance with Subpart C of Part 205 of this chapter.

* * * * *

(3) *Assignments.* Any wholesale purchaser which does not have a base period supplier or a new supplier as provided in § 211.10(e)(1) (including all wholesale purchaser-consumers which cannot locate a supplier under paragraph (e)(1) of this section) or whose base period supplier(s) or new supplier as provided in § 211.10(e)(1) is unable to supply it with sufficient amounts of allocated product may apply to FEA as provided in Subpart C of Part 205 of this chapter to be assigned a supplier and a base period volume on a temporary or permanent basis.

* * * * *

(f) *New end-users.* * * *

(2) If the supplier and new end-user cannot agree on an allocation requirement for the end-user or if the end-user cannot locate a supplier, the end-user may apply to the appropriate State Office in accordance with the procedures specified in Subpart Q of Part 205 of this chapter. In this event, the new end-user shall certify to the State Office documented evidence justifying the proposed allocation requirement as normal and reasonable for the intended use.

* * * * *

(h) *Curtailment of certain energy sources by Federal or State rule or order.* any end-user or wholesale purchaser-consumer which has been denied access to a source of energy other than an allocated product as a consequent of curtailment by, or pursuant to, a plan filed in compliance with a rule or order of a Federal or State agency, or where the end-user's or wholesale purchaser-consumer's supply of such fuel is unobtainable by reason of an abandonment of service permitted or ordered by a Federal or State agency may apply to the FEA, under the provisions of this section, as a new purchaser for an allocated product, provided, however, that a wholesale purchaser which is an interruptible customer for a source of energy other than an allocated product shall continue its base period supplier/purchaser relationships for an allocated product. Such application shall be in accordance with Subpart C of Part 205 of this chapter.

5. Section 211.13 is amended by revising paragraph (b)(3)(i), the first sentence in paragraph (c)(1), and paragraph (c)(2), to read as follows:

§ 211.13 Adjustments to base period volume.

* * * * *

(b) *Adjustments for unusual growth.* * * *

(3) *Wholesale purchaser initiated unusual growth application.* (i) Any wholesale purchaser which does not receive an adjustment under paragraph (b)(1) of this section or which disputes the adjustment made thereunder by one of its suppliers may apply to that supplier for an adjustment of its base period volume to compensate for unusual growth in 1973

in accordance with Subpart B of Part 205 of this chapter.

* * * * *

(c) *Adjustments for changed circumstances*—(1) *Wholesale purchasers.* Wholesale purchasers may apply to the FEA pursuant to Subpart B of Part 205 of this chapter for adjustments to their base period use for changed circumstances since January 1, 1973, which have not been reflected in an adjustment under paragraph (b) of this section. * * *

(2) *End-users.* End-users whose allocation level is a percentage of base period use may apply to the appropriate State Office to receive an adjustment to their base period volume for changed circumstances after January 1, 1974. The State Office shall process the application for adjustment and make recommnedations to the FEA in accordance with the procedures specified in Subpart Q of Part 205 of this chapter.

* * * * *

6. Section 211.17 is amended in paragraphs (d) and (e), and the first two sentences of paragraph (f) are revised to read as follows:

§ 211.17 State set-aside.

* * * * *

(d) *State action.* (1) All hardship and emergency applications for assignment from the State set-aside system and appeals thereof shall be filed with and resolved by the appropriate State Office in accordance with Subpart Q of Part 205 of this chapter. Applicants shall identify their existing supplier, or if they do not have a supplier, at least two suppliers which the applicant has contacted and which could provide the allocated product. The final decision of a State Office as embodied in the order issued at the completion of any appellate proceeding regarding an application for assignment due to hardship or emergency requirements shall be subject to judicial review as prescribed by Section 211 of the Economic Stabilization Act of 1970.

(2) If a State Office approves a hardship or emergency application, it shall assign a prime supplier and amount from the state set-aside to the applicant. To determine an appropriate prime supplier, the State Office may coordinate with the State representatives of the prime suppliers.

(e) *Authorizing document.* The State Office shall issue to an applicant granted an assignment a document authorizing such assignment. A copy of the authorizing document (or a summary) shall also be provided by the State Office to the designated State representative of the prime supplier assigned to the applicant. An authorizing document issued by the State Office pursuant to this section is effective upon issuance and represents a call on the prime supplier's set-aside volumes for the month of issuance, irrespective of the fact that delivery of the product subject to the authorizing document cannot be made until the following month. An authorizing document not presented to either the prime supplier or a designated local distributor of the prime supplier within ten (10) days of issuance shall expire after that time.

* * * * *

(f) *Supplier's responsibilities.* Suppliers shall provide the assigned amount of an allocated product to an applicant when presented with an authorizing document. The authorizing document shall entitle the applicant to receive product from any convenient local distributor of the prime supplier from which the state set-aside assignment has been made. * * *

7. Section 211.27 is amended by deleting the third sentence and inserting the following in lieu thereof:

§ 211.27 Construction industry.

* * * Notwithstanding the provisions of § 211.27(f), if an end-user planning to award a construction contract cannot locate a supplier or if the supplier and the end-user are unable to agree upon the base period use needed to complete the construction project, the end-user may apply to the appropriate FEA Regional Office, at the address provided in § 205.12, for assignment of a supplier and/or for a base period use in accordance with Subpart C of Part 205 of this chapter. * * *

8. Section 211.29 is amended by deleting the introductory paragraph and inserting the following in lieu thereof:

§ 211.29 Synthetic natural gas production.

Notwithstanding any inconsistent provision of §§ 211.12 and 211.13, a firm which purchases crude oil and allocated products for use as feedstock in a synthetic natural gas plant which has requirements that exceed its base period volume or which has no base period volume may seek an adjustment of its base period volume or establishment of a base period volume only upon application to the FEA National Office in accordance with Subparts B or C, respectively, of Part 205 of this chapter. Firms which plan to construct new synthetic natural gas plants after May 1, 1974 or enter into a plant expansion program should apply to the FEA for assignment of a supplier and a base period volume prior to commencing construction of such facilities. The FEA shall, in granting or denying such adjustment or assignment, consider along with the criteria listed in §§ 205.25(b) and 205.35(b), the following factors:

* * * * *

9. Section 211.51 is amended by adding in the appropriate alphabetical order, a definition of "FEA" to read as follows:

§ 211.51 General definitions.

* * * * *

"FEA" means the Federal Energy Administration (the successor to the Federal Energy Office), the National or Regional Office thereof, or the delegate of either.

* * * * *

10. Section 211.65 is amended in the second sentence of paragraph (b)(1) and in the third sentence of paragraph (h)(1) to read as follows:

§ 211.65 Method of allocation.

* * * * *

(b) *Future refining capacity.* (1) * * * Each refiner-buyer that wishes to receive an allocation under this paragraph (b) shall apply to FEA in accordance with the procedures established in Subpart G of Part 205 of this chapter.

* * * * *

(h) *Failure to negotiate transactions.* (1) * * * A refiner-buyer that is unable to negotiate a contract to purchase crude oil within 15 days of the publication of the notice specified in paragraph (e) of this section may request after the expiration of such 15 day period in accordance with the procedures established under Subpart G of Part 205 of this chapter, that the FEA direct one or more refiner-sellers to sell an acceptable type of crude oil to such refiner-buyer.

* * * * *

11. Section 211.66 is amended by revising paragraph (a) to read as follows:

§ 211.66 Reporting requirements.

(a) All matters pertaining to the allocation of crude oil and the refinery yield control program shall be addressed to the FEA in accordance with § 205.12, unless otherwise provided.

* * * * *

12. Section 211.87 is amended in paragraph (a) by deleting the first sentence and inserting the following in lieu thereof; and by revising paragraphs (b) and (d) to read as follows:

§ 211.87 Procedures and reporting requirements.

(a) All owners of storage facilities (or operators thereof) with a capacity in excess of 500,000 gallons which store propane shall report to the FEA National Office, at the address provided in § 205.12, the total volume, locations, and ownership of propane in storage including that owned by the storage owner or operator of affiliated companies, and that held in transit. * * *

(b) All applications for adjustment or assignment shall be filed with the appropriate State Office or FEA Regional Office in accordance with the procedures specified in Subparts B and C, respectively, of Part 205 of this chapter. All other matters pertaining to the allocation of propane shall be addressed to the appropriate FEA Regional Office at the address provided in § 205.12.

* * * * *

(d) An application for an assignment from the state set-aside system, as provided in § 211.17, based on hardship or emergency requirements is to be filed with the appropriate State Office in accordance with the procedures stated in Subpart Q of Part 205 of this chapter.

* * * * *

13. Section 211.96 is amended in paragraph (b) by deleting the second sentence and inserting the following in lieu thereof:

§ 211.96 Method of allocation.

* * * * *

(b) * * * New wholesale purchaser-consumers must apply to the FEA National Office for an assignment pursuant to § 211.12(e)(3) in order to establish a supplier/purchaser relationship and a base period volume. Such applications shall be filed in accordance with Subpart C of Part 205 of this chapter.

* * * * *

14. Section 211.97 is amended by revising paragraph (b) to read as follows:

§ 211.97 Procedures and reporting requirements.

* * * * *

(b) All applications for adjustment and assignment of butane and natural gasoline shall be filed with the FEA National Office in accordance with Subparts B and C, respectively, of Part 205 of this chapter. All other matters pertaining to the allocation of butane and natural gasoline shall be addressed to the FEA National Office at the address provided in § 205.12, unless otherwise specified.

* * * * *

15. Section 211.106 is amended by deleting the first sentence in paragraph (b)(2) and inserting the following in lieu thereof:

§ 211.106 Retail sales outlets.

* * * * *

(b) *Retail sales outlets as a firm.* * * *

(2) An independent marketer, or a small or independent refiner, which operates two or more retail sales outlets may apply to the FEA for treatment of some or all of such outlets as a single firm in accordance with the procedures established in Subpart G of Part 205 of this chapter. * * *

§ 211.106 [Amended]

16. Section 211.106(b)(3)(i) is amended by deleting the words "a petition" in the second sentence and substituting in lieu thereof the words "an application."

17. Section 211.106(c)(2)(i) is amended by deleting the word "petition" from the first sentence and inserting in lieu thereof the words "apply to"; by deleting the words "a petition" from the last sentence and inserting in lieu thereof the words "an application"; and by deleting therefrom the word "interim."

18. Section 211.108 is amended by revising paragraph (c)(5) to read as follows:

§ 211.108 Allocation of unleaded gasoline.

* * * * *

(c) *Method of allocation for unleaded gasoline.* * * *

(5) Any purchaser which has been notified that its supplier will not supply it with unleaded gasoline and which with reasonable diligence cannot otherwise obtain a supply of unleaded gasoline under the provisions of this part, may apply to the appropriate FEA Regional Office in accordance with Subpart C of Part 205 of this chapter for assignment of a supplier of unleaded gasoline.

* * * * *

19. Section 211.109 is amended by revising paragraphs (a) and (c) to read as follows:

§ 211.109 Procedures and reporting requirements.

(a) All applications for adjustment or assignment of motor gasoline shall be filed with the appropriate State Office or FEA Regional Office in accordance with Subparts B and C of Part 205, respectively, of this chapter. All other matters pertaining to the allocation of motor gasoline shall be addressed to the appropriate FEA Regional Office at the address provided in § 212.12, unless otherwise specified.

* * * * *

(c) An application for an assignment under the state set-aside system, as provided in § 211.17, for hardship or emergency requirements shall be submitted to the appropriate State Office in accordance with the procedures established in Subpart Q of Part 205 of this chapter.

20. Section 211.127 is amended by revising paragraphs (a) and (c) to read as follows:

§ 211.127 Procedures and reporting requirements.

(a) All applications for adjustment and assignment of middle distillate fuels, except to utility users, shall be filed with the appropriate State Office or FEA Regional Office in accordance with Subparts B and C, respectively, of Part 205 of this chapter. All other matters pertaining to the allocation of middle distillate fuels, except to utility users, shall be submitted to the appropriate FEA Regional Office at the address provided in § 205.12. All matters pertaining to the allocation of middle distillate fuels to utility users shall be addressed FEA National Office at the address provided in § 205.12, unless otherwise specified.

* * * * *

(c) Applications for assignment from the state set-aside system for hardship or emergency requirements shall be submitted to the appropriate State Office in accordance with the procedures established in Subpart Q of Part 205 of this chapter.

21. Section 211.147 is amended by revising paragraph (a) and the last sentence of paragraph (b) to read as follows:

§ 211.147 Procedures and reporting requirements.

(a) All applications for adjustment or assignment of aviation fuels to civil air carriers (except air taxi/commercial operators) shall be filed with the FEA National Office in accordance with Subparts B and C, respectively, of Part 205 of this chapter. All other matters pertaining to the allocation of aviation fuels to civil air carriers (except air taxi/commercial operators) shall be addressed to the FEA National Office at the address provided in § 205.12, unless otherwise specified.

(b) * * * Any matters unresolved at the supplier level may be referred directly to the appropriate FEA Regional Office at the address provided in § 205.12.

* * * * *

22. Section 211.166 is amended by revising (d)(4) to read as follows:

§ 211.166 Method of allocation.

* * * * *

(d) *Utilities.* * * *

(4) Suppliers and utilities may apply to the FEA for adjustment to the requirement of § 211.165 and paragraph (d)(1)(i) of this section, or assignment of a new supplier, in accordance with Subparts B and C, respectively, of Part 205 of this chapter. Such applications must be filed by the tenth day of the current month in order to be considered for decision or relief with respect to adjustment to the allocation amounts to be published in the following month or assignment of a new supplier for the following month.

* * * * *

23. Section 211.167 is amended by revising paragraphs (a), (b), and (e) to read as follows:

§ 211.167 Procedures and reporting requirements.

(a) All applications for adjustment and assignment of residual fuel oil for the electric utility industry shall be filed in accordance with Subparts B and C, respectively, of Part 205 of this chapter. All other matters pertaining to the allocation of residual fuel oil for the electric industry shall be addressed, separately, to the Chairman, Federal Power Commission and to the FEA National Office, at the address provided in § 205.12.

(b) All applications for adjustment and assignment of residual fuel oil to non-utility users of residual fuel oil shall be filed in accordance with Subparts B and C, respectively, of Part 205 of this chapter. All other matters pertaining to the allocation of residual fuel oil to non-utility users of residual fuel oil shall be addressed to the appropriate FEA Regional Office at the address provided in § 205.12.

* * * * *

(e) Applications for assignment from the state set-aside system for hardship or emergency requirements shall be submitted to the appropriate State Office in accordance with Subpart Q of Part 205 of this chapter.

24. Section 211.186 is amended by revising paragraph (c) to read as follows:

§ 211.186 Procedures and reporting requirements.

* * * * *

(c) All applications for adjustment or assignment of naphthas and gas oils shall

be filed with the FEA National Office in accordance with Subparts B and C, respectively, of Part 205 of this chapter. All other matters pertaining to allocation of naphthas and gas oils shall be addressed to the FEA National Office at the address provided in § 205.12.

25. Section 211.207 is amended by revising paragraphs (a) and (b) to read as follows:

§ 211.207 Procedures and reporting requirements.

(a) All documents to be filed by wholesale purchasers pertaining to the allocation of other products shall be addressed to the FEA National Office at the address provided in § 205.12.

(b) All applications by end-users for adjustment or assignment of a base period volume of any other product shall be filed in accordance with Subparts B and C, respectively, of Part 205 of this chapter.

* * * * *

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

26. Subpart I is amended by adding a new § 212.131 to read as follows:

§ 212.131 Appeal.

Any person aggrieved by an order issued by the FEA under this subpart may file an appeal with the FEA Office of Exceptions and Appeals in accordance with Subpart H of Part 205. The appeal shall be filed within 30 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of Part 205 and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

PART 215—LOW SULPHUR PETROLEUM PRODUCTS REGULATIONS

§ 215.6 [Amended]

27. Section 215.6 is amended in paragraph (a) by deleting the words "Subpart C of Part 205" and inserting in lieu thereof "Subpart D of Part 205 of this chapter."

§ 215.7 [Amended]

28. Section 215.7 is amended by deleting "Subpart C of Part 205" and inserting in lieu thereof "Subpart D of Part 205 of this chapter."

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PART III

FEDERAL COMMUNICATIONS COMMISSION

■

PUBLIC AND BROADCASTING; REVISED EDITION

Procedure Manual

FEDERAL COMMUNICATIONS COMMISSION

[FCC 74-942]

BROADCAST PROCEDURE MANUAL

SEPTEMBER 5, 1974.

Notice is hereby given of a revised edition of a pamphlet entitled, "The Public and Broadcasting—A Procedure Manual." In the manual, an effort is made to outline the respective roles of the broadcast station, the Commission, and the concerned citizen in the establishment and preservation of quality broadcasting services, to outline procedures available to the citizen, and to provide practical advice concerning their use. We are hopeful that the manual will encourage participation by members of the community and that it will direct such participation along lines which are most effective and helpful to the Commission.

Action by the Commission, August 29, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
Secretary.

THE PUBLIC AND BROADCASTING—A PROCEDURE MANUAL

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INTRODUCTION

1. Establishing and maintaining quality broadcasting services in a community is the responsibility of broadcast station licensees and the Federal Communications Commission.[1a] It is also, however, a matter in which members of the community have a vital concern and in which they can and should play a prominent role.

2. Licensees of radio and television stations are required to make a diligent, positive, and continuing effort to discover and fulfill the problems, needs, and interests of the communities they serve. The Commission encourages a continuing dialog between stations and community members as a means of ascertaining the community's problems, needs, and interests and of devising ways to meet and fulfill them. Members of the community can help a station to provide better broadcast service and more responsive programing by making their needs, interests, and problems known to the station and by commenting, whether favorably or unfavorably, on the programing and practices of the station. Complaints concerning a station's operation should be communicated promptly to the station, and every effort should be made, by both the complainant and the licensee, to resolve any differences through discussion at the local level.

3. The Commission is responsible for seeing that stations do in fact meet their obligations to the community. It considers complaints by members, of the community against a station and before issuing or renewing a broadcast station license, must find that its action will serve the public interest, convenience, and necessity. However, to effectively invoke the Commission's processes, the citizen must not only concern himself with the quality of broadcasting but must know when, how, and to whom, to express his concern. On the one hand, the Commission is in large measure dependent on community members to bring up matters which warrant its attention. On the other, if resolute efforts are not first made to clear up problems at the local level, the Commission's processes become clogged by the sheer bulk of the matters brought before it.

4. If direct contact with a station does not produce satisfactory results, there are a number of formal and informal ways for members of the community to convey their grievances to the Commission and to participate in proceedings in which the performance of a station is judged and legitimate grievances are redressed. The purpose of this manual is to outline procedures available to the concerned citizen and to provide information and practical advice concerning their use. It is not a substitute for the rules of practice and procedure (47 CFR Part 1).[2] We are hopeful, however, that it will help community members to participate effectively and in a manner which is helpful to the Commission.

PROCEEDINGS INVOLVING PARTICULAR APPLICANTS AND LICENSEES

INITIATING A PROCEEDING

5. *Complaints generally.* A complaint against a broadcast station[3] can be filed with the Commission by any person at any time. You can go about it any way you wish; there are no particular procedural requirements, except as noted below. You should, however, bear the following facts in mind:

(a) During fiscal year 1973, the Commission received 84,525 complaints, comments, and inquiries concerning broadcast stations. Of this total, 61,322 were complaints.

(b) Almost all of these communications are initially considered and dealt with by approximately five Commission employees who are specially assigned this function. Additional personnel are assigned to a matter only if, on the initial examination, the complaint appears to raise novel or difficult legal questions or appears to warrant extensive inquiry, investigation, or formal proceedings. In light of this situation, there are a number of practical steps you can take which will be helpful to the Commission and will increase your effectiveness in making a complaint. These are set out below:

(1) Limit your complaint to matters on which the Commission can act. With minor exceptions (the provision of "equal time" for candidates for public office, for example), we cannot direct

---

[1] Commissioners Wiley (Chairman), Lee, Reid, Hooks, Quello, Washburn, and Robinson.

[1a] The Federal Communications Commission is an independent Government agency responsible for regulating interstate and foreign communication by radio and wire. One of its responsibilities is to determine who is to operate the limited number of broadcast stations, to regulate the manner in which they are operated, and to generally supervise their operation, to the end that such operation may serve the interests of the public. This booklet deals only with this one aspect of the Commission's responsibilities.

The FCC is composed of seven members, who are appointed by the President subject to confirmation by the Senate. Normally, one Commissioner is appointed or reappointed each year, for a term of 7 years. One of the Commissioners is designated by the President to serve as Chairman, or chief executive officer, of the Commission.

The Commissioners, functioning as a unit, supervise all activities of the Commission. They are assisted by a staff of approximately 1,500 persons. Note that the term "Commission" refers both to the seven Commissioners as a unit and to the entire agency, including the staff. For a general description of the Commission and its organization, see 47 CFR 0.1–0.5. For a full description of the Commission's functions and of authority delegated by the Commission to its staff, see 47 CFR Part 0. (The Commission's rules are printed in Volume 47 of the Code of Federal Regulations (CFR). See paras. 60 and 61 below.)

[2] The manual reflects procedures and policies in effect on August 1, 1974. Persons using this manual are cautioned that these procedures and policies are subject to change and that any changes made after August 1, 1974 are not reflected in this manual.

[3] Complaints relating to some of the operations of networks and other organizations associated with broadcasting can also be filed.

that a particular program be put on or taken off the air. Nor are we arbiters of taste. Our concern, moreover, is with matters which affect the community generally (the public interest) rather than with the personal preferences or grievances of individuals. Another publication, "The FCC and Broadcasting," contains more detailed information (in areas in which numerous complaints are received) regarding what the Commission can and cannot do. Copies will be furnished by the Complaints and Compliance Division of the Commission's Broadcast Bureau upon request.

(2) Submit your complaint first to the station involved. The station may well recognize the merit of your complaint and take corrective action, or may explain the matter to your satisfaction. If you are not satisfied with the station's response, it will aid and expedite action on your complaint to the Commission to enclose a copy of your complaint to the station and all subsequent correspondence between you and the station. (Though this way of proceeding is generally far preferable to complaining initially to the Commission, this is not always the case. If, for example, the complainant has reason for not disclosing his identity to the station, he may complain directly to the Commission, requesting that his identity not be disclosed.)

(3) Submit your complaint promptly after the event to which it relates.

(4) Include at least the following information in your letter of complaint:

a. The full name and address of the complainant.

b. The call letters and location of the station.

c. The name of any program to which the camplaint relates and the date and time of its broadcast.

d. A statement of what the station has done or failed to do which causes you to file a complaint. Be as specific as possible: Furnish names, dates, places, and other details.

e. A statement setting forth what you want the station and/or the Commission to do.

f. A copy of any previous correspondence between you and the station concerning the subject of the complaint.

(5) Try to appreciate that the person reviewing your complaint must make rapid judgments regarding the gravity of the matters related and the action to be taken. There are a number of simple things you can do to make his job easier and to aid your own cause: State the facts fully and at the beginning. Subject to fully stating the facts, be as brief as possible. If the facts are self-explanatory, avoid argument; let the facts speak for themselves. Avoid repetition or exaggeration. If you think a specific law or regulation has been violated, tell us what it is. If possible, use a typewriter, but if you do write by hand, take special pains to write legibly.

6. A complaint received by the Commission is dealt with as follows:

(1) If the complaint does not allege a substantial violation of statute or of Commission rule or policy, if inadequate information is submitted, or if the factual statement is not sufficiently specific, a letter (which is often a form letter) explaining these matters is directed to the complainant.

(2) If the complaint does allege specific facts sufficient to indicate a substantial violation, it is investigated, either by correspondence with the station (which may produce a satisfactory explanation or remedial action) or, in rare instances, by field inquiry. (Since the Commission's investigatory staff is small, the number of complaints which can be investigated by field inquiry is limited.) If further information from the complainant is needed, he is asked to furnish it. If the staff concludes that there has been a violation, it may recommend to the Commission that sanctions be imposed on the station; it may direct remedial action (such as equal opportunities for a candidate for public office); or, where extenuating circumstances are present (as where the violation follows from an honest mistake or misjudgment or where the station otherwise has a good record), it may note the violation but not recommend a sanction. Possible Commission actions range from the imposition of monetary forfeitures not exceeding $10,000 and short-term renewal of license to revocation of license or denial of an application for renewal of license. The imposition of sanctions involves formal proceedings (which may include a hearing) and, in connection with such proceedings, the complainant may be asked to submit a sworn statement or to appear and give testimony at a hearing before an administrative law judge. In some circumstances, the complainant is entitled, and may choose, to participate as a party to the proceeding. A hearing is ordered in a renewal or revocation proceeding only if substantial questions have been raised concerning the licensee's qualifications.

7. Four types of complaint require compliance with specific procedures and submission of specific information. These complaints involve compliance with the requirement of equal time for political candidates, the fairness doctrine, the personal attack rule, and the rule governing political editorials. Generally, these matters should be taken up with the station before a complaint is filed with the Commission. However, where time is an important factor, you may find it advisable to complain simultaneously to the station and the Commission. In such circumstances, complaints are often submitted and answered by telegraph and, where the matter is most urgent, by telephone.

8. *Political broadcasting.* Section 315 of the Communications Act, 47 U.S.C. 315,[4] provides that if any Commission licensee shall permit any person "who is a legally qualified candidate for any public office" to use a broadcast station, he shall afford to all other candidates for that office equal opportunities to use the station's facilities. Appearances by candidates on the following types of programs are exempt from the equal opportunities requirement:

1. Bona fide newscast;
2. Bona fide news interview;
3. Bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or
4. On-the-spot coverage of bona fide news events (including but not limited to political conventions and activities incidental thereto).

However, where candidates appear on programs exempt from the equal opportunities requirement, broadcasters must nevertheless meet the obligation imposed upon them under the Communications Act (to operate in the public interest) and the fairness doctrine (to afford reasonable opportunity for the discussion of conflicting views on controversial issues of public importance). See paragraph 12 below. The equal opportunities and fairness doctrine requirements are applied to networks as well as to stations.

9. A request for equal opportunities must be made directly to the station or network and must be submitted within 1 week after the first broadcast giving rise to your right of equal opportunities. This is most important, as your right is lost by failure to make a timely request. To make it as clear as possible, we offer the following example:

A, B, and C are legally qualified candidates for the same public office. A makes an appearance on April 5 on a program not exempted by the statute. On April 12, B asks for an equal opportunity to appear on the station and does, in fact, appear on April 15. On April 16, C asks for an equal opportunity to appear. However, he is not entitled to do so, as he has failed to make his request within 1 week after A's appearance.

There is an exception to this requirement where the person requesting equal opportunities was not a candidate at the time of the first broadcast giving rise to the right of equal opportunities. See 47 CFR 73.120(e).

10. If you are a candidate or his designated agent and think that the candidate has been denied equal opportunities, you may complain to the Commission. A copy of this complaint should be sent to the station. Your letter of complaint should state (1) the name of the station or network involved; (2) the name of the candidate for the same office and the date of his appearance on the station's facilities; (3) whether the candidate who appeared was a legally qualified candidate for the office at the time of his appearance (this is determined by reference to the law of the State in which the election is being held); (4) whether the candidate seeking equal time is a legally qualified candidate for the same office; and (5) whether you or your candidate made a request for equal opportunities to the licensee within 1 week of the day on which the first broadcast giving rise to the right to equal opportunities occurred.

[4] The Communications Act is printed in title 47 of the United States Code (U.S.C.). See paragraph 59 below.

11. A political broadcasting primer ("Use of Broadcast Facilities by Candidates for Public Office"), containing a summary of rulings interpreting the equal opportunities requirement, has been published in the FEDERAL REGISTER and in the FCC Reports[6] (35 F.R. 13048, 24 F.C.C. 2d 832) and is available from the Commission upon request, as is a question and answer pamphlet ("Use of Broadcast and Cablecast Facilities by Candidates for Public Office") (37 F.R. 5796, 34 F.C.C. 2d 510). See also 47 U.S.C. 315 and 47 CFR 73.120.

12. *Fairness doctrine.* Under the fairness doctrine, if there is a presentation of a point of view on a controversial issue of public importance over a station (or network), it is the duty of the station (or network), in its overall programing, to afford a reasonable opportunity for the presentation of contrasting views as to that issue. This duty applies to all station programing and not merely to editorials stating the station's position. The station may make offers of time to spokesmen for contrasting views or may present its own programing on the issue. It must present suitable contrasting views without charge if it is unable to secure payment from, or a sponsor for, the spokesman for such views. The broadcaster has considerable discretion as to the format of programs, the different shades of opinion to be presented, the spokesman for each point of view, and the time allowed. He is not required to provide equal time or equal opportunities; this requirement applies only to broadcasts by candidates for public office. The doctrine is based on the right of the public to be informed and not on the proposition that any particular person or group is entitled to be heard.

13. If you believe that a broadcaster (station or network) is not meeting its obligation to the public under the fairness doctrine, you should complain first to the broadcaster. If you believe that a point of view is not being presented and wish to act as spokesman for that point of view, you should first notify the broadcaster. Barring unusual circumstances, complaints should not be made to the Commission without affording the broadcaster an opportunity to rectify the situation, comply with your request, or explain its position.

14. If you do file a fairness doctrine complaint with the Commission, a copy should be sent to the station. The complaint should contain specific information concerning the following matters: (1) The name of the station or network involved; (2) the controversial issue of public importance on which a view was presented; (3) the date and time of its broadcast; (4) the basis for your claim that the issue is controversial and of public importance; (5) an accurate summary of the view of views broadcast; (6) the basis for your claim that the station or network has not broadcast contrasting views on the issue or issues in its overall programming; and (7) whether the station or network has afforded, or has expressed the intention to afford, a reasonable opportunity for the presentation of contrasting viewpoints on that issue. The requirement that you state the basis for your claim that the station or network has not broadcast contrasting views on the issue or issues in its overall programming does not mean that you must constantly monitor the station. As the Commission stated in its *Fairness Report:*

> While the Complainant must state the basis for this claim that the station has not presented contrasting views, that claim might be based on an assertion that the complainant is a regular listener or viewer; that is, a person who consistently or as a matter of routine listens to the news, public affairs and other non-entertainment carried by the station involved. This does not require that the complainant listen to or view the station 24 hours a day, seven days a week * * * Complainants should specify the nature and should indicate the period of time during which they have been regular members of the station's audience. *Fairness Report,* 39 FR 26372, 26379 (1974).

Further, a basis for your claim that the station has failed to present contrasting views might be provided by correspondence between you and the station or network involved. Thus if the station's or network's response to your correspondence states that no other programing has been presented on the subject and none is planned, such response would also provide a basis for your claim.

15. Following the Commission's broad-ranging inquiry into the efficacy of the fairness doctrine and related public interest policies, the Commission issued its *Fairness Report,* 39 FR 26372 (1974). Copies of this and an earlier fairness primer containing a summary of rulings interpreting the fairness doctrine ("Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance," 29 FR 10416, 40 FCC 598 (1964) are available from the Commission upon request.

16. *Personal attacks.* The personal attack rule requires that when, during the presentation of views on a controversial issue of public importance, an attack is made upon the honesty, character, integrity, or like personal qualities of an identified person or group, the broadcaster must, within 1 week after the attack, transmit to the person or groups attacked (1) notification of the date, time and identification of the broadcast; (2) a script or tape (or an accurate summary if a script or tape is not available) of the attack; and (3) an offer of a reasonable opportunity to respond over the station's facilities free of charge. See 47 CFR 73.123(a). The personal attack rule does not apply to attacks made in the course of a bona fide newscast, a bona fide news interview, or on-the-spot coverage of a bona fide news event (including commentary or analysis by newsmen offered as part of such programs). Though the specific requirements of notice and an offer of an opportunity to respond do not apply to such programs, the other requirements of the fairness doctrine do apply. For other circumstances in which the personal attack rule does not apply, see 47 CFR 73.123(b). See also, the fairness primer, described above in paragraph 15.

17. If you believe that you or your group has been personally attacked during presentation of a controversial issue, and if you are not offered an opportunity to respond, you should complain first to the station or network involved. If you are not satisfied with the response, you may then complain to the Commission.

18. If you file a complaint with the Commission, a copy should be sent to the station. The complaint should contain specific information concerning the following matters: (1) The name of the station or network involved; (2) the words or statements broadcast; (3) the date and time the broadcast was made; (4) the basis for your view that the words broadcast constitute an attack upon the honesty, character, integrity, or like personal qualities of you or your group; (5) the basis for your view that the personal attack was broadcast during the presentation of views on a controversial issue of public importance; (6) the basis for your view that the matter discussed was a controversial issue of public importance, either nationally or in the station's local area, at the time of the broadcast; and (7) whether the station within 1 week of the alleged attack; (i) Notified you or your group of the broadcast; (ii) transmitted a script, tape, or accurate summary of the broadcast if a script or tape was not available; and (iii) offered a reasonable opportunity to respond over the station's facilities.

19. *Political editorials.* When a broadcast station, in an editorial, endorses a legally qualified candidate for public office, it is required to transmit to other qualified candidates for the same office (1) notice as to the date and time of the editorial, (2) a script or tape of the editorial, and (3) an offer of a reasonable opportunity for the other candidates or their spokesmen to respond to the editorial over the licensee's facilities free of charge. Where a broadcast station, in an editorial, opposes a legally qualified candidate for public office, it is required to send the notice and offer to the candidate opposed. The notice and offer must be sent within 24 hours after the editorial is broadcast. If the editorial is to be broadcast within 72 hours of election day, the station must transmit the notice and offer "sufficiently far in advance of the broadcast to enable the candidate or candidates to have a reasonable opportunity to prepare a response and to present it in timely fashion." See 47 CFR 73.123(c). See also, the fairness primer described above in paragraph 15.

20. If you are a candidate or his authorized spokesman and believe that the station, in an editorial has opposed the candidate or supported his opponent and has not complied fully with these requirements, you should complain to the station or network involved. If, in response to your complaint, the station does not offer what you consider to be a reasonable opportunity to respond to the editorial, you may complain to the Com-

[6] See paragraph 62 below.

mission. Send a copy of your complaint to the station.

PARTICIPATION IN APPLICATION PROCEEDINGS

21. *General.* Public expression regarding the operation of broadcast stations is not limited to letters of complaint. You can also support or object to applications filed with the Commission, such as an application for a new license, a change in existing facilities (for example, an increase in tower height or transmitter power or a change in studio location), or the renewal or transfer of a current license. You may proceed either formally, by filing a "petition to deny," or informally, by filing an "informal objection." (See below.) You may raise any public interest question relating to the application or the applicant. Allegations have been made in the past, for example, that the station's programing does not serve the needs and interests of the community or that the station has engaged in discriminatory employment practices. The question raised need not relate directly to the authority sought by the applicant. Your purpose in participating could properly be to effect a change in the station's policies or practices, by negotiation or by Commission direction, rather than to have the application denied. It is desirable and important that you discuss your grievances with the station, as they occur, and try to work out a mutually acceptable solution, either prior to or in lieu of filing an objection to the grant of an application. The Commission does not look with favor on objections to a grant where grievances have been "stored up" during the license term, without being brought to the station's attention, and are disclosed for the first time in objections to an application.

22. With certain minor exceptions, all broadcast applicants are required to give notice to the community that they have filed an application with the Commission. See 47 CFR 1.580. In the case of most existing licensee-applicants the notice is broadcast over their facilities. Public notice of the filing of the application is also given by the Commission. Applicants and licensees are required to maintain locally for public inspection copies of applications and other documents as specified in the Commission's rules. See 47 CFR 1.526. The notice given locally by the station will state the address at which these documents can be inspected. Additional papers relating to the station, including most of those kept locally, are available for inspection at the Commission's office in the District of Columbia.[*] Except in the case of certain minor applications (see 47 U.S.C. 309), the Commission must give notice of the acceptance of the application for filing at least 30 days before acting on it. See paragraphs 33 and 34 below.

23. *Informal objection.* If you have information which you believe should be considered by the Commission in determining whether the grant of an application would serve the public interest, convenience and necessity, you may file an "informal objection". See 47 CFR 1.587. Such objections may be filed in writing with the Secretary of the Commission, Washington, D.C. 20554, at any time prior to action on the application, and must be signed by the person making them. There are no other requirements.

24. The informal objection procedure is designed for use by persons who cannot qualify as "parties in interest" (see paragraph 30 below) or who (though they qualify as parties in interest) do not choose to assert the rights or to assume the burdens of parties to the proceeding. In addition, pleadings, or communications, submitted by persons who desire to participate as parties to the proceeding but which fail to meet the requirements for "petitions to deny" (see paragraph 29 below) are treated as informal objections.

25. Informal objections are dealt with much in the same manner as complaints and should include at least the minimum information required for an effective complaint (see paragraph 5, above). They are associated with the application to which they relate, however, and are reviewed by elements of the staff responsible for taking or recommending action on that application.

26. If in the judgment of the Commission's staff, the objection does not raise a substantial public interest question, it will not be referred to the Commission (that is, the Commissioners) for consideration. In such cases, the staff will give notice of Commission or staff action on the application to persons who have filed an objection, advising them that their objection has been rejected by the staff as a basis for denying the application. An application for review of staff action by the Commission may be filed. Such an application must be filed prior to seeking judicial review. See 47 U.S.C. 155(d)(7); 47 CFR 1.115.

27. If in the judgment of the staff the objection raises a substantial public interest question, it is made the subject of field inquiry or is forwarded to the applicant for comment. If the applicant is asked to comment, he is required to serve a copy of his comments on the person who filed the objection, and that person is entitled to file a reply. If there is still a substantial question, it is referred to the Commission and is dealt with on its merits in conjunction with action on the application. If the Commission concludes that a substantial and material question of fact has been presented or if it is for any reason unable to find that a grant of the application would serve the public interest, it will order a hearing. Otherwise, it will grant the application. If a hearing is ordered, a person who has filed an informal objection will not ordinarily be named as a party to the proceeding, but may seek to participate as a witness or, within 30 days after publication of the hearing issues in the FEDERAL REGISTER, petition for intervention as a party. See paragraph 39 below.

28. If the objection is considered and disposed of in a Commission opinion granting the application, you may within 30 days petition for reconsiderations or seek judicial review. If you appeal or petition for reconsideration, you should be prepared to show that you are aggrieved or adversely affected by the Commission action (47 U.S.C. 402(b)(6) and 405). If you have not participated in proceedings resulting in a grant of the application (as by filing an informal objection), or if the Commission has not been afforded an opportunity to pass on the questions you intend to raise in court, you must file a petition for reconsideration before seeking judicial review.

29. *Petition to deny.* A petition to deny, which is a formal objection to grant of an application, is subject to the following statutory requirements (47 U.S.C. 309(d)):

(1) The petition must contain specific allegations of fact sufficient to show that the petitioner is a party in interest and which, if true, would demonstrate that a grant of the application would be inconsistent with the public interest, convenience and necessity.

(2) "Such allegations of fact shall, except for those of which official notice

[*] Most Commission records are routinely available for inspection under the Public Information Act (5 U.S.C. 552) and Commission rules implementing that Act (47 CFR 0.441–0.467). See, in particular, §§ 0.453 and 0.455. A person wishing to inspect such records has only to go to the office where they are kept and ask to see them. Requests for inspection of records not routinely available for inspection may be submitted, and are considered, under procedures set out in § 0.461 of the rules (47 CFR 0.461). Copies of records may be obtained for a fee from a private firm which contracts with the Commission to perform this service (see 47 CFR 0.465).

may be taken, be supported by affidavit of a person or persons with personal knowledge thereof."

(3) The petitioner must serve a copy of the petition upon the applicant.

(4) The petition must be filed with the Commission within the time prescribed by the rules.

The requirements are discussed below at paragraphs 30–34. A petition opposing grant of an application which does not meet these requirements is treated as an informal objection. If you intend to appeal a grant of the application or wish to participate in any hearing held to determine whether the application should be granted or denied, or if you wish to assure Commission (rather than staff) action on your objections to the application, it is advisable to file a petition to deny rather than an informal objection. If you file a petition to deny, subsequent communication with Commissioners and certain other Commission personnel is limited by the rules governing ex parte communications, 47 CFR 1.1201–1.1125.[7]

30. There is no hard and fast rule for determining whether a member of the listening public or a community group qualifies as a party in interest. Generally, under court precedents, members of the listening public who show that they would be aggrieved or adversely affected by a Commission action granting an application of a station in their area have standing to raise public interest questions. It is important to bear in mind this last point—that arguments for denial of the application must be directed to the public interest rather than to your own personal interest. For example, you may show that you are hurt by the activities or failing of the station to which you object, as by showing that you live or work in the area served by the station and, if the charges relate to racial discrimination, that you are a member of a racial minority being discriminated against; but the substance of your arguments must be related to the interests of the community as a whole. Since the purpose of your participation is to argue for the interests of your community as a whole, it is relevant to show your ties to the community and knowledge of its problems and needs. To make a stronger showing,[8] it is also helpful to demonstrate that you are well qualified to represent the interests of the community and to aid the Commission in reaching a decision that best serves the interests of the community. You may, for example, have a background which specifically qualifies you on matters relating to your charges against the station. You may have a background in broadcasting or previous experience in Commission proceedings which would contribute to your effectiveness as a representative of the community. You may have access to information concerning the station's operations which is not generally available, as would be indicated by previous correspondence (or discussion) with the station concerning the charges set out in your petition. You may be the only member of the community who is prepared to assume the personal and financial burden which participation in Commission proceedings involves. It will help to show that others join with you in your petition or that you are serving as an authorized spokesman for a representative community group or groups. If other members of the public have separately petitioned to deny the application, you should endeavor to show that the contribution you can make would be superior to or different from that made by others. You should consider the possibility of joining with other members of the public for the purpose of participating in the hearing. If a large number of persons or groups seek to participate on behalf of the public, it is possible that some would be required to consolidate their efforts.

31. In determining whether the grant of an application is consistent or inconsistent with the public interest, the Commission is guided by the Communications Act, other laws pertinent to the facts of the case and the matters at issue, its own rules and regulations and policy statements, and past decisions of both the Commission and the courts. Although the facts set out in the petition to deny and the precise public interest question presented may be novel, it would be rare indeed if none of these guides could be brought to bear upon the question. It is possible, of course, to simply set out allegations of fact in a petition to deny and assert that they show that "a grant of the application would be prima facie inconsistent with the public interest" (47 U.S.C. 309(d)). Obviously, however, it is far more effective for you, and helpful to the Commission, if the facts alleged are related specifically to the policy and precedent guidelines utilized by the Commission in making its determination. An experienced attorney will be familiar with these materials and will know how to use them in effectively presenting your position.

32. Not that the statute requires specific allegations of fact. Hearsay, rumor, opinion, or broad generalizations, do not meet this requirement. Note also that the allegations must "be supported by affidavit of a person or persons with personal knowledge" of the facts. The petitioner need not, himself, have personal knowledge of the facts if he submits affidavits signed by others who do. An affidavit is a written statement, the truth of which is sworn to or affirmed before an officer who has authority to administer an oath, such as a notary public. Service of the petition is accomplished by delivering or mailing a copy to the applicant, on or before the day on which the document is filed. See 47 CFR 1.47. If the applicant is represented by an attorney, it is the attorney who should be served. A certificate of service, signed by the person who delivered or mailed the petition and reciting the fact and method of service, must be attached to the petition.

33. With minor exceptions (see 47 U.S.C. 309 (c) and (f)), no broadcast application may be granted earlier than 30 days following the Commission's issuance of a public notice stating that the application, or any substantial amendment thereof, has been "accepted for filing" (47 U.S.C. 309(b)). Except in the case of standard broadcast (AM radio) applications and renewal applications, the petition to deny must be filed within this 30-day period. In the case of standard broadcast (other than renewal) applications, the Commission issues a second public notice stating that the application is "available and ready for processing" and specifying a "cutoff" date, on which processing of the application will commence. Petitions to deny must be filed before the cutoff date. See 47 CFR 1.580(i).

34. Applications for renewal of licenses of broadcast stations (except experimental and developmental stations) must be filed not later than the first day of the fourth full calendar month prior to the expiration date of the license (47

[7] It is important that you not communicate privately concerning the merits or outcome of any aspect of the case with persons who may participate in deciding it. Written communications must be served on parties to the proceeding. Oral communication must be preceded by notice to the parties affording them an opportunity to be present. Persons who may participate in the decision are (1) the Commissioners and their personal office staffs, (2) the Chief of the Office of Opinions and Review and his staff, (3) the Review Board and its staff, (4) the Chief Administrative Law Judge, the administrative law judges, and the staff of the Office of Administrative Law Judges, (5) the General Counsel and his staff, and (6) the Chief Engineer and his staff.

[8] We do not wish to imply that a showing with respect to all of these matters, or as to any particular matter, is necessarily required to sustain your claim, or that other information may not also be appropriate. To the extent that the suggested information is set forth, however, it will enhance your showing. Do not, however, be discouraged by the number of factors listed. Our intent is to give you a general idea as to the type of information which can be submitted in support of a claim—not to indicate that the required showing is necessarily difficult to make.

CFR 1.539).[9] A petition to deny a renewal application must be filed by the end of the first day of the last full calendar month of the expiring license term (47 CFR 1.580(i) and 1.516(e)). Thus, for example, the license of a television station located in Pennsylvania would ordinarily expire on August 1, 1975, the renewal application would be filed on or before April 1, 1975 and a petition to deny would have to be filed on or before July 1, 1975. There are two exceptions to the foregoing. First, the Commission may previously have issued a short-term license to the station in question; the license would in that case expire on a date specified by the Commission in its order making the short-term grant rather than on the date specified in footnote 9. Second, if the renewal application is filed late, the deadline for filing a petition to deny is the 90th day after the Commission has given public notice that the late filed application has been accepted for filing.

35. The applicant may file an opposition to your petition to deny within 30 days after the petition is filed. You may file a reply to the opposition within 20 days after the opposition is due or within 20 days after the opposition is filed, whichever is longer. Note that the papers must reach the Commission within these periods. Reasonable requests for extensions of time will be granted if both parties consent or upon a showing of good cause. Note that requirements applicable to the petition to deny (service, supporting affidavits, etc.) also apply to the opposition and the reply. The purpose of a reply pleading is to respond to points made in the opposition pleading; it is not intended to give a petitioner an opportunity to present new matters. Also, pursuant to § 1.45(c) of the Commission rules (47 CFR 1.45(c)), additional pleadings may not be filed unless specifically requested and authorized by the Commission.

36. Questions raised in a petition to deny are dealt with on their merits in conjunction with action on the application in an opinion issued by the Commission (that is, by the Commissioners and not by the staff under delegated authority). The Commission will either deny your petition and grant the application, deny your petition and set the application for hearing on issues other than those you have raised, or grant your petition and set the application for hearing on some or all of the issues you have raised. If the application is granted, you may petition for reconsideration (see 47 U.S.C. 405; 47 CFR 1.106) or appeal to the U.S. Court of Appeals for the District of Columbia Circuit (see 47 U.S.C. 402(b)(6)). If a hearing is ordered and you are not named as a party, you may petition for reconsideration or (if you have previously made clear your wish to participate as a party) you may appeal; you may also file a petition to intervene (see 47 U.S.C. 309(e); 47 CFR 1.223) or seek participation as a witness. See paragraph 39 below.

37. If you file a petition to deny but do not intend to participate as a party to a hearing on the application, you should so advise the Commission in your petition. Otherwise, it will be assumed that you are asserting the right to participate and offering to prove the allegations set out in your petition; and, if a hearing is ordered and you have established your right to participate, you will be named as a party and may be assigned the burden of proceeding with the introduction of evidence and the burden of proof on the issues raised in your petition. You will be expected to appear at the hearing, present evidence, and proceed in other respects as a party. You are not required to retain an attorney. However, it is most advisable that you do so, as it is unlikely that you will be able to participate effectively without the assistance of counsel. If you do intend to retain counsel, it is advisable to do so at an early date, so as to have his assistance in preparing the petition to deny.

PARTICIPATION IN A HEARING PROCEEDING

38. The rules governing hearing proceedings are set out in Subpart B of Part 1 of Title 47 of the Code of Federal Regulations. If you do not retain an attorney, it is important that you familiarize yourself thoroughly with those rules. It is also important that you become familiar with Subpart A, the general rules of practice and procedure, many of which apply in hearing proceedings. Though the following outline of the procedural stages of a hearing proceeding may be helpful, effective participation will require a more detailed knowledge of the rules.

39. When the Commission determines that a hearing should be held, it issues an order (called a designation order) specifying the issues upon which evidence will be received and naming known parties in interest as parties to the proceeding. Shortly thereafter, the Chief Administrative Law Judge issues an order naming a presiding officer, setting a time and place for an initial prehearing conference, and specifying the place of the hearing and the date for its commencement. If you are named as a party and wish to participate, you should, within 20 days after the designation order is mailed, file a notice of appearance stating that you will appear at the hearing. See 47 CFR 1.221. This notice and (except as otherwise expressly provided) all papers subsequently filed must be served on all other parties to the proceeding. See 47 CFR 1.47 and 1.211; see also, the rules governing ex parte presentations, 47 CFR 1.1201–1.1251. The notice of appearance should list the address at which you wish other parties to serve papers on you. If you are not named as a party, you may petition to intervene. See 47 CFR 1.223. To intervene as of right, you must show that you are a party in interest (see paragraph 30 above) and must file the petition within 30 days after the designation order is published in the FEDERAL REGISTER. It is not necessary for you to have participated in earlier stages of the proceeding. If the petition is filed later or if it fails to show that petitioner is a party in interest, his intervention as a party lies within the discretion of the presiding officer. You may appeal to the Review Board, as a matter of right, from an order denying your petition to intervene. See 47 CFR 1.301(a)(1). (For a description of the Review Board and its functions, see 47 CFR 0.361 and 0.365.) If the petition is denied, the person objecting may nevertheless request Commission counsel to call him as a witness. He may request other parties to the proceeding to call him as a witness. And, if these measures fail, he may appear at the hearing and ask that the presiding officer allow him to testify. If he shows that his testimony will be relevant, material, and competent, he will be allowed to testify. See 47 CFR 1.225(b). A person who has been permitted to participate as a party may move before the Chief Administrative Law Judge to hold the hearing in the community where the station is located, rather than in the District of Columbia. Action on that request lies within the discretion of the Chief Administrative Law Judge. Subject to budgetary limitations, hearings are held in the local community when it appears that there will be a sizable number of witnesses who live in that community.

40. If you are permitted to participate as a party, a number of new rights accrue to you. If you are dissatisfied with the issues listed by the Commission, you may petition for the addition or deletion

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[9] Licenses for standard broadcast (AM), FM and television broadcast stations ordinarily expire at 3-year intervals from the following dates:

(1) For stations located in Iowa and Missouri, February 1, 1977.

(2) For stations located in Minnesota, North Dakota, South Dakota, Montana, and Colorado, April 1, 1977.

(3) For stations located in Kansas, Oklahoma, and Nebraska, June 1, 1977.

(4) For stations located in Texas, August 1, 1974.

(5) For stations located in Wyoming, Nevada, Arizona, Utah, New Mexico, and Idaho, October 1, 1974.

(6) For stations located in California, December 1, 1974.

(7) For stations located in Washington, Oregon, Alaska, Guam, and Hawaii, February 1, 1975.

(8) For stations located in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, April 1, 1975.

(9) For stations located in New Jersey and New York, June 1, 1975.

(10) For stations located in Delaware and Pennsylvania, August 1, 1975.

(11) For stations located in Maryland, District of Columbia, Virginia, and West Virginia, October 1, 1975.

(12) For stations located in North Carolina and South Carolina, December 1, 1975.

(13) For stations located in Florida, Puerto Rico, and Virgin Islands, February 1, 1976.

(14) For stations located in Alabama and Georgia, April 1, 1976.

(15) For stations located in Arkansas, Louisiana, and Mississippi, June 1, 1976.

(16) For stations located in Tennessee, Kentucky, and Indiana, August 1, 1976.

(17) For stations located in Ohio and Michigan, October 1, 1976.

(18) For stations located in Illinois and Wisconsin, December 1, 1976.

For the expiration date of licenses of other classes of broadcast stations (for example, television booster and translator stations), see 47 CFR 74.15.

of an issue or for the modification of those which are listed. See 47 CFR 1.229. Such petitions are acted on by the Review Board. You may utilize procedures for the discovery of facts relevant to the proceeding. See 47 CFR 1.311–1.325. You may file pleadings and oppose or support any motion or petition filed by any other party to the proceeding. You may ask the presiding officer to issue subpenas requiring the attendance of witnesses or the production of documents at the hearing. See 47 CFR 1.331–1.340. You may examine witnesses, object to the introduction of evidence, and cross-examine the witnesses of other parties. You are expected to be present at the hearing (either personally or by attorney) and to participate in the proceedings. If you subpena witnesses, you are responsible for payment of witness fees.

41. About 4 weeks after the proceeding is designated for hearing, the presiding officer holds an initial prehearing conference. See 47 CFR 1.248. Additional conferences may be held. At such conferences, the presiding officer works with counsel for the parties to devise a schedule for the completion of procedures (such as discovery and summary decision procedures) to be followed by counsel and to settle as many matters as possible before the evidentiary hearing. Counsel may, for example, enter into stipulations regarding undisputed facts and reach agreement as to the scope of the issues set for hearing. They may also agree as to the authenticity of exhibits and as to the qualifications of expert witnesses. Such agreement aids counsel in the preparation of his case, allowing him to concentrate on matters which remain in dispute. It also saves the time and expense which would otherwise be involved in establishing the facts agreed upon by testimony at the hearing. By the time you attend the conference, you should have a clear understanding of what you intend to prove, how (by what witnesses and exhibits) you intend to prove it, and of any collateral procedures you intend to follow, so that you can make full use of the prehearing technique.

42. A Commission hearing is much like a trial in a civil case in a court of law. Instead of a judge, there is a presiding officer, usually one of the Commission's administrative law judges. The administrative law judge is independent of the remainder of the agency and, with minor exceptions, his sole function is to preside over and initially decide Commission hearing proceedings. The Commission's Broadcast Bureau usually participates as a party to the proceeding, on behalf of the public, and is represented at the hearing by an attorney from its Hearing Division. At the hearing proper, witnesses testify under oath, are examined and cross-examined, and a transcript is made of their testimony; exhibits are offered in evidence; the rules of evidence are applied; and various motions are made, argued, and acted on. The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, constitute the exclusive record for decision.

43. When the testimony of all witnesses has been heard, the presiding officer closes the record (47 CFR 1.258) and certifies the transcript and exhibits as to identity (47 CFR 1.260). Parties are afforded an opportunity to move for correction of the transcript (47 CFR 1.261) and to file proposed findings of fact and conclusions of law, which may be supported by a brief (47 CFR 1.263, 1.264). The presiding officer then prepares and issues an initial decision, which becomes effective 50 days after its issuance unless it is appealed by a party or reviewed by the Commission on its own motion (47 CFR 1.267 and 1.277(d)).

44. If you are dissatisfied with the initial decision you may, within 30 days, file exceptions to the decision, which may be accompanied by a brief. See 47 CFR 1.271–1.279. You may also, within this period, file a statement supporting the initial decision. Reply briefs may be filed within 10 days. In cases involving the revocation or renewal or a broadcast station license, the decision is reviewed by the Commission. In other broadcast cases, unless the Commission specifies otherwise, the decision is reviewed by the Review Board (47 CFR 0.365(a)). After exceptions have been filed, the parties may request an opportunity for oral argument before the Commission or the Review Board, as the case may be (47 CFR 1.277). Such requests are ordinarily granted. Thereafter the Commission (or the Board) issues a final decision (47 CFR 1.282). Within 30 days after release of a final Commission decision, you may petition for reconsideration (47 U.S.C. 405; 47 CFR 1.106) or file a notice or appeal with the U.S. Court of Appeals for the District of Columbia Circuit (47 U.S.C. 402(b)). In the case of a Review Board decision, you may, within 30 days, file either a petition for reconsideration by the Board or an application for review of the decision by the Commission. See 47 U.S.C. 155(d); 47 CFR 1.101, 1.102, 1.104, 1.106, 1.113, 1.115, and 1.117. You must seek Commission review of a Board decision before seeking judicial review.

RULE MAKING

45. A rule is similar to a law. It is a statement of policy to be applied generally in the future. A rule making proceeding is the process, required by law, through which the Commission seeks information and ideas from interested persons, concerning a particular rule or rule amendment, which will aid it in making a sound policy judgment. There are other ways, when a rule is not under consideration, in which the Commission seeks information needed to meet its regulatory responsibilities. It may issue a Notice of Inquiry, in which interested persons are asked to furnish information on a given matter and their views as to whether and how the Commission should deal with it. If needed information cannot be obtained in proceedings on a Notice of Inquiry, the Commission can order an investigatory hearing, in which witnesses and records can be subpenaed. If the information obtained indicates that rules should be adopted, the Commission then initiates a rule making proceeding.

PETITION FOR RULE MAKING

46. The principal rules relating to broadcast matters are set out in the rules and regulations of the Commission as Subpart D of Part 1, Part 73 and Part 74. Other provisions relating to broadcasting will be found in Parts 0 and 1. If you think that any of these rules should be changed or that new rules relating to broadcasting should be adopted by the Commission, you are entitled to file a petition for rule making. 5 U.S.C. 553(e); 47 CFR 1.401–1.407. No specific form is required for such a petition, but it should be captioned "Petition for Rule Making" to make it clear that you regard your proposal as more than a casual suggestion. An original and 14 copies of the petition and all other pleadings in rule making matters should be filed.

47. The petition "shall set forth the text or substance of the proposed rule * * * together with views, arguments and data deemed to support the action requested * * *." 47 CFR 1.401(c). This is important, for unless statements supporting or opposing your proposal are filed, you are afforded no further opportunity, prior to Commission action on the petition, to explain or justify your proposal.

48. When a petition for rule making is received, it is given a file number (such as RM–1000) and public notice of its filing is given. The public notice briefly describes the proposal and invites interested persons to file statements supporting or opposing it. Statements must be filed within 30 days after the notice is issued and must be served on the petitioner, who may reply to such a statement within 15 days after it is filed. The reply must be served on the person who filed the statement to which the reply is directed.

49. If a petition for rule making is repetitive or moot or for other reasons plainly does not warrant consideration by the Commission, it can be dismissed or denied by the Chief of the Broadcast Bureau. See 47 CFR 0.280(bb). In that event, petitioner may file an application for review of the Bureau Chief's action by the Commission. See 47 CFR 1.115. In most cases, however, the petition for rule making is acted on by the Commission. Action is ordinarily deferred pending passage of the time for filing statements and replies. Where the changes proposed obviously have (or lack) merit, however, action may be taken without waiting for the submission of statements or replies. In acting on a petition for rule making, the Commission will issue (1) an order amending the rules, as proposed or modified, or (2) a notice of rule making proposing amendment of the rules, as proposed or modified, or (3) an order denying the petition. In the event of adverse action by the Commission, you may petition for reconsideration (47 CFR 1.106).

RULE MAKING WITHOUT PRIOR NOTICE AND PUBLIC PROCEDURE

50. Rule making proceedings are conducted under section 4 of the Administrative Procedure Act, 5 U.S.C. 553. See

also, 47 CFR 1.411–1.427, section 4 provides that an agency may make rules without prior notice and public procedure in any of the following circumstances:

(a) Where the subject matter involves a military or foreign affairs function of the United States.

(b) Where the subject matter relates to agency management or personnel or to public property, loans, grants, benefits, or contracts.

(c) Where the rules made are interpretative rules, general statements of policy, or rules of agency organization, procedure or practice.

(d) Where the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure are impracticable, unnecessary, or contrary, to the public interest.

The rules of organization practice and procedure (47 CFR Parts 0 and 1) are rather frequently amended, often without prior notice and public procedure. However, prior public comment is requested if the matters involved are particularly significant or there is doubt or controversy concerning the wisdom, precise effect, or details of the rule. Where notice is omitted pursuant to (d) above, it is in circumstances where the effect of the rule could be undermined by actions taken during the period allowed for comment, where the rule merely repeats the provisions of a statute, where the provisions of the rule are beneficial to all and there is no reason to expect unfavorable public comment, or in other similar circumstances constituting good cause under the statute. The other exceptions to the requirement of prior notice are of lesser importance.

51. If you are dissatisfied with a rule made by the Commission without prior notice, you may file a petition for reconsideration. You may also request that the effect of the rule be stayed pending action on your petition. All orders changing the Commission's rules are published in the FEDERAL REGISTER, and the 30-day period for filing the petition for reconsideration runs from the date of publication.

RULE MAKING WITH PRIOR NOTICE AND PUBLIC PROCEDURE

52. Except in circumstances listed in paragraph 50 above, the Commission is required to give prior notice and to afford an opportunity for public comment before making or changing a rule. If you have something to say concerning the proposed rule, you are entitled to file comments. Notice is given by issuance of a notice of proposed rule making, and by publishing that notice in the FEDERAL REGISTER. The text of the proposed rule is usually set out in the notice. On occasion, however, the notice will instead indicate the subject involved and the result intended, leaving the precise method for obtaining that result to a later stage of the proceeding following consideration of public comment. Whether or not the text is set out, the notice contains an explanation of the proposed rule and a statement both as to the Commission's reasons for proposing the rule and its authority to adopt it. The notice also lists the dates by which comments and reply comments should be submitted and states whether there are limitations on Commission consideration of nonrecord communications concerning the proceeding.[10] Requests for extension of the time allowed for filing comments and reply comments may be filed.

53. Rule making proceedings are relatively informal. When a notice of proposed rule making is issued, the proceeding is given a docket number (such as Docket No. 15000). Papers relating to the proceeding are placed in a docket file bearing this number. This file is available for inspection in the Commission's Public Reference Room in Washington, D.C. Because comments and reply comments are sometimes filed by hundreds of persons, the Commission does not require that copies be served on others. To find out what others have said in their comments, you may inspect the docket file or arrange with a private firm (for a fee) to furnish copies of comments filed in the proceeding. See 47 CFR 0.465. Often, those who have filed comments will furnish copies as a courtesy upon request. All papers placed in the docket file are considered by the Commission before taking final action in the proceeding. To assure that your views are placed in the docket file and considered by the Commission, all comments, pleadings, and correspondence relating to the proceeding should (in the caption or otherwise) show the docket number.

54. The rules require that an original and 14 copies of comments be filed, that they be typed, doubled-spaced, timely filed, and so forth. See, e.g., 47 CFR 1.419. As a practical matter, it is important for you to meet these requirements. The 14 copies are needed for distribution to Commissioners and members of the staff involved in making a decision. If you submit only an original, it will be placed in or associated with the docket file and considered by the staff member assigned to write a decision but probably will not be seen by other Commission officials. Handwritten communications are also placed in the docket file and so considered. You should appreciate, however, that you are more likely to get your point of view across to the persons making the decision if your presentation is typewritten. In making a rule, the Commission is interested in getting as much information and the best thinking possible from the public before making a decision and does not reject comments on narrow technical grounds. However, failure to comply with the filing requirements adversely affects your right to have the comments considered and to complain if they do not receive what you consider to be full consideration.

55. The comments should explain who you are and what your interest is. They should recite the facts and authority which support your position. They should not ignore facts and authorities which tend to support a different position, but should deal with them and demonstrate that the public interest requires that the matter be resolved as you propose. They should be carefully worded and well organized and free of exaggeration or vituperative comment. They should be explicit. If the details of the proposed rule or one of several provisions only are objectionable, this should be made clear. Counterproposals may be submitted. If the rule would be acceptable only with certain safeguards, these should be spelled out, with the reasons why they are needed.

56. In rule making proceedings, the Commission's responsibility is to make a policy judgment and, in making that judgment, to obtain and consider comments filed in the proceeding. It may tap other sources of information. Unless otherwise expressly stated in the notice,[11] staff members working on the proceeding are generally prepared to meet with and discuss the proposed rule with anyone who is sufficiently interested. They may initiate correspondence or organize meetings to further develop pertinent information and ideas. They will utilize information available in the Commission's files and draw upon the knowledge and experience of other Commission personnel or of other Government agencies. Generally, the Commission hears oral argument only in rule making proceedings involving policy decisions of the greatest importance. However, you may request the Commission to hear argument in any proceeding, and that request will be considered and ruled upon. When argument is heard, interested persons appear before the Commissioners, orally present their views, and are questioned by the Commissioners. Other devices, such as panel discussions, have, on occasion, been used to further develop the information and ideas presented. An evidentiary hearing is not usual in rule making proceedings. Nevertheless, if you think the circumstances require an evidentiary hearing, you are entitled to ask that one be held.

57. After comments and reply comments and the record of oral argument (if any) have been reviewed, a policy judgment is made and a document announcing and explaining it is issued. There are a number of possibilities. The proposed rules may be adopted, with or without changes. They may be adopted in part and, in that event, further comment may be requested on portions of the proceeding which remain. The Commission may decide that no rules should be adopted or that inadequate information has been obtained and, thus, either terminate the proceeding or issue a further notice of proposed rule making requesting additional comment on particu-

[10] In rule making proceedings which involve "conflicting private claims to a valuable privilege," fairness precludes nonrecord communication between Commission personnel involved in making a decision and interested persons concerning the merits of the proceeding. Sangamon Valley Television Corp. v. F.C.C., 269 F. 2d 221, 224. In such proceedings, limitations on communication with the Commission are stated in the notice of proposed rule making.

[11] See footnote 10 above.

lar matters. If final action as to all or any part of the proceeding is taken, the final action taken is subject to reconsideration (47 U.S.C. 405).

PETITION FOR WAIVER OF A RULE

58. Except as they implement mandatory statutory provisions, all of the Commission's rules are subject to waiver. 47 CFR 1.3. If there is something the rules prohibit which you wish to do, or if there is something the rules require which you do not wish to do, you may petition for waiver of the rules in question. The petition must contain a showing sufficient to convince the Commission that waiver is justified on public interest grounds (that is, the public interest would be served by not applying the rule in a particular situation) or, in some instances, on grounds of hardship or undue burden.

PUBLIC INSPECTION OF STATION DOCUMENTS

59. *Local public inspection file.* All radio and television stations maintain a local public inspection file which contains materials specified in 47 CFR 1.526. The file, which is available for public inspection at any time during regular business hours, is usually maintained at the main studio of the station, but the rules permit it to be located at any other publicly accessible place, such as a public registry for documents or an attorney's office. A prior appointment to examine the file is not required, but may prove of mutual benefit to the station and the inspecting party.

60. The local public inspection files of all radio and television stations include recent renewal applications (FCC-Form 303), ownership reports (FCC-Form 323), various reports regarding broadcasts by candidates for public office, annual employment reports (FCC-Form 395), letters received from members of the public concerning operation of the station (see 47 CFR 73.1202(f)), and a copy of this Manual. In addition, the local public inspection files of commercial television stations also include annual programming reports (FCC-Form 303-A) and annual listings of what the licensee believes to have been some of the significant problems and needs of the area served by the station during the preceding twelve months. All television licensees are required to make the materials in their local public inspection files available for machine reproduction, providing the requesting party pays any reasonable costs incurred in producing machine copies.

61. *Public inspection of television station program logs.* In response to formal requests from various citizen groups, the Commission's rules were amended in March 1974 to require television stations to make their program logs available for public inspection under certain circumstances. The contents of these logs are specified. See 47 CFR 73.112. It should be emphasized that because the logs are intended primarily to serve Commission needs, the information they contain is limited and is essentially statistical in nature. Although, for example, the logs include the title and type (that is, the program category such as news, entertainment, etc.) of the various programs carried by the station, and the times these programs were broadcast, the logging rules do not require descriptions of the actual content of individual programs nor a listing of program participants or issues discussed. Despite their limitations, however, the logs do contain relevant information concerning station programming, including commercial practices.

62. Television station program logs are available upon request for public inspection and reproduction at a location convenient and accessible for the residents of the community to which the station is licensed. All such requests for inspection are subject to the following procedural requirements set forth in 47 CFR 73.674:

(1) Parties wishing to inspect the logs shall make a prior appointment with the licensee and, at that time, identify themselves by name and address; identify the organization they represent, if any; and state the general purpose of the examination.

(2) Inspection of the logs shall take place at the station or at such other convenient and accessible location as may be specified by the licensee. The licensee, at its option, may make an exact copy available in lieu of the original program logs.

(3) Machine copies of the logs shall be made available upon request, provided the party making the request shall pay the reasonable costs of machine reproduction.

(4) An inspecting party shall have a reasonable time to examine the program logs. If examination is requested beyond a reasonable time, the licensee may condition such further inspection upon the inspecting party's willingness either to assume the expense of machine duplication of the logs or to reimburse the licensee for any reasonable expense incurred if supervision of continued examination of the original logs is deemed necessary.

(5) No log need be made available for public inspection until 45 days have elapsed from the day covered by the log in question.

63. 47 CFR 73.674 provides that the licensee may refuse to permit public inspection of the program logs where good cause exists. When it included this provision in its 1974 amendments to 47 CFR 73.674, the Commission indicated that lacking experience with the operation of public inspection of program logs, it was in no position to describe all situations in which there would be good cause for refusing to permit access. Two illustrations which it did offer, however, were (1) a request from a financial competitor of the station or of the station's advertisers which was based solely on competitive considerations and (2) a situation in which the request represented an attempt at harassment. Harassment would exist if the primary goal of requesting examination of the logs was the disruption of station operation or the creation of an annoyance. If, for example, an inspecting party or parties situated themselves in the inspection location hour after hour, day after day, refusing to indicate which, if any, logs it wished to have duplicated, and refusing to engage in dialogue with the licensee regarding further inspection, it would not be inappropriate to characterize that inspection as an attempt at harassment.

64. While the probability of misuse and abuse of requests to inspect program logs and the danger of harassment was not sufficient to cause the Commission to refrain from making the logs generally available, the provision regarding refusal of access for good cause was inserted in amended 47 CFR 73.674 as a recognition of legitimate concerns of broadcasters. In the rare case where an unresolved dispute arises between members of the public and a station regarding whether good cause exists for not making the logs available, the dispute can, of course, be brought to the Commission for resolution.

REFERENCE MATERIALS

65. Laws relating to communications have been compiled in title 47 of the United States Code, which is available in most libraries. The basic law under which the Commission operates is the Communications Act of 1934, as amended, 47 U.S.C. 151-609. A pamphlet containing the Communications Act, the Administrative Procedure Act, and other statutory materials, pertaining to communications may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Ask for the "The Communications Act of 1934" which includes all changes in the Act through January 1969.

66. The Commission's rules and regulations have been compiled in Chapter I of title 47 of the Code of Federal Regulations, which is available in many libraries. Chapter I is divided into four subchapters, which are printed in separate volumes, which may be purchased separately from the Superintendent of Documents. Those wishing to participate in broadcast matters will need two of these volumes:

Subchapter A—General
Subchapter C—Broadcast Radio Services

These volumes are revised annually.

67. The Commission's rules may also be purchased from the Superintendent of Documents in looseleaf form on a subscription basis. The rules are divided into 10 volumes, each containing several related parts. Each volume may be purchased separately. The purchase price includes a subscription to replacement pages reflecting changes in the rules until such time as the volume is revised. Those wishing to participate in broadcast matters will need two of these volumes:

Volume I—containing Parts 0, 1, 13, 17, and 19.
Volume III—cotaining Parts 73, 74, 76, and 78.

68. All documents adopted by the Commission which have precedential or historical significance are published in the FCC reports, which are available in some libraries. The reports are usually published weekly in pamphlet form. The pamphlets are available from the Superintendent of Documents on a subscription basis and are subsequently compiled and published in bound volumes.

69. A list of the Commission's printed publications (with prices) will be furnished by the Commission on request.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

■

MASS TRANSIT AND SPECIAL USE HIGHWAY PROJECTS

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 810]

[Docket No. 74–7]

MASS TRANSIT AND SPECIAL USE HIGHWAY PROJECTS

Notice of Proposed Rule Making

The Federal Highway Administration and the Urban Mass Transportation Administration are considering issuing regulations to implement certain provisions of title 23, United States Code, which permit approval of mass transit projects, mass-transit-related projects, and special use highway facilities. The proposed regulations would add Part 810 to Chapter I of title 23 of the Code of Federal Regulations. Existing regulations in title 23, CFR, are not affected by these proposed regulations.

The Federal-Aid Highway Act of 1973 (P.L. 93–87, 87 Stat. 250), hereinafter the 1973 Highway Act, added or amended several sections of title 23, United States Code, which allow considerable flexibility in the use of Federal-aid highway funds for mass transit and transit-related facilities and for special use highways. Section 142 of title 23, U.S.C., which was amended and considerably expanded by section 121 of the 1973 Highway Act, now allows exclusive and preferential busways, fringe and corridor parking facilities, and other highway-related mass transit facilities to be approved on any Federal-aid highway system. Prior to the 1973 legislation, these facilities were only approvable on Federal-aid systems in urbanized areas.

In addition, 23 U.S.C. 142 now allows nonhighway public mass transit projects to be approved as a part of the Federal-aid urban system. The law provides two methods for approval of these projects. Under 23 U.S.C. 142(c), which is applicable only to urbanized areas and to monies apportioned for the Federal-aid urban system in fiscal years 1974 and 1975, responsible local officials can determine that their needs require mass transit projects in lieu of highway projects which would be assisted by Federal-aid urban system monies, and general funds of the Treasury can be made available to pay the Federal share of these projects, with the State's urban system apportionment being reduced by the amount of general funds obligated on transit projects. Under 23 U.S.C. 142(a)(2), Highway Trust Fund monies apportioned for the Federal-aid urban system can be used for nonhighway public transit projects. These monies may be used for bus projects beginning with fiscal year 1975 and for rail projects beginning with fiscal year 1976.

Section 142 of title 23 U.S.C. also allows exclusive or preferential bus, truck, and emergency vehicle lanes or routes to be approved on the Federal-aid Interstate System, and exempts these special use lanes and routes from the requirement that Interstate highways be at least four lanes in width. The section also allows the Federal Highway Administrator to authorize States to make available Federal-aid highway rights-of-way without charge to publicly owned mass transit authorities for mass transit facilities.

These proposed regulations implement the provisions of 23 U.S.C. 142 and of two related sections of the same title. Under 23 U.S.C. 149, which as added by section 142 of the 1973 Highway Act, exclusive or preferential truck lanes may be approved on any Federal-aid highway system. Under 23 U.S.C. 137, which was not amended by the 1973 Highway Act, fringe and corridor parking facilities can be approved on the Federal-aid urban system. Because of the relationship between these sections and 23 U.S.C. 142, it was decided that the three sections could properly be implemented by one set of regulations.

A detailed explanation of the technical provisions of the proposed regulations follows:

PART 810, SUBPART A

Subpart A provides that terms used in these regulations have the same meaning as in title 23, United States Code, unless otherwise defined. Additional essential terms used in this Part are defined.

"Responsible local officials," who select Federal-aid urban system projects, including nonhighway public mass transit projects, are defined in two slightly varied ways, depending on the size of the area involved. In areas under 50,000 population, the term means the principal elected officials of general purpose local governments. In urbanized areas, the term means the principal elected officials of general purpose local governments acting through the areawide transportation planning agency designated by the Governor as responsible for carrying out the provisions of 23 U.S.C. 134. This definition means that in urbanized area actions or decisions of local officials must be presented to and endorsed by the areawide planning agency. It should be noted that title 23 U.S.C., uses the terms "responsible local officials" and "appropriate local officials" in a number of sections. While these terms are not necessarily synonymous, we can foresee no situation where "appropriate local officials" and "responsible local officials" would not be the same parties.

The statutory provisions which these proposed regulations implement contain several references to special use highway facilities: Under 23 U.S.C. 142(b), exclusive bus, truck, and emergency vehicle routes or lanes can be approved on the Interstate System; under 23 U.S.C. 142(a)(1), exclusive or preferential bus lanes can be approved on any Federal-aid highway system; under 23 U.S.C. 149, exclusive or preferential truck lanes can be approved on any Federal-aid highway system. We have combined these terms and defined "exclusive or preferential bus, truck, or emergency vehicle lane(s)" to mean one or more lanes of a highway facility, or an entire highway facility, which is reserved at all times or at regularly scheduled times, for exclusive or preferential use by buses, or trucks, or emergency vehicles or any combination of these. This definition is designed to give local authorities considerable flexibility in accommodating the special needs of certain kinds of traffic.

Another important definition in these regulations is "nonhighway public mass transit project." These projects may be approved as urban system projects under Subpart D of these regulations. The term is defined as meaning any undertaking to develop or improve a mass transit facility, and any phase in the development or improvement of such a facility. Although the statute only directly refers to purchase of passenger equipment and to construction or improvement of fixed rail facilities, the legislative intent was also to provide support facilities and equipment. Consequently, the definition provides for acquisition of support facilities and equipment, e.g., bus shelters and garages, provided they are part of a planned transit development program contemplating the purchase of buses, or other passenger rolling stock, or the construction of fixed rail facilities. It would not be necessary, however, that all projects included in the program necessarily be funded under the provisions of these proposed regulations. Further, so-called "people-movers" or personal rapid-transit-type projects are "nonhighway public mass transportation projects." Projects under this definition, although approvable as urban system projects, do not have to be located on a Federal-aid highway, e.g., a bus acquired pursuant to these provisions would not be restricted to operation on a route on the Federal-aid urban system. Phases of development, such as plan refinement, preliminary engineering, design, and right-of-way acquisition for a mass transit facility are within the purview of the definition.

These proposed regulations define the term "highway traffic control devices," which are eligible for funding on any Federal-aid system, as that term is defined in the Manual on Uniform Traffic Control Devices. That definition includes, but is not limited to, the actual display apparatus on the highway, the surveillance component to detect and measure traffic flow characteristics, the supervisory control component at a remote location or in authorized vehicles, the logic or software for data analysis and decision making, and the communications component which usually consists of interface units and transmission links.

Subpart A also discusses the planning requirements for projects authorized by the statutory provisions implemented in these proposed regulations. The planning requirements of 23 U.S.C. 134 are applicable to projects in urbanized areas. Further, pursuant to the statutory requirement of 23 U.S.C. 142(d), the regulations require that routes and schedules on public mass transportation systems in urbanized areas shall be based on the 23 U.S.C. 134 planning process when the routes or schedules are established or significantly altered as a result of Federal-aid assistance received under 23 U.S.C. 137 or 142.

PART 810, SUBPART B

The proposed Subpart B contains regulations to implement 23 U.S.C. 137,

142(a)(1), 142(b), and 149, which allow approval of various highway public mass transit improvements and special use highway facilities. Eligible projects include highway traffic control devices, bus passenger loading areas and facilities, and fringe and transportation corridor parking facilities. Exclusive or preferential bus, truck, or emergency vehicle lanes are also eligible projects under this Subpart, except that lanes that are to be exclusive or preferential only for emergency vehicles can only be approved on the Interstate System. This is because 23 U.S.C. 142(b), which authorizes exclusive or preferential emergency vehicle lanes, is limited to the Interstate System. On other Federal-aid systems, emergency vehicles could be given preferential treatment along with trucks or buses or both. Projects approved under this Subpart must be on or adjacent to a Federal-aid highway.

By virtue of 23 U.S.C. 137, certain special requirements attach to fringe and transportation corridor parking facilities approved under this Subpart. These are detailed in § 810.104 of the proposed regulations.

PART 810, SUBPART C

Subpart C of these proposed regulations implements 23 U.S.C. 142(g), which permits the Federal Highway Administrator to authorize States to make available, without charge, to publicly owned mass transit authorities, highway rights-of-way for rail or nonhighway public mass transit facilities.

The proposed regulations in this Subpart are applicable to the rights-of-way of all Federal-aid highways which have received or will receive Federal-aid assistance. Thus, if the right-of-way itself were acquired without Federal financial assistance, but Federal funds participated in other phases of the highway's development, these proposed regulations are applicable. On the other hand, these regulations are not applicable to a highway which has never received Federal financial assistance and has merely been designated a part of a Federal-aid highway system.

The regulations in this Subpart are concerned with the making available, without charge, of existing rights-of-way for utilization by mass transit facilities. They do not authorize acquisition of right-of-way for these purposes. However, under the provisions of Subparts B and D of these proposed regulations, acquisition of right-of-way necessary for transit, transit related and highway public transportation facilities is authorized. Rights-of-way made available under Subpart C may be used in combination with right-of-way available under Subparts B and D. For example, if a proposed mass transit facility would require 100 square feet, and half of that were made available from existing right-of-way under the provisions of Subpart C, the remainder would be eligible for acquisition under Subpart B or D.

The proposed regulations provide that a publicly owned mass transit authority which wishes to use existing Federal-aid highway right-of-way for a mass transit facility shall apply to the State highway department. The State highway department, after reviewing this application, may request the Federal Highway Administration to authorize it to make the necessary land available to the transit authority. The decision of whether or not to make this request is in the discretion of the State highway department. A request must be accompanied by evidence that the proposed use will not impair future highway improvements or the safety of highway users.

The Federal Highway Administrator may authorize the State to make the requested land available to the mass transit authority if he is satisfied that the public interest will be served thereby and that the proposed use will not impair future highway improvements or the safety of highway users, and that the request is in accord with a continuing comprehensive planning process under 23 U.S.C. 134. Upon receiving this authorization, the State shall enter into a written agreement with the mass transit authority relating to the use and occupancy of the land. The regulations do not specify the type of conveyance, i.e., license, covenant or other particular instrument, to be executed by State and local officials. This will allow the greatest possible flexibility for those officials to take into account such other considerations as the type of ownership which the State has in the right-of-way, and applicable State laws, including the tort liability of owners and occupants. In general, the rights conveyed should be limited to the rights and land necessary for the proposed project. The agreement shall be approved by the Administrator and shall contain certain essential conditions detailed in the regulations. The land shall be made available without charge to the mass transit authority, except that the authority shall bear any incidental costs of the delivery of use and occupancy.

PART 810, SUBPART D

Subpart D of these proposed regulations implement 23 U.S.C. 142(a)(2) and (c), which authorize approval of nonhighway public mass transit projects as or in lieu of Federal-aid urban system projects. Although the two statutory provisions differ somewhat in terms of eligible areas, sources of funding, and timing of eligibility, there are few real distinctions between the two sections. Accordingly, this Subpart implements both and minimizes the differences between them.

Under the regulations, nonhighway public mass transit projects may now be approved as urban system projects, with the single exception that projects involving the construction of fixed rail facilities (including the purchase of rolling stock for fixed rail) may be approved *only* in urbanized areas until January 1, 1975. This distinction is made because the provisions of 23 U.S.C. 142(c) authorize approval of fixed rail projects in lieu of urban system highway projects which would be financed with urban system funds apportioned for fiscal years 1974 and 1975. However, the provisions of 23 U.S.C. 142(a)(2) do not authorize approval of fixed rail projects as regular urban system projects until fiscal year 1976. While the provisions of 23 U.S.C. 142(a)(2) are applicable in all urban areas, the provisions of 23 U.S.C. 142(c) are only applicable in urbanized areas. Therefore, fixed rail projects are eligible for approval *only* in urbanized areas under 23 U.S.C. 142(c), until the rail provisions of 23 U.S.C. 142(a)(2) come into effect. This occurs on January 1, 1975, when the urban system apportionments for fiscal year 1976 become available for obligation.

The regulations require that a proposed urban system nonhighway public mass transit project must be included in a program of projects approved under the provisions of 23 U.S.C. 105. That provision of law requires the State highway department to submit a program of proposed projects for utilization of Federal-aid highway monies apportioned to the State for each fiscal year. With respect to programs of projects for the Federal-aid urban system, the law requires that the projects be selected by responsible local officials, with the concurrence of the State highway department and, in urbanized areas, in accordance with the 23 U.S.C. 134 planning process. By requiring inclusion of the proposed transit project in an approved program of projects, the regulations insure that the projects will have been selected by responsible local officials in accordance with appropriate planning requirements. This provision also accomplishes the statutory requirements of 23 U.S.C. 142(c), which requires that responsible local officials determine that their needs require a mass transit project and that the project be in accord with and entitled to priority under the 23 U.S.C. 134 planning process.

Under the proposed regulations, the actual application for an urban system transit project may be developed by the Governor or by any person or entity authorized by State or local law to plan, organize, operate, manage or otherwise provide mass transportation services in and for the urban area. This application, which constitutes the submission of plans, specifications, and estimates for the proposed project, must meet the requirements established by the Urban Mass Transportation Administration's External Operating Manual for a capital or technical studies grant, as appropriate. The application must also contain an assurance that the proposed project will be fully utilized by the public mass transportation system of the urban area. The application is forwarded to the State highway department, which submits the application to the Federal Highway Administrator, provided that it concurs in the full utilization assurance and endorses the proposed project.

There was considerable discussion as to who should submit and be the contracting party with respect to, urban system mass transit projects. Under 23 U.S.C. 110 and other basic provisions of

title 23, United States Code, it is the State highway department which develops and submits the plans, specifications and estimates for proposed highway projects and which contracts with the Federal Government for project implementation. However, agencies other than State highway departments may be authorized under State and local law as responsible for transit. Under 23 U.S.C. 142(e)(2), urban system transit projects approved under 23 U.S.C. 142(a)(2) are subject to the provisions of title 23 U.S.C., except to the extent they are deemed inconsistent.

The Department believes that those provisions of title 23 which make the State highway department the sole eligible recipient of Federal-aid highway funds are inconsistent with the provisions allowing funding of urban system mass transit projects. For these reasons, we have structured these regulations so as to maximize flexibility while assuring that those persons or entities with the necessary authority or expertise will be eligible to develop mass transit projects.

The State highway department, because of its overall responsibility for the Federal-aid urban system, has the specific responsibility of submitting the proposed project. This is the case whether or not it developed the application and whether or not it will be the recipient of the financial assistance to be provided. Nothing in these proposed regulations is intended to preclude a State highway department from acting in either capacity.

The regulations provide that the application for a proposed urban system transit project is to be submitted to the Federal Highway Administrator. Actually, following normal FHWA delegations of authority, the application will be submitted to the FHWA Division Engineer, but the regulations do not reflect this level of delegation. FHWA will determine whether sufficient Federal-aid urban system funds have been reserved to finance the Federal share of the proposed project. If sufficient funds were not reserved at the programming stage, the necessary funds will be reserved upon request by the State highway department. This determination of fund availability is necessary whether the proposed project is being advanced under 23 U.S.C. 142(a)(2); pursuant to which Highway Trust Fund monies may be obligated, or 23 U.S.C. 142(c), pursuant to which general fund monies may be obligated. If the project is financed with general funds, the State's urban system apportionment must be reduced by an equivalent amount. The particular source of funding for a specific project is a matter of Federal-level bookkeeping which has no impact on the recipient.

FHWA forwards the urban system transit application to UMTA with the determination of fund availability. The monies for the proposed project remain reserved until UMTA notifies FHWA that the proposed project has been disapproved, or until the State highway department withdraws the project.

UMTA will review each application for a proposed urban system transit project to be sure that sufficient urban system funds have been reserved and that the assurance of full utilization is satisfactory. Proposed projects will be approved in accordance with the provisions of the UMTA External Operating Manual. Approval of the project by the Urban Mass Transportation Administrator obligates the United States to pay its proportional share of the project's cost. This proportional share is the same as for urban system highway projects; currently, that share is fixed at 70 percent.

Upon approval of the project, UMTA shall execute a grant contract covering implementation of the project with the Governor or with any person or entity which is designated by the Governor and which is authorized by State or local law to plan, organize, operate, manage, or otherwise provide mass transportation service in or for the urban area. As noted above, the question of who is to be the contracting party and the recipient of the financial assistance provided under this Subpart was a major one in the development of these regulations. We decided, consistent with our comments above, that the Governor is in the best position within the State to determine which person or entity with the necessary legal authority can best implement the project and undertake the necessary contractual responsibilities and guarantees. Therefore, the regulations allow the Governor or any properly authorized person or entity he may designate to be the contracting party for urban system nonhighway public mass transit projects approved under this Subpart.

Inquiries, comments, views, and arguments on these proposed regulations may be submitted to the Federal Highway Administration, DOT 512, Room 4226, Docket No. 74–7, 400 7th Street SW., Washington, D.C. 20590. All written communications received on or before October 1, 1974, will be considered before final action is taken on this proposal. Copies of all written communications received will be available for examination during normal business hours at the foregoing address.

These amendments to Title 23, Code of Federal Regulations, are proposed under the authority of 23 U.S.C. 137, 142, 149, and 315, and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48(b) and 1.50(f).

In consideration of the foregoing, it is proposed to amend Chapter 1 of title 23 of the Code of Federal Regulations by adding a new Part 810 as set forth below.

Issued on August 30, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

J. E. HIRTEN,
Deputy Urban Mass Transportation Administrator.

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AUTHORITY: 23 U.S.C. 137, 142, 149, 315; Delegation of authority by the Secretary of Transportation, 40 CFR 1.48(b); 1.50(f).

Subpart A—General

§ 810.2 Purpose.

The purpose of the regulations in this Subpart is to implement sections 137, 142, and 149 of title 23 of the United States Code. Sections 137 and 142 relate generally to the use of Federal-aid highway funds for various types of public transportation projects; section 149 permits the Secretary to approve as a project on any Federal-aid system the construction of exclusive or preferential truck lines.

§ 810.4 Definitions.

(a) Except as otherwise provided, terms defined in 23 U.S.C. 101(a) are used in this Subpart as so defined.

(b) The following terms, where used in the regulations in this Subpart, have the following meaning—

"Responsible local officials" means—

(1) In areas under 50,000 population, principal elected officials of general purpose local governments; or

(2) In urbanized areas, principal elected officials of general purpose local governments (and until January 2, 1975, the Commissioner of the District of Columbia), acting through the areawide transportation planning agency designated by the Governor.

"Bus passenger loading areas and facilities (including shelters)" means areas and facilities located at or near passenger loading points for the safety,

protection, comfort, or convenience of bus passengers. The term "areas and facilities" includes access roads, buildings, structures, equipment, improvements, and interests in land.

"Exclusive or preferential bus, truck, or emergency vehicle lane(s)" means one or more lanes of a highway facility or an entire highway facility where buses, trucks, emergency vehicles, or any combination thereof, are given, at all times or at any regularly scheduled times, a priority or preference over some or all other vehicles moving in the general stream of mixed highway traffic.

"Fringe and transportation corridor parking facilities" means those facilities located in fringe areas which are intended to be used for the temporary storage of vehicles and which are located and designed so as to facilitate the safe and convenient transfer of persons traveling in such vehicles to and from existing or planned public transportation facilities. The term "parking facilities" includes access roads, buildings, structures, equipment, improvements, and interests in land.

"Fringe areas" means those areas outside the central business district of an urban area.

"Highway traffic control devices" means traffic control devices as defined by the currently approved Manual on Uniform Traffic Control Devices.

"Nonhighway public mass transit project" means any undertaking to develop or improve public mass transit facilities or equipment. A project must be included in and related to a program for the development or improvement of an urban public mass transit which includes either the construction of fixed rail facilities, or the purchase of passenger equipment, or both. Passenger equipment includes buses, fixed rail rolling stock and other transportation equipment.

§ 810.6 Planning requirements for projects authorized by 23 U.S.C. 137, 142, or 149.

(a) Programs for projects in an urbanized area may not be approved by the Federal Highway Administrator and the Urban Mass Transportation Administrator unless they find that such projects are based on a continuing comprehensive transportation planning process, carried on in accordance with 23 U.S.C. 134.

(b) Routes and schedules on public mass transportation systems in urbanized areas which receive Federal-aid assistance under 23 U.S.C. 137 or 142, which are established or significantly altered as the result of receiving this assistance, shall be based upon a continuing comprehensive transportation planning process carried on in accordance with 23 U.S.C. 134.

Subpart B—Highway Public Transportation Projects and Special Use Highway Facilities

§ 810.100 Purpose.

The purpose of the regulations in this Subpart is to implement 23 U.S.C. 137, 142(a)(1), 142(b), and 149 which by delegation of the Secretary allow the Federal Highway Administrator to approve various highway public mass transportation improvements and special use highway facilities as Federal-aid highway projects.

§ 810.102 Eligible projects.

Projects may be approved by the Federal Highway Administrator under this Subpart, on all Federal-aid systems, which encourage the development, improvement, and use of public mass transportation systems operating motor vehicles (other than on rail) so as to increase the traffic capacity of the Federal-aid systems for the movement of persons. Eligible projects include—

(a) Exclusive or preferential bus, truck, or emergency vehicle lanes, except that exclusive or preferential lanes only for emergency vehicles can be approved only on the Federal-aid Interstate System;

(b) Highway traffic control devices;

(c) Bus passenger loading areas and facilities (including shelters) that are on or serve a Federal-aid system; and

(d) Fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers.

§ 810.104 Applicability of other provisions.

(a) Projects authorized under section 810.102 of this Subpart shall be deemed to be a highway project for all purposes of title 23, United States Code, and shall be subject to all regulations of title 23, Code of Federal Regulations.

(b) Projects approved under this Subpart on the Federal-aid Interstate System for exclusive or preferential bus, truck and emergency vehicle lanes are excepted from the minimum four-lane requirement of 23 U.S.C. 109(b).

(c) The Federal proportional share of a project approved under this Subpart shall be the same as that provided in 23 U.S.C. 120(a) for any other project on the Federal-aid system on which the project is located.

(d) Projects authorized under this Subpart will be approved only if the State has provided the Federal Highway Administrator with a satisfactory assurance that the proposed project will be fully utilized by the public mass transportation system, with a discussion of the relevant information provided by local transit operating officials and other bases of that assurance.

§ 810.106 Approval of fringe and transportation corridor parking facilities.

(a) In approving fringe and transportation corridor parking facilities, the Federal Highway Administrator—

(1) Shall make a determination that the proposed parking facility is located in a fringe area.

(2) Shall require that the parking facility be located and designed in conjunction with existing or planned public transportation facilities;

(3) May approve acquisition of land proximate to the right-of-way of the Federal-aid highway;

(4) May approve construction of publicly owned parking facilities on land acquired under paragraph (a)(3) of this section or within the Federal-aid highway right-of-way, including the use of the airspace above and below the established gradeline of the highway pavement; and

(5) May permit the charging of fees for the use of the facility, except that the rate of the fee shall not be in excess of that required for maintenance and operation (including compensation to any person for operating such facility), and for the retirement of the principal of municipal bonds issued to provide the local participating share in the construction costs.

(b) The Federal Highway Administrator shall not approve a fringe and transportation corridor parking facility project unless—

(1) He has determined that the State, or the political subdivision thereof, where the project is to be located, or any agency or instrumentality of such State or political subdivision, has the authority and capability of constructing, maintaining, and operating the facility;

(2) He has entered into an agreement governing the financing, maintenance, and operation of the parking facility with the State, political subdivision, agency, or instrumentality including necessary requirements to insure that adequate public transportation services will be available to persons using the facility and he has received assurance that the facility will remain in public ownership as long as it is needed and that any change in ownership shall have his prior approval; and

(3) He has approved design standards for constructing the facility developed in cooperation with the State highway department.

(c) A State political subdivsion, agency or instrumentality thereof may contract with any person to operate any parking facility constructed under this section.

Subpart C—Making Highway Rights-of-Way Available for Mass Transit Projects

§ 810.200 Purpose.

The purpose of the regulations in this Subpart is to implement 23 U.S.C. 142(g), which permits the Federal Highway Administrator to authorize a State to make available, to a publicly owned mass transit authority, highway rights-of-way for rail or nonhighway public mass transit facilities.

§ 810.202 Applicability.

(a) The provisions of this Subpart are applicable to the rights-of-way of all Federal-aid highways on which Federal-aid highway funds have participated or will participate in any part of the cost of the highway.

(b) The provisions of this Subpart do not preclude acquisition of rights-of-way for use involving mass transit facilities under the provisions of Subparts B and D of this Part. Rights-of-way made available under this Subpart may be used in combination with rights-of-way acquired under Subparts B and D of this Part.

§ 810.204 Application by mass transit authority.

A publicly owned mass transit authority desiring to utilize land existing within publicly acquired right-of-way of any Federal-aid highway for a rail or nonhighway public mass transit facility may submit an application therefor to the State highway department.

§ 810.206 Review by the State highway department.

The State highway department, after reviewing the application, may request the Federal Highway Administrator to authorize the State to make available to the publicly owned mass transit authority the land needed for the proposed facility. A request shall be accompanied by evidence that utilization of the land for the proposed purposes will not impair future highway improvements or the safety of highway users.

§ 810.208 Action by the Federal Highway Administrator.

The Federal Highway Administrator may authorize the State to make available to the publicly owned mass transit authority the land needed for the proposed facility, if he finds:

(a) The evidence submitted by the State highway department under § 810.206 to be satisfactory;

(b) The public interest will be served thereby; and

(c) The proposed action is based on a continuing comprehensive transportation planning process carried on in accordance with 23 U.S.C. 134.

§ 810.210 Authorization for use and occupancy by mass transit.

(a) Upon being authorized by the Federal Highway Administrator, the State shall enter into a written agreement with the publicly owned mass transit authority relating to the use and occupancy of highway right-of-way subject to the following conditions:

(1) That any significant revision in the design, construction, or use of the facility for which the land was made available shall receive prior review and approval by the State highway department, subject to concurrence by the Federal Highway Administrator.

(2) That the use of the lands made available to the publicly owned mass transit authority shall not be transferred to another party without the prior approval of the State highway department, subject to concurrence by the Federal Highway Administrator.

(3) That, if the publicly owned mass transit authority fails within a reasonable or agreed time to use the land for the purpose for which it was made available, or if it abandons the land or the facility developed, such use shall terminate and any abandoned facility developed, or in development, by the publicly owned mass transit authority shall be disposed of in a manner prescribed by the State.

(b) A copy of the use and occupancy agreement shall be forwarded to the Federal Highway Administrator for approval.

§ 810.212 Use to be without charge.

The use and occupancy of the lands made available by the State to the publicly owned mass transit authority shall be without charge. Costs incidental to making the lands available for mass transit shall be borne by the publicly owned mass transit authority.

Subpart D—Federal-Aid Urban System Nonhighway Public Mass Transit Projects

§ 810.300 Purpose.

The purpose of the regulations in this Subpart is to implement 23 U.S.C. 142(a)(2), which allows the Urban Mass Transportation Administrator, by delegation of the Secretary, to approve nonhighway public mass transit projects as Federal-aid urban system projects, and 23 U.S.C. 142(c), which permits approval of nonhighway public mass transit projects in lieu of highway projects on the Federal-aid urban system in urbanized areas.

§ 810.302 Eligible projects.

(a) Subject to the limitation of paragraph (b) of this section, nonhighway public mass transit projects may be approved as Federal-aid urban system projects.

(b) Prior to January 1, 1975, nonhighway public mass transit projects involving the construction of fixed rail facilities, including the purchase of rolling stock for fixed rail, can be approved only within urbanized areas.

(c) On and after January 1, 1975, projects involving the reconstruction and improvement of fixed rail facilities shall be eligible for approval under this Subpart D as nonhighway public mass transit projects.

§ 810.304 Submission of projects.

(a) A proposed urban system nonhighway public mass transit project must be included in a program of projects approved pursuant to 23 U.S.C. 105, in whole or in part by the Federal Highway and Urban Mass Transportation Administrators.

(b) An application for an urban system nonhighway public mass transit project (which shall constitute the submission of plans, specifications, and estimates for the project) shall be developed by the Governor or by any person or entity authorized by State or local law to plan, organize, operate, manage, or otherwise provide mass transportation service in and for the urban area. The application shall—

(1) Meet the requirements for an application for capital or technical studies grant from the Urban Mass Transportation, as appropriate, as set forth in the UMTA External Operating Manual (UMTA Order 1000.2, dated August 22, 1972); and

(2) Contain an assurance that the public mass transportation system of the urban area will fully utilize the proposed project, with a discussion of the relevant information provided by local transit operating officials and other bases of that assurance.

(c) The application shall be forwarded to the State highway department. The State highway department shall submit the application to the Federal Highway Administrator, provided it—

(1) Endorses the proposed project; and

(2) Concurs in the assurance that the proposed project will be fully utilized by the public mass transportation system.

§ 810.306 Determination of fund availability.

(a) When the Federal Highway Administrator receives an application for an urban system nonhighway public mass transit project, he shall determine whether sufficient Federal-aid urban system funds have been reserved to finance the Federal share of the cost of the proposed project. If he determines that sufficient Federal-aid urban system funds are not reserved, he shall reserve the necessary funds if the State highway department requests him to do so.

(b) The Federal Highway Administrator shall forward the application for an urban system nonhighway public mass transit project to the Urban Mass Transportation Administrator, together with his determination of fund availability and other appropriate comments.

(c) The Urban Mass Transportation Administrator shall notify the Federal Highway Administrator of his approval or disapproval of each proposed urban system nonhighway public mass transit project forwarded to him. The funds reserved for the proposed project shall remain available for obligation on that project until the Federal Highway Administrator is notified that the project has been disapproved by the Urban Mass Transportation Administrator, or until the project is withdrawn by the State highway department.

§ 810.308 Urban Mass Transportation Administrator's review of application for urban system nonhighway public mass transit project.

The Urban Mass Transportation Administrator shall approve the application for an urban system nonhighway public mass transit project only if:

(a) The assurance that the public mass transportation system of the urban area will fully utilize the proposed project is satisfactory; and

(b) Sufficient Federal-aid urban system funds to pay the Federal share of the cost of the project are reserved for obligation on the project, as determined by the Federal Highway Administrator under § 810.306.

§ 810.310 Approval of urban system nonhighway public mass transit projects.

(a) An urban system nonhighway public mass transit project shall be approved

by the Urban Mass Transportation Administrator in accordance with the provisions of the UMTA External Operating Manual (UMTA Order 1000.2, dated August 22, 1972) relating to capital assistance grants or technical studies, as appropriate. Approval of the plans, specifications, and estimates of a nonhighway public mass transit project shall be deemed to occur on the date the Urban Mass Transportation Administrator approves the project. This approval obligates the United States to pay its proportional share of the cost of the project.

(b) approval of an urban system nonhighway public mass transit project, the Urban Mass Transportation Administrator shall execute a grant contract covering implementation of the project with the Governor or with any person or entity designated by the Governor including the State highway department, which is authorized by State or local law to plan, organize, operate, manage, or otherwise provide mass transportation services and facilities in and for the urban area.

§ 810.312 Applicability of other provisions.

The Federal proportional share of the cost of an urban system nonhighway public mass transit project approved under this Subpart shall be equal to the Federal share which would have been paid if the project were a highway project, as determined under 23 U.S.C. 120(a).

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PART V

FEDERAL ENERGY ADMINISTRATION

■

PETROLEUM ALLOCATION AND PRICE REGULATIONS

Miscellaneous Amendments

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Allocation of Crude Oil; Special Rule No. 2

On August 9, 1974, the Federal Energy Administration published two notices of proposed rulemaking to amend the reporting requirements of Subpart C of Part 211 (39 FR 28862) and to add to the Appendix of Subpart C of Part 211 Special Rule No. 2 (39 FR 28862). The FEA has reviewed the comments received with respect to these proposed rulemakings and is now adopting these proposals as final rules with certain modifications noted below.

No changes have been made in the amendments to § 211.66(d) from the form of such amendments in the notice of proposed rulemaking. Special Rule No. 2 as adopted hereby differs from its form in the notice of proposed rulemaking in two respects. First, Special Rule No. 2 as adopted makes it clear that the unsold quantity of crude oil under Special Rule No. 1 for May, 1974 (39 FR 12109; April 3, 1974) is calculated with reference to the total obligation of a refiner under paragraphs 3 (b) and (c) of Special Rule No. 1. In addition, Special Rule No. 2 as adopted provides that the volume of a refiner's crude oil runs to stills for May, 1974 for purposes of Special Rule No. 2 includes amounts sold under Special Rule No. 1 and excludes amounts purchased under Subpart C for the period February through April, 1974 and under Special Rule No. 1 for May, 1974.

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

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

Issued in Washington, D.C., August 30, 1974.

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

1. Section 211.66 is amended in paragraphs (d) and (e) to read as follows:

§ 211.66 Reporting requirements.

* * * * *

(d) *Quarterly report.* Thirty days (or such other period as may be specified by the FEA) prior to each allocation quarter commencing after August 31, 1974, each refiner shall file with the FEA a report showing the following:

(1) The volume of crude oil runs to stills of such refiner for the allocation quarter or period preceding the current allocation quarter, taking into account, and specifying the amount of, the adjustments provided for in § 211.65(a)(2).

(2) The estimated volume of crude oil runs to stills for the forthcoming allocation quarter, taking into account, and specifying the amount of, the adjustments provided for in § 211.65(a)(2).

(3) Any change in refinery capacity since the previous report.

(4) Such other information as the FEA may request.

(e) All information required by paragraphs (c) and (d) of this section shall separately identify domestic and imported crude oil.

* * * * *

2. The Appendix to Subpart C of Part 211 is amended by the addition of a Special Rule No. 2 to read as follows:

SPECIAL RULE NO. 2

1. *Scope.* This special rule applies to all refiner-buyers and refiner-sellers for the allocation quarter commencing September 1, 1974.

2. *Purpose.* This special rule provides for adjustments to the sale obligations of refiner-sellers and to the purchase opportunities of refiners-buyers in the allocation quarter commencing September 1, 1974, based on volumes required to be offered for sale, but not sold, in May, 1974 and on variances between the estimated crude oil runs to stills for February through April, 1974 (prorated for May) and reported crude oil runs to stills for May, 1974. The adjustments provided for in this special rule are in addition to adjustments set forth in § 211.65. This special rule also provides for a revised date for publication of the buy/sell list.

3. *Adjustments to Purchase Opportunities of Refiners-Buyers.* For the allocation quarter commencing September 1, 1974, in addition to the adjustments specified in § 211.65, the following adjustments shall be made to the purchase opportunities of refiner-buyers.

(a) The purchase opportunity of each refiner-buyer which was classified as a refiner-seller in May 1974, and did not sell the total quantity of crude oil that it was required to offer for sale in such period pursuant to paragraphs 3 (b) and (c) of Special Rule No. 1 for May 1974, shall be reduced by such unsold amount in the allocation quarter commencing September 1, 1974.

(b) The purchase opportunity of each refiner-buyer shall be (i) reduced by the excess of the volume of domestic crude oil runs to stills of that refiner-buyer for May 1974 over 31/89 of the reported estimated domestic crude oil runs to stills of that refiner-buyer for the period February through April 1974, and (ii) increased by (A) the excess of 31/89 of such estimated domestic crude oil runs to stills for such period over the volume of its domestic crude oil runs to stills for May 1974, and (B) the excess of 31/89 of the reported estimates of imported crude oil runs to stills of that refiner-buyer for the period February through April 1974, over the volume of its imported crude oil runs to stills for May 1974.

4. *Adjustments to Sale Obligations of Refiner-Sellers.* For the allocation quarter commencing September 1, 1974, in addition to the adjustments specified in § 211.65, the following adjustments shall be made to the sale obligations of refiner-sellers.

(a) Each refiner-seller that was classified as a refiner-seller in May 1974, and did not sell the total quantity of crude oil that it was required to offer for sale in such period pursuant to paragraphs 3 (b) and (c) of Special Rule No. 1, shall first be required to offer for sale such unsold amount (together with any unsold amounts specified in § 211.65 (d)(3)) to refiner-buyers; *provided, however,* That such unsold amounts shall constitute a sales obligation of a refiner-seller only for the allocation quarter commencing September 1, 1974.

(b) The quantity of crude oil that a refiner-seller shall be required to offer for sale shall be (i) increased by the excess of the volume of domestic crude oil runs to stills of that refiner-seller for May 1974 over 31/89 of the reported estimated domestic crude oil run to stills of that refiner-seller for the period February through April 1974, and (ii) reduced by (A) the excess of 31/89 of such estimated domestic crude oil runs to stills for such period over the volume of its domestic crude oil runs to stills for May 1974, and (B) the excess of 31/89 of the reported estimates of imported crude oil runs to stills of that refiner-seller for the period February through April 1974 over the volume of its imported crude oil runs to stills for May 1974.

(c) Sales by a refiner-seller in the allocation quarter commencing September 1, 1974, shall be deemed to be first in satisfaction of that refiner-seller's obligations under § 211.65 (d)(3) and paragraph 4(a) of this special rule, to the extent of such obligations, and next in satisfaction of the balance of that refiner-seller's sale obligation under § 211.65.

5. *Adjustments for Purposes of Paragraphs (3) and (4).* For purposes of paragraphs (3) and (4) of this special rule, the volume of a refiner's crude oil runs to stills shall reflect the adjustments specified in § 211.65(a)(2), shall include amounts sold under Special Rule No. 1 for May 1974 and shall exclude amounts purchased under Subpart C for the period February through April 1974 and under Special Rule No. 1 for May 1974.

6. *Calculation of Sale Obligations of Refiner-Sellers.* For the allocation quarter commencing September 1, 1974, after calculation of the amount of each refiner-seller's fixed percentage share of the total allocation obligation less the quantities of crude oil required to be sold under § 211.65(d)(3) and under paragraph 4(a) of this special rule, the adjustments specified in paragraph 4(b) of this special rule shall be made to such amount. To the extent that the aggregate of such adjusted obligations of all refiner-sellers either exceeds or is less than the aggregate of such obligations prior to any adjustment, the adjusted obligation of each refiner-seller shall be either reduced or increased, as the case may be, by its fixed percentage share of such excess or shortfall.

7. *Date of Publication of Buy/Sell List.* Notwithstanding the provisions of § 211.65 (e), the notice specified in that section for the allocation quarter commencing September 1, 1974, shall be published by FEA on or prior to September 6, 1974.

8. *Provisions of Subpart C to Remain in Effect.* The provisions of Subpart C of Part 211 shall remain in full force and effect except as expressly modified by the provisions of this special rule.

[FR Doc.74–20559 Filed 9–3–74;9:45 am]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Carryover of Refiners' and Resellers' Unrecouped Increased Product Costs

The Federal Energy Administration hereby amends, effective September 1, 1974, the provisions of the Mandatory Petroleum Price Regulations governing the carryover of refiners' and resellers' unrecouped increased product costs (10 CFR 212.83(d) and 212.93(e)), to clarify and make explicit the requirement that prices charged for each covered

product must reflect the equal application of increased product costs to each class of purchaser, and that failure to charge prices that reflect equal application of increased product costs except to the extent the seller is precluded from charging such prices by the price term of a contract in effect on September 1, 1974, will result in unrecouped increased product costs which the seller will not be permitted to recover in a subsequent month.

The concept of preserving the customary price differentials that existed as of May 15, 1973 among various classes of purchaser of a particular covered product is fundamental to the FEA system of price regulations, and has been expressed in various FEA rules. Under the refiners' price rules, for example, a formula is provided for determining a uniform cents per gallon increment of increased product cost which may be applied to the May 15, 1973 selling price to each class of purchaser, in order to determine the base price for that product to that class of purchaser. The base price is the maximum lawful price for the sale of that product to that class of purchaser. The intent of this regulatory framework was to preserve the "customary price differentials" between purchasers, which, in fact, serve to define "class of purchaser" in § 212.31, by requiring the application of equal amounts of increased product cost to the May 15, 1973 selling price to each class of purchaser.

In general, these regulations have resulted in the equal application of increased product costs among classes of purchaser. An ambiguity in the regulations, however, is that sellers are not specifically required actually to charge the prices arrived at under the regulations. As an improved supply situation has begun to have a restraining influence on prices, the FEA has become aware that certain sellers have taken the position that they may selectively "bank" increased product costs as to certain classes of purchaser, for recoupment in a subsequent month, as long as the prices charged to other classes of purchaser do not exceed the maximum lawful price.

Such practices could obviously serve to avoid the intent of the overall framework of the price regulations, and the FEA is undertaking to insure that these pricing practices are not put into effect.

At the same time, the FEA has concluded that its regulations should be clarified in this regard, so that all sellers will be expressly on notice that prices actually charged, and not merely prices calculated as a lawful maximum, must reflect the equal application of increased product costs, except where a pre-existing contract prevents the implementation of such a price.

In order to make this requirement explicit, which has been adhered to by most sellers, the FEA is amending its regulations providing for the carryover of unrecouped increased product costs by a seller. Thus, for each product the recoupment of increased product costs will be calculated on the assumption that the largest amount of increased product cost added to the May 15, 1973 selling price and included in the price charged to any class of purchaser, was equally applied to the May 15, 1973 prices and included in the price charged to all classes of purchaser, without regard to whether such prices were, in fact, charged. An exception to this requirement is provided to the extent that a seller can show that a lower price was required to be charged by virtue of the price terms of a contract which was in existence on or before September 1, 1974.

It should be noted that this clarification of the regulations does not alter in any respect the ability of a seller to charge prices to all classes of purchaser of a covered product which reflect the application of less than all available increased costs, and to carry forward the amount of increased costs which are not applied for recovery in a subsequent month. This clarification simply makes explicit the limitation that a seller may not select among classes of purchaser of the same product those classes as to which it will apply increased costs and those classes as to which it will "bank" increased costs.

This approach, which is implicit in the existing regulations, is consistent with the provisions of the Emergency Petroleum Allocation Act of 1973 respecting the pass through of increased product costs, since all sellers continue to be afforded the opportunity under the amended regulation to pass through all of their increased product costs. Where, however, a seller chooses to charge prices for a product which reflect disparate application of increased product costs among classes of purchaser, the carryover of unrecouped increased costs will not be permitted to the extent that any class of purchaser had a lesser amount of increased costs applied to its prices than did another class of purchaser of the same product.

The only circumstance in which a seller is permitted to carryover or "bank" unrecouped increased product costs due to sales at prices reflecting less than equal application of increased costs, is where the seller is required to make sales at lesser prices due to price terms contained in pre-existing contracts. Thus, to the extent that a seller is unable to charge prices reflecting equal application of increased costs because of a contract, it will not be precluded from applying such unrecovered costs to its prices in a subsequent month. This exceptional circumstance was set forth in FEO Ruling 1974–12, 39 FR 18423, May 20, 1974, and is made explicit within the regulations by the clarifications issued today.

With respect to this aspect of the regulations, a further clarifying change in the regulations is needed. At the time Ruling 1974–12 was issued, the FEO recognized that the existence of long-term, fixed-price contracts restricted the ability of certain sellers to increase their prices for products. As indicated above, the clarifications issued today continue to recognize the restrictions imposed by such contracts and to accommodate those sellers whose pricing options are thereby inhibited. However, in order to insure that, under present conditions, the fixed-price contract exception does not become a means whereby sellers can avoid the intent of the regulations to maintain price differentials between classes of purchaser, it will be limited to prices charged under contracts entered into on or before September 1, 1974, and will apply only to the extent that the maximum price which may be charged under the contract is less than the price that would otherwise result from the equal application of increased product costs. Thus, to the extent that a seller charges a price which is less than it is entitled to charge under a fixed-price contract and which is less than the price reflecting equal application of increased product costs, it may not carryover to a subsequent month the unrecouped increased costs represented by the difference between the actual price charged and the highest price that could have been charged under the contract.

The FEA has concluded that these amendments must be made effective on September 1, 1974, prior to opportunity for comment, upon a finding that an emergency exists. It has only recently come to FEA's attention that certain sellers have implemented and continue to implement prices which do not conform to the FEA concept of preserving May 15, 1973 price differentials among various classes of purchaser. To the extent that there is ambiguity in the current regulations, compliance efforts as to such sellers are more difficult. And, as the supply situation becomes more favorable, the incentive to depart from the equal application requirement becomes stronger. Moreover, announcement of these amendments as proposals would highlight current ambiguities in the regulations and could result in sellers seeking to take advantage of that ambiguity or of the contract exception to the regulation.

The FEA has determined that the continuation or initiation of such practices would be injurious to the public welfare, in view of the number of circumventions of FEA regulations and the substantial compliance difficulties which would result.

The FEA will, however, receive public comment on the amendments issued today. The FEA is preparing further proposed revisions to the price regulations. Public hearings respecting the proposed revisions and the amendments issued today are anticipated in September. The FEA will solicit written and oral comments during these proceedings, notice of which will appear in the FEDERAL REGISTER in the near future.

The provisions of section 7(i) (1) (B) of the Federal Energy Administration Act of 1974 (P.L. 93–275), with respect to notice and opportunity to comment are hereby waived upon a finding that strict compliance would cause serious harm or injury to the public health, safety, or welfare. Opportunity for written and oral

comment on this amendment to the regulations will be provided within 45 days of this date.

The review provisions of section 7(c)(2) of the Federal Energy Administration Act of 1974 (P.L. 93-275) are hereby waived for a period of fourteen days, as provided for in that section, upon a finding that there is an emergency situation which requires immediate action.

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

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective September 1, 1974.

Issued in Washington, D.C., August 30, 1974.

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

1. Section 212.83 is amended in paragraph (d)(1) by adding a sentence between the second and last sentences in the paragraph to read as follows:

§ 212.83 Allocation of refiner's increased product costs.

* * * * *

(d) *Carryover of costs.* * * *

(1) * * * With respect to each special product (i=1 and i=2), when a firm calculates the amount of increased product cost not recouped, which may be added to the May 15, 1973 selling prices to compute the base prices for that special product in a subsequent month, it shall calculate its revenues as though the greatest amount of increased product costs actually added to the May 15, 1973 selling price of that special product and included in the price charged to any class of purchaser, had been added, in the same amount, to the May 15, 1973 selling price of such product and included in the price charged to each class of purchaser; except that, where an equal amount of increased product cost is not included in the price charged to a purchaser because of a price term of a written contract covering the sale of such product which was entered into on or before September 1, 1974, that portion of the increased product costs not included in the price charged to such a purchaser need not be included in the calculation of revenues.

* * *

(2) * * * With respect to each covered product other than a special product, when a firm calculates the amount of increased product cost not recouped, which may be added to May 15, 1973 selling prices to compute base prices for covered products other than special products in the subsequent month, it shall calculate its revenues as though the greatest amount of increased product costs actually added to the May 15, 1973 selling price of each covered product other than a special product and included in the price charged to any class of purchaser, had been added, in the same amount, to the May 15, 1973 selling price of such product and included in the price charged to each class of purchaser; except that, where an equal amount of increased product cost is not included in the price charged to the purchaser because of a price term of a written contract covering the sale of such product which was entered into on or before September 1, 1974, such portion of the increased product costs not included in the price charged to such a purchaser need not be included in the calculation of revenues.

2. Section 212.93 is amended in paragraph (e) by adding a sentence at the end of the paragraph to read as follows:

§ 211.93 Price rule.

* * * * *

(e) * * * With respect to each covered product, when a seller calculates its amount of increased cost not recouped under this paragraph, it shall calculate its revenues as though the greatest amount of increased costs actually added to the May 15, 1973 selling price of that covered product and included in the price charged to any class of purchaser, had been added, in the same amount, to the May 15, 1973 selling price of such covered product and included in the price charged to each class of purchaser; except that, where an equal amount of increased cost is not included in the price charged to a purchaser because of a price term of a written contract covering the sale of such product which was entered into on or before September 1, 1974, such portion of the increased costs not included in the price charged to such a purchaser need not be included in the calculation of revenues.

[FR Doc.74-20558 Filed 9-3-74;9:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 212]

PRICE REGULATIONS IN PUERTO RICO

Notice of Proposed Rulemaking

The Federal Energy Administration hereby gives notice of a proposal to amend the manner of implementing its price regulations in Puerto Rico, as now set forth in the Opinion and Order issued on May 16, 1974 (39 FR 17764 May 20, 1974). This proposed amendment would modify the above Opinion and Order to eliminate, beginning October 1, 1974, certain price adjustments which are called for by the Opinion and Order.

The Opinion and Order of May 16, 1974, sought to avoid the severe adverse impact on the economy of Puerto Rico of sharply increased prices for petroleum products by adopting a regulation intended to maintain prices for petroleum products sold in Puerto Rico at approximately the same levels as in the mainland United States.

Certain mainland United States refiners, subject to the general FEA petroleum price regulations for refiners, control entities which operate in Puerto Rico, but these entities purchase the products they sell in Puerto Rico from Commonwealth Oil Refining Company, Inc. (CORCO). CORCO, which is not affiliated with any mainland United States refiner, refines only high-cost foreign source crude oil, which results in correspondingly higher prices to the Puerto Rican entities of mainland United States refiners.

In the context outlined above, the FEO (now the FEA) determined that the Puerto Rican entities of mainland United States refiners would be treated with their parent refiner firms under the refiner price rule. Such treatment of the Puerto Rican entities of mainland United States refining firms requires these entities in effect, to average the increased cost of products purchased in Puerto Rico from CORCO with the total increased costs of crude oil and purchased petroleum products of the mainland refiner, and to apply the same amount of increased product cost to prices in Puerto Rico as is applied to prices in the mainland United States. As a result, the entities of mainland United States refiners operating in Puerto Rico have maximum lawful prices in Puerto Rico which are at approximately the same level as the maximum lawful prices for the petroleum products sold by these companies in the mainland United States, subject to certain adjustments.

Additionally, the FEA, in its May 16, 1974 Opinion and Order, dealt specifically with the prices to be charged by CORCO to Shell (Puerto Rico), which is not owned, directly or indirectly, by a mainland United States refiner, and therefore can only be treated as a reseller under the price regulations. Under the reseller rule, Shell (Puerto Rico) may pass through in its prices, on a dollar-for-dollar basis, the increased cost of the products it purchases from CORCO.

The FEA concluded that the prospect of having one marketer on the island passing through directly the higher cost of CORCO's products, while the other marketers were averaging in CORCO's prices with their mainland refiner firms, had the potential of creating a disruptive condition in the marketplace, since the maximum lawful prices of Shell (Puerto Rico) would have been substantially in excess of those of the other marketers.

Therefore, to alleviate the potential of disruption, FEA determined that its price regulations in Puerto Rico would be implemented in a manner that would result in comparable prices at the retail level for all marketers. The FEA in its May 16, 1974 Opinion and Order directed that CORCO would be required to sell products to Shell (Puerto Rico) at a price adjusted downward pursuant to the method of adjustment established in the Opinion and Order, and to make a corresponding upward adjustment in the prices charged to its other customers.

In determining that a downward adjustment in the price of CORCO products to Shell (Puerto Rico) was appropriate, the FEA took into account the general market conditions at the time in the petroleum industry. In light of those conditions, the FEA concluded that the parent mainland United States refiner firms of CORCO's purchasers other than Shell (Puerto Rico) were in a position to pass through the increased costs of the products obtained from CORCO, including the increment which resulted from the adjustment to the prices charged to Shell (Puerto Rico). In the absence of an adjustment to the prices charged to Shell (Puerto Rico), Shell (Puerto Rico) would have been in a position to pass through the full amount of the increased cost of the products it purchased from CORCO. This pass through by Shell (Puerto Rico) would have resulted in retail prices for gasoline sold by Shell (Puerto Rico) of as much as 17 cents, or more, above the prices for gasoline sold by the other marketers on the island under the refiner price rule.

The FEA believes, however, that since the issuance of the Opinion and Order, the supply situation has improved considerably, and that market forces are beginning to have an impact on prices and to restrict somewhat the ability of sellers to pass through increased costs.

In light of these changed circumstances, FEA has reevaluated the equity of continuing to require CORCO purchasers other than Shell (Puerto Rico) to pay higher prices to offset lower prices to Shell (Puerto Rico). FEA proposes therefore, to eliminate entirely from the May 16, 1974 Opinion and Order, the provision which requires CORCO to adjust its prices to Shell (Puerto Rico) downward, and the corresponding provision as to upward adjustments in prices for all other purchasers. The effect of this amendment would be to reinstate the normal FEA refiners price regulations with respect to sales by CORCO to all its purchasers in Puerto Rico.

The FEA recognizes that Shell (Puerto Rico), as a reseller, would then be faced with the prospect of either seeking to sell products at prices that reflect a full pass through of increased cost, but which would not be competitive, or obtaining financial support from its parent company until such time as the costs to Shell (Puerto Rico) could again be recovered in the prices it charges in Puerto Rico. Nevertheless, the purpose of the May 16, 1974 Opinion and Order was not to protect Shell (Puerto Rico) from having to make this choice. (Indeed, the Puerto Rican entities of mainland United States refiners have been required by the operation of the refiner price regulations to obtain, in effect, financial assistance from their mainland parent firms.) Rather, the purpose of the May 16, 1974 Opinion and Order with respect to prices charged to Shell (Puerto Rico) was to avoid the disruptive impact on the Puerto Rican economy that the direct pass through of CORCO's high prices by Shell (Puerto Rico) would have had. This was the fundamental public interest consideration that formed the basis of the May 16, 1974 Opinion and Order. Since supplies of petroleum products now are significantly increased, the FEA believes that the removal of the Shell (Puerto Rico) price adjustment would not have the adverse impact on the public that it would have had in May.

The FEA also wishes to emphasize that it will seek to enforce its May 16, 1974 Opinion and Order in all respects as to all transactions that occur while it is in effect, in its current form, and that this proposal to modify the Opinion and Order relates only to the CORCO price adjustments. In all other respects the Opinion and Order of May 16, 1974 would remain operative; i.e., Shell (Puerto Rico) would continue to be treated under the reseller rule and the Puerto Rican marketing entities of United States refiners would continue to be treated under the refiner rule.

The rule proposed herein is limited in its principal effect to one section of the United States and directly affects only a few companies. It is not likely to have a substantial impact on the Nation's economy or upon large numbers of individuals or businesses. Written comments will be carefully considered. There is, therefore, no need for the oral presentation of views, data and arguments.

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments with respect to the proposed amendment set forth in this notice to the Executive Secretariat, Federal Energy Administration, Box AZ, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on the documents submitted to the Federal Energy Administration Executive Secretariat with the designation, "Price Regulations in Puerto Rico." Fifteen copies should be sub-

mitted. All comments received by September 23, 1974 and all other relevant information will be considered by the Federal Energy Administration before final action is taken on the proposed amendment.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this Notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments to offer in this regard.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, 87 Stat. 627; Federal Energy Administration Act of 1974, Pub. L. 93-275, 88 Stat. 96; E.O. 11790, 39 FR 23185)

In consideration of the foregoing, it is proposed to amend the Opinion and Order of May 16, 1974, as set forth herein.

Issued in Washington, D.C., August 30, 1974.

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

[FR Doc.74-20560 Filed 9-3-74;9:45 am]

[10 CFR Part 212]

MANDATORY PETROLEUM REGULATIONS

Computation of Landed Costs; Further Notice of Proposed Rulemaking and Public Hearing

On May 20, 1974, FEO (now the Federal Energy Administration) issued a notice of proposed rulemaking concerning the standards which it would apply in transactions between affiliated entities in disallowing costs pursuant to § 212.83(e) of its regulations (39 FR 17771, May 20, 1974). The notice set out in detail the origin and evolution of the current FEA regulations governing the computation of transfer prices between affiliated entities, and that notice should be read in conjunction with this further notice.

In particular, the notice indicated FEA's preliminary determination that the actual cost of covered product to a U.S. affiliate in a transaction with a related entity should be established at the price which would obtain if the product had been purchased in an arms-length transaction. This treatment was expected to minimize economic distortions which might otherwise occur and to result in all refiners of imported crude oils having as nearly as possible a comparable measure of cost regardless of whether the product was purchased from a related party.

To determine the arms-length price, FEA proposed the use of the "comparable sales method". This method would have required companies to set their interaffiliate transfer prices for each crude oil on the basis of all sales or purchases to unrelated parties of that crude oil in the month of measurement. The proposed regulations recognized that in some cases refiners would have insufficient third-party sales to use the comparable sales method; FEO proposed in those instances to apply the "net cost method". The net cost method would have essentially limited the overseas production affiliates' margins per barrel to those prevailing in May 1973. FEO indicated that it would apply the net cost method when the comparable sales method was not available unless "some other clearly appropriate method for determining a representative arms-length price is established as a result of public comments and suggestions in this rulemaking proceeding."

Twenty-two comments including detailed submissions from most of the major international oil companies were received by June 17, 1974, the closing date for comments, and several were received after that date. In addition, certain major international oil companies were ordered to provide the detailed price information requested in the notice. The comments raised many questions concerning both the basic concepts involved in the proposed regulations and matters of detail. All of the comments and data were carefully reviewed by FEA and the questions raised by them were discussed and evaluated.

II. On the basis of the comments and other information available to it, FEA reaffirms its basic decision that interaffiliate prices should be established at the levels which would have obtained if the affiliates had dealt with each other at arms-length. To determine arms-length prices, FEA, however, has decided to modify its proposed regulations. In order to allow for comment on the technical details of this modification, FEA is issuing this further notice of proposed rulemaking.

The proposed arms-length rule provides as nearly as possible equality of treatment under the price regulations for integrated and non-integrated refiners. At the same time, an arms-length standard will prevent possible abuse of the price regulations by affiliated oil companies and will assure the integrity of the domestic price control system. Such treatment is also consistent with the general principles applied by the Internal Revenue Service in allocating income between affiliated entities, although necessarily the rules utilized by FEA to determine arms-length prices differ from those employed by the IRS and the prices determined by the two agencies may differ.

A. GENERAL RULE. The comparable sales method which FEA proposed in its first notice as the general rule for determining acceptable levels of transfer prices would have required companies to calculate separate transfer prices for crude oils which were sold to an affiliated entity and which were landed during the month of measurement and to ascertain comparable prices for each crude oil from third-party transactions in that crude oil during the same period. In other words, it required separate crude-by-crude calculations based solely upon the company's own experience in sales of each crude oil to third parties.

FEA has concluded that this approach is deficient in several respects. First, it unduly limits the data base available to companies for determining comparable market prices by restricting the universe of data which each company may use to actual transactions by that company in the particular crude oil. The comments suggested, and FEA concurs, that it is appropriate to permit companies to take into account reported transactions by other companies and transactions involving other crude oils. Second, the proposal did not sufficiently recognize the fact that, in any given month, companies landing a particular crude oil in an interaffiliate transaction may have had no third-party sales whatever in that particular crude oil. Thus, there would be no basis for calculating a comparable market price for that crude under the proposal.

To eliminate these deficiencies, FEA now proposes a new general rule. It provides that, in the first instance, companies may establish arms-length prices based upon whatever information is available to them regardless of whether or not the particular company had substantial third-party sales or purchases in the particular crude oil. This corresponds to the method which many companies have traditionally used in calculating transfer prices and permits latitude in the exercise of company judgment and flexibility to respond to changing market conditions as perceived by the company.

Simultaneously, however, FEA will require the companies to submit information, on a monthly basis, reporting all crude oil purchases and sales by any affiliated entity of each company. Using this market data, FEA will calculate a representative arms-length price for each standard reference crude oil. FEA will compare the transfer prices computed by the companies with the representative arms-length prices which FEA computes and will disallow costs attributable to transfer prices which exceed by a fixed margin the representative arms-length price computed by FEA.

In establishing a representative arms-length price, FEA will review the prices for all reported arms-length transactions during the month of measurement. The median price of these transactions, i.e., the lowest price at or below which 50 percent or more of the reported monthly arms-length sales occur, will be considered the representative arms-length price. For non-reference crudes or for crudes in which the volume of third-party transactions is not significant, the price would be determined by calculating its value with respect to the reference crude most similar in quality. Transfer prices determined by affiliated entities which exceed the higher of (a) the representative price plus 10 cents per barrel or (b) the lowest price at which 65 percent or more (as measured by volume) of the reported monthly arms-

length sales occur will be disallowed. Companies whose prices have been disallowed will be required to utilize the representative price.

To determine the representative price, FEA has chosen a measure which takes account of all arms-length transactions reported to it regardless of their nature. The market is, of course, composed of not one but many prices, particularly when the general level of prices is changing rapidly as it has this last year. In deciding what price to choose from those reported, FEA has selected the median because it reflects the middle level of all prices in the market, and although it takes account of all transactions, the median, unlike a weighted average, is not unduly affected from month-to-month by particular transactions at either the high or low end of the pricing range or by the particular mix of transactions reported to FEA. The median also should avoid the sharp monthly fluctuations which would occur if one used simply spot or short-term prices. On the other hand, it should not result in a price excessively dependent upon those contained in long-term contracts entered into several years ago which, notwithstanding escalator provisions for increases in government take, may not reflect the full range of arms-length prices prevailing between unaffiliated entities.

Firms will be given some room for discretion in determining their prices. The allowance of a price above the median takes account of the fact that individual situations vary and that the information available to individual firms may differ somewhat from that available to FEA. The higher maximum should embrace most reasonable estimates of appropriate arms-length prices. A study of sample data available to FEA for Arabian light, the most widely traded crude, indicates that the bulk of all third-party transactions occur at prices equal to or below the median price plus ten cents, and this range should give firms adequate leeway in estimating suitable arms-length prices for Arabian light and other reference crudes. The allowance of the price at which 65 percent or more of monthly sales take place should give firms added leeway in estimating suitable arms-length prices for reference crudes in months of exceptional price variability when the 10 cent rule might not embrace all good faith estimates.

The regulation encourages firms to set their transfer prices at the median rather than at a higher allowable price by requiring any firm whose transfer price exceeds the maximum permitted price to use the representative price. This requirement is intended to discourage intentional pricing in the grey area between the representative and maximum price.

B. *Elimination of Net Cost Method.* The most important change in the final regulations is the elimination of the net cost method. There are several major reasons for this change. First, FEA's preferred measure of cost has always been the arms-length standard. FEA has been and is primarily concerned with protecting the integrity of its domestic price controls which could be evaded by the use of transfer prices in excess of those which would obtain between independent entities. The net cost method was proposed for use in those cases in which FEA felt that it could not derive an arms-length price with sufficient precision to meet its regulatory obligations because of a narrow data base which resulted from the use of third-party data limited to a company by company basis. FEA now believes, however, upon the basis of the comments received and preliminary data collection, that it is feasible to establish a range of acceptable arms-length prices on the basis of pooled data collected from all the companies. Thus, there is no longer a need for the net cost method as an alternate ceiling price.

A second reason for not using the net cost method as proposed is that it would have discriminated against some companies. Companies having large foreign crude supplies that are marketed extensively to third-parties could have used the more favorable comparable sales method while companies which brought all or nearly all of their crude into the U.S. for use in their own refineries would have been relegated to the net cost method and the more narrow margins the method permits.

Finally, employment of the net cost method might have created a disincentive for production companies to export crude to the U.S. and might have materially lessened the ability of the U.S. to attract sufficient petroleum supplies during emergency periods. Many companies indicated that because the net cost method permits smaller returns, there would exist an inducement to dispose of their crude and product abroad or to rearrange their supply patterns so as to bring into the U.S. relatively high cost supply. While it is by no means certain that companies would actually act in accordance with this inducement (especially in light of foreign price controls), it is clear that in a tight market such as prevailed during the embargo any significant diversion would have serious consequences, and should be avoided.

C. *Crude Types and Prices.* FEA will compute representative and maximum prices for crudes periodically designated as reference crudes by considering all transactions reported to FEA for reference and related crudes. Presently designated reference crudes are listed in Appendix A to this notice. FEA will adjust third-party prices of related crudes to the reference crude using the differentials in the posted prices, tax-reference prices other official selling prices established by the host government for crude sales. In establishing the representative and maximum prices for non-reference crudes in countries for which there is one or more reference crudes, FEA will make similar adjustments from the prices of the most similar in quality reference crudes.

Inter-country comparisons will be made only when there is no reference crude from a particular country. In such cases the representative and maximum prices will be calculated with respect to the most similar in quality reference crude in the same geographical area, with adjustments made for the difference between the two crudes in gravity, sulphur content and the cost of transportation to the United States market.

For gravity a standard adjustment of 2 cents per degree API will be made. For sulphur FEA will determine the difference in market value on the basis of the yields of residual fuel oil and the fuel oil sulphur content. (Sulphur is not generally economically significant in other products.) FEA recognizes that some refiners are restricted in their crude choices by their inability to process sour crudes and the market value of products may not for such refiners reflect the full cost of sulphur. In setting a single sulphur penalty, however, FEA believes that product prices for residual are the best market measure.

To calculate the differential for sulphur, FEA will periodically publish values for the premium paid for low sulphur residual fuel oil in the appropriate market for comparison, usually the U.S. East Coast, upon the basis of the best information available to it. Initially FEA proposes to set this value at $1.25 per barrel for each percent of sulphur content, and interested parties are asked specifically to comment on the suitability of this value. This means that a fuel oil with one percent sulphur should sell at approximately $1.25 per barrel more than a fuel oil with 2 percent sulphur. It is further assumed that there is no additional penalty for sulphur for fuel oil with a sulphur content over 3 percent since prices for such oils are established in the bunker market where sulphur is not important. Given the low-sulphur premium, the yields of fuel oil from the two crudes being compared, and the sulphur content of the respective fuel oils, it is possible to calculate the differential value for crude oils due to sulphur content. This is done by comparing the premiums per barrel of crude against a hypothetical barrel of three percent sulphur oil. The method may be best illustrated by the following example.

EXAMPLE 1

Residual fuel yield: Crude I, 0.5; Crude II, 0.4.

Sulphur content of the residual fuel oil: Crude I, 2.2%; Crude II, 0.5%.

Market premium for low sulphur fuel oil per percent—$1.25.

Sulphur premium Crude I—yield × sulphur difference compared to 3% fuel oil × sulphur premium:

$$0.5 \times (3.0 - 2.2) \times \$1.25 = \$0.50$$

Sulphur premium Crude II—yield × sulphur difference compared to 3% fuel oil × sulphur premium:

$$0.4 \times (3.0 - 1.5) \times \$1.25 = \$0.75$$

Premium of Crude II over Crude I:

$$\$0.75 - \$0.50 = \$0.25$$

Transportation differentials for inter-country crude comparisons will be estab-

lished on the basis of AFRA. AFRA should be also used to adjust delivered sales to an f.o.b. basis although FEA may permit companies to use other indexes if they can demonstrate to FEA that they have historically used some other index in a consistent fashion in computing transportation charges for transactions between affiliates. The regulation governing transportation may be subject to further adjustment in a subsequent rulemaking addressing directly the question of transportation charges between affiliated entities.

C. *Excluded Transactions.* In determining market prices, FEA will exclude certain transactions. First, FEA will exclude purchases of buy-back crude, i.e., repurchases of government crude by the former equity owners. The meaningful price in such cases is the weighted average of the company's buy-back and remaining equity crude; and, since the tax paid cost of equity crude is well below buy-back, companies with equity crude can pay substantial premiums for participation crude and still be competitive. In particular, a company may pay a high buy-back price in exchange for a reduction of its buy-back obligations. The net result of such a transaction may be a reduction in the company's average costs.

Secondly, as an initial matter, FEA believes that it is necessary to exclude exchange transactions. The nature of exchanges is such that a wide variety of formal prices may be attached to the exchange without affecting its substance; moreover, many non-price terms may be important. Hence, FEA does not believe that it can accurately rely upon the price attached to such transactions. FEA will, however, continue to collect data on both exchanges and repurchases of participation crude in order to more effectively monitor market developments and to supplement the other price information which it will obtain.

Other excluded transactions are sales to host governments at cost or cost plus nominal fees, sales of royalty oil to the extent taken "in kind" by host governments and overlift sales of crude between members of a joint venture.

E. *Timing of Cost Accruals.* Increased costs to a U.S. affiliate shall not be considered to be "incurred" before the crude is physically landed in the United States. The value of such crude shall be determined by the price for sales of the corresponding crude loaded during the same month. Thus, although a firm may only pass through costs attributable to cargoes landed during the month, the value of those cargoes will be established by reference to f.o.b. sales loaded during the same month. This rule is designed to provide equitable treatment for the various companies by insuring uniformity of treatment and should simplify the auditing process. The rule differs from existing accounting practices, and companies which would be affected are asked to specifically indicate any problems which this may cause.

F. *Contingent Transactions.* When sales or purchases are contingent or subject to further adjustment, companies will be required to make their best estimates of the expected final sale price. FEA will calculate the representative price for the month on the basis of these provisional estimates and other information available to it. As sale prices are adjusted, updated reports will have to be made to FEA, and FEA will accordingly adjust the maximum prices which it will permit. When the uncertainty surrounding major groups of transactions is large, FEA may initially allow a higher or lower price than that which it ultimately imposes or it may delay calculations of any set of maximum prices leaving the company's provisional transfer prices in effect.

G. *Resales.* The foregoing rules apply to crude transfers between affiliates only when at least part of the crude stream from the country of origin is equity crude or crude which is otherwise sold to or received by the international affiliate on a preferential basis. Crude obtained pursuant to Service Contracts, i.e., contracts in which a company provides exploratory and drilling services in exchange for a portion of any oil ultimately found, shall be considered crude received on a preferential basis. The cost of crude from countries in which the international affiliate does nothing more than purchase the oil from the host government or third parties and then resell it to its domestic affiliate should be measured using the price at which the oil is purchased from the third-party.

H. *Exchanges.* Although exchanges are not a problem in interaffiliate transfers as such, exchanges or a pattern of sales and purchases could be used to avoid the regulations applying to equity crude or crude received on a preferential basis. Instead of importing equity oil, firms could sell equity oil to third-parties and purchase their import requirements in the open market. In real market transactions this would not ordinarily be advantageous because the arms-length standard for affiliate pricing is oriented towards market prices, but if the sale and purchase price exceed the maximum price allowed on equity oil the possibility of abuse exists. In general, no problems result in this connection as long as crude imported into the United States is either equity crude of the affiliated entities or is crude purchased directly from the host country. Thus, FEA will be requiring data from the U.S. affiliate in order to monitor what percentage of its imports is purchased from non-affiliated entities other than the government of the country of origin. If this percentage has increased over May 1973, FEA may require evidence that the company has not engaged in transactions to artificially increase its landed costs. For purposes of determining net cost in ordinary exchanges, the oil purchased shall be given the cost basis of the oil sold plus or minus any net payments to the exchanging partner.

I. *Special Cases.* Companies receiving oil from Indonesia must use the official selling price as long as it is in fact reflective of the price at which the bulk of all market sales are taking place. For Canadian crude, prices should be determined directly by reference to posted prices. Since in these cases real market prices at which all crude moves may be determined directly, there is no need for the more elaborate procedure applicable elsewhere. Companies will have to continue to report all sales and purchases of such oil, however, in order that FEA may monitor the situation.

J. *October 1973–August 1974.* FEA proposes to use the same general principles in disallowing costs pursuant to 212.83(e) for the period from October 1973 to the present as it proposes to apply to later months. Companies whose prices have been disallowed for these months will be ordered by FEA to make appropriate adjustments.

K. *Data Collection.* To provide the data base for monitoring transfer prices and carrying out its other statutory responsibilities, FEA will systematically collect certain data on crude oil transactions between affiliated entities and crude oil transactions between unrelated parties. FEA will also require more detailed information than is currently provided on the form FEA 96 showing the buildup of total costs. In particular, FEA expects to require that all firms provide the following information:

1. By country of origin for all sales, purchases and exchanges between non-affiliated entities during the month.

a. Type of crude.
b. Gravity.
c. Sulphur content by weight.
d. Yield of residual fuel oil and the sulphur content of the residual fuel oil.
e. Date of loading.
f. Port of loading.
g. Expected port of discharge (if known).
h. Duration of contract pursuant to which the sale is made (beginning and ending dates of supply should be shown as should the next date on which the contract is subject to price renegotiation other than automatic price escalations).
i. Volume of the shipment.
j. F.o.b. price, point of loading. For delivered sales this should be calculated by subtracting freight, insurance and other included items. Freight for these purposes should be measured by AFRA.
k. Rebates, discounts or other consideration passing to or from, directly or indirectly, non-affiliated parties.
l. Net f.o.b. price (j less k).

Companies will be expected to identify and segregate transactions according to whether they are sales, purchases, or exchanges. Companies will be permitted to use representative values for items (b)–(d) for particular crude types and repeated submissions will not be required. Firms will be expected to indicate where estimates or adjustments have been made setting out briefly in notes the basis for such estimates or adjustments. All transactions between unaffiliated parties will have to be reported whether or not the crude is destined for import into the United States.

2. By country of origin for each crude type imported during the month from an affiliated entity:

a. Type of crude.
b. Gravity.
c. Sulphur content by weight.
d. Yield of residual fuel oil and the sulphur content of the residual fuel.
e. Port of loading (if several ports of loading are used, items (g) through (k) should be reported by port for each crude type).
f. Volume imported.
g. Weighted average (by volume) purchase price per 10 CFR 212.83(b).
h. Weighted average (by volume) transportation cost per 10 CFR 212.83(b).
i. Landed cost (h plus i) per 10 CFR 212.83(b).
j. Weighted average (by volume) cost at the port of loading. The computation of this item should show the percentage of equity oil and non-equity oil, the tax-paid cost of equity oil, and the purchase price of non-equity oil.

As in (1), companies may use representative values for (b)–(d) for particular crude types and repeated submissions will not be required.

Similar data may be required on a cargo-by-cargo basis for imported crude from both affiliated and non-affiliated entities in order to facilitate FEA's auditing procedures, and in appropriate cases FEA may require from U.S. companies information on transfer prices to their non-U.S. affiliates.

Data will be collected for the months of May 1973 and October 1973 through August 1974. FEA expects to give refiners 30 days to file these initial reports for prior months. Certain refiners have already submitted partial reports through April 1974, and further reports may be required. FEA will advise those refiners from which further reports are not required.

FEA recognizes that the information to be collected from companies is proprietary and FEA will treat such information as confidential to the extent that it is entitled to such treatment under Section 14 of the Federal Energy Administration Act of 1974. This information will, however, be aggregated to establish representative and maximum prices for major reference crudes, which prices FEA may make publicly available. This will be done only with a time lag sufficient to prevent FEA's announced prices from interacting with the market and thereby pegging or otherwise affecting price levels. It will also be done only to the extent compatible with preventing the identification of individual company data.

All companies which will be required to submit reports pursuant to these regulations should indicate to FEA as part of this rulemaking any problems which they may have in reporting in a timely fashion the required data.

III. This proposed rulemaking is directed solely to setting forth standards for the determination of transfer prices for crude oil. FEA is not at this time elaborating standards for transfer prices for products although it may address itself to this question in the future. FEA will, however, continue to monitor product prices generally to determine the reasonableness of product prices used by companies in interaffiliate transactions.

FEA will also examine product realizations to see whether they are consonant with the level of crude prices used by the companies in their interaffiliate transfers and the prices generated by the proposed rule. If it becomes apparent that product realizations are not consistent with the crude prices being used for transfer purposes, FEA will consider further modifications of the regulations to assure that crude prices for integrated companies are consonant with actual realizations for products in the market.

IV. Refiners which would be subject to these regulations and other interested parties are asked to direct themselves specifically to the following questions:

1. What additions or changes should be made in the listing of crude oils in Appendix A? In particular, companies should identify those crude types which they sell to or purchase from unaffiliated parties or which they expect to import into the United States. For each crude, firms should indicate the representative gravity and sulphur values of the crudes and the percentage yield of residual fuel oil and its sulphur content. In addition for each crude from a country for which no reference crude is designated, companies should indicate the reference crude most nearly similar in quality in the same geographical region.

2. For what crudes do differences in the posted prices, tax reference prices or other official selling prices for various crudes fail to approximate relative differences in market values of the crudes produced in the country? For any such crudes companies should indicate their estimate of the correct adjustment and the basis for their estimates.

3. For what crudes, if any, would the proposed intercountry adjustments fail reasonably to approximate relative market values? In particular, are the parameters used in determining the sulphur adjustment reasonable? What alternative procedures are available?

As required by section 7(c) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator's comments are contained in Appendix B to this notice.

Interested persons may participate in this rulemaking by submitting written data, views or arguments with respect to the proposed regulation and any information that is relevant to a decision in this matter, to the Executive Secretariat, Federal Energy Administration, 12th and Pennsylvania Avenue, N.W., Box AJ, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on the documents submitted to the Executive Secretariat, FEA, with the designation "Computation of Landed Costs."

Fifteen copies should be submitted. All comments received by September 19, 1974, and all other relevant information will be considered by the FEA before final action is taken on the proposed amendment.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted separately and in writing, one copy only. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

A public hearing in the proceeding will be held beginning at 9:30 a.m., on Monday, September 23, 1974, at the New Post Office Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., to receive comments from interested persons on the matters set forth herein. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request for an opportunity to make oral presentation. Such a request should be directed to the Executive Secretariat, FEA, and must be received before 4:30 p.m., E.D.S.T., September 16, 1974. Such a request may be hand delivered to Room 3309, New Post Office Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8 a.m., and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he may be contacted through September 19, 1974. Each person selected to be heard will be so notified by the FEA before 5:30 p.m., e.d.s.t., September 19, 1974, and must submit 100 copies of his statement to the Executive Secretariat, FEA, Room 3315, New Post Office Building, Washington, D.C. 20461, before 9 a.m., e.d.s.t., September 23, 1974.

The FEA reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. Each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. It will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearing will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity if he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements

were made and will be subject to time limitations.

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

In consideration of the foregoing, it is proposed to amend Part 212, Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., August 30, 1974.

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

Section 212.83(b) is revised to read as follows:

§ 212.83 Allocation of refiner's increased product costs.

* * * * *

(b) "Landed cost" means: * * *

(3) For purposes of products, other than crude oil, purchased in a transaction between affiliated entities and shipped pursuant to an arms-length transaction, the cost of the product computed by use of the customary accounting procedures generally accepted and consistently and historically applied by the firm concerned plus the actual transportation cost.

(4) For purposes of products, other than crude oil, purchased and shipped pursuant to a transaction between affiliated entities, the costs of the product and the transportation both computed by use of the customary accounting procedures generally accepted and consistently and historically applied by the firm concerned.

(5) For purposes of crude oil purchased in a transaction between affiliated entities and shipped pursuant to an arms-length transaction, the cost of crude oil computed pursuant to § 212.84 plus the actual transportation cost.

(6) For purposes of crude oil purchased and shipped pursuant to a transaction between affiliated entities, the cost of crude oil computed pursuant to § 212.84 plus the cost of transportation computed by use of the customary accounting procedures generally accepted and consistently and historically applied by the firm concerned.

* * * * *

A new § 212.84 is added to read as follows:

§ 212.84 Disallowance of costs.

(a) *Scope.* This section prescribes the standards which firms shall use in determining the cost of imported crude oil purchased in a transaction between affiliated entities and the standards which FEA shall use to disallow and to allocate such costs pursuant to § 212.83(e).

(b) *Definitions.* For purposes of this section—

"AFRA" means the London Tanker Broker's average freight rate assessment for the largest class of tankers capable of loading and discharging on the route in question for the month of measurement.

"Host government" means the government, or any government controlled company engaged in the production, refining or marketing of crude oil or other covered product, of the country in which the crude oil is produced.

"Yield of residual fuel oil" means the percent by volume of residual fuel oil which is produced from particular crude oil as determined by the Bureau of Mines routine method or other equivalent methods.

(c) *Cost of crude oil.* The cost of crude oil in transactions between affiliates shall be equal to the price which would prevail if the affiliated entities consistently and continuously dealt with each other at arms-length. Affiliated entities shall initially set the cost of crude oil at a f.o.b. price at the port of loading in the country of origin which is representative of those prices prevailing in arms-length transactions according to the best information available to the affiliated entities. For transactions between affiliated entities in which delivery is made at a location other than the port of loading, the price shall be equal to the f.o.b. price at the port of loading plus the cost of transportation computed by use of the customary accounting procedures consistently and historically applied by the firm concerned.

(d) *Disallowance of costs.* (1) Whenever the weighted average (by volume) price set by affiliated entities for a crude type exceeds the maximum price for such crude, the costs attributable to such price shall be disallowed. The method of determination of the maximum price is set forth in paragraph (e) of this section.

(2) FEA shall notify firms in thirty days after the filing of the report required under paragraph (h) of this section, or as soon thereafter as practicable, of any disallowance occasioned by information contained in the report.

(3) Upon notification that its costs have been disallowed for any month beginning with September 1974, a firm shall recalculate its costs for the month of measurement using the representative price for that month. The difference between the firm's disallowed costs and its recalculated costs shall be subtracted from the amount of its costs computed for the month in which the firm receives notice of disallowance. The method of determination of the representative price is set forth in paragraph (e) of this section.

(4) Upon notification that its costs have been disallowed for any month from October 1973 through August 1974, a firm shall make appropriate adjustment as ordered by FEA.

(e) *Determination of representative and maximum prices.* (1) For a reference crude the representative price shall be the lowest price at which fifty percent or more (as measured by volume) of reported arms-length transactions loaded during the month of measurement take place.

(2) For a reference crude the maximum price for the month of measurement shall be the higher of—

(i) The representative price plus 20 cents per barrel, or

(ii) The lowest price at which 65 percent or more (as measured by volume) of reported arms-length transactions loaded during the month of measurement take place.

(3) In determining the representative and maximum price for a reference crude, FEA will consider all transactions reported to FEA for the reference and related crudes loaded during the month of measurement. A related crude is a non-reference crude which is more similar in quality to the reference crude to which it is deemed related than to any other reference crude. The prices of related crudes shall be adjusted to the reference crude on the basis of the difference in the posted prices, tax-reference prices or other official selling prices as established by the host government for crude sales.

(4) In determining the representative and maximum price FEA will exclude the following transactions:

(i) Purchases from the host government by companies also lifting equity crude or otherwise receiving crude oil on a preferential basis from the particular country.

(ii) Sales to host governments at cost or cost plus nominal fees.

(iii) Sales of royalty oil to the extent taken "in kind" by host governments.

(iv) Overlift sales of crude between members of a joint venture.

(v) Barter or exchange transactions.

(5) For a non-reference crude from a country for which there is one or more reference crudes, the representative and maximum prices shall be the representative and maximum prices of the most similar in quality reference crude adjusted for the difference in the posted prices, tax-reference prices or other official selling prices as established by the host government for the two crudes.

(6) For a crude from a country for which there is no reference crude, the representative and maximum prices shall be determined by adjusting the representative and maximum prices of the reference crude most nearly similar in quality in the same geographical region. The representative price of the reference crude shall be adjusted for the differences between the two crudes in gravity, sulphur content and the cost of the transportation to the relevant market for comparison.

(i) The transportation adjustment shall be the difference in AFRA rates for shipment from the points of loading to the appropriate points. FEA will periodically publish a list of the appropriate delivery ports.

(ii) The gravity adjustment shall be the difference in API gravity to the nearest degree times two cents.

(iii) The sulphur adjustment shall be determined by reference to the differences in the sulphur content and the yields of residual fuel oil for the crudes

being compared. The difference in value shall be equal to the difference in the respective low-sulphur premiums for the two crudes. The low-sulphur premium for each crude shall be equal to—

(a) The percentage yield of residual fuel oil divided by 100, times,

(b) Three less the percent of sulphur in the residual fuel oil, times,

(c) The market premium per percent of sulphur.

The low-sulphur premium shall be zero if the percent of sulphur in the residual fuel is three or greater. The market premium for various geographic areas shall be published periodically by FEA. For the East Coast the market premium shall be $1.25 per barrel for each percent of sulphur content until otherwise ordered by FEA.

(7) FEA may provide by order for adjustments different from those provided in this section upon petition by any interested party or on its own initiative.

(f) *Selection of Reference Crudes.* FEA will periodically publish a list of all crudes designated as reference crudes. In general, FEA will designate as a reference crude any crude oil which is traded substantially or which is used as a pricing standard by the host government and the companies. FEA may in a particular month choose not to designate as a reference crude any crude for which, for them monthly transaction reported to FEA (excluding those set out in paragraph (e) (2) of this section).

(1) the total volume is less than 600,000 barrels,

(2) the number of independent transactions of at least 100,000 barrels each is less than four, or

(3) more than thirty-five percent of the transactions by volume are pursuant to a single contract.

(g) *Exceptions.* (1) the cost of crude oil from Canada shall be the posted price for such crude plus the Canadian export tax.

(2) The cost of crude oil from Indonesia shall be the official selling price unless FEA determines that significant transactions are taking place at prices other than the official selling price.

(3) The cost of crude oil produced in a country from which the affiliated entities obtain all of their crude oil in arms-length transactions from the host government or other unaffiliated entities shall be the price paid to the unaffiliated entities.

(h) Increased costs to a U.S. affiliate shall not be considered to be incurred before the crude is physically landed in the United States. In computing the cost of crudes landed in the month of measurement, reference shall be made to prices for cargoes loaded during the month of measurement; determination of representative and maximum prices by FEA will also be made on such a basis.

(i) *Reports.* (1) Companies claiming increased crude costs shall be required to provide to FEA detailed information concerning their transfer prices and the prices of all third-party purchases and sales by affiliated companies (whether or not destined for the United States) for the month of May 1973 and the month of measurement. Such reports shall be in accordance with forms and instructions provided by FEA. Prices shall be reported f.o.b. the port of loading and shall be adjusted for any rebates, discounts or other consideration passing to or from, directly or indirectly, non-affiliated parties. Reports shall be due fifteen days after the end of the month of measurement except that reports for the months of May 1973 and October 1973 through August 1974 shall be due on October 15, 1974.

(2) For transactions which are subject to material price adjustments, firms shall provide their best estimates of the expected price and the amounts actually paid or received pending final settlement. These estimates shall be subsequently adjusted on an interim or final basis as adjustments are made between the parties.

APPENDIX A

[The asterisk denotes a reference crude]

Country	Name	Typical API gravity (degrees)
Abu Dhabi	*Murban	40
	Zakum	39
Algeria	*Arzew	44
	Hassi Messaoud	44
	Zarzaitine	42
Angola	*Cabinda	34
Colombia	Onto	33
Ecuador	Oriente	29
Indonesia	*Sumatra Light	34
	Ardjuna	37
	Attaka	40
	Minas	35
Iran	*Light	34
	*Heavy	31
	Ahwaz	25
	Cyrus	19
	Noruz	22
Iraq	*Basrah	35
Kuwait	*Kuwait	31
Libya	*Libyan	40
	Amna	36
	Brega	40
	Es-Sider	37
	Nafoora	35
	Sirtica	38
	Zueitina	40
Nigeria	*Nigerian	34
	Forcados	31
	Escarros	37
	Brass River	43
	Qua Ibo	37
	Medium	26
	Midwest	31
	Oban	36
Oman	*Oman	34
Qatar	*Dukham	40
	Marine	36
Saudi Arabia	*Light	34
	*Heavy	28
	*Medium	30
	*Berri	39
Trinidad	*Trinidad	31
	Lo	33
	Mola	28
	Pan Am	31
Venezuela	*Tia Juana Light	31
	*Tia Juana Medium	24
	*Oficina Light	35
	*Bachaquero	17
	Centro Lago	36
	Lagunillas	17
	La Rosa	24
	San Joaquin	41
	Lagotreco	28
	Lagocinco	36

APPENDIX B—ENVIRONMENTAL PROTECTION AGENCY COMMENTS

In response to your letter of August 27, 1974, the Environmental Protection Agency has reviewed the proposed Federal Energy Administration notice of proposed rule making setting forth revisions to 10 CFR 212.83 *Landed Cost,* and adding § 212.84 *Disallowance of Costs.* Under § 212.84(e) (7) (iii), FEA proposes to set the East Coast market premium per percent of sulphur at $1.25. In order that the public and EPA might evaluate the full implications of this proposal, we believe FEA should make available the information which it used to arrive at the above market premium figure. Only then will EPA be able to thoroughly review the environmental effects of the proposed rulemaking.

Thank you for the opportunity to review and comment on these proposed actions.

[FR Doc.74-20561 Filed 9-3-74;12:41 pm]

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