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Pages 38085–38216

PART I

HIGHLIGHTS OF THIS ISSUE

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

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

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rules and regulations

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Federal Energy Administration

Section 213.3388 is amended to show that one position of Confidential Assistant (Secretary) to the Assistant Administrator for International Energy Affairs is excepted under Schedule C.

Effective on October 29, 1974, § 213.3388(i) is added as set out below.

§ 213.3388 Federal Energy Administration.

* * * * *

(i) *Office of the Assistant Administrator for International Energy Affairs.*

(1) One Confidential Assistant (Secretary) to the Assistant Administrator.

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

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

[FR Doc.74-25053 Filed 10-25-74;8:45 am]

Title 7—Agriculture

CHAPTER VIII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (SUGAR), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 811, Amdt. 4]

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

Requirements, Quotas, and Quota Deficits for 1974

Basis and purpose and bases and considerations. This amendment is issued pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended; 7 U.S.C. 1101), hereinafter referred to as the "Act". The purpose of this amendment to Sugar Regulation 811, as amended, is to determine and prorate or allocate the deficits in quotas established pursuant to the Act.

Section 204(a) of the Act provides that the Secretary shall, as often as facts are ascertainable by him but in any event not less frequently than each 60 days after the beginning of each calendar year, determine whether any area or country will not market the quota for such area or country. It was previously determined that the Domestic Beet Sugar Area would be unable to market its quota by 725,667 tons and accordingly a quota deficit was determined for the area for that quantity. On the basis of the latest information it is herein determined that the Domestic Beet Sugar Area will be unable to fill its sugar quota by an additional 200,000 tons. Therefore, a total deficit of 925,667 short tons, raw value, is herein determined in the 1974 quota for the Domestic Beet Sugar Area.

On the basis of information available to the Department on the production of sugar in the Mainland Cane Area and Hawaii it is herein found that the two areas will be unable to fill their quotas by 350,000 and 100,000 tons, respectively. Accordingly, deficits are herein determined in the quotas for the Mainland Cane Area and Hawaii of 350,000 and 100,000 short tons, raw value, respectively. On the basis of the quota established for Puerto Rico for the calendar year 1974, a finding was heretofore made (38 FR 31412) that Puerto Rico would be unable to market its quota by 755,000 short tons, raw value, and accordingly a quota deficit was determined for Puerto Rico of 755,000 tons. On the basis of the latest information on the availability of sugar in Puerto Rico for marketing in the continental United States during 1974, it is herein found that Puerto Rico will be able to market 50,000 tons of sugar in excess of its quota as previously reduced. Therefore, the total deficit in the Puerto Rican quota is herein reduced 50,000 tons and the total 1974 sugar quota deficit for Puerto Rico is herein redetermined to be 705,000 short tons, raw value.

On the basis of information available to the Department Haiti and Honduras will be unable to market 28,025 and 9,125 short tons, raw value, of their respective sugar quotas during 1974. Therefore, deficits of 28,025 and 9,125 short tons, raw value, are herein declared in the quotas for the respective countries consisting respectively of 18,342 and 5,376 tons of their section 202 quotas and 9,683 and 3,749 tons of deficit declarations previously prorated to them.

On the basis of information available to the Department, Ecuador, Panama and Nicaragua will be unable to fill their respective sugar quotas by 6,593, 2,827 and 4,138 short tons, raw value, respectively. Therefore, deficits are herein declared in the quotas for Ecuador, Panama and Nicarauga of 6,593, 2,827, and 4,138 short tons, raw value. Such deficit quantities represent portions of deficits previously prorated to these countries.

The marketing opportunities for the domestic areas, Haiti, and Honduras within the total quotas for such areas and countries established under section 202 of the Act will not be limited as a result of the deficit determinations and prorations or allocations provided herein.

Section 204(a) of the Act also provides that if the Secretary determines that neither the Republic of the Philippines nor the countries listed in section 202(c)(3)(A) (The Western Hemisphere quota countries) can fill all of the deficits of the domestic areas and the Western Hemisphere quota countries, he shall apportion such unfilled amount on such basis and to such foreign countries as he determines is required to fill such deficit. It is herein determined that the Philippines and the Western Hemisphere quota countries are not able to fill all of such deficits, so the balance of such deficits have been allocated to all countries with raw sugar quotas, except those countries with deficit determinations.

It is hereby determined that deficits previously declared and those declared herein constitute all known deficits on which data are currently ascertainable by the Department.

By virtue of the authority vested in the Secretary of Agriculture by the Act, part 811 of this chapter is hereby amended by amending §§ 811.31, 811.32, and 811.33 as follows:

1. Section 811.31 is amended by revising paragraph (a)(2) to read as follows:

§ 811.31 Quotas for domestic areas.

(a) * * *

(2) It is hereby determined pursuant to section 204(a) of the Act that for the calendar year 1974 the Domestic Beet Sugar Area, the Mainland Cane Area, the Texas Cane Area, Hawaii and Puerto Rico will be unable by 925,667, 350,000, 40,000, 100,000 and 705,000 short tons, raw value, respectively, to fill the quotas established for such areas in paragraph (a)(1) of this section. Pursuant to section 204(b) of the Act, the determination of such deficits shall not affect the quotas established in paragraph (a)(1) of this section.

* * * * *

2. Section 811.32 is amended by revising paragraph (a) to read as follows:

§ 811.32 Proration and allocation of deficits in quotas.

(a) The total deficits previously determined in quotas (38 FR 31412, 35478 39 FR 3945, 11523) established under section 202 of the Act in short tons, raw value, were as follows: Domestic Beet Sugar Area 725,667; Puerto Rico 755,000;

the Texas Cane Area 40,000; and Venezuela 46,726. Such deficits totaling 1,567,393 short tons, raw value, were reallocated by (1) allocating 399,781 tons to the Republic of the Philippines; (2) prorating 929,278 tons to Western Hemisphere countries with quotas in effect in accordance with section 204(a) of the Act; and (3) assigning 238,334 tons to foreign countries on a first-come, first-served basis pursuant to paragraph (d)(2) of § 811.33 as set forth in Amendment 2 of this part.

Additional net deficits in section 202 quotas totaling 623,718 short tons, raw value, are determined in this amendment as follows: Domestic Beet Sugar Area 200,000 tons; Mainland Cane Sugar Area 350,000 tons; Hawaii 100,000 tons; Puerto Rico –50,000 tons; Haiti 18,342 tons; and Honduras 5,376 tons. In addition, shortfalls in deficits previously prorated amounting to 26,990 short tons, raw value, are herein determined in the quotas for Ecuador 6,592 tons, Panama 2,827 tons, Nicaragua 4,138 tons, Haiti 9,683 tons and Honduras 3,749 tons. The additional deficits and shortfalls totaling 650,708 short tons, raw value, are allocated in this amendment by allocating 144,177 tons to the Republic of the Philippines and allocating the balance in accordance with the criteria set out in section 204(a) of the Act.

3. Section 811.33 is amended by amending paragraphs (b) and (c) to read as follows:

§ 811.33 Quotas for foreign countries.

* * * * *

(b) For the calendar year 1974, the quota for the Republic of the Philippines is 1,743,258 short tons, raw value, representing 1,126,020 short tons, established pursuant to section 202(b) of the Act, 543,958 short tons established pursuant to section 204(a) of the Act and 73,280 short tons established pursuant to section 202(d) of the Act. Of the quantity of 1,126,020 short tons established pursuant to section 202(b) of the Act, only 59,920 short tons, raw value, may be filled by direct-consumption sugar pursuant to section 207(d) of the Act.

(c) For the calendar year 1974, the prorations to individual foreign countries other than the Republic of the Philippines pursuant to section 202 of the Act are shown in columns (1) and (2) of the following table. Deficit prorations previously established in this Sugar Regulation 811 are shown in column (3). New deficits and deficit prorations and allocations established herein are shown in column (4). Allocations previously made on a first-come, first-served basis are shown in column (5). Total quotas and prorations are shown in column (6).

Countries	Basic quotas	Temporary quotas and prorations pursuant to sec. 202(d)[1]	Previous deficit prorations	New deficits and deficit prorations	Prior allocations made on a first-come, first-served basis [2]	Total quotas and prorations
	(1)	(2)	(3)	(4)	(5)	(6)
	(Short tons, raw value)					
Dominican Republic	427,345	184,303	199,912	88,166	35,000	934,726
Mexico	377,933	162,994	176,797	51,441	0	769,165
Brazil	368,585	158,960	172,424	50,169	172,455	922,593
Peru	254,228	87,224	123,383	56,400	0	521,235
West Indies	4,505	1,546	64,347	71,964	160,181	302,543
Ecuador	54,420	23,469	25,458	−6,593	0	96,754
Argentina	51,081	22,030	23,896	15,585	0	112,592
Costa Rica	46,073	19,871	21,553	6,271	15,854	109,622
Colombia	45,405	19,583	21,241	45,852	0	132,081
Panama	43,068	18,574	20,147	−2,827	0	78,962
Nicaragua	43,068	18,574	20,147	−4,138	0	77,651
Venezuela	34,790	11,936	−46,726	0	0	0
Guatemala	39,396	16,990	18,429	23,837	0	98,652
El Salvador	28,712	12,383	13,432	17,370	0	71,897
Belize (British Honduras)	22,703	9,791	10,620	6,926	5,752	55,792
Haiti	20,699	8,928	9,683	−28,025	0	11,285
Honduras	8,013	3,454	3,749	−9,125	0	6,091
Bolivia	4,340	1,872	2,030	7,204	0	15,446
Paraguay	4,340	1,872	2,030	591	0	8,833
Australia	167,599	46,071	0	22,812	0	236,482
Republic of China	69,777	19,182	0	9,497	0	98,456
India	67,106	18,447	0	9,134	0	94,687
South Africa	47,408	13,032	0	6,453	0	66,893
Fiji Islands	36,725	10,096	0	4,999	0	51,820
Mauritius	24,706	6,792	0	3,363	12,624	47,485
Swaziland	24,706	6,792	0	3,363	5,846	40,707
Thailand	15,358	4,221	0	2,090	5,622	27,291
Malawi	12,353	3,395	0	1,681	0	17,429
Malagasy Republic	10,016	2,753	0	1,363	0	14,132
Ireland	1,107	0	0	0	0	1,107
Total	2,355,565	915,135	882,552	455,823	413,334	5,022,409

[1] Proration of the quotas withheld from Cuba, Southern Rhodesia, Bahamas, Uganda, West Indies, Peru, Venezuela, and Ireland.
[2] Quota made available to foreign countries on a first-come, first-served basis pursuant to sec. 202(d)(2) of the act and in Sugar Regulation 811, amendment 2 (39 F.R. 3945).

* * * * * * *

(Secs. 201, 202, 204, and 403; 61 Stat. 923, as amended, 924, as amended, 925, as amended, 932; 7 U.S.C. 1111, 1112, 1114, and 1153)

Effective date. This action determines additional deficits in the sugar quotas for the domestic areas of 600,000 tons and for foreign countries of 50,708 tons and prorates and allocates such deficits to Western and Eastern Hemisphere quota countries. In order to promote orderly marketing, it is essential that this amendment be effective immediately so that all persons selling and purchasing sugar for consumption in the continental United States can promptly plan and market under the changed marketing opportunities. Therefore, it is hereby determined and found that compliance with the notice, procedure, and effective date requirements of 5 U.S.C. 553 is unnecessary, impracticable and contrary to the public interest and this amendment shall be effective October 23, 1974.

Signed at Washington, D.C. on October 22, 1974.

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

[FR Doc.74-25062 Filed 10-23-74;12:36 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

PART 78—BRUCELLOSIS

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

MODIFIED CERTIFIED BBUCELLOSIS AREAS

This amendment deletes the following areas from the list of areas designated as Modified Certified Brucellosis Areas in 9 CFR 78.13 because it has been determined that these areas no longer come within the definition of § 78.1(i): Adair, Haskell, Latimer, Pottawatomie, Pushmataha, and Seminole Counties in Oklahoma; and Harrison, Haskell, Hill, and Hunt Counties in Texas.

The following counties were deleated from the list of Modified Certified Brucellosis Areas in 9 CFR 78.13 on the specified date: McCook County in South Dakota on September 30, 1974; and Jefferson and Navarro Counties in Texas on September 30, 1974. Since said date, it has been determined that these counties again come within the definition of § 78.1 (i); and, therefore, they have been redesignated as Modified Certified Brucellosis Areas.

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 and Texas.

(b) The following States are hereby designated as Modified Certified Brucellosis Areas except for the counties named:

(1) Oklahoma except Adair, Dewey, Haskell, Latimer, Le Flore, Pottawatomie, Pushmataha, and Seminole Counties.

(2) Texas except Grayson, Harrison, Haskell, Hill, Hunt, and Leon Counties.

(Secs. 4–7, 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 October 29, 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. 553, 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 23d day of October 1974.

PIERRE A. CHALOUX,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74-25108 Filed 10-25-74;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Special Rates

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), and for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country, Part 201 is amended as set forth below:

1. Section 201.52 is revised to read as follows:

§ 201.52 Advances to member banks under section 10(b).

(a) The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

	Rate	Effective
Federal Reserve Bank of—		
Boston	8½	Apr. 30, 1974
New York	8½	Apr. 25, 1974
Philadelphia	8½	Do.
Cleveland	8½	Do.
Richmond	8½	Do.
Atlanta	8½	Apr. 29, 1974
Chicago	8½	Apr. 26, 1974
St. Louis	8½	Do.
Minneapolis	8½	Do.
Kansas City	8½	Apr. 25, 1974
Dallas	8½	Do.
San Francisco	8½	Do.

(b) The rates for advances to member banks for prolonged periods and in significant amounts under section 10(b) of the Federal Reserve Act and § 201.2(e)(2) of Regulation A are:

	Special rate	Effective
Federal Reserve Bank of—		
Boston	10	Oct. 11, 1974
New York	10	Sept. 27, 1974
Philadelphia	10	Oct. 3, 1974
Cleveland	10	Oct. 4, 1974
Richmond	10	Oct. 3, 1974
Atlanta	10	Oct. 14, 1974
Chicago	10	Oct. 11, 1974
St. Louis	10	Oct. 3, 1974
Minneapolis	10	Oct. 4, 1974
Kansas City	10	Do.
Dallas	10	Sept. 27, 1974
San Francisco	10	Oct. 4, 1974

2. Section 201.53 is revised to read as follows:

§ 201.53 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States or any agency thereof are:

	Rate	Effective
Federal Reserve Bank of—		
Boston	10	Apr. 30, 1974
New York	10	Apr. 25, 1974
Philadelphia	10	Do.
Cleveland	10	Do.
Richmond	10	Do.
Atlanta	10	Apr. 29, 1974
Chicago	10	Apr. 26, 1974
St. Louis	10	Do.
Minneapolis	10	Do.
Kansas City	10	Apr. 25, 1974
Dallas	10	Do.
San Francisco	10	Do.

(12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 357.)

By order of the Board of Governors, October 18, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-24953 Filed 10-25-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-880, Amdt. 6]

PART 250—PRIORITY RULES, DENIED-BOARDING COMPENSATION TARIFFS AND REPORTS OF UNACCOMMODATED PASSENGERS

Limitation Inclusion of Foreign Air Carriers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on August 13, 1974.

By notice of proposed rulemaking,[1] the Board invited comment on a proposal to amend Part 250 of the Economic Regulations (14 CFR Part 250), relating to the protection of confirmed passengers in "oversale" situations, to expand the part to encompass each foreign air carrier holding a permit issued by the Board pursuant to section 402 of the Act authorizing such carriers to engage in foreign air transportation on an individually ticketed basis.

Pursuant to the notice, 24 comments were filed. Two were from members of the traveling public supporting the proposal ("Fine" and "Green"); one was a joint comment by an Ecuadorian, an Honduran, and a Guatemalan carrier, namely Compania Ecuatoriana de Aviacion, S.A., Empresa Guatemalteca de Aviacion, and Transportes Aereos Nacionales, S.A., favoring the proposed rule if interpreted properly;[2] one was a comment by the Civil Aeronautics Administration of the Republic of China in opposition to the proposal; and twenty were separate comments from other foreign air carriers,[3] all of which objected to at least some provision of the proposed rule on policy or legal grounds. Upon consideration, the Board has determined to adopt the proposed rule, as revised herein.[4] Except to the extent modified herein, the tentative findings and conclusions set forth in EDR-248 are incorporated herein and made final; and, except to the extent granted herein, all requests contained in the comments are denied. The principal objections to our proposal are discussed below.

The comments of a number of foreign air carriers challenge the Board's authority to implement its proposal to make Part 250 applicable to such carriers. These challenges variously assert that

[1] EDR-248, June 8, 1973, 38 FR 15083, Docket 25592.

[2] Their approval of the proposed rule is conditioned upon the validity of an informal opinion of the Board's staff that the rule does not apply to travel completely outside the United States, its territories and possessions. As explained in note 16, infra, we endorse that informal opinion.

[3] Aerlinte Eireann Teorante, Aeromexico, Air BVI Limited, Air Canada, Air France, Air New Zealand, Alitalia, British Caledonian Airways Limited, British Airways, China Airlines, Deutsche Lufthansa Aktiengesellschaft, Iberia Airlines of Spain, Japan Air Lines, KLM Royal Dutch Airlines, Korean Air Lines, Olympic Airways, Swiss Air Transport, Transportes Aereos Portugeses, Varig, S.A., and Windward Islands Airways

[4] The substantive revisions relate to (1) a restriction on the proposed applicability of Part 250 to foreign air carriers which would exclude from the scope thereof passengers inbound to the United States via a foreign air carrier whose confirmed reserved space had not been verified in the United States, a restriction which we rejected in the proposal (EDR-248, *mimeo* p. 4, note 5) and which we have now accepted; and (2) a revision of the definition of "confirmed reserved space" as added to Part 250 by ER-804 (adopted May 23, 1973, 38 FR 14822) to conform it to our action here in accepting the restriction referred to above.

We have also amended § 250.10 to make the reporting requirements of Part 250 applicable to foreign air carriers in appropriate circumstances. In connection therewith we note our confirmation of the comment of Japan Air Lines that its polar flights between Japan and Europe which refuel at Anchorage, Alaska, and occasionally enplane passengers who have stopped over there, does not constitute "serving a point in the United States," within the meaning of § 250.10.

We also note that we have taken this occasion to make an editorial amendment to § 250.10 by deleting the last sentence thereof.

Part 250 has been rested upon section 416 of the Act, a section which is not applicable to foreign air carriers; that section 204(a) of the Act is procedural in nature and grants no substantive authority to the Board; that sections 404(b) and 411, and the "public interest" mandate of the Act, do not authorize the amendment of foreign air carrier permits; that to the extent section 402(e) allows the Board to attach new conditions to foreign air carrier permits, it may only be done in accordance with sections 402(f) and 801 of the Act, after notice and hearing and approval by the President; that the Board has no authority to prescribe tariff rules for foreign air carriers as the imposition of Part 250 on foreign air carriers would do; that the extension of Part 250 to foreign air carriers would result in the unilateral modification of existing bilateral agreements and would violate section 1102 of the Act; and that the Board has no authority to require the filing of priority rules, to provide for the imposition of monetary penalties, to require the payment of reparations, or, since foreign air carriers are not covered by section 407 of the Act, to require the filing of reports. We have examined these and related but less significant comments with care, but, as recognized in varying degree by many of the commenting foreign air carriers, none of them has sufficient merit to persuade us that we are lacking authority to follow the course we proposed.[5]

In our proposal (EDR–248, pp. 1–2), we pointed out that the regulations embodied in Part 250 are intended, inter alia, "(1) to prevent unlawful discrimination or undue or unreasonable prejudice in connection with determining priorities among overbooked passengers, (2) to provide prompt, effective, and adequate compensation to passengers denied boarding, and (3) to encourage the carriers to improve their performance with respect to oversales." [6] We believe that the statute authorizes us to achieve these objectives through regulation of foreign air carriers no less than citizen air carriers.[7] In either instance, the protection of the passenger is paramount.

Section 402(e) of the Act authorizes the Board to attach to foreign air carrier permits "such reasonable terms, conditions, or limitations as, in its judgment, the public interest may require." It has been the Board's practice to include in each permit issued an express reservation that the privileges granted "shall be subject to such other reasonable terms, conditions or limitations required by the public interest as may from time to time be prescribed by the Board." The "public interest" in regulating "oversales" by foreign air carriers is clearly evident in the terms of the statute. Thus, section 404(a)(2) makes it the duty of every foreign air carrier "to establish, observe, and enforce just and reasonable * * * rules, regulations and practices relating to such air transportation;" other provisions of section 403 authorize us to issue regulations with respect to carrier tariffs; section 404(b) proscribes undue preference, prejudice or disadvantage and unjust discrimination in air transportation, which clearly extends to oversales; section 411 contemplates the investigation and elimination of unfair or deceptive practices in air transportation by foreign air carriers; and section 204(a) authorizes the Board "to make and amend such general or special rules, regulations and procedure, pursuant to and consistent with the provisions of this Act, as it shall deem necessary to carry out the provisions of, and to exercise and perform its powers and duties under this Act." We find that it is in the "public interest," and within our authority, to regulate "oversales" by foreign air carriers, in the manner and to the extent provided by the amendment to Part 250 adopted herewith.

In reaching this conclusion, we have not relied upon section 416 of the Act, nor upon section 204(a) as a provision independent of the regulatory provisions of sections 402, 403, 404, and 411.[8] Moreover, our action here does not constitute an amendment of various foreign air carrier permits but rather an administrative regulation designed to prevent unfair and deceptive practices and unjust discrimination by requiring non-discriminatory priority rules for oversold passengers, liquidated damages for those denied boarding, and a brake on oversales arising from overbooking. Our broad rulemaking powers [9] and the powers reserved to us in the foreign air carrier permits authorize us to proceed in this fashion without the requirements for notice and hearing and Presidential approval prescribed by sections 402(f) and 801 for permit modifications.[10]

Similarly, the argument that the extension of Part 250 to foreign air carriers would unilaterally alter various bilateral agreements in contravention of section 1102 cannot be accepted. Our attention has not been directed to provisions of bilateral agreements specifically prohibiting this action.[11] While the agreements do not contemplate unilateral alterations in the air transport rights bargained for and agreed upon, they do contemplate that such rights be exercised in accordance with non-discriminatory laws and rules applicable to all air carriers, whether foreign or domestic. Neither the bilaterals nor section 1102 have been breached.

Finally, the contention that we are not authorized to prescribe tariff rules and practices for foreign air carriers misses the real nature of our action. The Board does have authority to alter unjustly discriminatory or unduly preferential or prejudicial tariffs under section 1002(f) to the extent necessary to correct the discrimination, although under section 1002(j) the Board may only order the cancellation of tariffs found unreasonable. However, here the Board is not concerned with the lawfulness of tariffs but rather with the manner in which it shall deal administratively with the significant problem of "oversales" by foreign air carriers. We have concluded to extend the rules applicable to U.S.-flag carriers to foreign carriers. These rules, it must be remembered, stem from the Board's decision in its 1967 rulemaking proceeding to refrain from banning outright the practice of intentional overbooking. Such a ban was and is well within the Board's authority in view of the undoubted harm which the practice does to those passengers who wind up being denied boarding despite their confirmed reservations, and the inherently deceptive and frequently discriminatory nature of the practice itself. The Board refrained from an outright ban only because of its concern for the adverse effect on carrier economics, and ultimately on passenger fares, of the seats left empty by cancellations and "no shows"—seats which the practice of intentional overbooking is designed to fill. But the Board considered that its abstention from an outright ban on the practice could only be justified if it prescribed an adequate, clearly defined, and readily available remedy to compensate those passengers who are harmed as a result of the practice, and only if it also required the carriers to adopt and abide by non-discriminatory boarding priority rules. If the Board lacks authority to prescribe these remedies, then the only alternative will be to outlaw intentional overbooking altogether.

The principal components of the regulatory scheme are: (1) The filing of non-discriminatory priority rules for boarding oversold passengers; (2) the availability of payment of specified amounts of liquidated damages to those passengers who are denied boarding and

[5] We have, as noted, modified our proposal by excluding from the scope of Part 250, passengers traveling to the United States on foreign air carrier flights originating outside the United States, unless their confirmed reserved space was verified in the United States. While we do not consider this change to be crucial to the maintenance of our jurisdiction, we note that it detracts from some of the arguments advanced in opposition to our jurisdiction.

[6] EDR–95, October 12, 1965, ER–503, October 17, 1967.

[7] Our original determination not to include foreign air carriers under Part 250 rested on policy grounds and tacitly assumed jurisdiction. In almost seven years no legal challenge has been made to our authority to make Part 250 effective as to air carriers in the manner that we did.

[8] Deutsche Lufthansa Aktiengesellschaft v. CAB, 479 F. 2d 912 (D.C. Cir. 1973).

[9] American Airlines v. CAB, 359 F. 2d 624 (D.C. Cir. 1966), cert. denied 385 U.S. 843.

[10] Cf. Dan-Air Services, Ltd. v. CAB, 475 F. 2d 408 (D.C. Cir. 1973).

[11] British Caledonian's reference to section 5(2) of the Bermuda Agreement (TIAS 1507 (1946)) is clearly inapposite, having to do only with governmental regulations concerning "entry, clearance, immigration, passports, customs, and quarantine," rather than carrier practices with respect to reservations and denied boarding.

who choose such summary settlement of their claims; and (3) the filing of reports by carriers to enable the Board to keep abreast of the efficacy of its action. Plainly, although the denied-boarding compensation is required to be included in a carrier tariff, the Board's action is not the prescription of a foreign carrier's tariff beyond the Board's authority under section 403 and 1002(j), but, rather, is a procedural device for reflecting the remedy which the Board has prescribed in its regulation of intentional overbooking practices, which would otherwise be subject to a complete ban, as unlawful, whether practiced by foreign or U.S. air carriers. Viewed in this light, arguments directed against "priority rules," [12] "penalties," "reparations," "liquidated damages," and "reports" are not convincing; although they may have some shortcomings, the devices utilized by the Board are reasonable, non-discriminatory methods for regulating intentional overbooking and the resulting oversales in a manner which will effectuate the purposes and policies of the Act referred to above.

In passing, it should be observed that such burden as is placed on foreign air carriers by the application of our denied-boarding regulations to their operations in the limited circumstances provided by this rule does not arise from any requirements that they necessarily pay out "penalties," "reparations," or "liquidated damages." For, of course, they are not required to do so unless they renege on their sales of confirmed reserved space. Nothing in this regulation requires them to overbook or to oversell space. Such matters are within the complete control of the carriers and their agents, a control which, in view of modern computer technology, should be pretty precise. Any inevitable burden on the carriers, therefore, is only the administrative burden of preparing to comply with the regulation and reporting the results of their operations in the manner required thereby. Such "burdens" are necessary concomitants of a rule of law and afford no sound basis for relinquishing our duty to seek full achievement of the objectives of the Act.

We turn now to the objections which call into question the need for the regulation. We have found no serious challenge grounded in carrier experience to our original analysis. We there estimated some 10,000 cases of denied boarding by foreign carriers in 1971. While no hard evidence has been supplied to us by those opposing the change in the regulation, we have reviewed the U.S.-flag carrier reports of denied boarding as well as the complaints received with respect to them.[13] We have also reviewed the more recent figures with respect to denied-boarding complaints against foreign air carriers.[14] We conclude there is a real need in the public interest and the achieving of statutory objectives for an extension of the requirements of Part 250 to foreign air carriers at least to the extent provided herein.[15]

In EDR–248 (p. 4, note 5), the Board stated that it had "considered a restriction on the proposed applicability of Part 250 to foreign air carriers which would exclude from the scope thereof passengers inbound to the United States via a foreign air carrier whose confirmed reserved space had not been verified in the United States (i.e. all elements of the contract of carriage occur outside the United States), but we have tentatively decided against such a restriction." Many commenting carriers urged us to adopt the restriction and others urged us to extend it further so as to exclude from the regulation all foreign air carrier flights originating outside the United States. We have carefully considered these comments and have concluded that our expressed concern over the possible manipulation of the boarding of oversold passengers to favor those who were entitled to denied-boarding compensation was accorded more weight than it deserved. Not only would such manipulation be difficult at the last minute it would be subject to control by the foreign government. In the interest of comity, therefore, and because the applicability of the original restriction will still leave most United States nationals covered by Part 250 even when traveling to the United States from a foreign country on a foreign air carrier, we have decided to adopt the restriction which we originally rejected. This means that if confirmed reserved space is verified in the United States by a passenger inbound to the United States from a foreign country on a foreign air carrier the denial of boarding will be covered by Part 250 and denied-boarding compensation will be payable in accordance therewith;[16] absent such verification in the United States, Part 250 will be inapplicable in such cases.

On the other hand, the suggestion that Part 250 be made applicable only to foreign air carrier passenger originations in the United States will be rejected. The reasons why persons whose inbound trips to the United States have been confirmed in the United States should be protected, even though utilizing a foreign air carrier, far outweight the cost and inconvenience alleged by some of the foreign air carriers. For the most part, we are balancing the interests of United States nationals utilizing confirmed round-trip bookings as against foreign air carriers which have complete control of their own reservation practices, and we believe the scales incline in favor of the former. Of course, our action here does not foreclose international efforts to deal with this problem on a uniform basis throughout the world or in specified regions.

A number of the comments request Board consideration of alternative or supplemental proposals which are clearly beyond the scope of the proceeding. Thus, consumers Fine and Green suggest that all Part 250 carriers be required to pay for holdover expenses of bumped passengers in addition to denied-boarding compensation; six carriers request the Board to permit "no-show" penalties to balance the equities; another asks that the maximum denied-boarding compensation be reduced to $100; others requested that small carriers be excluded; [17] and another asks that denied-boarding compensation only be due if the carrier itself confirmed the space, rather than its agent.[18] These maters, while related to our proposal, were not part of our rule-making, have not been the subject of comment, and will not be passed upon here.[19]

[12] Air New Zealand's argument that the practice of calling for "volunteers" will be lost under the new rule is fallacious, since there is no reason why "volunteers" cannot be the first group offloaded under non-discriminatory priority rules.

[13] The ratio of complaints of oversales against U.S. certificated/scheduled carriers during the last nine months of 1971 as compared to foreign carriers was about 3½ to 1. Of course, the complaints against U.S. carriers included domestic oversales.

[14] During fiscal year 1972, there were 687 complaints of oversales against U.S. carriers and 90,062 cases of denied boarding (both domestic and international) or 131 cases of denied boarding per complaint. Applying this ratio to the 191 complaints against foreign air carriers for this period results in an estimate of 25,000 cases of denied boarding. For FY 1973, there were 758 complaints of oversales against U.S.-flag carriers and total reported denied boardings of 86,726, or 114.4 per complaint. Applying this ratio to the 237 complaints of oversales against foreign carriers for this period results in an estimate of 27,000 cases of denied boarding.

[15] Several carriers argue that the complaints before the Board indicate a need only in certain geographic areas of markets. While this may be the tone of the complaints cited, it does not prove that other areas are without such problems.

[16] On the basis of some of the comments there appears to be some confusion as to whether Part 250, which applies to "flights or portions of flights originating or terminating in the United States" (§ 250.2), covers airline flights having such characteristics or passenger trips having such characteristics. The latter is the correct interpretation. Part 250 is directed to the protection of passengers and the passenger holding confirmed reserved space who is denied boarding is protected if, but only if, his space is for a trip originating or terminating in the United States, its territories, or possessions.

[17] Compare note 15.

[18] This request would represent a radical departure from the Board's preferred view that carriers must assume responsibility for their agents vis-a-vis the traveling public, since the carriers control their own agents and desire to take advantage of the benefits they provide.

[19] It may be noted that some of these matters are within the scope of the Emergency Reservations Practices Investigation, Docket 26253.

Somewhat similarly, two carriers request that foreign air carriers be allowed a longer grace period than the four hours presently allowed U.S. air carriers to provide alternative transportation and thus avoid liability for denied-boarding compensation under Part 250.[20] This request may arguably be within the scope of this rule making, but it has not been justified as to need, would result in an apparently arbitrary differentiation between foreign and U.S. carriers even in the same markets, and would impose a "hardship" on passengers in "thin" markets. It will not be granted here.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 250 of the Economic Regulations (14 CFR Part 250) effective December 28, 1974, as follows:

1. Amend § 250.1 by revising the definitions of "Carrier" and "Confirmed reserved space," the definitions as amended to read as follows:

§ 250.1 Definitions.

For the purposes of this part:

* * * * *

"Carrier" means (a) an air carrier, except a helicopter operator, holding a certificate issued by the Board pursuant to section 401(d) (1) and (2) of the Act, authorizing the transportation of persons, or (b) a foreign route air carrier holding a permit issued by the Board pursuant to section 402 of the Act authorizing the transportation of persons.

"Confirmed reserved space" means space on a specific date and on a specific flight and class of service of a carrier which has been requested by a passenger and which the carrier or its agent has verified, by appropriate notation on the ticket or in any other manner provided therefor by the carrier's tariff, as being reserved for the accommodation of the passenger, except that "confirmed reserved space" shall not include verifications of reserved space on flights or portions of flights of foreign air carriers which originate outside the United States, its territories or possessions, to the extent that such verifications are only made outside the United States, its territories or possessions.

* * * * *

2. Revise § 250.10 to read as follows:

§ 250.10 Reports of unaccommodated passengers.

Carriers, except foreign air carriers, shall file reports with the Bureau of Accounts and Statistics, on CAB Form 250 (Appendix A of this part), with respect to the applicable markets specified hereinafter, of the total number of revenue passengers boarded and the number of unaccommodated passengers in four categories: denied boarding on aircraft, classified as between those entitled to compensation and those not so entitled, downgrades and upgrades. In all four categories of those "denied boarding on aircraft" there shall also be stated, separately, the number of denied boardings based on reservations noted on the passenger's ticket and the number of denied boardings based on reservations made by other means. The markets for which such reports shall be filed are those for which ontime reporting is filed in accordance with Part 234 of the Board's economic regulations and, in addition, New York-San Juan. Local service carriers shall file, in addition to reports which may be required by this section because required by Part 234, such data for the five top-traffic markets of each. The reports shall cover the third month in each calendar quarter and shall be filed within 45 days after the month covered by the report. In addition, all carriers shall file, on a monthly basis, the information specified on CAB Form 251 (Appendix B of this part). These reports may be on a system basis, or limited to either those stations accounting for 67 percent of the carrier's total enplanements, or the top 15 stations, whichever produced the greater number of enplanements, except that, for foreign air carriers, the reporting basis will be all flights originating or terminating at, or serving a point within, the United States or its territories or possessions. The information in Item 4 shall be limited to the passengers enplaned at the reported stations and not the system total. Further, a list of the stations included should be appended to each report. These reports are to be submitted within 30 days after the month covered by the report. Those carriers with both domestic and international operations shall file separate reports for each.

(Secs. 102, 204(a), 402, 403, 404, 411, 1002, Federal Aviation Act of 1958, as amended, 72 Stat. 740, 743, 757, 758, 760, 769, and 788; 49 U.S.C. 1302, 1324, 1372, 1373, 1374, 1381, and 1482)

By the Civil Aeronautics Board.

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

NOTE.—The reporting requirements contained in this Part have been approved by the U.S. General Accounting Office under B-180226 (R0073).

[FR Doc.74-25098 Filed 10-25-74;8:45 am]

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-879, Amdt. 31]

PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Minimum Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., October 22, 1974.

By ER-819, adopted August 28, 1973 (38 FR 23772), the Board instituted a full-scale review of the minimum rates applicable to certain foreign and overseas air transportation services performed by air carriers for the Department of Defense (DOD), and also adopted interim minimum rates for these services effective July 1, 1973, based upon a review of the carriers' reported operating results for the 12 months ended March 31, 1973. In addition, the Board indicated that pending completion of the full-scale review, it would monitor recurring reports, and revise the interim rates whenever such adjustments were in order.[1] By ER-867, June 17, 1974 (39 FR 28230), the Board did revise these interim rates based upon an analysis of reported results for calendar year 1973 operations.

An analysis of reported results for fiscal year 1974 has now been completed, the details of which are set out in the attached appendices. Adjustments to the carriers' reported investment and operating expense data have been made on the same bases as in previous interim final rate revisions.[2] Consistent with our prior practice, results of operations with wide-bodied equipment have not been included in the rate determinations. There are no fixed-buy contracts for operations with this type of equipment, and the aircraft have not been included in the base rate determination, but common-rated with other jet equipment for MAC rate purposes.[3]

In addition, the reported operating expenses of World Airways, Inc. (World) for its B-727 Pacific interisland services have been further adjusted. These additional adjustments were necessitated by changes in the carrier's allocation basis for reporting Maintenance Burden and General and Administrative expenses as of January 1, 1974. The revised allocation bases appear to have increased these particular expense items significantly above the levels experienced prior to January 1, 1974 or the recognized forecast in connection with the pending full-scale MAC rate review.[4] Therefore, for the purpose of this interim final rate, these expense items have been adjusted to reflect the unit levels and allocations reported for calendar year 1973, the last twelve months prior to the change in World's allocation procedures.[5]

The adjusted reported returns on investment for fiscal year 1974, as set forth in Appendix B, were 6.00, 6.49, and 5.75 percent for the long-range, short-range Pacific interisland, and short-range "all other" carriers, respectively. As set forth in Appendix A,[5a] the long-range, Pacific interisland, and short-range "all other" carriers require $6.6, $0.8, and $0.2 million, respectively, to achieve the recognized level of return on investment. The

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[20] Aeromexico asks for eight hours. British Caldedonian suggests that a passenger not be eligible for compensation if he is denied boarding on an inter-hemisphere flight scheduled to depart on or after 1800 of one day and is given alternate transportation on or before 12:00 of the next day, provided that his overnight accommodations, meals, and ground transport are paid for by the carrier.

[1] ER-819 at 11.

[2] ER-819 and ER-867.

[3] ER-867 at 7.

[4] EDR-278, uJly 25, 1974.

[5] See Appendix B, footnote 6 (filed as part of the original document).

[5a] Appendices A, B, and C are filed as part of the original document.

increase in the current base interim final rates necessary to provide these additional revenues are 5.63, 11.72, and 4.79 percent for the long-range, short-range Pacific interisland, and short-range "all other" carriers, respectively. On the basis of these results, we will amend the current base interim final minimum MAC rates adopted in ER–867 as follows: (1) increase the long-range Category B and Category A rates by 5.63 percent; [6] (2) increase the short-range Pacific interisland Category B rates by 11.72 percent; and (3) increase the short-range "all other" Category B rates by 4.79 percent.

These amendments are to be effective seven calendar days after the adoption of this rule. This represents a change in the procedure followed in earlier interim rate reviews. Previously, the Board gave notice of its intention to adopt increased interim rates, and considered the views and comments of interested persons prior to adoption of final rates. The rate increases finally adopted were effective retroactively to the date of the notice. The DOD has expressed strong opposition to the retroactive application of increased final rates. The Department has informally indicated, however, that in view of the well established methodology underlying the interim rate review procedure, it would have no objection to elimination of the notice step in interim rate proceedings. Elimination of the notice proceeding, would also eliminate any problem of retroactivity. We believe this revised procedure represents a reasonable balancing of the conflicting interests of the carriers in obtaining prompt rate relief during this period of rapidly escalating costs, and of the DOD in maintaining rate finality and thus avoiding administrative and budgetary uncertainty over transportation costs. In order to permit interested persons to make their views known, however, we will permit the filing of petitions for reconsideration of this rule. Any adjustments to the revised interim rates adopted herein resulting from a review of such petitions will be effective prospectively. Twelve (12) copies of such petitions shall be filed with the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 on or before November 5, 1974. Copies of any petition filed will be available for inspection and copying by interested persons in the Docket Section. The filing of petitions shall not operate to stay the effective date of the within rule amendment.

The determination of commercial fuel surcharges associated with the amended rates will follow the procedure adopted in ER–867. Thus, the base period for surcharge adjustments subsequent to the effective date of the within amendment will be fiscal year 1974, in order to relate the fuel surcharge rate to the same base upon which the amended rates have been determined. The initial fuel surcharges applicable to the within rates will be based upon a comparison of commercial fuel price changes as of October 1, 1974, to the base period fuel costs for the year ended June 30, 1974. Thereafter, the automatic monthly reopening and retroactive adjustment of the fuel surcharges, as first adopted in ER–860, May 24, 1974, will be maintained.

In view of the carriers' need for prompt rate relief, we find good cause exists to make the amendments effective on less than thirty (30) days' notice. Also, for the reasons previously set forth, we find that notice and public proceeding herein are unnecessary.

In consideration of the foregoing, the Board hereby amends Part 288 of the Economic regulations (14 CFR Part 288) effective October 29, 1974, as follows:

1. Revise the table of rates in § 288.7 (a) (1) to read as follows:

§ 288.7 Reasonable level of compensation.

* * * * *

(a) * * *

(1) Performed with turbine-powered aircraft.

AMENDED RATES EFFECTIVE OCTOBER 29, 1974

Aircraft type	Passenger rates, per passenger-mile		Cargo, per ton-mile		Convertible rates [1]		Mixed passenger-cargo rates, per revenue plane-mile [1]	
	Round trip	One way	Round trip	One way	Passenger leg, per passenger-mile	Cargo leg, per ton-mile	Round trip	One way
Turboprops:	*Cents*	*Cents*	*Cents*	*Cents*	*Cents*	*Cents*	*Dollars*	*Dollars*
CL–44	2.00	3.60	9.36	17.19				
L–382/L–100–10/20/30 [2]			10.05	19.64				
Regular turbojets	2.321	4.366	9.156	17.652	2.321	10.555		
Passengers-pallets								
165 and 0							3.828	7.203
117 and 3							3.688	6.983
105 and 4							3.653	6.927
93 and 5							3.616	6.872
81 and 6							3.581	6.817
63 and 7							3.527	6.734
51 and 8							3.492	6.678
0 and 12							3.341	6.443
DC–8–61/63F	[3] 2.321	[3] 4.366	[3] 9.156	[3] 17.652	[3] 2.321	[3] 10.555		
Passengers-pallets								
219 and 0							5.082	9.562
159 and 5							4.818	9.118
65 and 12							4.405	8.424
47 and 13							4.328	8.291
0 and 18							4.121	7.943
B–727 Pacific Interisland	[4] 3.039	[4] 5.803	16.020	31.889	3.039	19.224		
Passengers-pallets								
105 and 0							3.190	6.092
61 and 2							3.062	5.945
50 and 3							3.030	5.907
46 and 4							3.019	5.893
0 and 7							2.883	5.738
B–727 All Other	[4] 3.506	[4] 6.697	17.399	34.624	3.506	20.878		
Passengers-pallets								
105 and 0							3.081	7.031
61 and 2							3.452	6.697
50 and 3							3.393	6.614
46 and 4							3.373	6.583
0 and 7							3.131	6.232

[1] Conversion charges for convertible flights or variable mixed flights shall be at the rate of $75 per seat changed on each segment.
[2] The rates for L–100–10/20/30 aircraft in Pacific Interisland services shall be the same as for the B–727.
[3] Also applies to wide-bodied (B–747, L–1011, and DC–10) aircraft.
[4] Also applies to CV–990 aircraft.

* * * * *

[6] By PSDR–42, issued contemporaneously herewith, a corresponding increase is being proposed for Category Z rates.

2. Revise § 288.7(d) (1) and (2) to read as follows:

§ 288.7 Reasonable level of compensation.

* * * * *

(d) For Category A transportation services performed on and after October 29, 1974.

(1) Passengers, 4.366 cents per passenger-mile.

(2) Cargo, 17.652 cents per ton-mile.

* * * * *

(Secs. 204, 403, and 416 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, and 771, as amended; 49 U.S.C. 1324, 1373, and 1386)

Effective: October 29, 1974.

Adopted: October 22, 1974.

By the Civil Aeronautics Board.

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

[FR Doc.74-24998 Filed 10-25-74;8:45 am]

SUBCHAPTER F—POLICY STATEMENT

[Reg. PS-57, Amdt. 36]

PART 399—STATEMENTS OF GENERAL POLICY

Minimum Charter Rate Levels

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., October 18, 1974.

In a notice of proposed rulemaking dated September 7, 1973,[1] the Board proposed to amend Part 399 of its Policy Statements (14 CFR Part 399) by the addition of a new § 399.45 which would establish minimum-rate guidlines for charter service between the United States and Europe. The notice stated that it would be the Board's policy to regard any charter rates filed below specified minima,[2] without compelling justification, as prima facie unjust and unreasonable and subject to suspension and investigation.

During the period since the Board's September 1973 statement supporting establishment of guidelines for transatlantic charter rates, the financial strength and viability of the U.S. supplemental carrier industry has continued to deteriorate. The industry's total operating losses more than doubled between the twelve months ended March 31, 1974 and a year earlier. These carriers have submitted data in the instant rulemaking proceeding indicating losses in North Atlantic charter services of $25 million for the year ended March 31, 1974. Overall industry data filed with the Board show clearly and simply that rising costs have not been offset by increased revenues.

Pan American and TWA also report losses, amounting to $15 million in North Atlantic charter operations during the year ended March 31, 1974. (National has not operated North Atlantic charters). Although these loss results are not of the magnitude incurred in their scheduled service, they are of serious concern. Pan American's overall financial problems are exemplified by its recent petition for subsidy in an amount approaching $200 million annually.

The escalating cost of fuel is of course a major contributing factor. Fuel prices experienced by the North Atlantic scheduled carriers have increased over 170 percent between July 1973 and August 1974. Although comparable data are not available for supplemental operators in the area, their increases can be presumed to be of the same order of magnitude. Even though there have been some increases in charter tariff rates during 1974 and fuel cost surcharges on charter prices have been permitted, the carriers' net financial position has not improved. To the contrary, it has grown more serious.

The Board has fostered the development of both scheduled and charter operations in the North Atlantic and is persuaded of the long-range benefits to the traveling public of a continuation of both services on a sound economic basis. However, because of the current cost squeeze, it is clearly apparent that if scheduled and charter services are to be maintained, some action is required to stabilize charter rates at economically justified levels. Such action is required, in our view, to insure the provision of charter service. The traveling public would not be well served by interruptions or discontinuations of charter service which would result from extended periods of carrier losses. Such regulatory interventions must, of course, be carefully measured and for that reason our action herein is limited to North Atlantic charter operations only during calendar year 1975.

Since issuance of the notice of proposed rulemaking, and upon application from the carriers, the Board has authorized all U.S. and foreign carriers providing North Atlantic charter services to hold discussions for the purpose of agreeing upon minimum-rate levels applicable to transatlantic passenger charter service. The Board has also proceeded with its rulemaking to establish minimum-rate guidelines for evaluating individual carrier tariff filings in the event the carriers were unable to reach agreement.

The Board initially authorized carrier discussions of North Atlantic charter rates in June 1973,[3] prior to issuing PSDR-37, and the carriers met in Brighton, England during July and August 1973 without reaching agreement. Since that time a number of additional meetings have been held, and a tentative agreement ultimately emerged in September 1974 which had the support of twenty-four carriers, both U.S. and foreign scheduled and charter-only carriers. This concensus was opposed by five carriers, three U.S. supplementals and two foreign charter-only carriers. The majority agreement provided for minimum charter rates per seat-mile, differentiated by seating capacity of the aircraft, season, direction, origin and destination.[4] This tentative agreement has not been finalized and therefore has not been submitted to the Board for approval.

The carriers' inability to finalize an acceptable minimum-charter-rate structure has very serious implications for 1975 transatlantic services, as we believe is well recognized. In the absence of direct governmental intervention, and a harmonizing of differing approaches, charter rates will continue to go unregulated as they have been in the past. In the absence of regulation, it is also a virtual certainty that the financial results of both charter and scheduled services will remain at unacceptable levels and that the economic health of the industry will continue to deteriorate. Moreover, the inter-carrier agreement on fares for scheduled service will in all likelihood fall. The resulting instability in the market, lack of firm prices for selling purposes at just the time charters for the 1975 season and tour programs using scheduled services are being firmed up, can only lead to further financial deterioration of the industry and disrupt the ability of the traveling public to move forward with their plans.

The Board, recognizing that the carrier discussions have been unavailing, has determined to proceed with its rulemaking to establish minimum transatlantic passenger charter rate guidelines for use in evaluating individual carrier tariff filings.

The minimum rates of 2.2 and 2.4 cents per seat-mile for weekday and weekend travel, respectively, set forth by the Board in its proposed rulemaking were based on 1972 system cost data for U.S. supplemental carriers and were to apply to charters performed on or after January 1, 1974.[5] These cost data were relied upon as more representative of the costs of performing charters than the system costs of the U.S. certificated route carriers, since the latter primarily reflect the cost of providing scheduled service, and no allocation to charter service was provided by these carriers. Moreover, the

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[1] PSDR-37, Docket 25875.

[2] 2.2 cents per seat-mile for weekday charters and 2.4 cents per seat-mile for weekend charters. Weekdays were defined as Sunday through Thursday for eastbound originations and Monday through Friday for westbound flights; weekends were defined as Friday and Saturday for eastbound originations and Saturday and Sunday for westbound originations.

[3] Order 73-6-79, dated June 19, 1973. Orders 73-10-99, 74-5-89, and 74-8-62 issued October 26, 1973, May 17, 1974, and August 15, 1974, respectively, permitted these discussions to be continued.

[4] The following rates per seat-mile were agreed by the Conference (with the five carrier exceptions noted above) for U.S.-originating charters to Europe:

Aircraft seating capacity

Season	Less than 230 seats	230 to 319 seats	320 to 429 seats	More than 429 seats
	cents	*cents*	*cents*	*cents*
Low	3.1	2.9	2.8	2.75
Shoulder	3.4	3.2	3.1	3.05
Peak	4.1	3.9	3.8	3.75

[5] The notice provided that charter contracts entered into prior to the date of the notice would not be affected.

data relied upon earlier have clearly been rendered obsolete by intervening events, particularly the severe escalation in the price of aviation fuel, and by subsequent carrier tariff filings which reflect charter rates which are today significantly higher than a year ago.

The proposed rate structure did not include provision for a seasonal pattern of rates, nor did it differentiate among different aircraft capacities used in charter services beyond those specified by the International Air Transport Association (IATA) for economy-class service. Furthermore, no provision was made for differential rates based on the point of origin of the charter. The Board was aware that there could be differences of opinion concerning these points and requested that those commenting on the notice fully develop their views on these issues.

Pursuant to the Notice, twenty-one comments [6] and twelve reply comments [7] were received.

In general, most parties responding to the notice question the specific level and structure of the proposed rates and/or the Board's legal authority to adopt such a policy. Those questioning the level of rates claim that the cost data and methodology used by the Board are deficient and that the rate level is therefore either too low (the position of the scheduled carriers) or too high (the position of the supplemental carriers). In addition, those questioning the rate structure point out that the North Atlantic charter market is highly seasonal and, therefore, the Board's decision not to include a seasonal structure in its proposed rates is unrealistic. The scheduled carriers tend to support the Board's conclusion that the minimum rates should apply irrespective of both aircraft type and differences in seating density, beyond those specified by IATA for economy-class service. The supplemental carriers, on the other hand, argue that the rate structure should be differentiated by equipment type so that the cost advantages of the more efficient aircraft types can be passed on to the public. Several carriers also claim that lack of a directional differential in rates (lower rates for European-originating charters) would tend to eliminate charter travel to the United States.

Although the proposed guidelines were proposed for application as of January 1, 1974, in view of the comments received the Board decided to obtain more detailed cost and operating data from all carriers providing North Atlantic charter service before reaching its final decision in the matter. Accordingly, and in light of the substantial changes in the cost structure and level which had been experienced by the industry, the Board directed all carriers certificated to provide service between the U.S. and Europe via the North Atlantic to submit cost, revenue, and operating data for both the historical period April 1, 1973–March 31, 1974 and a forecast period, calendar year 1975.[8] In view of the comments made in favor of directional rates, the Board also invited foreign carriers providing charter service over the North Atlantic to provide data comparable to that requested of the U.S. carriers.

Replies have been received from eleven carriers, two of which did not supply supporting data.[9] The nine carriers providing such data include two foreign-flag carriers and the U.S. carriers engaged in providing charter service between the U.S. and Europe via the North Atlantic. Upon consideration of all comments submitted and the data provided in support thereof, as well as the comments and replies filed earlier with respect to PSDR–37, the Board has determined to adopt the policy statement set forth herein.

We turn first to the legal issues. Those questioning the Board's legal authority in this matter claim that the legal and practical effect of the policy statement is the establishment of minimum rates for transatlantic charters. Before taking such a step, these parties contend that the Board is legally required to hold a hearing, citing *Moss* v. *C.A.B.*, 430 F. 2d 891 (D.C. Cir. 1970). Furthermore, several respondents claim that the proposed policy statement directly contradicts section 1002(j) of the Federal Aviation Act of 1958, as amended (the Act) which provides that the Board may investigate and suspend rates in foreign air transportation but does not authorize the Board to prescribe rates should an existing or proposed rate be found unlawful.

We accept the proposition that the Board may not exercise its powers under section 1002(j) to effect a legal prescription of rates and fares. However, the policy statement adopted herein goes no further than is necessary to facilitate an orderly and informed exercise of the suspension and investigation powers conferred by that section. Essentially, our policy statement establishes general guidelines for suspension and investigation of charter tariffs, setting forth minimum levels below which tariffs will be regarded as prima facie unreasonable, absent adequate economic justification, and thus subject to suspension and investigation. On the other hand, tariffs below the minimum level would not be suspended if economically justified. By the same token, rates above the minima would be presumed to be not unreasonably low, and, in the absence of a contrary showing, would not be suspended and investigated. In sum, the adoption of the policy statement is not intended to constitute a prescription of rates, nor does it in fact accomplish such a result.[10]

The Board believes that the approach followed herein is far preferable to an attempt to exercise our powers under section 1002(j) on an ad hoc basis without the aid of standards. The rulemaking procedures have enabled us to take into account a large body of industry data which would not be before us on individual tariff filings but which are clearly relevant to any analysis of specific rates. Moreover, we have had the benefit of detailed expressions of positions and arguments by a wide spectrum of carriers and other interested persons. Finally, the adoption of a comprehensive policy statement provides guidance to carriers, other interested persons, and the Board itself in the development of more economic and rational pricing policies in the overall public interest.

The Board's information request relating to operating cost and investment involved in charter service specified that the data be supplied by aircraft type for both the historical period April 1973 through March 1974, and for a forecast period, calendar 1975. The data provided with respect to conventional, or narrow-body jet equipment, indicate a weighted average economic cost for all carriers of 3.9 cents per available seat-mile for 1975. For "stretched" DC–8 equipment, the weighted average is 2.9 cents per available seat-mile. The data provided do not establish that "wide-bodied" aircraft (DS–10 and B–747 aircraft) hold a material cost advantage over "stretched" equipment (See Appendices attached hereto).

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[6] Those filing comments were Aerlinte Eireann Teoranta (Aerlinte), Alitalia Airlines (Alitalia), British Caledonian Airways Limited (BCAL), British Overseas Airways Corporation (BOAC), Capitol International Airways, Inc. (Capitol), Dan-Air Service Limited (Dan-Air), Overseas National Airways, Inc. (ONA), Pan American World Airways, Inc. (Pan American), Saturn Airways, Inc. (Saturn), Spantax, S.A. (Spantax), Swiss Air Transport Company Limited (Swissair), Trans International Airlines, Inc. (TIA), Trans World Airlines, Inc. (TWA), World AirWays Inc. (World). The Airline Charter Tour Operators Association (ACTOA), B'nai B'rith, Davis Agency, Inc. (Davis), John MacDonald Smith (a member of the British-American Club of Northern California), the Department of Transportation (DOT), and the Hon. John E. Moss, et al., Members of Congress (MOC).

[7] Reply comments were filed by BCAL, BOAC, Capitol, Dan-Air, ONA, Pan American, Saturn, TIA, TWA, World, ACTOA, and DOJ.

[8] Orders 74–5–100 and 74–6–70, dated May 21, 1974 and June 13, 1974, respectively.

[9] Aerlinte Eireann Teoranta (Aerlinte), Balair Ltd. (Balair), Capitol International Airways, Inc. (Capitol) Overseas National Airways, Inc. (ONA), Pan American World Airways, Inc. (Pan American), Saturn Airways, Inc. (Saturn), Trans International Airlines (TIA), Trans World Airlines, Inc. (TWA), World Airways, Inc. (World). National Airlines, Inc. indicated that it does not operate charter services over the North Atlantic and TAROM (Romanian Air Transport) indicated they were unable to supply the specified data. TAROM also filed a motion for permission to file further comments on Oct. 15, 1974, recommending that if the Board adopts a charter rate floor, it should be limited to Western Europe. Since the Board is only adopting general guidelines herein, the request is moot.

[10] Since no prescription of rates is here involved, a hearing is not required under the doctrine of *Moss* v. *C.A.B.*, *supra*. In any event, there being no statutory requirement for an "on the record" hearing (5 U.S.C. 553 (c)) the rulemaking procedures employed herein satisfy any hearing requirement which might be thought to be applicable. U.S. v. Florida East Coast Railway Co. 410 U.S. 224 (1973).

The economic cost reflects a return of 12 percent on investment after provision for taxes, but is net of the commission payable on certain types of charter. In the case of charters other than ITC and TGC, the tariff rate would need to be increased by the amount of commission payable by the carrier. As for the return element built into the minimum rates we intend to follow as guidelines in evaluating individual carrier tariff filings, we have used that determined reasonable after extensive probing in public hearings in the Domestic Passenger-Fare Investigation.[11] The Board has used this 12 percent return as a benchmark in evaluating tariff filings involving markets not technically within the geographical ambit of that proceeding, and we conclude that to do so here would be no less appropriate. Considering the risks involved in transatlantic charter operations it is obvious that the cost of capital for such operations is at least as high as that for domestic scheduled service.

On the basis of the data provided by the carriers and our analysis thereof, together with the earlier responses to our initial rulemaking proposal, the Board is satisfied that a sufficient foundation has been laid upon which to predicate minimum charter rate guidelines for U.S.-originating passenger charters in 1975, which will be compensatory to the carriers and provide a needed element of price stability in the transatlantic market. This conclusion is fortified by an examination of the carriers' forecasts against the most recent recurrent reports filed by the carriers with the Board, and the justifications which have been submitted in support of tariffs providing charter rate increases this year. We conclude that they provide a valid basis for action herein.

We recognize that the charter rates we intend to follow as minimum guidelines reflect a significant increase over those in effect today, and even over those which some carriers have already filed for application during the 1975 season. By the same token, however, the fares which have been agreed to for scheduled transatlantic services likewise reflect significant increases in level, most substantially in those applicable to the promotional excursion fares which approximate double the increase which is to be affected in the normal economy fare. Accordingly, we conclude that the minimum charter rates contemplated by this policy statement in comparison with the fares for scheduled service agreed upon for 1975 will disadvantage neither class of service. Rather, we envisage a more economic climate for both. However, since the guidelines herein enunciated are based upon forecasts for calendar year 1975, we will limit the effectiveness of this policy statement to transatlantic charter operations performed during that period.

In the initial notice of proposed rulemaking, the Board did not contemplate a seasonal pattern of minimum charter rates, nor a differential as between various equipment types.[12] We did, however, propose that a surcharge would be appropriate for charters departing on the weekend. After consideration of the comments received, recognizing an historic lack of such premium pricing of charter service, and the nature of the demand for charter service which tends toward weekend departure and weekend return, the Board has concluded not to pursue the weekend surcharge approach.

On the other hand, we are persuaded by the carriers' comments in support of seasonal variations and will adopt for use in applying our guidelines the seasonal structure for U.S.-originating charters tentatively agreed to by the carriers in the North Atlantic Charter Fare Conference.[13] Seasonal pricing is well established in air transportation, particularly on the North Atlantic route, and reflects the seasonal pattern of demand. Although not precisely the same, the charter seasonal pattern parallels that for scheduled service. We are also persuaded by the clear cost differential indicated in the data supplied by the carriers that a differential in the minimum rate guideline per seat mile for conventional versus the larger jets is both appropriate and justifiable. Traditionally, the Board has not favored equipment-pricing differentials in the regulation of scheduled service fares. On the other hand, we believe a substantive distinction exists between the establishment of fares for service provided on a regular basis and with differing aircraft types in a given market, and arriving at guidelines by which to evaluate the price at which an entire aircraft is to be hired. In the former circumstance, the public is largely at the mercy of the carrier's schedule pattern; in the latter, the public has the practical option of seeking out the more efficient aircraft for its purposes. Moreover, in scheduled service the load factor achieved is the ultimate arbiter of the carrier's cost of operating a particular equipment type. In charter service, by its nature, this variable is substantially eliminated, and as a result the potential efficiency of an aircraft type can reliably be passed on to the consumer.

As indicated, the Board concludes that, for aircraft with a capacity of more than 229 seats (which includes the "stretched" DC–8 equipment and the DC–10 and B–747 equipment) 2.9 cents per seat-mile for U.S.-originating transatlantic passenger charters is cost related and would fully compensate the carriers for their service, based upon the year-round economic cost of providing North Atlantic passenger charter service with this equipment. The data do not suggest a basis in cost for a price concession for wide-body aircraft. For equipment with less than 230 seats ("conventional" jet equipment), the data submitted by the carriers indicate an economic cost of 3.9 cents per available seat-mile in 1975. However, there is considerable question as to the accuracy of the data submitted by the scheduled carriers, the principal operators of conventional equipment in charter service, due to their allocation of certain system cost as between scheduled and charter service. The relationship of their general service and administration cost to total cost exceeds that of the charter-only carriers by about five percent, in all likelihood reflecting the cost pattern of scheduled service. On the other hand, the supplemental carriers' expense in this category must be assumed to reflect more accurately these costs as they are pertinent to charter service, since they do not face a problem of allocation.

The Board has also taken into account the relationship of a minimum rate of 3.9 cents per seat-mile to the 2.9 cents per seat-mile minimum for "stretched" DC–8 and "wide-bodied" equipment. We recognize that with a differential of 1.0 cents per seat-mile those carriers operating regular jet aircraft could find themselves at a serious disadvantage in the market place vis-a-vis those carriers operating the large jets. Accordingly, we conclude that, for equipment with less than 230 seats, a rate of 3.6 cents per seat-mile is cost related, will provide the carriers operating this equipment with adequate compensation, and permit them to compete for the charter market. The appeal of conventional aircraft to smaller charter groups should also provide an asset notwithstanding the higher rate level, and the scheduled carriers retain the option of using wide-bodied equipment in competition with "stretched" DC–8 equipment at the same rates.

Based on the seasonal pattern referred to above and the data submitted by the carriers with respect to the monthly pattern of revenue passenger-miles for the period April 1, 1973 to March 31, 1975 (detailed in the Appendix), rates of 2.4, 2.7, and 3.4 cents per seat-mile for the low, shoulder and peak periods, respectively, would produce an average annual rate guideline of 2.9 cents per seat-mile which we have indicated is cost related for aircraft with more than 229 seats. For aircraft with less than 230 seats, minimum charter rate guidelines for the low, shoulder and peak season of 3.1, 3.4, and 4.1 cents per seat-mile, respectively, would produce the average rate of 3.6 cents which we have indicated as cost related for this equipment class. We will

[11] Orders 71–4–58, April 9, 1971 and 71–7–43, July 8, 1971 (Order Denying Reconsideration).

[12] The Board also indicated a tentative conclusion against a directional differential in rates. This question is rendered moot, however, by our decision herein not to invoke charter rate guidelines with respect to inbound originating charters, a decision prompted by an apparent common resolve among the various countries involved to achieve greater stability in the pricing of charter services.

[13] Although certain carriers did not support the tentative agreement, there was apparently no opposition to the seasonal structure adopted by the majority. For U.S.-originating transatlantic charters, the structure is:

	Eastbound	Westbound
Low	Jan. 1 to Mar. 14.. Nov. 16 to Dec. 31.	Jan. 1 to Mar. 14. Nov. 16 to Dec. 31.
Shoulder	Mar. 15 to May 23.. Aug. 1 to Nov. 15.	Mar. 15 to June 30. Sept. 11 to Nov. 15.
Peak	May 24 to July 31..	July 1 to Sept. 10.

therefore adopt these levels as the guideline minima for the seasons and aircraft capacities indicated to be used in evaluating individual carrier tariff filings for transatlantic charter services operated during calendar 1975.

We are aware of the fact that a per seat-mile minimum rate inherently creates an impetus toward operation with less than normal cabin density as a means of obtaining a competitive price advantage. This would be particularly true with respect to the operator of conventional equipment and would, of course, undermine the purpose of insuring adequate compensation for the services provided. To forestall this possibility our guideline rates charged for aircraft with less than 230 seats will be based on a minimum of 160 seats regardless of the number of seats actually available for sale in a given aircraft on a given flight.[14] Above the 160-seat minimum for regular jet aircraft, the charter price is computed in terms of the number of seats in the aircraft.

Since this rule is a statement of policy it may be made effective immediately. Accordingly, in light of the foregoing findings and after careful consideration of all comments and data received, the Board hereby amends Part 399 of the Statements of General Policy (14 CFR 399), effective October 18, 1974 as follows:

1. Amend the Table of Contents by adding a new § 399.45, to read as follows:

Sec.
399.45 Minimum charter rates.

2. Add a new § 399.45 to read as follows:

§ 399.45. Minimum charter rates.

For charter services between the United States and Europe originating in the United States during 1975, it is the policy of the Board to evaluate tariff rates against the standards set forth below. Tariff filings not conforming to these standards must be accompanied by a full and adequate justification.

(a) For eastbound legs of U.S.-originating charters, the minimum rates based on season and aircraft seating capacity are:

	Aircraft with less than 230 seats	Aircraft with more than 229 seats
	Cents per seat-mile	*Cents per seat-mile*
Low:		
Jan. 1 to Mar. 14	3.1	2.4
Nov. 16 to Dec. 31	3.1	2.4
Shoulder:		
Mar. 15 to May 23	3.4	2.7
Aug. 1 to Nov. 15	3.4	2.7
Peak: May 24 to July 31	4.1	3.4

[14] The agreement reached by the majority at the North Atlantic Charter Fare Conference specified an add-on charge for aircraft with less than 160 seats, and we consider this to be a reasonable minimum density for conventional aircraft in all-economy-class configuration.

(b) For westbound legs of U.S.-originating charters, the minimum rates based on season and aircraft seating capacity are:

	Aircraft with less than 230 seats	Aircraft with more than 229 seats
	Cents per seat-mile	*Cents per seat-mile*
Low:		
Jan. 1 to Mar. 14	3.1	2.4
Nov. 16 to Dec. 31	3.1	2.4
Shoulder:		
Mar. 15 to June 30	3.4	2.7
Sept. 11 to Nov. 15	3.4	2.7
Peak: July 1 to Sept. 10	4.1	3.4

(c) For aircraft with less than 230 seats, the charter rate will be based on the actual number of seats available for sale on the aircraft or 160 seats whichever is higher.

(d) The above rates are exclusive of agent's commissions.[15]

(e) For round-trip charters, the minimum rate shall be the sum of the applicable directional minimum determined in accordance with paragraphs (a) and (b) of this section.

(f) Each charter tariff shall specify the maximum number of seats available for the use of the charterer in each configuration for the type of aircraft to which each rate applies.

(g) Each tariff transmittal shall show the rate per available seat-mile and the basis for calculation.

(h) The minimum rates set forth herein shall be applied to the great circle, nonstop, distance between the point of origin of the charter flight, via any intermediate points served at the request of the charterer, and the point of termination of the charter flight.

(Sections 102, 204(a), 403(a), 404(a)(2), 416(a) and 1002(j) of the Federal Aviation Act of 1958, as amended. 72 Stat. 740, 743, 758, 760, 771 and 788; 49 U.S.C. 1302, 1324, 1373, 1374, 1386 and 1482; and sections 3 and 4 of the Administrative Procedure Act, 81 Stat. 54, 80 Stat. 383; 5 U.S.C. 552 and 533.)

By the Civil Aeronautics Board.

Effective: October 18, 1974.

Adopted: October 18, 1974.

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

NOTE: Tables 1A through 4, illustrating certain commercial charter costs and operating revenues, are filed as part of the original document.

[FR Doc.74-24886 Filed 10-25-74;8:45 am]

[15] In the case of commissionable charters, the rates will need to be increased to reflect the carrier's commission for purposes of its tariff filing.

[Reg. PS-58, Amdt. 37]

PART 399—STATEMENTS OF GENERAL POLICY

Oral Confirmed Reservations To Include Foreign Air Carriers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 13, 1974.

By notice of proposed rulemaking, PSDR-36,[1] the Board invited comment on a proposal to amend Part 399 of its Statements of General Policy (14 CFR Part 399) so as to make applicable to foreign air carriers the Policy Statement on unfair or deceptive reservations practices involving orally confirmed reservations.[2] The Policy Statement was to the effect that the Board considers it is an unfair or deceptive practice for an air carrier or ticket agent to purport to confirm reserved space by any means not provided for by the carrier's tariff.

Simultaneously, with the adoption of the foregoing Policy Statement the Board amended its "denied-boarding compensation" rule (14 CFR Part 250) so as to apply not only to confirmed reservations noted on a passenger's ticket, but also to reservations confirmed by any other means provided for in an air carrier's tariff.[3]

As indicated in the Explanatory Statement to PSDR-36, the Board's purpose in adopting these amendments was to protect the public against employees and agents of carriers representing that telephone reservations for scheduled flights made by prospective passengers are "confirmed" when, in fact, under the terms of the carrier's tariff, they are not, and, on the other hand, to extend the remedy of denied-boarding compensation to passengers holding reservations confirmed in any manner provided for by the carrier's tariff, even if not evidenced by a ticket notation.

By EDR-248 the Board proposed a further amendment of the denied-boarding regulations to make them applicable to foreign air carriers.[4] To complement that action, we proposed in PSDR-36 to amend our Policy Statement on unfair or deceptive reservation practices under section 411 of the Act to also encompass foreign air carriers. We also indicated this proceeding was separate from the rulemaking under EDR-248, but that we would expect to consider the two matters simultaneously when taking final action. We are following that course.

By ER-880, published contemporaneously herewith, we have determined to amend Part 250 so as to extend its application to certain foreign air carriers on a limited basis, in light of comments received on EDR-248.

Pursuant to the notice in this proceeding, we have received five separate comments, four from foreign air carriers in opposition to the amendment,[5] and a comment from the American Society of Travel Agents, Inc., favoring the proposal on the grounds, principally, of furthering uniformity of reservation and boarding practices between U.S. and foreign carriers. On consideration of these

[1] July 20, 1973, 38 FR 19415, Docket 25708.
[2] PS-52, adopted May 23, 1973; 14 CFR § 399.83.
[3] ER-804, adopted May 23, 1973; 14 CFR § 250.1.
[4] EDR-248, 38 FR 15083, June 8, 1973.
[5] Comments were received from Qantas Airways, Ltd. (Qantas), British Airways (BOAC), Swissair, and Lufthansa.

comments,* the tentative findings in PSDR–36, our findings in PS–52 (see note 2, *supra*), and our related findings in ER–880, the Board has determined to adopt the rule as proposed, and to deny all contrary requests contained in the comments. We turn to a consideration of the principal comments.

Qantas, Swissair, and Lufthansa treat the subject amendment as an integral part of the denied-boarding compensation scheme and object to it not on practical grounds, as the U.S. carriers objected to PS–52, but rather because of the Board's alleged lack of authority to extend Part 250 to foreign air carriers. We have rejected that view in our companion determination in ER–880. In pursuing this course, the carriers assume that the proposed policy statement is otherwise unnecessary because it merely states the obvious. We disagree with this judgment. Where substantial uniformity of practice is significant, as we deem it to be here, a statement of policy interpreting a general regulatory statute like section 411 is not only justified but necessary.

On the other hand, BOAC raises two objections applicable to PSDR–36 "as an administrative action independent of EDR–248." First, it argues that no evidence is cited in the Explanatory Statement to justify the proposal, and that the reservation practices of foreign air carriers do not in fact provide such a factual predicate. BOAC specifically states that it always advises callers that reserved space will be held subject to the ticket's being picked up at a specified time. While this may be true in the case of BOAC, no other carrier made this claim. Similarly, the Board's finding of a factual basis in support of PS–52 was not challenged by U.S. carriers, and it would be difficult to argue that the latter follow uniformly different practices from the former. In any event, carriers such as BOAC which do not orally confirm reservations will not be affected by the proposed policy statement.

BOAC's second argument is that PSDR–36, alone or in conjunction with EDR–248, should at least be limited to oral reservations made in the United States. Otherwise, it argues the policy constitutes an invasion of sovereignty in that it dictates a particular form of communication with a foreign public. That is not persuasive, however, since all that is required is that the foreign air carriers conform their reservations practices to the tariff rules which they choose to file with the Board. This is nothing less than what is required by the Act; and, indeed, the Board could hardly provide or imply otherwise.

In its comment in opposition to EDR–248, the Chinese Ministry of Communications suggested that if the proposed policy were adopted, telephone confirmations would be reduced or abandoned entirely because the concomitant applicability of Part 250 would foster controversies over evidence of confirmations. We believe that this is unlikely because of competitive considerations. Moreover, the Board in PS–52 acknowledged the propriety of allowing U.S. carriers to file reasonable provisions in their tariffs protecting themselves against such problems. Nearly all U.S. carriers have done so, and certainly the foreign air carriers would have the same option. We do not foresee, and the carriers have not alleged, that the proposed extension of Part 250 would result in problems of proof peculiar to foreign air transportation.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 399, Statements of General Policy (14 CFR Part 399), effective December 28, 1974, as follows:

1. Amend the Table of Contents of Part 399 by changing the heading of § 399.83, the table as amended to read as follows:

Sec.
399.83 Unfair or deceptive practice of air carrier, foreign air carrier, or ticket agent in orally confirming to prospective passenger reserved space on scheduled flights.

2. Revise § 399.83 to read as follows:

§ 399.83 Unfair or deceptive practice of air carrier, foreign air carrier, or ticket agent in orally confirming to prospective passenger reserved space on scheduled flights.

It is the policy of the Board to consider the practice of an air carrier, foreign air carrier, or ticket agent, of stating to a prospective passenger by telephone or other means of communication that a reservation of space on a scheduled flight in air transportation is confirmed before a passenger has received a ticket specifying thereon his confirmed reserved space, to be an unfair or deceptive practice and an unfair method of competition in air transportation or the sale thereof within the meaning of section 411 of the Act, unless the tariff of the particular air carrier or foreign air carrier provides for confirmation of reserved space by the means so used.

(Secs. 102, 204(a), 402, 403, 404, 411, 1002, Federal Aviation Act of 1958, as amended (72 Stat. 740, 743, 757, 758, 760, 769, 788; 49 U.S.C. 1302, 1324, 1372, 1373, 1374, 1381, and 1482)

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74–25099 Filed 10–25–74;8:45 am]

*The Board has also considered statements relating to PSDR–36 contained in comments filed in EDR–248.

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 8929]

PART 13—PROHIBITED TRADE PRACTICES

Dahlberg Electronics, Inc.; Correction

In FR Doc. 74–23514 appearing on page 36326 of the issue for Wednesday, October 9, 1974 in the left-hand column, 61st line insert after the word "copy" the words "of Appendix A, and a copy".

CHARLES A. TOBIN,
Secretary.

[FR Doc.74–25077 Filed 10–25–74;8:45 am]

[Docket No. 8889]

PART 13—PROHIBITED TRADE PRACTICES

Sun Oil Co. and William Esty Co.; Correction

In FR Doc. 74–23516 appearing on page 36327 of the issue for Wednesday, October 9, 1974, the following corrections should be made:

1. Right-hand column, immediately preceding the first ordering paragraph, insert the following:

No appeal from the initial decision of the administrative law judge having been filed, and the Commission having determined that the case should not be placed on its own docket for review and that pursuant to § 3.51 of the Commission's rules of practice (effective August 15, 1971), the initial decision should be adopted and issued as the decision of the Commission:

It is ordered that the initial decision of the administrative law judge shall, on the 19th day of August, 1974, become the decision of the Commission, with the following slight modifications:

On p. 5, final paragraph, delete second sentence;

On p. 4, line 32, substitute "Rhythm" for "Rythm";

On p. 5, line 1, delete "s" from "advertisements";

On p. 5, line 18, insert "that" before "by";

On p. 10, line 12, substitute "of any" for "than any other".

It is further ordered that Sun Oil Company, a corporation, and William Esty Company, Inc., a corporation, shall within sixty (60) days and at the end of six (6) months after service of this order upon them, file with the Commission a report in writing, signed by such respondents, setting forth in detail the manner and form of their compliance with the order to cease and desist.

2. Delete the last ordering paragraph in the middle column.

CHARLES A. TOBIN,
Secretary.

[FR Doc.74–25074 Filed 10–25–74;8:45 am]

[Docket No. C–2526]

PART 13—PROHIBITED TRADE PRACTICES

Pay'N Save Corp.; Correction

In FR Doc. 74–23247 appearing on page 36001 of the issue for Monday, October 7, 1974 in the middle column, 3rd line from the bottom, insert before the word "be" the following "surveyed or when the stores will be".

CHARLES A. TOBIN,
Secretary.

[FR Doc.74–25076 Filed 10–25–74;8:45 am]

[Docket No. 6-2524]

PART 13—PROHIBITED TRADE PRACTICES

Wasem's Inc., et al.; Correction

In FR Doc. 74-22657 appearing on page 35139 of the issue for Monday, September 30, 1974, the following corrections are made:

1. In the right-hand column, 39th line after the word "other" insert the words "material of similar nature concerning Wasem's Super B Vitamins".

2. In the right-hand column, after line 62 insert the following words "Vitamins. advertisements. Such adver-".

CHARLES A. TOBIN,
Secretary.

[FR Doc.74-25075 Filed 10-25-74;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

ASPARTAME

Correction

FR Doc. 74-17093, which appeared at page 27317 of the issue for Friday, July 26, 1974, was corrected at 39 FR 34651, September 27, 1974. In that correction, the first line of the paragraph headed "*Vials*" in § 121.1258(b)(3) was incorrectly printed as "2 dram size with tetrafluoroethylene". This line should read "2-dram size with tetrafluoroethylene".

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Exempt Chemical Preparations

The Administrator of the Drug Enforcement Administration has received applications pursuant § 1308.23 of Title 21 of the Code of Federal Regulations requesting that several chemical preparations containing controlled substances be granted the exemptions provided for in § 1308.24 of Title 21 of the Code of Federal Regulations.

The Administrator hereby finds that each of the following chemical preparations and mixtures is intended for laboratory, industrial, educational, or special research purposes, is not intended for general administration to a human being or other animal, and either (a) contains no narcotic controlled substances and is packaged in such a form or concentration that the package quantity does not present any significant potential for abuse, (b) contains either a narcotic or nonnarcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion or concentration, that the preparation or mixture does not present any potential for abuse, or (c) the formulation of such preparation or mixture incorporates methods of denaturing or other means so that the controlled substance cannot in practice be removed, and therefore the preparation or mixture does not present any significant potential for abuse. The Administrator further finds that exemption of the following chemical preparations and mixtures is consistent with the public health and safety as well as the needs of researchers, chemical analysts, and suppliers of these products.

Therefore, pursuant to section 202(d) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812(d)), and under the authority vested in the Attorney General by sections 301 and 501(b) of the Act (21 U.S.C. 821 and 871(b)) and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations (see 38 FR 18380, July 2, 1973) the Administrator hereby orders that Part 1308 of Title 21 of the Code of Federal Regulations be amended as follows:

a. By amending § 1308.24(i) by adding the following chemical preparations:

§ 1308.24 Exempt chemical preparations.

* * * * *

(i) * * *

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
* *	* *	* *	*
E. R. Squibb & Sons, Inc	Barbital Buffer Mixture for use with Digoxin Immutope Kit No. 09360.	Vial: 2.4 g per 5 ml vial	Aug. 6, 1974
* *	* *	* *	*
Helena Labs	Electra HR Buffer Catalog No. 5805	Packet: 18.1 g, 10 packets per box.	Dec. 28, 1973
Do	Electra B_1 Buffer Catalog No. 5016	Packet: 12.14 g, 10 packets per box.	Do.
Do	Electra B_2 Buffer Catalog No. 5017	Packet: 18.21 g, 10 packets per box.	Do.
Do	Titan III Agar Catalog No. 5023	Vial: 2 ml	Do.
Do	Titan IV IE Plate (small)	Package: plates, 1 by 3 in	Do.
Do	Titan IV IE Plate (large)	Package: plates, 3 by 4 in	Do.
Do	Titan IV IE Plate Kit	Kit: 12 small (1 by 3 in.) IE Plates, 1 box B_1 Buffer.	Do.
Do	Titan IV IE Plate Kit	Kit: 10 large (3 by 4 in.) IE Plates, 1 box B_1 Buffer.	Do.
* *	* *	* *	*
Mallinckrodt Chemical Works	Res-O-Mat ETR Solution	Bottle: 16 oz and imperial gallon.	Aug. 28, 1974
Do	Res-O-Mat T4 Solution	do	Do.
* *	* *	* *	*
Medi-Chem, Inc	Thymol-Barbital Buffer Concentrate pH 7.55.	Vial: 10 ml	July 11, 1974
Do	Thymol-Barbital Buffer Concentrate pH 7.8.	do	Do.
* *	* *	* *	*
Syva Corp	Emit AED-No. 1 Calibrator	Vial: 3 ml, lyophilized	Aug. 27, 1974
Do	Emit AED-No. 2 Calibrator	do	Do.
Do	Emit AED-No. 3 Calibrator	do	Do.
Do	Emit AED-No. 4 Calibrator	do	Do.
Do	Emit AED-No. 5 Calibrator	do	Do.
Do	Emit AED-No. 1 Calibrator	Vial: 10 ml, lyophilized	Do.
Do	Emit AED-No. 2 Calibrator	do	Do.
Do	Emit AED-No. 3 Calibrator	do	Do.
Do	Emit AED-No. 4 Calibrator	do	Do.
Do	Emit AED-No. 5 Calibrator	do	Do.
Do	Antiepileptic Drug Control	Vial: 10 ml, lyophilized	Do.
Do	Emit Phenobarbital Enzyme Reagent B.	Vial: 5.5 ml, lyophilized	Do.
* *	* *	* *	*

Effective date. This order is effective October 29, 1974. Any interested person may file written comments on or objections to the order on or before November 29, 1974. If any such comments or objections raise significant issues regarding any finding of fact or conclusion of law upon which the order is based, the Administrator shall immediately suspend the effectiveness of the order until he may reconsider the application in light of the comments and objections filed. Thereafter, the Administrator shall reinstate, revoke or amend his original order as he determines appropriate.

Dated: October 21, 1974.

JOHN R. BARTELS, Jr.,
Administrator,
Drug Enforcement Administration.

[FR Doc.74-24979 Filed 10-25-74;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 620—ENGINEERING

Engagement of Consultants for Engineering Services; Correction

The document published at 39 FR 36328 on Wednesday, October 9, 1974, is corrected by revising the last sentence of § 620.309 to read as follows: "Therefore, a full-time publicly employed engineer must be assigned to be in responsible charge of the project at all times, although the publicly employed engineer need not be assigned solely to that project."

Effective date: September 23, 1974.

Issued on October 21, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.74-25069 Filed 10-25-74;8:45 am]

Title 24—Housing and Urban Development

[Docket No. R-74-300]

CHAPTER IX—OFFICE OF INTERSTATE LAND SALES REGISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PART 1710—LAND REGISTRATION

The Department of Housing and Urban Development is amending 24 CFR Part 1710 with respect to the Interstate Land Sales Full Disclosure Act.

On August 22, 1974, President Ford signed the Housing and Community Development Act of 1974 (Pub. L. 93-383) into law. The Act contained provisions which made the following amendments to the Interstate Land Sales Full Disclosure Act:

1. The definitions were amended to make it clear that the Interstate Land Sales Full Disclosure Act applies to transactions involving communications between parties in the United States and a foreign country.

2. The exemption provisions were amended to provide an exemption for the sale or lease of real estate in bona fide industrial or commercial developments. (Stringent requirements must be met before the developer can qualify for the exemption.)

3. The amendments provide for a cooling-off period of three business days (instead of the 48 hour period now in the Law) provided that the purchaser received the Property Report less than 48 hours prior to signing the contract or agreement.

4. The amendments delete the provisions which permitted a purchaser to waive his revocation rights if he signs a statement that he had inspected his lot and read and understood the property report.

The first two statutory provisions were effective on the day they were enacted into law (August 22, 1974). The last two statutory provisions will become effective on October 21, 1974, sixty days after the date of enactment.

These amendments to the regulations are necessary to implement the statutory amendments.

The definition of the terms "Interstate Commerce" (§ 1710.1(g)) and "Subdivision" (§ 1710.1(q)) are amended to include transactions between parties in the United States and a foreign country.

Section 1710.5, *General applicability*, is amended to be consistent with the amended definitions of the terms "Interstate Commerce" and "Subdivision."

Section 1710.10 is amended by including the new industrial or commercial development exemption as a new paragraph (j).

Section 1710.105, Part VI, C.1., *Instructions for completion of statement of record* is amended by providing for the new cooling-off period and by deleting the "Waiver of Purchaser's Revocation Rights" provisions.

Section 1710.110, Part A, *Format*, is amended by revising the language of the Notice and Disclaimer to conform to the new statutory provisions.

Section 1710.110 Part B, *Technical instructions for completing Property Report*, is amended to (1) provide a new "Sample First Page of the Property Report on a Federal Filing" and for a more workable spacing of the information on the first page of the Property Report. This last revision is in response to numerous complaints by developers that the previous requirements were difficult to comply with.

Section 1710.115, *State Property Report disclaimer*, is amended by revising the language of the Notice and Disclaimer to conform to the new statutory provisions and to provide a "Sample First Page of the Property Report on a State Filing." The sample format is included in order to clarify the exact form of the Statement which is to accompany the State Property Report and to eliminate any confusion which may exist.

Also, the final printed version of these documents is required to be submitted so that our records will reflect exactly what the purchaser will receive.

Compliance with these amendments will not trigger the requirement for full compliance with the regulations which became effective on December 1, 1973, unless disclosures of other material changes are concurrently submitted. The documents required to be revised must be mailed to OILSR no later than midnight, October 20, 1974. Registered developers who do not comply with this requirement will be in violation of the Act.

Since these changes are necessary to implement statutory amendments or in order to make minor administrative changes, notice and public procedure thereon are unnecessary. Also, since the statutory amendments are or will become effective as provided by the statute the postponement of the effective date is not necessary.

Accordingly, the appropriate sections of 24 CFR Part 1710, Land Registration, are amended as follows:

1. Section 1710.1 is amended as follows:

§ 1710.1 Definitions.

* * * * *

(g) "Interstate Commerce" means trade or commerce among the several States or between any foreign country and any State.

* * * * *

(q) "Subdivision" means any land, located in any State or in a foreign country, which is divided or proposed to be divided into 50 or more lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan; and where subdivided land is offered for sale or lease by a single developer or a group of developers acting in concert and where such land is contiguous or is known, designated, or advertised as a common unit or by a common name, such land shall be presumed, without regard to the number of lots covered by each individual offering, as being offered for sale or lease as part of a common promotional plan.

2. The last sentence of § 1710.5 is amended to read as follows:

§ 1710.5 General applicability.

* * * As used in this part, "lots" shall include lots located in any state or in a foreign country.

3. In § 1710.10, add the following paragraph (j) immediately before the closing text of the section:

§ 1710.10 Statutory exemptions.

* * * * *

(j) The sale or lease of real estate which is zoned by the appropriate governmental authority for industrial or commercial development, when:

(1) Local authorities have approved access from such real estate to a public street or highway;

(2) The purchaser or lessee of such real estate is a duly organized corporation, partnership, trust, or business entity engaged in commercial or industrial business;

(3) The purchaser or lessee of such real estate is represented in the transaction of sale or lease by a representative of its own selection;

(4) The purchaser or lessee of such real estate affirms in writing to the seller that it either (i) is purchasing or leasing such real estate substantially for its own use or (ii) has a binding commitment to sell, lease, or sublease such real estate to an entity which meets the requirement of subparagraph (2), is engaged in commercial or industrial business, and is not affiliated with the seller or agent; and

(5) A policy of title insurance or title opinion is issued in connection with the transaction showing that title to the real estate purchased or leased is vested in the seller or lessor, subject only to such exceptions as may be approved in writing by such purchaser or the lessee prior to recordation of the instrument of conveyance or execution of the lease, but (i) nothing herein shall be construed as requiring the recordation of a lease, and (ii) any purchaser or lessee may waive, in writing in a separate document, the requirement of this subparagraph that a policy of title insurance or title opinion be issued in connection with the transaction.

* * * * *

4. Section 1710.105, Part VI, C.1., *Instructions for Completion of the Statement of Record*, is revised as follows:

§ 1710.105 Statement of record format and instructions.

* * * * *

PART VI. GENERAL TERMS AND CONDITIONS OF OFFER, PROPOSED RANGE OF SELLING PRICES OR RENTS.

* * * * *

C. * * *

1. A copy of all forms of contracts or agreements to be used in selling or leasing lots. The contracts or agreements, including

promissory notes, must contain the following language in bold face type (which must be distinguished from the type used for the rest of the contract) on the face or signature page above all signatures:

You have the option to void your contract or agreement by notice to the seller if you did not receive a Property Report prepared pursuant to the rules and regulations of the Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development, in advance of, or at the time of your signing the contract or agreement. If you received the Property Report less than 48 hours prior to signing the contract or agreement, you have the right to revoke the contract or agreement by notice to the seller until midnight of the third business day following the consummation of the transaction. A business day is any calendar day except Sunday and the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving and Christmas.

§ 1710.110 [Amended]

5. The Notice and Disclaimer in Part A. Format: is amended so that the paragraphs preceding the numbered paragraphs now read as follows:

Part A. Format:

PROPERTY REPORT

NOTICE AND DISCLAIMER BY OFFICE OF INTERSTATE LAND SALES REGISTRATION U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Interstate Land Sales Full Disclosure Act specifically prohibits any representation to the effect that the Federal Government has in any way passed upon the merits of, or given approval to this subdivision, or passed upon the value, if any, of the property.

It is unlawful for anyone to make, or cause to be made to any prospective purchaser, any representation contrary to the foregoing or any representations which differ from the statements in this Property Report. If any such representations are made, please notify the Office of Interstate Land Sales Registration at the following address:

Office of Interstate Land Sales Registration
HUD Building, 451 Seventh Street, S.W.
Washington, D.C. 20410

Inspect the property and read all documents. Seek professional advice.

Unless you received this Property Report prior to or at the time you enter into a contract, you may void the contract by notice to the seller.

If you received the Property Report less than 48 hours prior to signing a contract or agreement you have until midnight of the third business day following the consummation of the transaction to revoke your contract by notice to the seller.

6. Part B is amended as follows:

Part B. Technical Instructions for Completing Property Report and Lease Addendum:

* * * * *

4. The notice and disclaimer, Paragraph 1., and Paragraph 2. and 2.a., of the Property Report shall be printed on the top two-thirds of the first page (cover sheet) of the Property Report and with the exception of size shall be in a form nearly identical to that printed herein and entitled "Sample First Page of the Property Report on a Federal Filing" with the additional requirement. * * *

7. The form referenced in Paragraph 4 (38 FR 23892) is deleted and the "Sample First Page of the Property Report on a Federal Filing" is substituted in lieu thereof. (See form below.)

8. The first sentence of Paragraph 5 is amended as follows:

5. The last one-third of the front page shall be composed * * *

9. Section 1710.115 shall be revised to read as follows:

§ 1710.115 State property report disclaimer.

If the developer is filing with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, pursuant to § 1710.25, the statement required by this section must be delivered to each purchaser simultaneously with the delivery of the State property report. With the exception of size the statement shall be in a form nearly identical to that printed herein and entitled "Sample First Page of the Property Report on a State Filing." (See form of same title below.) The statement is as follows:

PROPERTY REPORT

NOTICE AND DISCLAIMER BY OFFICE OF INTERSTATE LAND SALES REGISTRATION U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development has accepted this (name of State) (name of Property Report, e.g., public offering statement) as the Property Report on this subdivision.

The Interstate Land Sales Full Disclosure Act specifically prohibits any representation to the effect that the Federal Government has in any way passed upon the merits of, or given approval to this subdivision, or passed upon the value, if any, of the property.

It is unlawful for anyone to make, or cause to be made to any prospective purchaser, any representation contrary to the foregoing or any representations which differ from the statements in this Property Report. If any such representations are made, please notify the Office of Interstate Land Sales Registration at the following address:

Office of Interstate Land Sales Registration
HUD Building, 451 Seventh Street, S.W.
Washington, D.C. 20410

Inspect the property and read all documents. Seek professional advice.

Unless you received this Property Report prior to or at the time you enter into a contract, you may void the contract by notice to the seller.

If you received the Property Report less than 48 hours prior to signing a contract or agreement you have until midnight of the third business day following the consummation of the transaction to revoke your contract by notice to the seller.

Name(s) of Developer:
Address:
Name of Subdivision:
Location:

Effective Date of Property Report:

IMPORTANT READ CAREFULLY

Name of Subdivision:

By signing this receipt you acknowledge that you have received a copy of the property report prepared pursuant to the Rules and Regulations of the Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development.

Received by_____
Street Address_____
Date _____
City _____ State_____
Zip _____

Notwithstanding your signature by which you acknowledged that you received the Property Report you still have other important rights under the Interstate Land Sales Full Disclosure Act.

The page containing the above disclaimer shall be a separate page and it shall be prepared in the format required by § 1710.110, Part B. 2., 4., 5., and 6. Final printed versions of the State property report and the property report disclaimer shall be submitted as required by § 1710.110, Part B. 11.

Effective Date: The effective date of amendments 1 through 4 is October 29, 1974. Amendments 5 through 8 are effective October 21, 1974, sixty days after the date of enactment, as provided by the statute. All Property Reports and forms of sales contracts or agreements used in connection with effectively registered subdivisions are required to be revised to comply with the provisions of amendments 5 through 8 by October 21, 1974. The documents required to be revised must be mailed to OILSR no later than midnight, October 20, 1974. In submitting the documents, the OILSR filing number must be referenced. The filing of the revised documents will not be considered as amendments triggering the requirement for full compliance with the Regulations which became effective on December 1, 1973, unless disclosure of other material changes are concurrently submitted. However, developers and owners of subdivisions are under a continuing obligation to ensure that their filings are accurate and fully comply with the OILSR Regulations.

(Section 7(d), Department of Housing and Urban Development Act, 79 Stat. 670 (42 U.S.C. 3535(d), 1419, 82 Stat. 598), (15 U.S.C. 1718), Secretary's delegation of authority published at 37 FR 5071, March 9, 1972)

Issued at Washington, D.C., October 18, 1974.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

SAMPLE FIRST PAGE OF THE PROPERTY REPORT ON A FEDERAL FILING

PROPERTY REPORT

NOTICE AND DISCLAIMER

BY OFFICE OF INTERSTATE LAND SALES REGISTRATION

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Interstate Land Sales Full Disclosure Act specifically prohibits any representation to the effect that the Federal Government has in any way passed upon the merits of, or given approval to this subdivision, or passed upon the value, if any, of the property.

It is unlawful for anyone to make, or cause to be made to any prospective purchaser, any representation contrary to the foregoing or any representations which differ from the statements in this Property Report. If any such representations are made, please notify the Office of Interstate Land Sales Registration at the following address:

Office of Interstate Land Sales Registration
HUD Building, 451 Seventh Street, S.W.
Washington, D.C. 20410

Inspect the property and read all documents. Seek professional advice.

Unless you received this property report prior to or at the time you enter into a contract, you may void the contract by notice to the seller.

If you received the Property Report less than 48 hours prior to signing a contract or agreement you have until midnight of the third business day following the consummation of the transaction to revoke your contract by notice to the seller.

1. Name(s) of Developer:
   Address:

2. Name of Subdivision:
   Location:

   (a) Effective Date of Property Report:

IMPORTANT READ CAREFULLY

Name of Subdivision:

By signing this receipt you acknowledge that you have received a copy of the property report prepared pursuant to the Rules and Regulations of the Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development.

Received by.....
Street Address.....
Date.....
City.....State.....
Zip.....

Notwithstanding your signature by which you acknowledged that your received the Property Report you still have other important rights under the Interstate Land Sales Full Disclosure Act.

SAMPLE FIRST PAGE OF THE PROPERTY REPORT ON A STATE FILING

PROPERTY REPORT

NOTICE AND DISCLAIMER

BY OFFICE OF INTERSTATE LAND SALES REGISTRATION

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development has accepted this (name of State) (name of property report, e.g., public offering statement) as the Property Report on this subdivision.

The Interstate Land Sales Full Disclosure Act specifically prohibits any representation to the effect that the Federal Government has in any way passed upon the merits of, or given approval to this subdivision, or passed upon the value, if any, of the property.

It is unlawful for anyone to make, or cause to be made to any prospective purchaser, any representation contrary to the foregoing or any representations which differ from the statements in this Property Report. If any such representation is made, notify the Office of Interstate Land Sales Registration at the following address:

PURCHASER

Office of Interstate Land Sales Registration
HUD Building, 451 Seventh Street, S.W.
Washington, D.C. 20410

SHOULD READ

Inspect the property and read all documents. Seek professional advice.

Unless you received this Property Report prior to or at the time you enter into a contract, you may void the contract by notice to the seller.

THIS DOCUMENT

If you received this Property Report less than 48 hours prior to signing a contract or agreement, you have until midnight of the third business day following the consummation of the transaction to revoke your contract by notice to the seller.

Name(s) of Developer:

BEFORE SIGNING

Address:

Name of Subdivision:

Location:

ANYTHING

Effective Date of Property Report:

IMPORTANT READ CAREFULLY

Name of Subdivision:

By signing this receipt you acknowledge that you have received a copy of the property report prepared pursuant to the Rules and Regulations of the Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development.

Received by.....
Street Address.....
Date.....
City.....State.....
Zip.....

Notwithstanding your signature by which you acknowledged that your received the Property Report you still have other important rights under the Interstate Land Sales Full Disclosure Act.

[FR Doc.74-27723 Filed 10-25-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 9—ATOMIC ENERGY COMMISSION

PART 9–7—CONTRACT CLAUSES

PART 9–16—PROCUREMENT FORMS

Miscellaneous Amendments

These changes are being made in order to bring the AEC Procurement Regulations into proper alignment with the Federal Procurement Regulation citation.

Subpart 9–7.50—Use of Standard Clauses

1. In Subpart 9–7.50, Use of Standard Clauses, § 9–7.5004–1, *Convict labor,* is revised as follows:

§ 9–7.5004–1 Convict labor.

See FPR 1–12.204.

Subpart 9–16.9—Illustration of Forms

2. In Subpart 9–16.9, Illustration of Forms, § 9–16.951–2, *(AEC 103a) Purchase Order Terms,* paragraph 6, is revised as follows:

§ 9–16.951–2 (AEC 103a) Purchase Order Terms.

* * * * *

6. *Convict Labor.* In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment except as provided by Public Law 89–176, September 10, 1965 (18 U.S.C. 4082(c)(2)) and Executive Order 11755, December 29, 1973.

* * * * *

Subpart 9–16.50—Contract Outlines

3. In Subpart 9–16.50, Contract Outlines, § 9–16.5002–2, *Outline of a cost-plus-a-fixed-fee supply contract (performed by commercial concerns in contractor's facilities),* paragraph (32) is revised as follows:

§ 9–16.5002–2 Outline of a cost-plus-a-fixed-fee supply contract (performed by commercial concerns in contractor's facilities.)

* * * * *

(32) Convict labor—FPR 1–12.204.

* * * * *

4. In Subpart 9–16.50, Contract Outlines, § 9–16.5002–4, *Outline of a cost-plus-a-fixed-fee-construction contract,* Article XXII—Labor, paragraph (i) is revised as follows:

§ 9–16.5002–4 Outline of a cost-plus-a-fixed-free-construction contract.

* * * * *

ARTICLE XXII—LABOR

* * * * *

(i) *Convict labor.* Insert contract clause set forth in FPR 1–12.204.

* * * * *

5. In Subpart 9–16.50, Contract Outlines, § 9–16.5002–5, *Outline of a cost-plus-a-fixed-fee architect-engineer contract,* Article XXIII—Labor, paragraph (c) is revised as follows:

§ 9–16.5002–5 Outline of a cost-plus-a-fixed-fee architect-engineer contract.

* * * * *

ARTICLE XXIII—LABOR

* * * * *

(c) *Convict labor.* Insert contract clause set forth in FPR 1–12.204.

* * * * *

6. In Subpart 9–16.50, Contract Outlines, § 9–16.5002–8, *Outline of special research support agreement with educational institutions,* Article B–XIII—Convict Labor is revised as follows:

§ 9–16.5002–8 Outline of special research support agreement with educational institutions.

* * * * *

ARTICLE XIII—CONVICT LABOR

Insert FPR 1–12.204.

* * * * *

7. In Subpart 9–16.50, Contract Outlines, § 9–16.5002–9, *Outline of cost-type contract for research and development with educational institutions,* Article B–12—Convict Labor is revised as follows:

§ 9–16.5002–9 Outline of cost-type contract for research and development with educational institutions.

* * * * *

ARTICLE B–12—CONVICT LABOR

Insert FPR 1–12.204.

* * * * *

(Sec. 161, Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; sec. 205, Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486).

Effective Date. This amendment is effective on October 29, 1974.

Dated at Germantown, Maryland this 21st day of October 1974.

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director, Division of Contracts.

[FR Doc.74–25043 Filed 10–25–74;8:45 am]

CHAPTER 14H—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

PART 14H–1—GENERAL

Designation of Contracting Officer Positions

OCTOBER 21, 1974.

Chapter 14H of 41 CFR was published beginning on page 13659 of the August 26, 1969, FEDERAL REGISTER (38 FR 13659). Chapter 14H contains the Bureau of Indian Affairs Procurement Regulations (BIAPR). Section 14H–1.451–2 of Chapter 14H was subsequently amended, most recently on page 11422 of the March 28, 1974, FEDERAL REGISTER (39 FR 11422).

Pursuant to the authority contained in the Act of November 2, 1921, Ch. 115, 42 Stat. 208 (25 U.S.C. 13) and 41 CFR 14–1.008, 41 CFR 14H–1.451–2 is being amended to reflect organization and title changes. The title of "Chief, Division of Contracting Services" was changed to "Chief, Contracting Staff." The title of "Chief, Division of Procurement and Property Management" was changed to "Chief, Divisions of Property Management." The contracting officer positions at the Administrative Services Center in Albuquerque, New Mexico, are changed from "Administrative Officer" and "Procurement Officer" to "Property and Supply Officer" and "Chief, Contract and Procurement Section." The title of the "Director of Southeastern Agencies" was changed to "Area Director, Eastern Area Office." Therefore, the position of "Director of Southeastern Agencies" is deleted from the list of contracting officer positions. The Area Director of the Eastern Area Office is designated as a contracting officer position under the title "Area Director" in 41 CFR 14H–1.451–2(a)(2)(i). The position of "Contract Administrator" in the Aberdeen Area Office is added to the list of Area contracting officer positions. The new position of "Chief, Branch of Contracting and Procurement Services" at the Navajo Area Office is designated as a contracting officer position. The position of "Navajo Area Property and Supply Officer" is no longer designated as a contracting officer position. The positions of Deputy Area Director; Assistant Area Director, Minneapolis and Sacramento Area Offices; and Assistant Area Director for Administration are deleted from the list of contracting officer positions because these positions do not normally exercise contracting authority.

Since this amendment involves internal Bureau procedures, advance notice and public procedure thereon have been deemed unnecessary and are dispensed with under the exception provided in subsection (b)(B) of 5 U.S.C. 553 (1970).

Since delay in the amendment becoming effective could delay the internal processing of contracts in the Bureau with resultant delay in providing services to the Indian and Alaskan Native people, the 30-day deferred effective date is dispensed with under the exception provided in subsection (d)(3) of 5 U.S.C. 553 (1970). Accordingly, these regulations will become effective on October 29, 1974.

As amended, 41 CFR 14H–1.451–2 reads as follows:

§ 14H–1.451–2 Designation of contracting officer positions.

(a) Each of the following organizational titles is designated as a contracting officer position:

(1) Headquarters Office Officials:

(i) Commissioner.

(ii) Deputy Commissioner.

(iii) Director, Office of Administration.

(iv) Chief, Contracting Staff.

(v) Chief, Division of Property Management.

(vi) Chief, Division of Facilities Engineering, Albuquerque, New Mexico.

(vii) Chief, Indian Technical Assistance Center, Denver, Colorado.

(viii) Property and Supply Officer, Administrative Services Center, Albuquerque, New Mexico.

(ix) Chief, Contract and Procurement Section, Administrative Services Center, Albuquerque, New Mexico.

(2) Area Office Officials:

(i) Area Director.

(ii) Area Administrative Officer.

(iii) Area Property and Supply Officer except the Navajo Area Property and Supply Officer.
(iv) Director, Seattle Liaison Office, Seattle, Washington.
(v) Contract Administrator, Aberdeen Area Office.
(vi) Chief, Branch of Contracting and Procurement Services, Navajo Area Office.

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.74-25051 Filed 10-25-74;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1-97]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation to the Assistant Secretary for Environment, Safety and Consumer Affairs

The purpose of this amendment is to delegate to the Assistant Secretary for Environment, Safety and Consumer Affairs the Secretary's authority under the 1973 Amendments to the Mineral Leasing Act, P.L. 93-153, 30 USC 185 to make annual inspections of pipelines on Federal lands and to promulgate and administer regulations governing pipelines on Federal lands under the jurisdiction of the Department.

Since this amendment relates to Departmental managment, procedures and practices, notice and public procedure thereon are unnecessary and it may be made effective before November 29, 1974.

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

In § 1.58 the first sentence is amended and a new paragraph (d) (3) is added to read as follows:

§ 1.58 Delegations to Assistant Secretary for Environment, Safety and Consumer Affairs.

The Assistant Secretary for Environment, Safety and Consumer Affairs is delegated authority to—

* * * * *

(d) Carry out the functions vested in the Secretary by the following statutes:

* * * * *

(3) The Mineral Leasing Act, as amended (P.L. 93-153; 30 USC 185).

Effective date. This amendment is effective November 29, 1974.

(Sec. 9(e), Department of Transportation Act, 49 USC 1657(e))

Issued in Washington, D.C., on October 16, 1974.

CLAUDE S. BRINEGAR,
Secretary of Transportation.

[FR Doc.74-25030 Filed 10-25-74;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1200]

PART 1033—CAR SERVICE

Missouri Pacific Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 21st day of October 1974.

It appearing, that operation of trains by the Missouri Pacific Railroad Company (MP) over their line between South Omaha, Nebraska, and Omaha, Nebraska, a distance of 9.6 miles, is creating hazards to vehicular and pedestrian traffic; that such hazards can be eliminated by the use by the MP of an alternate route over portions of the Union Pacific Railroad Company (UP) between N Street, located in South Omaha and Cass Street, located in Omaha, a distance of approximately 4.8 miles; that the UP has consented to operation by the MP over the aforementioned tracks of the UP pending disposition of application of the MP seeking permanent authority by the Commission to operate over these tracks; that such operation by the MP over these tracks of the UP is necessary and in the interest and safety of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1200 Service Order No. 1200.

(a) *Missouri Pacific Railroad Company authorized to operate over tracks of Union Pacific Railroad Company.* The Missouri Pacific Railroad Company (MP) be, and it is hereby, authorized to operate over tracks of the Union Pacific Railroad Company (UP) between N Street, located in South Omaha, Nebraska, and Cass Street, located in Omaha, Nebraska, a distance of approximately 4.8 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Effective date.* This order shall become effective at 12:01 a.m., October 25, 1974.

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 15, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

(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 copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the 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 order shall 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.74-25105 Filed 10-25-74;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 rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Services

[9 CFR Part 113]

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

Notice of Proposed Rulemaking

In FR Doc. 74-24599, appearing at page 37503 in the issue of Tuesday, October 22, 1974, the citation in the fourth line of § 113.89(b) now reads "§ 113.26." It should read "§ 113.38."

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Parts 56, 57, 58]

AFDC RECIPIENTS

Work Incentive Programs; Extension of Time

This notice extends the period for comments to the notice published September 18, 1974 (39 FR 33650) proposing new regulations for the Work Incentive Programs for AFDC recipients under Title IV of the Social Security Act.

Requests for an extension of time were submitted by the Advisory Committee on Women to the Secretary of Labor, the United States Commission on Civil Rights, the National Governors' Conference, the International City Management Association, the National Association of Counties, the National League of Cities—United States Conference of Mayors, and the Ad Hoc WIN Action Committee of the National Welfare Rights Organization and the National Organization of Women.

In consideration of the above requests, and for the benefit of others who may still wish to submit comments, the period of comment is hereby extended to October 31, 1974.

It is not anticipated at this time that this extension will delay the January 1, 1975, target date for the implementation of the proposed new WIN program design.

Signed at Washington, D.C. this 18th day of October, 1974.

PETER J. BRENNAN,
Secretary of Labor.

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

[FR Doc.74-25254 Filed 10-25-74;9:56 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Part 224]

AFDC RECIPIENTS

Work Incentive Programs; Extension of Time

This notice extends the period for comments to the notice published September 19, 1974 (39 FR 33699) proposing new regulations for the Work Incentive Programs for AFDC recipients under Title IV of the Social Security Act.

Requests for an extension of time were submitted by the Advisory Committee on Women to the Secretary of Labor, the United States Commission on Civil Rights, the National Governors' Conference, the International City Management Association, the National Association of Counties, the National League of Cities—United States Conference of Mayors, and the Ad Hoc WIN Action Committee of the National Welfare Rights Organization and the National Organization of Women.

In consideration of the above requests, and for the benefit of others who may still wish to submit comments, the period of comment is hereby extended to October 31, 1974.

It is not anticipated at this time that this extension will delay the January 1, 1975, target date for the implementation of the proposed new WIN program design.

Signed at Washington, D.C. this 18th day of October 1974.

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

PETER J. BRENNAN,
Secretary of Labor.

[FR Doc.74-25253 Filed 10-25-74;9:56 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 283-4]

NEVADA

SO_2 Control Strategy

The purpose of this notice is to propose disapproval of the State of Nevada implementation plan for attainment and maintenance of the primary standards for sulfur oxides in the Nevada Intrastate Air Quality Control Region, to propose substitute regulations for the control of SO_2 at the Kennecott Copper Corporation Smelter, McGill, Nevada and to propose an extension of time to meet the primary standards. The preamble which follows contains the background for this action, a discussion of the air quality in the Region, a description of the proposed regulations, announcement of a public hearing, and a request for written comments. The Administrator encourages public comment at the public hearings or in writing. The findings from all information available to the Administrator will form the basis of the final promulgation of Nevada SO_2 control strategy regulations.

BACKGROUND

On May 31, 1972 (37 FR 10842) pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved with specific exceptions the State of Nevada implementation plan for attainment and maintenance of the National Ambient Air Quality Standards. Specifically, the Administrator disapproved Nevada's plan for the attainment and maintenance of the secondary standard for sulfur oxides in the Nevada Intrastate Region. Article 8.1.3 of the State of Nevada "Air Quality Regulations" (emission limitation for sulfur from existing copper smelters), which was a part of the sulfur oxides control strategy, was disapproved since it did not provide the degree of control needed to attain and maintain the secondary standard for sulfur oxides in the Nevada Intrastate Region. On July 27, 1972 (37 FR 15086) the Administrator extended for 18 months the statutory timetable for submittal of the plan for attainment and maintenance of the secondary standard for sulfur oxides in the Nevada Intrastate Region.

The Nevada Mines Division, Kennecott Copper Corporation, owns and operates a copper smelter at McGill, Nevada within the Nevada Intrastate Region. This smelter is the only major source of sulfur oxides in the Region and the only smelter within the Region.

On June 14, 1974 Mike O'Callaghan, Governor of Nevada, submitted to the Administrator amendments to the Nevada Air Quality Regulations for control of sulfur oxide emissions. The amendments, in part, require discharge of controllable fugitive sulfur oxide emissions through "stacks serving the

smelter" and allow the use of Supplementary Control Systems[1] to meet all ambient air quality standards after application of constant emission reduction technology (defined for the Kennecott Smelter as an allowable sulfur emission equal to 40 percent of the feed sulfur). Guidelines for the development of regulations pertaining to Supplementary Control Systems (SCS) were provided by EPA to the State of Nevada indicating the specific limitations on the use of such systems as well as defining the required elements of an SCS and the conditions for the use of such a system. In those guidelines, as well as in additional communications between EPA and the State of Nevada, it has been clearly stated that the regulations permitting the use of SCS must also require available constant emission controls as a condition for the use of SCS and that SCS can only be applied as a temporary measure until improvements in technology allow for adequate constant control. Further, in additional communications, EPA has stated that available constant emission reduction technology as applied to the Kennecott McGill smelter would be defined as follows:

> For the Kennecott smelter, available constant controls includes the installation of a sulfuric acid-producing facility with a minimum of 97 percent SO_2 conversion efficiency applied to the entire converter process effluent exclusive of fugitive emissions.

The Administrator has acknowledged receipt in the FEDERAL REGISTER of the amendments to the Nevada Air Quality Regulations. The FEDERAL REGISTER notice also solicits public comment on the submitted regulations. If after reviewing public comments on these regulations, the Administrator finds the Nevada regulations approvable, he will rescind this proposal. Conversely, if the Administrator finds the Nevada regulations are unapprovable, he will proceed as expeditiously as possible to finalize the proposals contained herein.

The Administrator has determined that the selective use of Supplementary Control Systems (systems which limit pollutant emissions during periods when meteorological conditions are conducive to ground level concentrations in excess of the National Ambient Air Quality Standards) to attain and maintain the ambient standards is consistent with the Clean Air Act when the only alternatives are permanent production curtailment, shutdown, or delays in the attainment of the national standards. However, constant emission limitation is the preferred strategy for attaining and maintaining the standards. SCS is acceptable only as a temporary measure where the use is necessary to augment constant emission limitation techniques as determined on a case-by-case basis, and only in circumstances wherein the SCS can be expected to exhibit a high degree of reliability and can be made legally enforceable; that is, where the emission source can be readily and unequivocally identified.

In proposing to allow the use of SCS it is the Administrator's judgment that its use is consistent with the purposes and provisions of the Clean Air Act and is in the best interest of the public. This position is supported by a decision by the U.S. Court of Appeals, Fifth Circuit, in *Natural Resources Defense Council, Inc. v. EPA, No. 72-2402*. The Court held that, under the Clean Air Act, dispersion techniques may be allowed if emission limitations sufficient to meet standards are unachievable or infeasible, and if regulations are adopted which will attain the maximum degree of emission limitations achievable.

The regulations proposed herein will require the control of emissions from the Kennecott McGill smelter such that both the primary and secondary standards will be met. Paragraph 52.1475(c) of the proposed regulation pertains to the control of fugitive emissions. Paragraph 52.1475(d) establishes an emission limitation for the plant as a whole that is sufficient to attain and maintain the national standards. Paragraph 52.1475 (e) provides an alternative to the emission limit established in (d), if it is determined by the smelter and approved by EPA, that it is infeasible to meet such an emission limit. Specific provisions for an application to use supplementary control systems, or other measures such as a tall stack, are included in this paragraph. If the smelter elects to abide by the provisions of paragraph (e), the emission limitation specified in (d) should be considered a goal to be achieved through research into new constant emission control techniques.

Disapproval of the Nevada regulation for the control of sulfur oxides is mandated by the air quality data that indicate more than 60 percent control of emissions is required.

POLLUTION FROM EXISTING NON-FERROUS SMELTERS IN THE NEVADA INTRASTATE REGION

There is one existing copper smelter located within the Nevada Intrastate Region. This smelter, located at McGill, is owned and operated by Kennecott Copper Corporation. The Nevada regulations for emissions limitations on existing copper smelters were approved based on a review of very limited SO_2 data collected by the State of Nevada. The data was for 24-hour and longer averaging periods. No short term 3-hour averages of SO_2 concentrations were available to determine control requirements for the secondary standard. Therefore, EPA granted an 18 month extension for the promulgation of regulations to meet the secondary standard to allow sufficient time to establish monitoring sites and collect adequate data. Control requirements would then be based on the actual measured data collected through this network.

Three monitoring sites were selected in the vicinity of McGill, Nevada and sampling was begun in April 1973. The sites were selected on the basis of diffusion modeling results and on the basis of the availability of facilities such as power and access. The intent was to locate sites in areas of maximum concentrations. The sites were located to minimize the effects of low level fugitive emissions.

The three highest 3-hour averages and the three highest 24-hour averages obtained from the monitoring network are shown in Table 1. All of the concentrations were measured at the monitoring site located 4.1 kilometers northeast of the smelter.

The percentage emission reduction requirements, based on proportional rollback, needed to meet the primary and secondary air quality standards are also given in Table 1. These reductions requirements vary by less than 2 percent for the secondary standard from the highest to the third highest concentration. The 24-hour averages produce somewhat wider variations.

TABLE 1

Date	24-h average ($\mu g/m^3$)	3-h average ($\mu g/m^3$)	Reduction required to meet standard	
			Primary	Secondary
			Percent	*Percent*
Oct. 16, 1973	1,826	9,188	80	86
Oct. 17, 1973	2,109	10,497	83	88
Oct. 27, 1973	2,515	9,476	86	86

PROPOSED REGULATIONS

The proposed regulations are composed of three sections and two appendices. The first section (§ 52.1475(c)) requires the control of low-level fugitive emissions, identifies specific points of control, and sets a compliance schedule for achieving control of fugitive emissions. The second section (§ 52.1475(d)) sets an emission limit to be achieved by constant emission control sufficient to meet all national standards by July 31, 1977. The third section (§ 52.1475(e)) if offered as an alternative to § 52.1475 (d) and sets emission limits based on available constant emission control technology, outlines the conditions to be satisfied to allow use of SCS, and establishes a compliance schedule for implementing the constant control and SCS. Continuous monitoring of the emission limits set in either of the two latter sections is required. Appendix D specifies procedures for determination of the SO_2

[1] Defined in the Nevada regulations as follows: "Supplementary Control Strategy is designed to maintain air quality standards by using rapid curtailment of the rate of sulfur emissions during adverse meteorological conditions in order to prevent the occurrence of ground-level ambient air concentrations in violation of Ambient Air Quality Standards."

concentration while Apendix E contains procedures for determination of volumetric rates. These appendices have been proposed in a separate FEDERAL REGISTER notice.

Implementation procedures for these regulations will require Kennecott to comply with the requirements to control fugitive emissions (§ 52.1475(c)) and to comply either with the emission limits set to meet all standards (§ 52.1475(d)) or with the temporary alternative to comply with the emission limit requirements based on available constant control and additional approved controls (§ 52.1475(e)). This alternative is proposed because it is the Administrator's judgment that the available constant control technology for the McGill smelter is insufficient to achieve all national standards at this time. Therefore, Kennecott may apply for permission to comply with the temporary alternative to achieve all standards with supplementary control. The temporary alternative requires compliance with the emission limit based on available constant control and requires employment of such additional control measures as may be necessary to assure the attainment and maintenance of national standards. These additional controls include process changes, SCS, tall stacks, production reduction or any other technique approved by the Administrator. By allowing the use of SCS, the Administrator is acknowledging that SCS can incorporate design and enforcement features that will provide a reliable means to attain and maintain national SO_2 standards. The Administrator has stipulated these specific requirements that will ensure reliability. These requirements include the assumption of liability for violation of air quality standards within a designated area, and the operation of the SCS in accordance with an approved manual based on demonstration studies. Certain record-keeping procedures are also specified.

In the regulations two emission limits are established as achievable with available constant control. These emission limits are an SO_2 concentration limit on acid plant emissions and a mass emission limit for the entire smelter. The emission limit for the acid plant (2000 ppm) and the requirement that all converter gas must be processed by the acid plant are specified to assure full application of available constant control technology and to minimize emissions from the converters. A total plant emission limitation is specified based on the existing smelter configuration.

The Kennecott Copper Corporation has embarked on a control program at the McGill smelter designed to attain the national primary standard by July 1976 through the use of both constant emission controls and supplementary controls. Since the specific requirements for a supplementary control system, as outlined in the proposed regulations, were not available to the smelter at the time their program was initiated, the attainment date for the primary standard, if the smelter elects to follow the provisions of § 52.1475(e), is established as January 1, 1977. It is assumed that if the smelter chooses the option of § 52.1475(e), the supplementary control system will be needed to meet both primary and secondary standards and will be so designed. Therefore, the attainment date for the secondary standard via the supplementary control option is also established as January 1, 1977.

On the other hand, should Kennecott elect to meet the standards through constant emission controls, and abide by the provisions of § 52.1475(d), EPA recognizes that additional planning and equipment would be required and that equipment ordering procedures alone could preclude completion of such controls by January, 1977. Therefore, the date for attainment of both primary and secondary standards solely through constant emission controls in accordance with the provisions of paragraph (d) is extended to July 1977.

Calculations of the emission limits are detailed in "Technical Data Support of Regulations for Control of Sulfur Dioxide Emissions (Neveda Intrastate Region)". This document is available at:

Environmental Protection Agency
Region IX
100 California Street
San Francisco CA 94111

EPA Freedom of Information Center
401 "M" Street SW
Washington DC 20460

Nevada Bureau of Environmental Health
Nye Building, 201 South Fall Street
Carson City NV 89701

PUBLIC HEARING

Public hearings on this proposal will be held in the affected area in the near future at a time and place to be announced in local newspapers. These hearings will be held to receive comment on the proposed amendments. Persons wishing to participate in the hearing are requested (but not required) to submit three copies of their statements at least five days prior to the date of the hearing to: Regional Administrator, U.S. Environmental Protection Agency, Region IX, 100 California Street, San Francisco, California 94111.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the Regional Administrator, EPA, 100 California Street, San Francisco, California 94111. All relevant comments received on or before November 29, 1974 will be considered. Receipt of comments will be available for public inspection at the Regional Office. Copies of the proposal will also be available for inspection at the following location: Nevada Bureau of Environmental Health, Nye Building, 201 South Fall Street, Carson City, Nevada 89701. This notice of proposed rulemaking is issued under the authority of section 110(c) and section 301(a) of the Clean Air Act.

(42 U.S.C. 1875c-5(c), 1875g)

Dated: October 18, 1974.

JOHN QUARLES,
Acting Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40, of the Code of Federal Regulations as follows:

Subpart DD—Nevada

1. Section 52.1475 is revised to read as follows:

§ 52.1475 Control strategy and regulations: Sulfur oxides.

(a) The requirements of § 51.13 of this chapter are not met since the plan does not adequately provide for attainment and maintenance of the National Ambient Air Quality Standards for sulfur oxides in the Nevada Intrastate Region.

(b) Article 8.1.3 of Nevada's "Air Quality Regulations" (emission limitation for sulfur from existing copper smelters), which is part of the sulfur oxides control strategy, is disapproved since it does not provide the degree of control needed to attain and maintain the National Ambient Air Quality Standards for sulfur oxides in the Nevada Intrastate Region.

(c) Regulation for control of fugitive sulfur oxides emissions (Nevada Intrastate Region). (1) The owner or operator of the Kennecott Copper Company smelter located in White Pine County, Nevada, in the Nevada Intrastate Region shall utilize best engineering techniques for reducing escape of pollutants to the atmosphere and to capture sulfur oxides emissions and vent them through a stack or stacks. Such techniques shall include, but not be limited to:

(i) Installing and operating hoods on all active matte tapholes, matte launders, slag skim bays, slag handling operations, and holding ladles on each reverberatory furnace;

(ii) Installing tight fitting hoods on each active converter and operating such hoods except during pouring and charging operations;

(iii) Maintaining all ducts, flues, and stacks in a leak-free condition;

(iv) Maintaining all reverberatory furnaces and converters under normal operating conditions in such a fashion that outleakage of gases will be prevented to the maximum extent possible;

(v) Wherever feasible, ducting emissions through the tallest stack or stacks serving the facility; and

(vi) Wherever feasible, passing the effluents from all hooding through the tallest stack or stacks serving the facility.

(2) (i) If the owner or operator of the smelter subject to this paragraph is not in compliance with the provisions of paragraph (c)(1) of this section the following compliance schedule shall apply:

(*a*) 30 days after the effective date of this regulation—Let contracts or issue purchase orders for hoods and flues for control of fugitive sulfur oxides emissions or provide evidence that such contracts have been let.

(*b*) July 1, 1975—Initiate on-site construction and/or installation of emission control equipment.

(*c*) July 1, 1976—Complete on-site construction and/or installation of emission control equipment.

(*d*) January 1, 1977—Achieve final

compliance with requirements of paragraph (c) (1) of this section.

(ii) The owner or operator of the smelter subject to the requirements of this subparagraph shall certify to the Administrator within five days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(iii) Notice must be given to the Administrator at least 10 days prior to conducting a performance test to afford him the opportunity to have an observer present.

(iv) If the source subject to this paragraph is presently in compliance with the requirements of paragraph (c) (1) of this section, the owner or operator of such source may certify such compliance to the Administrator within thirty (30) days of the effective date of this paragraph. If such certification is acceptable to the Administrator, the applicable requirements of this paragraph shall not apply to the certifying source. The Administrator may request whatever supporting information he considers necessary to determine the validity of the certification.

(v) The owner or operator of the 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 January 1, 1977. If approved by the Administrator, such schedule shall satisfy the compliance schedule requirements of this subparagraph for the affected source.

(d) Regulation for control of sulfur dioxide emissions (Nevada Intrastate Region). (1) The owner or operator of the Kennecott Copper Company smelter located in White Pine County, Nevada, in the Nevada Intrastate Region shall comply with all the requirements of this paragraph, except as provided in paragraph (e) of this section.

(2) (i) After July 31, 1977, the owner or operator of the smelter subject to this paragraph shall not discharge or cause the discharge of sulfur dioxide into the atmosphere in excess of 9,940 pounds per hour (4,512 kg/hr.) maximum 6-hour average as determined by the method specified in paragraph (d) (4) of this section.

(ii) The limitation specified in paragraph (d) (2) (i) of this section shall apply to the sum total of sulfur dioxide emissions from the smelter processing units and sulfur oxides control and removal equipment, but not including uncaptured fugitive emissions and those emissions due solely to the use of fuel for space heating or steam generation.

(3) (i) The owner or operator of the smelter to which this paragraph is applicable shall, no later than 30 days following the effective date of this paragraph, submit to the Administrator for approval a proposed compliance schedule that demonstrates compliance with paragraph (d) (2) of this section as expeditiously as practicable but not later than July 31, 1977.

(ii) The compliance schedule submitted to the Administrator pursuant to paragraph (d) (3) (i) of this section shall provide for increments of progress toward compliance. The dates for achievement of such increments of progress shall be specified. Increments of progress shall include, but not be limited to, the following:

(*a*) Submittal of final control plan to the Administrator for meeting the requirements of paragraph (d) (2) of this section.

(*b*) Letting of necessary contracts or process changes, or issuance of orders for the purchase of component parts, to accomplish emission control or process modification;

(*c*) Initiation of on-site construction or installation of emission control equipment or process modification;

(*d*) Completion of on-site construction or installation of emission control equipment or process modification;

(*e*) Full compliance with the requirements of paragraph (d) (2) of this section.

(iii) The owner or operator of the smelter subject to the requirements of this subparagraph shall certify to the Administrator within five days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(iv) Notice must be given to the Administrator at least 10 days prior to conducting a performance test to afford him the opportunity to have an observer present.

(v) If the source subject to this paragraph is currently in compliance with the requirement of paragraph (d) (2) of this section, the owner or operator of such source may certify such compliance to the Administrator within thirty (30) days of the effective date of this paragraph. If such certification is acceptable to the Administrator, the applicable requirements of this paragraph (d) (3) shall not apply to the certifying source. The Administrator may request whatever supporting information he considers necessary to determine the validity of the certification.

(4) (i) The owner or operator of the smelter to which this paragraph is applicable shall install, calibrate, maintain, and operate a measurement system(s) for continuously monitoring sulfur dioxide emissions and stack gas volumetric flow rates in each stack which emits 5 percent or more of the total potential (without emission controls) hourly sulfur oxides emissions from the source. For the purpose of this paragraph, "continuous monitoring" means the taking and recording of at least one measurement of sulfur dioxide concentration and stack gas flow rate reading from the effluent of each affected stack in each 15-minute period.

(ii) Within nine months after the effective date of this paragraph, and at other such times in the future as the Administrator may specify, the sulfur dioxide concentration measurement system(s) installed and used pursuant to this paragraph shall be demonstrated to meet the measurement system performance specifications prescribed in Appendix D to this Part.

(iii) Within nine months after the effective date of this paragraph, and at other such times in the future as the Administrator may specify, the stack gas volumetric flow rate measurement system(s) installed and used pursuant to this paragraph shall be demonstrated to meet the measurement system performance specifications prescribed in Appendix E to this Part.

(iv) The Administrator shall be notified at least ten (10) days in advance of the start of the field test period required in Appendices D and E to this Part to afford the Administrator the opportunity to have an observer present.

(v) The sampling point for monitoring emissions shall be in the duct at the centroid of the cross section if the cross section area is less than 4.647 m^2 (50 ft^2) or at a point no closer to the wall than 0.914 m (3 ft) if the cross sectional area is 4.647 m^2 (50 ft^2) or more. The monitor sample point shall be in an area of small spatial concentration gradient and shall be representative of the concentration in the duct.

(vi) The measurement system(s) installed and used pursuant to this section shall be subjected to the manufacturer's recommended zero adjustment and calibration procedures at least once per 24-hour operating period unless the manufacturer specifies or recommends calibration at shorter intervals, in which case such specifications or recommendations shall be followed. Records of these procedures shall be made which clearly show instrument readings before and after zero adjustment and calibration.

(vii) Six-hour average sulfur dioxide emission rates shall be calculated in accordance with paragraph (d) (5) of this section, and recorded daily.

(viii) The owner or operator of the smelter subject to this paragraph shall maintain a record of all measurements required by this paragraph. Measurement results shall be expressed as pounds of sulfur dioxide emitted per six hour period. A 6-hour average value calculated pursuant to paragraph (d) (5) (i) of this section shall be reported as of each hour for the preceding 6-hour period. Results shall be summarized monthly and shall be submitted to the Administrator within fifteen (15) days after the end of each month. A record of such measurements shall be retained for at least two years following the date of such measurements.

(ix) The continuous monitoring and recordkeeping requirements of this subparagraph shall become applicable nine months after the effective date of this regulation.

(5) (i) Compliance with the requirements of paragraph (d) (2) of this section shall be determined using the continuous measurement system(s) installed, calibrated, maintained and operated in accordance with the requirements of paragraph (d) (4) of this section. For all stacks equipped with the measurement system(s) required by paragraph (d) (4) of this section, a 6-hour average sulfur dioxide emission rate

shall be calculated as of the end of each clock hour, for the preceding six hours, in the following manner:

(a) Divide each 6-hour period into 24 15-minute segments.

(b) Determine on a compatible basis a sulfur dioxide concentration and stack gas flow rate measurement for each 15-minute period for each affected stack. These measurements may be obtained either by continuous integration of sulfur dioxide concentration and stack gas flow rate measurements (from the respective affected facilities) recorded during the 15-minute period or from the arithmetic average of any number of sulfur dioxide concentration and stack gas flow readings equally spaced over the 15-minute period. In the latter case, the same number of concentration readings shall be taken in each 15-minute period and the readings shall be similarly spaced within each 15-minute period.

(c) Calculate the arithmetic average (lbs SO_2/hr) from all 24 emission rate measurements in each 6-hour period for each stack.

(d) Total the average sulfur dioxide emission rates for all affected stacks.

(ii) Notwithstanding the requirements of paragraph (d)(5)(i) of this section, compliance with the requirements of paragraph (d)(2) of this section shall also be determined by using the methods described below at such times as may be specified by the Administrator. For all stacks equipped with the measurement system(s) required by paragraph (d)(4) of this section, a 6-hour average sulfur dioxide emission rate (lbs SO_2/hr) shall be determined as follows:

(a) The test of each stack emission rate shall be conducted while the processing units vented through such stack are operating at or above the maximum rate at which they will be operated and under such other conditions as the Administrator may specify.

(b) Concentrations of sulfur dioxide in emissions shall be determined by using Method 8 as described in Part 60 of this chapter. The analytical and computational portions of Method 8 as they relate to determination of sulfuric acid mist and sulfur trioxide as well as isokinetic sampling may be omitted from the over-all test procedure.

(c) Three independent sets of measurements of sulfur dioxide concentrations and stack gas volumetric flow rates shall be conducted during three consecutive 2-hour periods for each stack. Measurements need not necessarily be conducted simultaneously of emissions from all stacks on the smelter premises.

(d) In using Method 8, traversing shall be conducted according to Method 1 as described in Part 60 of this chapter. The minimum sampling volume for each two hour test shall be 40 ft^3 corrected to standard conditions, dry basis.

(e) The volumetric flow rate of the total effluent from each stack evaluated shall be determined by using Method 2 as described in Part 60 of this chapter and by traversing according to Method 1. Gas analysis shall be performed by using the integrated sample technique of Method 3 as described in Part 60 of this chapter. Moisture content shall be determined by use of Method 4 as described in Part 60 of this chapter except that stack gases arising only from a sulfuric acid production unit may be considered to have zero moisture content.

(f) The gas sample shall be extracted at a rate proportional to the gas velocity at the sampling point.

(g) For each two hour test period, the sulfur dioxide emission rate for each stack shall be determined by multiplying the stack gas volumetric flow rate (ft^3/hr at standard conditions, dry basis) by the sulfur dioxide concentration (lb/ft^3 at standard conditions, dry basis). The emission rate in lbs/hr-maximum 6-hour average for each stack is determined by calculating the arithmetic average of the results of the three 2-hour tests.

(h) The sum total of sulfur dioxide emissions from the smelter premises in lbs/hr is determined by adding together the emission rates (lbs/hr) from all stacks equipped with the measurement system(s) required by paragraph (d)(4) of this section.

(e) Alternate regulation for control of sulfur dioxide emissions (Nevada Intrastate Region). (1) The owner or operator of the Kennecott Copper Company smelter located in White Pine County, Nevada, in the Nevada Intrastate Air Quality Control Region may to meet the requirements of this para- apply to the Administrator for approval graph. Upon such approval, granted pursuant to paragraph (e)(3) of this section, the requirements of paragraph (d) shall not be applicable during the period of such approval, and all requirements of this paragraph shall apply.

(2) All terms used in this paragraph but not specifically defined below shall have the meaning given them in the Act, Part 51 or § 52.01 of this chapter.

(i) The term "supplementary control system" means any system which limits the amount of pollutant emissions during periods when meteorological conditions conducive to ground-level concentrations in excess of national standards exist or are anticipated.

(ii) The term "ambient air quality violation" means any single ambient concentration of sulfur dioxide that exceeds and National Ambient Air Quality Standard for sulfur dioxide at any point in a designated liability area, as specified in paragraph (e)(8) of this section.

(iii) The term "isolated source" means a source that will assume legal responsibility for all violations of the applicable national standards in its designated liability area, as specified in paragraph (e)(8) of this section.

(iv) The term "designated liability area" means the geographic area within which emissions from a source may significantly affect the ambient air quality.

(3)(i) The application for permission to comply with this paragraph shall be submitted to the Administrator no later than sixty (60) days following the effective date of this paragraph and shall include the following:

(a) A short description of the type and location of the smelter; the process, equipment, raw materials and fuels used; the stacks employed; and emissions to the atmosphere from various points on the smelter premises.

(b) A general description and the location of other sources of air pollution and of the uses of land, and the topography in the vicinity of the smelter.

(c) A summary of all ambient air quality data in the vicinity of the smelter collected by or under contract to smelter.

(d) A description of the methods of constant emission reduction that are or will be applied and the degree of emission reduction achieved or expected due to their application.

(e) A description of the investigations that the owner or operator has made, and the results thereof, as to the availability of constant emission reduction methods that would meet the requirements of paragraph (d)(2) of this section and a discussion of the reasons why any potentially available methods cannot reasonably be used.

(f) A specific description of the research, investigations, or demonstrations that the owner or operator will conduct or support for the purpose of developing constant emission reduction technology applicable to the smelter. Such description shall include the resources to be committed, qualifications of the participants, a description of the facilities to be utilized and milestone dates.

(g) A detailed description of all other measures the owner or operator will apply, in addition to those described in paragraph (e)(3)(i)(d) of this section, to provide for attainment and maintenance of the air quality standards. These measures include but need not be limited to supplementary control systems, tall stacks and other dispersion techniques, process changes and permanent production curtailment.

Each measure to be applied shall be described in sufficient detail to allow the Administrator to determine its effectiveness in reducing ambient concentrations.

(h) A written commitment by the owner or operator of the source subject to this paragraph agreeing to assume liability for all violations of National Ambient Air Quality Standards within the designated liability area.

(i) Such other pertinent information as the Administrator may require.

(ii) Upon receipt of the information specified in paragraph (e)(3)(i) of this section, and after making a determination of its adequacy, the Administrator promptly shall, after thirty (30) days notice, conduct a public hearing on the application submitted by the owner or operator. The Administrator shall make available to the public the information contained in the application. Within thirty (30) days after the hearing, the Administrator shall notify the owner or operator of the smelter and other interested parties of his decision as to whether to grant or deny the application. If he denies the application, he will

set forth his reasons. If he approves the application the owner or operator shall comply with all provisions of paragraph (e) of this section and need not comply with provisions of paragraph (d) of this section except as provided in paragraph (e)(16) of this section.

(iii) Approval of the application to abide by the provisions of paragraph (e) of this section will be granted if it can be satisfactorily demonstrated to the Administrator that control measures in addition to the available constant emission controls are required and if the specific measures submitted pursuant to paragraph (e)(3)(i)(*g*) of this section will provide for the attainment and maintenance of the National Ambient Air Quality Standards.

(4) (i) The owner or operator of the smelter subject to this paragraph shall not discharge or cause the discharge of sulfur dioxide into the atmosphere in excess of:

(*a*) 2,000 parts per million-maximum 6-hour average, from any single absorption sulfuric acid producing facility designed for the removal of sulfur dioxide, as determined by the method specified in paragraph (e)(6) (i) or (iii) of this section and

(*b*) 31,900 pounds per hour-maximum 6-hour average, as determined by the method specified in paragraph (e)(6) (ii) or (iv) of this section. Such limitation shall apply to the sum total of sulfur dioxide emissions from the smelter processing units and sulfur oxides control and removal equipment but not including uncaptured fugitive emissions and those emissions due solely to use of fuel for space heating or steam generation.

(ii) All emissions from the converters, with the exception of the uncaptured fugitive emissions, shall be processed through a facility for the removal of sulfur dioxide which meets the requirements of paragraph (e)(4)(i)(*a*) of this section.

(5) (i) The owner or operator of the smelter to which this paragraph is applicable shall install, calibrate, maintain and operate a measurement system(s) for continuously monitoring sulfur dioxide emissions and stack gas volumetric flow rates in each stack which emits 5 percent or more of the total potential (without emission controls) hourly sulfur oxides emissions from the source. For the purpose of this paragraph, "continuous monitoring" means the taking and recording of at least one measurement of sulfur dioxide concentration and stack gas flow rate reading from the effluent of each affected stack in each 15-minute period.

(ii) No later than the date specified in paragraph (e)(14)(i)(b)(5) of this section and at such other times in the future as the Administrator may reasonably specify, the sulfur dioxide concentration measurement system(s) installed and used pursuant to this paragraph shall be demonstrated to meet the measurement system performance specifications prescribed in Appendix D to this Part.

(iii) No later than the date specified in paragraph (e)(14)(i)(b)(5) of this section and at such other times in the future as the Administrator may reasonably specify, the stack gas volumetric flow rate measurement system(s) installed and used pursuant to this paragraph shall be demonstrated to meet the measurement system performance specifications prescribed in Appendix E to this Part.

(iv) The Administrator shall be notified at least 10 days in advance of the start of the field test period required in Appendices D and E to this Part to afford the Administrator the opportunity to have an observer present.

(v) The sampling point for monitoring emissions shall be in the duct at the centroid of the cross section if the cross sectional area is less than 4.647 m^2 (50 ft^2) or at a point no closer to the wall than 0.914 m (3 ft) if the cross sectional area is 4.647 m^2 (50 ft^2) or more. The monitor sample point shall be an area of small spatial concentration gradient and shall be representative of the concentration in the duct.

(vi) The measurement system(s) installed and used pursuant to this section shall be subjected to the manufacturer's recommended zero adjustment and calibration procedures at least once per 24-hour operating period unless the manufacturer specifies or recommends calibration at shorter intervals, in which case such specifications or recommendations shall be followed. Records of these procedures shall be made which clearly show instrument readings before and after zero adjustment and calibration.

(vii) Six-hour average sulfur dioxide concentration and emission rates shall be calculated in accordance with paragraph (e)(6) of this section, and recorded daily.

(viii) The owner or operator of the smelter subject to this paragraph shall maintain a record of all measurements required by this subparagraph. Measurement results shall be expressed in the units prescribed by the emission limitations in paragraph (e)(4) of this section. Six-hour average values calculated pursuant to paragraph (e)(6) (i) and (ii) of this section shall be reported as of each hour for the preceding six hours. The results shall be summarized monthly and shall be submitted to the Administrator within fifteen (15) days of the end of each month. A record of such measurements shall be retained for at least two years following the date of such measurements.

(6) (i) Compliance with the requirements of paragraph (e)(4)(i)(*a*) of this section shall be determined using the continuous measurements system(s) installed, calibrated, maintained and operated in accordance with the requirements of paragraph (e)(5) of this section. For the stack(s) equipped with the measurement system(s) required by paragraph (e)(5) of this section and serving the sulfur dioxide removal device a 6-hour average sulfur dioxide concentration shall be calculated as of the end of each clock hour for the preceding six hours, in the following manner:

(*a*) Divide each 6-hour period into twenty-four 15-minute segments.

(*b*) Determine on a compatible basis a sulful dioxide concentration measurement for each 15-minute period. These measurements may be obtained either by continuous integration of all measurements (from the respective affected facility) recorded during the 15-minute period or from the arithmetic average of any number of sulful dioxide concentration readings equally spaced over the 15-minute period. In the latter case, the same number of concentration readings shall be taken in each 15-minute period and the readings shall be similarly spaced within each 15-minute period.

(*c*) Calculate the arithmetic average of all 24 concentration measurements in each 6-hour period.

(ii) Compliance with the requirements of paragraph (e)(4)(i)(*b*) of this section shall be determined using the continuous measurement system(s) installed, calibrated, maintained and operated in accordance with the requirements of paragraph (e)(5) of this section. For all stacks equipped with the measurement system(s) required by paragraph (e)(5) of this section, a 6-hour average sulfur dioxide emission rate shall be calculated as of the end of each clock hour for the preceding six hours, in the following manner:

(*a*) Divide each 6-hour period into twenty-four 15-minute segments.

(*b*) Determin on a compatible basis a sulfur dioxide concentration and stack gas flow rate measurement for each 15-minute period for each affected stack. These measurements may be obtained either by continuous integration of sulfur dioxide concentrations and stack gas flow rate measurements (from the respective affected facilities) recorded during the 15-minute period or from the arithmetic average of any number of sulfur dioxide concentration and stack gas flow rate readings equally spaced over the 15-minute period. In the latter case, the same number of concentration readings shall be taken in each 15-minute period and the reading shall be similarly spaced within each 15-minute period.

(*c*) Calculate the arithmetic average (lbs SO_2/hr) of all 24 emission rate measurements in each 6-hour period for each stack.

(*d*) Total the average sulfur dioxide emission rates for all affected stacks.

(iii) Notwithstanding the requirements of paragraph (e)(6)(i) of this section, compliance with the requirements of paragraph (e)(4)(i)(*a*) of this section shall also be determined by using the methods described below at such times as may be specified by the Administrator. For each stack serving any process designed for the removal of sulfur dioxide a 6-hour average sulfur dioxide concentration shall be determined as follows:

(*a*) The test of each stack emission concentration shall be conducted while the processing units vented through

such stack are operating at or above the maximum rate at which such will be operated and under such other conditions as the Administrator may specify.

(b) Concentrations of sulfur dioxide in emissions shall be determined by using Method 8 as described in Part 60 of this chapter. The analytical and computational portions of Method 8 as they relate to determination of sulfuric acid mist and sulfur trioxide as well as isokinetic sampling may be omitted from the overall test procedure.

(c) Three independent sets of measurements of sulfur dioxide concentration shall be conducted during three consecutive 2-hour periods for each stack. Measurements need not necessarily be conducted simultaneously of emissions from all stacks on the smelter premises.

(d) In using Method 8, traversing shall be conducted according to Method 1 as described in Part 60 of this chapter. The minimum sampling volume for each two hour test shall be 40 ft^3 corrected to standard conditions, dry basis.

(e) The velocity of the total effluent from each stack evaluated shall be determined by using Method 2 as described in Part 60 of this chapter and traversing according to Method 1. Gas analysis shall be performed by using the integrated sample technique of Method 3 as described in Part 60 of this chapter. Moisture content can be considered to be zero.

(f) The gas sample shall be extracted at a rate proportional to gas velocity at the sampling point.

(g) The sulfur dioxide concentration in parts per million-maximum 6-hour average for each stack is determined by calculating the arithmetic average of the results of the three 2-hour tests.

(iv) Notwithstanding the requirements of paragraph (e)(6)(ii) of this section, compliance with the requirements of paragraph (e)(4)(i)(b) of this section shall also be determined by using the methods described below at such times as may be specified by the Administrator. For all stacks equipped with the measurement system(s) required by paragraph (e)(5) of this section, a 6-hour average sulfur dioxide emission rate (lbs SO_2/hr) shall be determined as follows:

(a) The test of each stack emission rate shall be conducted while the processing units vented through such stack are operating at or above the maximum rate at which they will be operated and under such other conditions as the Administrator shall specify.

(b) Concentrations of sulfur dioxide in emissions shall be determined by using Method 8 as described in Part 60 of this chapter. The analytical, and computational portions of Method 8 as they relate to determination of sulfuric acid mist and sulfur trioxide as well as isokinetic sampling may be omitted from the over-all test procedure.

(c) Three independent sets of measurements of sulfur dioxide concentrations and stack gas volumetric flow rates shall be conducted during three consecutive 2-hour periods for each stack. Measurements need not necessarily be conducted simultaneously of emissions from all stacks on the smelter premises.

(d) In using Method 8, traversing shall be conducted according to Method 1 as described in Part 60 of this chapter. The minimum sampling volume for each 2-hour test shall be 40 ft^3 corrected to standard conditions, dry basis.

(e) The volumetric flow rate of the total effluent from each stack evaluated shall be determined by using Method 2 as described in Part 60 of this chapter and by traversing according to Method 1. Gas analysis shall be performed by using the integrated sample technique of Method 3 as described in Part 60 of this chapter. Moisture content shall be determined by use of Method 4 as described in Part 60 of this chapter except that stack gases arising only from a sulfuric acid production unit may be considered to have zero moisture content.

(f) The gas sample shall be extracted at a rate proportional to the gas velocity at the sampling point.

(g) For each 2-hour test period, the sulfur dioxide emission rate for each stack shall be determined by multiplying the stack gas volumetric flow rate (ft^3/hr at standard conditions, dry basis) by the sulfur dioxide concentration (lb/ft^3 at standard conditions, dry basis). The emission rate in lbs/hr-maximum 6-hour average for each stack is determined by calculating the arithmetic average of the results of the three 2-hour tests.

(h) The sum total of sulfur dioxide emissions from the smelter premises in lbs/hr is determined by adding together the emission rates (lbs/hr) from all stacks equipped with the measurement system(s) required by subparagraph (5) of this paragraph.

(7) The owner or operator of the smelter subject to this paragraph, in addition to meeting the emission limitation requirements of paragraph (e)(4) of this section, shall employ supplementary control systems and/or such additional control measures as may be necessary to assure the attainment and maintenance of the National Ambient Air Quality Standards for sulfur dioxide.

(i) Such measures will be limited to those specified in the application submitted pursuant to paragraph (e)(3)(i)(g) of this section.

(ii) Sulfur oxides emissions shall be curtailed whenever the potential for violating any National Ambient Air Quality Standard for sulfur dioxide is indicated at any point in a designated liability area by either of the following:

(a) Air quality measurement.

(b) Air quality prediction.

(8) (i) For the purposes of this paragraph the designated liability area shall be a circle with a radius of fifteen (15) statute miles (24 km) with the center point of such circle coinciding with the tallest stack serving the affected facility. The owner or operator of the smelter subject to this paragraph may submit a detailed report which justifies redefining the designated liability area specified by the Administrator. Such a justification shall be submitted with the application submitted pursuant to paragraph (e)(3)(i) of this section and shall describe and delineate the requested designated liability area and discuss in detail the method used and the factors taken into account in the development of such area. Upon receipt and evaluation of such report, and after the public hearing described in paragraph (e)(3)(ii) of this section, the Administrator shall issue his final determination.

(ii) If new information becomes available which demonstrates that the designated liability area should be redefined, the Administrator shall consider such and if appropriate, after notice and comment, redefine the designated liability area.

(9) (i) The owner or operator of the smelter subject to the paragraph shall submit with the application submitted pursuant to paragraph (e)(3)(i) of this section, a detailed plan for the establishment of a supplementary control system and/or such other measures as may be proposed. Such plan shall describe all air quality and emission monitoring and meteorological equipment to be used, including instruments installed pursuant to paragraph (e)(5) of this section for continuously monitoring and recording sulfur dioxide emissions and stack gas flow rate, the methods that will be used to determine emission rates to be achieved in association with various meteorological and air quality situations, and the general plan of investigations to be followed in developing the system and the operational manual.

(ii) Such plan shall include detailed specifications of any modifications to existing equipment including new stacks, stack extensions, stack heating systems or any process changes to be applied.

(iii) The monitoring described in the detailed plan submitted in accordance with this subparagraph and the appropriate recordkeeping requirements of paragraph (e)(12) of this section shall commence and become applicable as of the date specified in paragraph (e)(14)(i)(b)(5) of this section.

(10) The owner or operator of the smelter subject to this paragraph shall submit to the Administrator a comprehensive report of a study which demonstrates the capability of the supplementary control system, in conjunction with any other control measures, to reduce air pollution levels. The report shall describe a study conducted during a period of at least 120 days during which the supplementary control system was being developed and operated and shall be submitted no later than the date specified in paragraph (e)(14)(i)(b)(6) of this section. The report shall:

(i) Describe the emission monitoring system and the air quality monitoring network.

(ii) Describe the meteorological sensing network and the meteorological prediction program.

(iii) Identify the frequency, characteristics, times of occurrence and durations of meteorological conditions associated with high-ground level concen-

trations.

(iv) Describe the methodology (e.g., dispersion modeling and measured air quality data) by which the source determines the degree of control needed under each meteorological situation.

(v) Describe the method chosen to vary the emission rate, the basis for the choice, and the time required to effect a sufficient reduction in the emission rate to avoid violations of National Ambient Air Quality Standards.

(vi) Contain an estimate of the frequency that emission rate reduction is required to prevent National Ambient Air Quality Standards from being exceeded and the basis for the estimate.

(vii) Include data and results of objective reliability tests. "Reliability", as the term is applied here, refers to the ability of the supplementary control system to protect against violations of the National Ambient Air Quality Standards.

(viii) Demonstrate that the supplementary control system and other measures expected to be employed after the date specified in paragraph (e)(14)(i)(*b*)(*6*) of this section will result in attainment and maintenance of National Ambient Air Quality Standards.

(11) The owner or operator of the smelter subject to this paragraph shall submit to the Administrator an operational manual for the supplementary control system. Such manual shall be submitted no later than the date specified in paragraph (e)(14)(i)(*b*)(*6*) of this and is subject to the approval of the Administrator as satisfying the specific requirements of this subparagraph. Such approval shall not relieve the owner or operator of the smelter subject to this paragraph from its assumed liability for violations of any National Ambient Air Quality Standards for sulfur oxides in the designated liability area. Prior to making his final decision, the Administrator shall, after reasonable notice, provide an opportunity of not less than forty-five (45) days for public inspection and comment upon the manual. Such manual shall:

(i) Specify the number, type, and location of ambient air quality monitors, in-stack monitors and meteorological instruments to be used.

(ii) Describe techniques, methods, and criteria to be used to anticipate the onset of meteorological situations associated with ground-level concentrations in excess of National Ambient Air Quality Standards and to systematically evaluate and, as needed, improve the reliability of the supplementary control system.

(iii) Describe the criteria and procedures that will be used to determine the degree of emission control needed for each class of meteorological and air quality situations.

(iv) Specify maximum emission rates which may prevail during all probable meteorological and air quality situations, which rates shall be such that National Ambient Air Quality Standards will not be exceeded in the designated liability area. Such emission rates shall be determined by in-stack monitors. Data from such monitors shall be the basis for determining whether the emission rate provisions of the approved operational manual are adhered to.

(v) Describe specific actions that will be taken to curtail emissions when various meteorological conditions described in paragraph (e)(11)(ii) of this section exist or are predicted and/or when specified air quality levels occur.

(vi) Identify the company personnel responsible for initiating and supervising the actions that will be taken to curtail emissions. Such personnel must be responsible, knowledgeable and able to apprise the Administrator of the status of the supplementary control system at any time the source is operating.

(vii) Be modified only if approval by the Administrator is first obtained.

(12) The owner or operator of the smelter subject to this paragraph shall:

(i) Maintain, in a usable manner, records of all measurements and reports prepared as part of the supplementary control system described in the approved operational manual. Such records shall be retained for at least two years.

(ii) Submit, on a monthly basis, the hour by hour measurements made of air quality, emissions and meteorological parameters, and all other measurements made on a periodic basis, as part of the approved supplementary control system.

(iii) Submit a monthly summary indicating all places, dates, and times when National Ambient Air Quality Standards for sulfur oxides were exceeded and the concentrations of sulfur dioxide at such times.

(iv) Notify the Administrator of any violation of National Ambient Air Quality Standards within 24 hours of the occurrence of such violation.

(v) Submit a monthly summary report describing and analyzing how the supplementary control system was operated as related to the approved operations manual and how the system will be improved, if necessary, to prevent violations of the National Ambient Air Quality Standards for sulfur oxides or to prevent any other conditions which are not in accordance with the approved operational manual.

(13) (i) The owner or operator of the smelter subject to this paragraph shall participate in a research program to develop and apply constant emission reduction technology adequate to attain and maintain the national standards. Such program shall be carried out in accordance with the plan submitted pursuant to paragraph (e)(3)(i)(*f*) of this section.

(ii) The owner or operator of the smelter subject to this paragraph shall submit annual reports on the progress of the research and development program required by paragraph (e)(13)(i) of this section. Each report shall also include, but not be limited to, a description of the projects underway, information on the qualifications of the personnel involved, information on the funds and personnel that have been committed, and an estimated date for the installation of the constant emission reduction technology necessary to attain and maintain the National Ambient Air Quality Standards.

(14) (i) The owner or operator of the smelter subject to this paragraph shall comply with the compliance schedules specified below.

(*a*) Compliance schedule for meeting the emission reduction requirements of paragraph (e)(4) of this section:

(*1*) No later than thirty (30) days after the date of approval to meet the requirements of this paragraph—Submit a final plan and schedule to the Administrator for meeting the requirements of paragraph (e)(4) of this section.

(*2*) No later than thirty (30) days after the date of approval to meet the requirements of this paragraph—Let contracts or issue purchase order for emission control systems or process modifications or provide evidence that such contracts have been let.

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

(*4*) July 1, 1976—Complete on-site construction or installation of constant emission control equipment or process change.

(*5*) January 1, 1977—Achieve final compliance with the requirements of paragraph (e)(4) of this section.

(*b*) Compliance schedule for implementing a supplementary control system or other measures which meet the requirements of paragraph (e)(7), (9), (10), and (11) of this section:

(*1*) No later than sixty (60) days after approval to meet the requirements of this paragraph—Submit to the Administrator a detailed schedule for establishment and implementation of the supplementary control system and other measures in accordance with paragraph (e)(9) of this paragraph.

(*2*) No later than ninety (90) days after approval to meet the requirements of this paragraph—Let contracts or issue purchase orders, or provide evidence that such contracts have been let, for ambient air quality monitors, meteorological instruments, and other component parts necessary to establish a supplementary control system.

(*3*) No later than ninety (90) days after approval to meet the requirements of this paragraph—Let contracts or issue purchase orders, or provide evidence that such contracts have been let, for any stack extensions or modifications of equipment approved pursuant to paragraph (e)(3) of this section.

(*4*) November 1, 1975—Complete installation of air quality and emission monitors and meteorological equipment.

(*5*) January 1, 1976—Complete installation of any stack extensions or modifications of equipment approved pursuant to paragraph (e)(3) of this section.

(*6*) May 1, 1976—Submit to the Administrator the comprehensive report on the supplementary control system required by paragraph (e)(10) of this section, and submit to the Administrator for his approval the operational manual

required by paragraph (e)(11) of this section.

(7) January 1, 1977—The National Ambient Air Quality Standards for sulfur dioxide shall not be violated in the designated liability area.

(ii) Any owner or operator subject to the requirements of this subparagraph shall certify to the Administrator within five (5) days after the deadline for each increment of progress whether or not the required increment of progress has been met.

(iii) Notice must be given to the Administrator at least ten (10) days prior to conducting a performance test to afford him the opportunity to have an observer present.

(iv) If the source subject to this paragraph is presently in compliance with any of the increments of progress set forth in this subparagraph, the owner or operator of such source shall certify such compliance to the Administrator within thirty (30) days of the effective date of this paragraph. The Administrator may request whatever supporting information he considers necessary to determine the validity of the certification.

(v) The owner or operator of the smelter subject to this paragraph may submit to the Administrator proposed alternative compliance schedules. Each such proposed compliance schedule shall be submitted with the application submitted pursuant to paragraph (e)(3)(i) of this section. No such compliance schedule may provide for final compliance after January 1, 1977. If approved by the Administrator, such schedule shall replace the compliance schedule set forth in this subparagraph.

(vi) Any such compliance schedule submitted to the Administrator shall provide for increments of progress toward compliance. The dates for achievement of such increments of progress shall be specified. Increments of progress shall include, but not be limited to, the increments specified in the appropriate compliance schedule set forth in paragraph (e)(14)(i)(*a*) and (14)(i)(*b*) of this section.

(15) (i) The Administrator shall annually review the supplementary control system and shall deny continued use of the supplementary control system if he determines that:

(*a*) The review indicates that constant emission control technology has become available or that other factors which may bear on the conditions for use of a supplementary control system have changed to the extent that continued use of the supplementary control system would no longer be deemed approvable within the intent of paragraph (e)(3) of this section; or

(*b*) The source owner or operator has not demonstrated good faith efforts to follow the stated program for developing constant emission reduction procedures; or

(*c*) The source owner or operator has not developed and employed a control program that is effective in preventing violations of National Ambient Air Quality Standards.

(ii) Prior to denying the continued use of a supplementary control system pursuant to paragraph (e)(15)(i) of this section, the Administrator shall notify the owner or operator of the smelter subject to this paragraph of his intent to deny such continued use, together with:

(*a*) The information and findings on which such intended denial is based.

(*b*) Notice of opportunity for such owner or operator to present, within thirty (30) days, additional information or arguments to the Administrator prior to his final determination.

(iii) The Administrator shall notify the owner or operator of the smelter subject to this paragraph of his final determination within thirty (30) days after the presentation of additional information or arguments, or thirty (30) days after the final date specified for such presentation if no presentation is made. If the continued use of the supplementary control system is denied, the final determination shall set forth the specific grounds for such denial.

(16) Upon denial of the continued use of a supplementary control system pursuant to paragraph (e)(15) of this section all the requirements of paragraph (d) of this section shall be immediately applicable to the owner or operator of the Kennecott Copper Company smelter located in White Pine County, Nevada, in the Nevada Intrastate Region and compliance therewith shall be achieved in accordance with such schedule as the Administrator shall order.

(17) The owner or operator of the smelter subject to this paragraph shall be in violation of a requirement of an applicable implementation plan and subject to the penalties specified in Section 113 of the Clean Air Act if:

(i) an increment of the compliance schedules set forth in paragraph (e)(14) is not met by the date specified; or

(ii) the total sulfur dioxide concentration determined according to paragraph (e)(6)(i) or (iii) of this section exceeds the emission limitation set forth in paragraph (e)(4)(i)(a) of this section; or

(iii) the total sulfur dioxide emission rate determined according to paragraph (e)(6)(ii) or (iv) of this section exceeds the emission limitation set forth in paragraph (4)(i)(b) of this section; or

(iv) any National Ambient Air Quality Standards for sulfur oxides are violated in the designated liability area; or

(v) operations of the supplementary control system are not conducted in accordance with the approved operational manual; or

(vi) such owner or operator fails to submit any of the information required by this paragraph.

§ 52.1480 [Amended]

2. In § 52.1480, footnote (b) beneath the table setting forth dates of attainment of national standards is revised to read as follows:

b: July 1977, except that in the event the source subject to § 52.1475(d) is granted permission to comply with § 52.1475(e) the attainment date for the national primary and secondary standards shall be January 1, 1977.

3. In § 52.1480, the letter "*a*" indicating the date for attainment of the National Primary Ambient Air Quality Standards for sulfur dioxide in the Nevada Intrastate Air Quality Control Region is amended to read "b".

4. Section 52.1481 is revised to read as follows:

§ 52.1481 Extensions.

The Administrator hereby extends to July 31, 1977 the attainment date for the primary standards of sulfur oxides in the Nevada Intrastate Air Quality Control Region. In the event that the source subject to § 52.1475(d) is granted permission to comply with § 52.1475(e) the attainment date for the primary standards for sulfur oxides in the Nevada Intrastate Air Quality Control Region shall be extended only to January 1, 1977.

[FR Doc.74-24914 Filed 10-25-74;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 21]

VETERANS EDUCATION

Clarification and Liberalization of Provisions

These changes to Part 21, Title 38, Code of Federal Regulations, are designed for clarification of existing policy as regards §§ 21.735, 21.4135, 21.4136, 21.4200, 21.4202, 21.4203 and 21.4205.

These changes involve correcting the title of the chief administrative officer in the Regional Offices, clarifying the meaning of terms, defining dependency, and advance payment procedures. The definition of "ordinary school year" is clarified as well as the rules for school disapproval and computing fractional days of absence.

The changes to §§ 21.716, 21.1032, 21.3032 and 21.4131(d) are designed to expedite the fullest payment of benefits to the veteran. The requirements for extensions of chapter 31 delimiting dates and for determining commencement date in cases requiring counseling or a reopened claim are liberalized.

The changes to §§ 21.4131(a) and 21.4132 are to liberalize the periods for claiming benefits due the veteran or eligible person.

In addition minor editorial changes have been made to §§ 21.715(c), 21.720, 21.1030, 21.1032(a), 21.3030, 21.3031(a), 21.3032(a)·(1) and (2), 21.4131(e)(1)(i), 21.4135(c)(2), 21.4136 (f), (g)(2), (h), (j) (1), (2) (i) and (ii) and (3), 21.4202(b)(1) and 21.4203 (b) and (d) to reflect agency policy of using precise terms denoting gender.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (27-A1), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All relevant material received before November 29, 1974, will be considered. All written comments received will be available for public inspection at the

above address only between the hours of 8 am and 4:30 pm 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 given that it is proposed to make amendments to §§ 21.716, 21.735 (a), 21.1032(b), 21.3032(a)(3), 21.4131 (a), (c) and (d), 21.4132, 21.4135(d), 21.4136(j)(2) (introduction), 21.4200 (b)(1), 21.4202(b)(5), 21.4203(a) and 21.4205(c)(2)(iii) effective the date of final approval.

1. In § 21.715, paragraph (c) is revised to read as follows:

§ 21.715 Seriously handicapped veterans.

* * * * *

(c) When medical infeasibility is found by the Board, further action regarding vocational rehabilitation will be suspended until there is sufficient improvement in the veteran's condition to warrant referral to the Board for reconsideration as to the medical feasibility of training. The veteran or his or her designated representative will be informed of such suspension, and of the right of appeal.

2. Sections 21.716 and 21.720 are revised to read as follows:

§ 21.716 Determining whether medical infeasibility prevented timely entrance into or completion of training.

A determination that a veteran is entitled to an extension of time to pursue vocational rehabilitation training because he or she was prevented from timely entering or completing such training because of a physical or mental condition may be made by a counseling psychologist after consultation with the medical consultant. In all cases where an affirmative determination is not made by the counseling psychologist, the matter will be referred to the Vocational Rehabilitation Board. Where the Board's decision is unfavorable, the veteran will be informed of the decision and of his or her right to appeal.

§ 21.720 Severance of service connection; reduction of disability rating.

When a veteran loses basic entitlement to vocational rehabilitation due to severance of service connection or reduction of his or her disability rating to less than compensable degree he or she may not be provided counseling. This will apply even though the veteran may continue to receive compensation until the end of the month in which 60 days after the date of notice to him or her expires. Counseling will not be precluded, however, where a reduction in rating to less than compensable degree is scheduled for a specified future date, if a compensable rating will continue beyond the end of the month in which 60 days after the date of notice of reduction expires.

3. In § 21.735, paragraph (a) is revised to read as follows:

§ 21.735 Counseling services on contract basis.

(a) *Authorization.* Directors of regional offices and centers are authorized to negotiate and approve contracts with educational institutions and other approved counseling agencies for the purpose of providing educational and vocational counseling to persons referred for such services by the Veterans Administration. Referrals will generally consist of persons eligible for educational assistance under 38 U.S.C. ch. 35; seriously disabled veterans will not be referred to guidance centers. See 41 CFR 8-75.201-13.

* * * * *

4. Section 21.1030 is revised to read as follows:

§ 21.1030 Claims.

A specific claim in the form prescribed by the Administrator must be filed by the veteran in order for an educational assistance allowance to be paid. In addition servicemen or servicewomen must consult with their service education officer before applying for educational assistance (38 U.S.C. 1671).

5. In § 21.1032, paragraphs (a) and (b) are revised to read as follows:

§ 21.1032 Time limits.

The provisions of this section are applicable to original applications, formal or informal, and to applications for increased educational assistance allowance by reason of the existence of a dependent.

(a) *Completion of claim.* Where evidence requested in connection with a claim is not furnished within 1 year after the date of request, or the veteran for other than a reason determined by the Veterans' Administration to have been beyond his or her control, fails to report for a required scheduled counseling appointment within 1 year after the scheduled date, the claim will be considered abandoned. After the expiration of 1 year, further action will not be taken unless a new claim is received.

(b) *New claim.* Where an application has been considered abandoned, any subsequent communication which meets the requirements of an informal claim will be considered a new application. The date of receipt of such later communication will be considered the date of application.

* * * * *

6. Section 21.3030 is revised to read as follows:

§ 21.3030 Claims.

A specific claim in the form prescribed by the Administrator must be filed by the wife, husband, widow, widower or the parent of a child or guardian in order for educational assistance allowance or special restorative training allowance to be paid. (38 U.S.C. 1713)

7. In § 21.3031, paragraph (a) is revised to read as follows:

§ 21.3031 Informal claims.

(a) Any communication from a wife, husband, widow, widower, parent of a child or guardian, an authorized representative or a Member of Congress indicating an intent to apply for educational assistance for an eligible person may be considered an informal claim. Upon receipt of an informal claim, if a formal claim has not been filed, an application form will be forwarded to the wife, husband, widow, widower, parent of a child or guardian for execution. If received within 1 year after the date it was sent to the wife, husband, widow, widower, parent of a child or guardian, it will be considered filed as of the date of receipt of the informal claim.

* * * * *

8. In § 21.3032, paragraph (a) is revised to read as follows:

§ 21.3032 Time limits.

(a) *Completion of claim*—(1) *Processing time.* If, after filing application, the eligible child, for other than a reason determined by the Veterans Administration to have been beyond his or her control, fails to report for a scheduled counseling appointment or fails to submit an educational plan within 60 days after the date on which a counseling certificate is executed, the application will be considered abandoned for the purpose of computing processing time. If the eligible child reports after the 60-day period but within 1 year of filing application, the date of reporting for counseling will be considered the appropriate date from which to compute processing time.

(2) *Claim or request for change.* When required counseling is delayed by an eligible person for 12 or more months, for other than a reason beyond his or her control, the application or request for change of program will be considered abandoned.

(3) *Reopening.* Where an application has been considered abandoned under paragraph (a)(2) of this section, any subsequent communication from the parent, guardian or eligible person requesting a program of education will be considered a new application. The date of receipt of such later communication will be considered the date of application.

* * * * *

9. Immediately following § 21.3032, the cross references are amended to read as follows:

CROSS REFERENCES: Due process; procedural and appellate rights with regard to disability and death benefits and related relief. See § 3.103. Computation of time limit. See § 3.110.

10. In § 21.4131, paragraphs (a), (c), (d) and (e)(1)(i) are revised to read as follows:

§ 21.4131 Commencing dates.

The commencing date of an award or increased award of educational assistance allowance will be determined under this section.

(a) *Entrance or reentrance including change of program or school (§ 21.4234).*

Latest of following dates:

(1) Date certified by school or establishment under paragraph (b) or (c) of this section.

(2) Date 1 year prior to date of receipt of enrollment certification.

(3) Date of approval of course or date of receipt of approval notice, if received more than 60 days after date of approval, whichever is later. (Subject to waiver under § 21.4132.)

(4) Date of reopened application under paragraph (d) of this section.

* * * * *

(c) *Certification by school or establishment; course does not lead to standard college degree.* (1) Residence school: First date of class attendance.

(2) Correspondence school: Date first lesson sent or date of affirmance whichever is later.

(3) Job training: First date of employment in training position.

(d) *Reopened application after abandonment (§§ 21.1032 and 21.3032).* The date of application if pursuing an approved course.

(e) *Increase for dependent; chapter 34.* Latest of the following dates:

(1) Date of claim: this term means the following, listed in their order of applicability:

(i) Date of veteran's marriage, or birth of his or her child, or his or her adoption of a child, if the evidence of the event is received within 1 year of the event.

* * * * *

11. Section 21.4132 is revised to read as follows:

§ 21.4132 Waiver of time limits.

The time limits specified in § 21.4131 (a)(3) for receipt of notice of approval from the State approving agency may be waived if the facts, equities and demonstrated good faith on the part of the school or establishment and the State approving agency warrant such waiver; and if approval action was not denied or withheld for cause during the retroactive period.

12. In § 21.4135, paragraph (c)(2) and the heading of paragraph (d) are amended to read as follows:

§ 21.4135 Discontinuance dates.

The effective date of reduction or discontinuance of educational assistance allowance will be specified in this section. If more than one type of reduction or discontinuance is involved, the earliest date will control.

* * * * *

(c) *Divorce.* * * *

(2) Spouse, chapter 35: Date the decree became final, subject to extension under paragraph (o) if divorce was without fault on part of the spouse.

(d) *Dependent child; chapter 34.* * * *

* * * * *

13. In § 21.4136, paragraphs (f), (g)(2), (h) and (j)(1), (2) and (3) are revised to read as follows:

§ 21.4136 Rates; educational assistance allowance; 38 U.S.C. ch. 34.

* * * * *

(f) *Dependents.* The term "dependent" means a wife, husband, child or dependent parent who meets the definitions of relationship specified in §§ 3.50, 3.51, 3.57 and 3.59 of this chapter. A child adopted outside the veteran's family is included only if the veteran is contributing to the child's support.

(g) *Allowance for dependents.* * * *

(2) *Two-veteran cases.* The payment of additional educational assistance allowance to a veteran for a spouse who is also a veteran and for a child will not bar the payment of additional educational assistance allowance or additional subsistence allowance under § 21.133 to the spouse for his or her spouse and the same child. The term "child" includes a veteran who meets the requirements of § 3.57 of this chapter, even though the "child" is receiving subsistence allowance or educational assistance allowance under 38 U.S.C. ch. 31, 34 or 36 based on his or her own service. (38 U.S.C. 1682, 1787)

(h) *Payment.* Educational assistance allowance at the rates specified in paragraphs (b) and (c) of this section for servicemen or servicewomen on active duty, other than those training under the Predischarge Education Program, who are training on a less than half-time basis, will be paid to or on behalf of the trainee enrolled in an institution operating on a term, quarter or semester basis in a lump sum for the entire quarter, semester or term. These payments will be made during the month immediately following the month in which certification is received from the educational institution that the veteran has enrolled in and is pursuing a program at the institution.

* * * * *

(j) *Advance payment—(1) Eligibility.* Educational assistance allowance at the rates specified in § 21.4136(a) shall be paid to an eligible veteran, serviceman or servicewoman on active duty enrolled in an approved educational institution on a half-time or more basis and to all servicemen and servicewomen training under the Predischarge Education Program.

(2) *Payment.* Upon receipt of an application and if there is no evidence in the veteran's, serviceman's or servicewoman's file showing that he or she is not eligible for such an advance, the check for the allowance, made payable to the veteran, serviceman or servicewoman, shall be mailed to the institution for delivery to the veteran, serviceman or servicewoman upon registration. No delivery by the institution shall be made more than 30 days in advance of commencement of his or her program. If delivery is not made within 30 days after commencement of the program, the institution shall return the check to the Veterans Administration.

(i) *Veterans.* The amount of the payment is not to exceed the allowance for the month or fraction thereof in which the course will commence plus the allowance for the following month. Subsequent payments shall be made each month in advance subject to certification regulations set out in §§ 21.4138, 21.4203, 21.4204, and 21.4205. Final payment may be withheld until certification is received that the veteran pursued his or her course and any necessary adjustments made.

(ii) *Servicemen and servicewomen on active duty.* The payment will be in a lump sum based upon the amount payable for the entire quarter, semester, or term, as applicable. The application must be endorsed by the school to verify information needed to determine the lump-sum payment.

(3) *Application.* Payment will be authorized upon receipt of an application which in the case of an eligible serviceman or servicewoman has been endorsed by the educational institution. The application will contain a certification showing the following information:

(i) The veteran, serviceman or servicewoman is eligible for educational benefits;

(ii) He or she has been accepted by the institution or is eligible to continue his or her training there;

(iii) He or she has notified the institution of his or her intention to attend that institution or to reenroll in it;

(iv) The number of semester, clock or Carnegie hours to be pursued by the veteran, serviceman or servicewoman and the cost of the course for the serviceman or servicewoman; and

(v) The beginning and ending dates of the enrollment period.

* * * * *

14. In § 21.4200, paragraph (b)(1) is revised to read as follows:

§ 21.4200 Definitions.

* * * * *

(b) *Divisions of the school year.* (1) "Ordinary School Year" is generally a period of 2 semesters or 3 quarters which is not less than 30 nor more than 39 weeks in total length.

* * * * *

15. In § 21.4202, paragraph (b)(1) and (5) is revised to read as follows:

§ 21.4202 Overcharges; restrictions on enrollments.

* * * * *

(b) *Restrictions on enrollments.* A school will be disapproved for further enrollments or reenrollments, and educational assistance allowance to veterans or eligible persons already enrolled will be discontinued when one or more of the following conditions has been found to exist:

(1) The school has willfully and knowingly submitted a false report or certification concerning a student or his or her course of education which has or could result in an improper payment of allowances.

* * * * *

(5) The school, after having been disapproved under paragraph (a) of this section for the enrollment of any veteran or eligible person not already enrolled therein, has willfully and knowingly repeated the overcharge.

* * * * *

16. In § 21.4203, paragraphs (a), (b) (1) and the introductory portion of (d) are amended to read as follows:

§ 21.4203 Reports by schools; requirements.

(a) *General.* Educational institutions are required to report promptly the entrance, reentrance, change in hours of credit or attendance, interruption and termination of attendance of each veteran or eligible person who is enrolled. Educational institutions are also required to verify enrollment and delivery of check for each veteran and eligible person receiving an advance payment.

(b) *Entrance or reentrance.* * * *

(1) Schools organized on a term, quarter or semester basis will generally report enrollment for the complete course to the expected date of graduation. If a certification for the complete course covers two or more terms the school will report the dates for the break between terms or school years if a term or school year ends and the following term or school year does not begin in the same or the next calendar month. No allowances are payable for these intervals. The school will report the period between each term, quarter or semester, if the eligible veteran or student elects not to be paid for the intervals between terms. At the discretion of the Administrator, payment may be made for breaks, including intervals between terms, within a certified period of enrollment during which the school is closed under an established policy based upon an order of the President or due to an emergency situation. Enrollment will be for the complete course except where the student is a vetern or eligible person pursuing a program on a less than half-time basis or is a serviceman or servicewoman. For these students a separate enrollment certification will be required for each term, quarter or semester.

* * * * *

(d) *Interruptions and terminations.* When a veteran or eligible person interrupts or terminates his or her training for whatever reason, including unsatisfactory conduct or progress, this fact must be reported promptly to the Veterans Administration.

* * * * *

17. In § 21.4205, paragraph (c) (2) (iii) is revised to read as follows:

§ 21.4205 Absences.

* * * * *

(c) *Reporting.* * * *

(2) The school will verify the full days of absence reported and endorse the report. In addition, the school will convert partial days of absence to full days in accordance with the following formula and report the accumulated total.

* * * * *

(iii) Divide the total hours of absence for the month (paragraph (c) (2) (ii) of this section) by the average hours of daily attendance (paragraph (c) (2) (i) of this section) to determine the full days of absence to be reported. A fractional day in the result will be dropped if it is one-half day or less and increased to the next whole day if more than one-half day.

* * * * *

Approved: October 22, 1974.

[SEAL] R. L. ROUDEBUSH,
Administrator.

[FR Doc.74-25065 Filed 10-25-74;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–179]

SECRETARY OF STATE'S ADVISORY COMMITTEE ON PRIVATE INTERNATIONAL LAW, STUDY GROUP ON MATRIMONIAL MATTERS

Meeting

The meeting of the Study Group on Matrimonial Matters previously announced (39 FR 36496, October 10, 1974) has been rescheduled to take place on Friday, November 15, 1974, in Room 8 E 1 of the Columbia University Law School, New York, New York. The meeting, which will begin at 10 am and will be open to the public, has been rescheduled in order to permit members of the Study Group to receive by mail in advance of the meeting documentation that was not available when the original notice was prepared.

The purpose of the meeting is to discuss draft replies to a Hague Conference questionnaire on problems of conflict of laws of marriage.

Members of the public who desire to attend the meeting will be admitted up to the limits of the capacity of the meeting room. It is requested that prior to November 15, 1974, members of the general public who plan to attend the meeting inform their name and affiliation and address to Mr. Robert E. Dalton, Office of the Legal Adviser, Department of State; the telephone number is area code 202, 632–2107.

Dated: October 18, 1974.

ROBERT E. DALTON,
Executive Director.

[FR Doc.74–25052 Filed 10–25–74;8:45 am]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

REGIONAL ADVISORY COMMITTEE ON BANKING POLICIES AND PRACTICES OF THE FIFTH NATIONAL BANK REGION

Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a closed meeting of the Comptroller of the Currency's Regional Advisory Committee on Banking Policies and Practices of the Fifth National Bank Region will be held November 22–23, 1974, at The Cloister, Sea Island, Georgia.

The purpose of this meeting is to assist the Regional Administrator and the Comptroller of the Currency in a continuing review of bank regulations and policies. The meeting will also apprise agency officials of current conditions and problems banks are experiencing in the Region.

These meetings are concerned with the liquidity, solvency and continuity of the banking system and involve discussion of commercial and financial information obtained in confidence and required to be kept confidential.

It is hereby determined pursuant to section 10(d) of Pub. L. 92–463 that the meeting is concerned with matters listed in section 552(b) of Title 5 of the United States Code and particularly with exceptions (3), (4) and (8) thereof, and is therefore exempt from the provisions of section 10(a) (1) and (3) of the Act (Pub. L. 92–463) relating to open meetings and public participation therein.

Dated: October 23, 1974.

[SEAL] JAMES E. SMITH,
Comptroller of the Currency.

[FR Doc.74–25061 Filed 10–25–74; 8:45 am]

Fiscal Service

[Dept. Circ. 570, 1974 Rev., Supp. No. 3]

MERITPLAN INSURANCE CO.

Surety Companies Acceptable on Federal Bonds

A Certificate of Authority as an acceptable surety on Federal bonds has been issued by the Secretary of the Treasury to the following company under sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $543,000 has been established for the company.

Name of Company, Location of Principal Executive Office, and State in Which Incorporated

MERITPLAN INSURANCE COMPANY

NEWPORT BEACH, CALIFORNIA

CALIFORNIA

Certificates of Authority expire on June 30 each year, unless sooner revoked, and new Certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact fidelity and surety business and other information. Copies of the Circular, when issued, may be obtained from the Treasury Department, Bureau of Government Financial Operations, Audit Staff, Washington, D.C. 20226.

Dated: October 22, 1974.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.74–25097 Filed 10–25–74;8:45 am]

Internal Revenue Service

ART ADVISORY PANEL

Notice of Closed Meeting

Notice is hereby given that pursuant to section 10(a) (2) of the Federal Advisory Committee Act, Public Law 92–463, a closed meeting of the Art Advisory Panel will be held on November 19 & 20, 1974, beginning at 9:30 a.m. in Room 3313 Internal Revenue Building, 1111 Constitution Ave., NW., Washington, D.C. 20224.

The agenda will consist of the review and evaluation of the acceptability of market value appraisals of works of art involved in Federal Income, Estate, or Gift tax returns. This involves the discussion of confidential material in individual tax returns. A determination as required by section 10(d) of the Act has been made that these meetings are concerned with matters listed in section 552 (b) of Title 5 of the United States Code, and that the meetings will not be open to the public.

[SEAL] DONALD C. ALEXANDER,
Commissioner.

[FR Doc.74–25096 Filed 10–25–74;8:45 am]

Office of the Secretary

[APP–2–04–O:D:T MF]

TAPERED ROLLER BEARINGS FROM JAPAN

Antidumping; Clarification of Determination of Sales at Less Than Fair Value

A notice of "Determination of Sales at Less than Fair Value" was published in the FEDERAL REGISTER of September 6, 1974 (39 F.R. 32337, F.R. Doc. 74–20686) advising that tapered roller bearings 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.).

That determination was the result of price comparisons based upon verified information and data submitted throughout the period of investigation with regard to tapered roller bearings, including inner race or cone assemblies and outer races or cups, exported to and sold in the United States, either as a unit or separately, with identical merchandise sold in Japan. These comparisons enabled the Secretary of the Treasury to determine the fact or likelihood of sales at less than fair value.

Therefore, the term "tapered roller bearings" as published in the "Determination of Sales at Less than Fair Value" on September 6, 1974 was meant to include and continues to include tapered roller bearings, including inner race or

cone assemblies and outer races or cups, either sold as a unit or separately.

Dated: October 23, 1974.

[SEAL] DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc. [illegible]-25068 Filed 10-25-74;8:45 am]

VINYL CLAD FENCE FABRIC FROM CANADA—POSSIBLE DUMPING

Antidumping Proceeding Notice

On September 27, 1974, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), indicating a possibility that vinyl clad fence fabric from Canada is being, or is 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.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of 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.

OCTOBER 24, 1974.

[FR Doc.74-25261 Filed 10-25-74;10:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

ADVISORY COMMITTEE ON THE AIR FORCE HISTORICAL PROGRAM

Notice of Meeting

OCTOBER 22, 1974.

The Advisory Committee on the Air Force Historical Program will meet at the James Forrestal Building, 1000 Independence Avenue, Washington, D.C. on November 7-8, 1974.

The purpose of the meeting is to examine the mission, scope, progress, and productivity of the Air Force Historical Program and make recommendations thereon for the consideration of the Secretary of the Air Force.

The meeting will be open for public attendance, and will begin at 10 a.m. on both dates, in Room 8E-069, James Forrestal Building. Among the topics on the tentative agenda during the meeting are: Air Force Historical Progress and Problems, Contract Histories, Organizational Changes, Personnel Plans, and Current Status of Historical Projects.

For further information on this meeting contact Headquarters, United States Air Force (AF/CHO), Washington, D.C., telephone 202-693-7394.

WALTER G. FENERTY,
Deputy Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.74-25073 Filed 10-25-74;8:45 am]

Army Department

FORT RICHARDSON, ALASKA

Filing of Draft Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army on 16 October 1974 filed with the Council on Environmental Quality a Draft Environmental Impact Statement concerning the construction and operation of a parachute drop zone and a short-field assault landing strip at Fort Richardson, Alaska.

Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested individuals may obtain copies from the Office of the Commanding General, United States Army, Alaska (USARAL) Fort Richardson, Alaska 99505, ATTN: Deputy Chief of Staff for Engineering. In the Washington area, inspection copies can be seen in the Environmental Office, Assistant Chief of Engineers, Room 1E-678, Pentagon Building, Washington, D.C. (Phone (703) 694-1163).

HENRY L. T. KOREN,
Deputy Under Secretary of the Army.

[FR Doc.74-25046 Filed 10-25-74;8:45 am]

Department of the Navy

SECRETARY OF THE NAVY OCEANOGRAPHIC ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given of a closed meeting of the Secretary of the Navy Oceanographic Advisory Committee on 3 and 4 December 1974. The meeting will commence at 9:00 am each day at the facilities of the Oceanographer of the Navy, 200 Stovall Street, Alexandria, Virginia. The agenda will consist of matters classified in the interests of national security, pertaining to ocean science, ocean operations, and ocean engineering programs being conducted by the Navy in connection with the national defense effort. The Secretary of the Navy determined in writing on September 10, 1974, that the meeting is concerned with matters listed in section 552(b) of title 5, U.S.C.

Dated: October 22, 1974.

MERLIN H. STARING,
Rear Admiral, JAGC, U.S. Navy, Judge Advocate General of the Navy.

[FR Doc.74-25079 Filed 10-25-74;8:45 am]

Office of the Secretary

DEFENSE PANEL ON INTELLIGENCE

Closed Meeting

The second meeting of the Defense Panel on Intelligence will be held 21 November 1974 in the Pentagon, Office of the Secretary of Defense, and in the interest of national security the meeting shall be closed to the public under the provisions of section 552(b) (1) of Title 5, United States Code, since classified material will be discussed at all sessions of the meeting. Subject matter is to assess the cumulative effects of actions which have been taken to improve intelligence within the Department of Defense in response to recommendations of the Blue Ribbon Defense Panel and to the President's memorandum of 5 November 1971.

Dated: October 23, 1974.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

[FR Doc.74-25080 Filed 10-25-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

RECORDS FOR INDIAN-OWNED LANDS IN MINNESOTA

Transfer of Custody

OCTOBER 21, 1974.

This notice is published in accordance with 25 CFR 120 and in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by Chapter 1, Part 230 of the Departmental Manual which was published beginning on page 32111 of the September 5, 1974, FEDERAL REGISTER (39 FR 32111).

On October 29, 1974, the official custody of all source title documents and land records pertaining to trust or restricted Indian-owned lands in the State of Minnesota under the jurisdiction of the Minneapolis Area Office, whether within or without the boundaries of any Indian reservation, community, or other designated land entity in that State under Area Office jurisdiction, is transferred from the Portland Title Plant to the Aberdeen Title Plant, Bureau of Indian Affairs, 115 4th Avenue, SE., Aberdeen, South Dakota 57401. The Aberdeen Title Plant is the office of record for the recording and maintenance of these records.

Excluded from this transfer are the land records pertaining to the White Earth Indian Reservation in the State of Minnesota. The official custody of these records remains with the Bureau of

Indian Affairs, 1951 Constitution Avenue, NW., Washington, D.C. 20245, and that office continues to be the office of record for the recording and maintenance of these records.

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.74-25050 Filed 10-25-74;8:45 am]

Bureau of Land Management

[NM 22547]

NEW MEXICO

Proposed Withdrawal and Reservation of Lands

OCTOBER 18, 1874.

The Forest Service, U.S. Department of Agriculture, has filed application NM 22547 for the withdrawal of the lands described below, from location and entry under the general mining laws only. The applicant desires the lands for use in connection with the Cienega Recreation Area Addition. The site is located within the Cibola National Forest.

On or before November 29, 1974, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Chief, Division of Technical Services, P.O. Box 1449, Santa Fe, New Mexico 87501.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate land needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The land involved in the application is:

NEW MEXICO PRINCIPAL MERIDIAN

CIBOLA NATIONAL FOREST

Cienega Recreation Area Addition

T. 11 N., R. 5 E.,
Sec. 14, NE¼NW¼SW¼, W½NE¼SW¼SW¼, SE¼NE¼SW¼SW¼, SE¼SW¼SW¼ and SW¼SE¼SW¼;
Sec. 23, lot 1 (approximately 10 acres not included in PLO 4757), N½NE¼NW¼ (less approximately 2 acres included in PLO 4757), E½SW¼NE¼NW¼, N½NE¼NW¼NW¼, SE¼NE¼NW¼, N½NE¼SE¼NW¼, N½SW¼NE¼ and N½SE¼NE¼ (less approximately 2 acres included in PLO 4757).

The area described above aggregates 128.50 acres, more or less, in Bernalillo County.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-25078 Filed 10-25-74;8:45 am]

National Park Service

[Order 7]

BLUE RIDGE PARKWAY, VIRGINIA AND NORTH CAROLINA, ASSISTANT SUPERINTENDENT, ET AL.

Delegation of Authority

SECTION 1. *Assistant Superintendent.* The Assistant Superintendent may execute, approve, and administer contracts not in excess of $100,000 for construction, supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds; and may execute and approve revocable special use permits having a term 10 years or less for use of Government-owned lands and facilities. This authority may be exercised the Assistant Superintendent in behalf of any office or area administered by Blue Ridge Parkway.

SEC. 2. *Administrative Officer.* The Administrative Officer may execute, approve, and administer contracts not in excess of $50,000 for construction, supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds; and may execute and approve revocable special use permits having a term 10 years or less for use of Government-owned lands and facilities. This authority may be exercised by the Administrative Officer in behalf of any office or area administered by Blue Ridge Parkway.

SEC. 3. *General Supply Officer.* The General Supply Officer may execute, approve and administer contracts not in excess of $25,000 for construction, supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised by the General Supply Officer in behalf of any office or area administered by Blue Ridge Parkway.

SEC. 4. *General Supply Specialist.* The General Supply Specialist may execute, approve and administer contracts not in excess of $2,000 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised by the General Supply Specialist in behalf of any office or area administered by Blue Ridge Parkway.

SEC. 5. *District Rangers, Maintenance Supervisors, GS-11, Maintenance Foremen, WS-10, Signmaker Foreman, and District Clerks.* The District Rangers, Maintenance Supervisors, Maintenance Foremen (not below WS-10), Signmaker Foreman, and District Clerks of the Blue Ridge Parkway may issue field purchase orders (SF-44) not in excess of $500 for supplies and equipment in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 6. *Revocation.* This order supersedes Order No. 6 dated September 9, 1972 (37 FR 18405).

(National Park Service Order No. 77 (38 FR 7478) as amended; Southeast Region Order No. 5 (37 FR 7721) as amended.)

Dated: July 8, 1974.

GRANVILLE B. LILES,
Superintendent, Blue Ridge Parkway.

[FR Doc.74-25027 Filed 10-25-74;8:45 am]

[Order 84, Amdt. 1]

DENVER SERVICE CENTER MANAGER

Delegation of Authority

Order No. 84, approved April 8, 1974, and published in the FEDERAL REGISTER of April 18, 1974 (39 FR 13904), set forth in section 2 the limitations on redelegations of authority.

Section 2 is hereby amended to read as follows:

SEC. 2. *Redelegation.* The Manager, Denver Service Center may, in writing, redelegate to his officers and employees the authority delegated in this order and may authorize written redelegations of such authority except that contract and procurement authority in excess of $50,000 may only be redelegated to the Chief, Contract Administration, Denver Service Center who may in turn redelegate such authority to his Divisional Chiefs.

(205 DM, as amended, 245 DM, as amended; sec. 2 of Reorganization Plan No. 3 of 1950)

Dated: October 21, 1974.

RONALD H. WALKER,
Director, National Park Service.

[FR Doc.74-25029 Filed 10-25-74;8:45 am]

[Order 77, Amdt. 3]

REGIONAL DIRECTORS

Delegation of Authority

Order No. 77, approved February 27, 1973, and published in the FEDERAL REGISTER of March 22, 1973 (38 FR 7478); Amendment No. 1, approved June 18, 1973, and published in the FEDERAL REGISTER of June 26, 1973 (38 FR 16789); and Amendment No. 2, approved January 29, 1974, and published in the FEDERAL REGISTER of February 5, 1974 (39 FR 4597), set forth in section 2 the limitations on redelegations of authority. Section 2, paragraph (2) is hereby amended to read as follows:

SEC. 2, Redelegation. * * * (2) In the regional offices, procurement and contracting authority may be redelegated without limitation to the Associate Regional Director, Administration, and the Chief, Division of Contracting and Prop-

erty Management, and not to exceed $100,000 to other contracting and property management personnel. Authority to contract for supplies, equipment, and services, including construction, may be redelegated by the Regional Directors to Superintendents as follows: Superintendents, Grade GS–12 and below, not to exceed $2,000; Superintendents, Grade GS–13, not to exceed $50,000; Superintendents, Grade GS–14, not to exceed $100,000; Superintendents, Grade GS–15, not to exceed $200,000. Authority to contract for supplies, equipment, and services, including construction, may be redelegated by the Regional Director, Pacific Northwest Region to the State Director, Alaska and by the Regional Director, Western Region, to the State Director, Hawaii, not to exceed $100,000 and to the Chief, Arizona Archeological Center, not to exceed $50,000. The limitations in this subsection (2) of Section 2 apply only to open market or nonmandatory sources of supply. Employees and officers who are otherwise authorized may continue to issue orders to GSA centers and sources under established Federal Supply Schedules of contracts in amounts exceeding $2,000.

(205 DM, as amended: 245 DM, as amended; sec. 2 of Reorganization Plan No. 3 of 1950.)

Dated: October 21, 1974.

RONALD H. WALKER,
Director, National Park Service.

[FR Doc.74–25028 Filed 10–25–74;8:45 am]

Office of the Secretary

INDUSTRY ADVISORY COMMITTEE TO THE DEFENSE ELECTRIC POWER ADMINISTRATION

Meeting

Notice is hereby given in accordance with Public Law 92X463 that a meeting of the Industry Advisory Committee to the Defense Electric Power Administration will be held between 9 a.m. and 12 Noon, on Tuesday, November 19, 1974, in Room 5160, U.S. Department of the Interior, 18th & C Streets, NW., Washington, D.C.

The Committee was established by the Secretary of the Interior to advise and assist the Secretary and the Administrator of the Defense Electric Power Administration in planning for continuing supplies of power during attack emergencies as well as major natural disasters and other peacetime catastrophes.

The members of the Committee are as follows:

Mr. Donald C. Lutken (Chairman), Jackson, Mississippi
Mr. Frank H. King (Vice-Chairman), Holyoke, Massachusetts
Mr. T. L. Austin, Jr., Dallas, Texas
Mr. John F. Bonner, San Francisco, California
Mr. Donald C. Cook, New York, New York
Mr. Robert A. Engels, Minneapolis, Minnesota
Mr. Donald P. Hodel, Portland, Oregon
Mr. John P. Madgett, LaCrosse, Wisconsin
Mr. Marshall McDonald, Miami, Florida
Mr. William G. Meese, Detroit, Michigan
Mr. Robert T. Person, Denver, Colorado
Mr. James D. Phillips, Colorado Springs, Colorado
Mr. W. Reid Thompson, Washington, D.C.
Mr. James E. Watson, Chattanooga, Tennessee
Mr. G. W. Penebaker (Co-Chairman), Washington, D.C.

The purpose of this meeting is to discuss the following items:

1. Project Independence and the Electric Power Industry
2. Financial Options to Utilities
3. Electric Power Plants as Potential Targets in a Controlled Conflict Situation.

This meeting will be open to the public, commencing at 9 a.m. through 12 p.m. Facilities and space are limited to accommodate 30 people at the meeting.

Further information concerning this meeting may be obtained from G. W. Penebaker, Acting Administrator of the Defense Electric Power Administration, at (202) 343–7521. Minutes of the meeting will be available for public inspection two weeks after the meeting at the Office of the Defense Electric Power Administration, U.S. Department of the Interior, Room 6545, 18th & C Streets, NW., Washington, D.C.

Dated: October 18, 1974.

C. K. MALLORY,
Deputy Assistant Secretary of the Interior.

[FR Doc.74–25049 Filed 10–25–74;8:45 am]

[INT DES 74–91]

PROPOSED MINNESOTA MEMORIAL HARDWOOD FOREST

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the proposed Minnesota Memorial Hardwood Forest Acquisition project and invites written comments within forty-five (45) days of this notice. Comments from interested members of the public should be addressed to the Regional Director, Lake Central Region, Bureau of Outdoor Recreation, 3853 Research Park Drive, Ann Arbor, Michigan 48104.

The environmental statement considers the acquisition of approximately 200,000 acres over a 30-year period to add to the Minnesota Memorial Hardwood Forest located 20 miles southeast of Minneapolis-St. Paul. The first 10-year phase of acquisition includes 70,000 acres. The land would be managed to provide for multi-use purposes and serve as a model for surrounding landowners. Intensive forest management would improve forest quality and wildlife habitat and create jobs. Development would be the minimum necessary to provide forest recreational opportunities and visitor access. Adverse effects of the action would be partial loss of tax base, relocation of families, minimal short-term erosion, and an expected increase in visitors and traffic. The project will serve regional and interstate recreational needs. Copies are available for inspection at the following locations:

Bureau of Outdoor Recreation, Lake Central Regional Office, 3853 Research Park Drive, Ann Arbor, Michigan 48104
Bureau of Outdoor Recreation, Division of State Programs, Department of the Interior, Washington, D.C. 20240
State Planning Agency, 802 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101
Department of Natural Resources, Bureau of Planning, 301 Centennial Building, St. Paul, Minnesota 55155

Copies may be obtained by writing the Environmental Law Institute, Suite 614, 1346 Connecticut Avenue, NW., Washington, D.C. 20036, or the Bureau of Outdoor Recreation, Lake Central Region, 3853 Research Park Drive, Ann Arbor, Michigan 48104. Please refer to the statement number above.

Dated: October 22, 1974.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.74–25081 Filed 10–25–74;8:45 am]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

LITTLE LUCKIAMUTE RIVER WATERSHED PROJECT, OREGON

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and section 650.7 (e) of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, Department of Agriculture has prepared a draft environmental statement (EIS) for the Little Luckiamute River Watershed Project, Polk County, Oregon, USDA–SCS–ES–WS–(ADM)–75–1–(D)–OR.

The EIS concerns a plan to reduce erosion and flooding; and to provide stored water for irrigation, recreation, fishery enhancement, and municipal-industrial purposes. The planned works of improvement will include conservation land treatment measures; a multiple purpose reservoir; a public water based recreational development at the reservoir; a diversion dam; a 7,354 foot diversion canal; and an irrigation water distribution system with 124,520 feet of pipeline, 18 pumps, and 104 metered outlets.

A limited supply of the draft EIS is available at the following location to fill single copy requests:

USDA, Soil Conservation Service, Washington Building, 1218 S.W. Washington Street, Portland, Oregon 97205

Copies of the draft EIS have been sent for comment to various federal, state, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited fom others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to James W. Mitchell, State Conservationist, Washington Building, 1218 Southwest Washington Street, Portland, Oregon 97205.

Comments must be received on or before December 17, 1974 in order to be considered in the preparation of the final environmental statement.

Dated: October 21, 1974.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services)

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.74-25047 Filed 10-25-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

MENTAL HEALTH SMALL GRANT COMMITTEE AND NATIONAL ADVISORY COUNCIL ON ALCOHOL ABUSE AND ALCOHOLISM

Notice of Meetings

The Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration announces the meeting dates and other required information for the following National Advisory bodies scheduled to assemble the month of November 1974:

Committee name	Date, time, place	Type of meeting and contact person
Mental Health Small Grant Committee.	November 14 to 16, 1 p.m., Congressional Board, Room (G100 and G101), The Sheraton-Park Hotel, Washington, D.C.	Open—Nov. 14, 4 to 5 p.m., Closed—Otherwise, contact Stephanie B. Stolz, (301) 443-4337, Parklawn Bldg., Room 10-C-14, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of small grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 4 p.m. to 5 p.m., November 14, the meeting will be open for discussion of administrative announcements and legislative developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4), Title 5 U.S. Code and section 10(d) of Public Law 92-463.

Committee name	Date, time, place	Type of meeting and contact person
National Advisory Council on Alcohol Abuse and Alcoholism.	November 18 to 19, 9:30 a.m., HEW-Parklawn Bldg., Conference Room G, 5600 Fishers Lane, Rockville, Md. 20852.	Open—November 18, Closed—November 19, contact Ms. Chris Hoban, (301) 443-4703, Parklawn Bldg., Room 16-86, Rockville, Md. 20852.

Purpose. Advises the Secretary, Department of Health, Education, and Welfare regarding policy direction and program issues of national significance in the areas of alcohol abuse and alcoholism. Reviews all grant applications submitted, evaluates these applications in terms of scientific merit and coherence with Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

Agenda. November 18 will be devoted to a discussion of (1) Institute priorities, (2) progress of the Area Alcohol Training Programs, (3) a report from the Liaison Representatives to the Council, (4) proposed matching rates for demonstration programs, (5) proposed conference on alcohol research, (6) progress report on Alaskan mini-grant program, (7) revision of due dates for receipt of grant applications, (8) current policy issues, (9) other developments relating to NIAAA. November 19, the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of sections 552(b)(4) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Public Law 92-463.

Agenda items are subject to change as priorities dictate.

Substantive information may be obtained from the contact persons listed above.

The Information Officers who will furnish summaries of the meetings and rosters of the Committee and Council members are located in the Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852. The NIMH Information Officer is Mr. Edwin Long, Deputy Director, Division of Scientific and Technical Information, National Institute of Mental Health, Room 15-105, telephone no. 443-3600. The NIAAA Information Officer is Mr. Harry C. Bell, Associate Director for Public Affairs, National Institute on Alcohol Abuse and Alcoholism, Room 6-C-15, telephone no. 443-3306.

Dated: October 22, 1974.

JAMES D. ISBISTER,
Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.74-25094 Filed 10-25-74;8:45 am]

Food and Drug Administration

NATIONAL ADVISORY FOOD COMMITTEE AND NATIONAL ADVISORY VETERINARY MEDICINE COMMITTEE

Notice of Joint Meeting

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 meeting 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. National Advisory Food Committee and National Advisory Veterinary Medicine Committee (joint meeting).	Nov. 14 and 15, 9:30 a.m., Conference Room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open—Robert A. Littleford, Ph. D., (HFS-40), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4463.

Purpose. National Advisory Food Committee: Advises the Commissioner of Food and Drugs on policy matters of national significance as they relate to assuring safety of foods, reviews and makes recommendations on application for grants-in-aid, and serves as a forum for the exchange of views and recommendations. National Advisory Veterinary Medicine Committee: Advises the Commissioner of Food and Drugs on policy matters of national significance as they relate to assuring safety and efficacy of drugs, medical feeds, and food additives used in veterinary medicine and animal production; truthful labeling and wholesomeness of animal foods; animal nutrition; and the safety of food from animals that have been treated with drugs or fed drugs or other additives.

Agenda. Recycling of animal wastes; dilution of over-tolerance products for animal feed, i.e., peanuts contaminated with aflatoxin or potatoes containing pesticides above established tolerances; zero tolerance—food additives; implementation of National Environmental Policy Act and effect of FDA's decisions; and FDA consumer and professional programs.

Agenda items are subject to change as priorities dictate.

Dated: October 21, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-24944 Filed 10-25-74;8:45 am]

National Institutes of Health

NATIONAL ADVISORY EYE COUNCIL

Amended Notice of Meeting

Notice is hereby given of a change in the meeting dates, time, and place of the

National Advisory Eye Council, National Eye Institute, which was published in the FEDERAL REGISTER on October 15, 1974 (39 FR 23879).

This Council was to have convened at 9 am on November 19, 1974, but has been changed to begin at 9 am on November 18, 1974, in conference room #9, Building 31C, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9 am to 4 pm on November 18, 1974, and from 9 am to 12 Noon on November 19, 1974, for reporting on items of general interest by the Institute Director, a summary of the 1974 budget year, a report on the status of the fiscal year 1975 budget, a discussion on the status of the training and fellowship program under the National Research Service Award Act of 1974, and a report from the Vision Research Program Planning Subcommittee for discussion and approval by the National Advisory Eye Council. There will also be a discussion on the feasibility of carrying out a cooperative clinical trial of the surgical technique of vitrectomy. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and section 10(d) of P.L. 92-463, the meeting will be closed to the public on November 19, 1974, from 1 p.m. to adjournment, for the review, discussion, and evaluation of individual grant applications. The applications contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications and proposals.

Dated: October 18, 1974.

R. W. LAMONT-HAVERS,
Deputy Director,
National Institutes of Health.

[FR Doc.74-25048 Filed 10-25-74;8:45 am]

NATIONAL CANCER INSTITUTE AD HOC ADVISORY GROUP ON VAGINAL CYTOLOGY

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Ad Hoc Advisory Group on Vaginal Cytology, National Cancer Institute, November 12 and 13, 1974, Building 31, Conference Room 7, National Institutes of Health.

This meeting will be open to the public on November 12, 1974 from 8:30 am to 9 am to discuss miscellaneous committee matters. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and section 10(d) of P.L. 92-463, the meeting will be closed to the public on November 12, 1974, from 9 am to 5 pm and November 13, 1974, from 8:30 am to adjournment, for the review, discussion and evaluation, of individual contract proposals. The proposals contain information of a proprietary or confidential nature, including detailed research protocols, designs and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish summaries of meetings and rosters of committee members.

Mr. Louis P. Greenberg, Executive Secretary, Building 31, Room 3A06, National Institutes of Health, Bethesda, Maryland 20014 (301/496-1591) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.825, National Institutes of Health)

Dated: October 24, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74-25171 Filed 10-24-74;12:56 pm]

Office of the Secretary

DEPUTY COMMISSIONER ET AL.

Modifications in Delegations of Authority

Modifications in delegations of authority under Title XVIII of the Social Security Act, as amended, which relate to providers and suppliers of services, and resolution of State appeals from audit questions or recommendations by the Department of Health, Education, and Welfare Audit Agency.

I. The Secretary of Health, Education, and Welfare has delegated to Regional Directors of the Department of Health, Education, and Welfare authority, under the provisions of section 1864(a) of the Social Security Act, as amended (the Act), to approve or disapprove certifications made by State agencies as to whether a health care institution is or is not a skilled nursing facility as defined in section 1861(j) of the Act (39 FR 20715, dated June 13, 1974). Inherent in this delegation is the authority to deem an extended care facility (skilled nursing facility) to have a transfer agreement in effect. A transfer agreement is a written agreement between a hospital and skilled nursing facility that assures that: (1) Transfer of patients will be effected betweeen the hospital and skilled nursing facility whenever such transfer is medically appropriate, as determined by the attending physician and (2) There will be an interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between the institutions, or in determining whether such individuals can be adequately cared for otherwise than in either of such institutions. Now that this authority has been withdrawn from the Commissioner of Social Security, it is also necessary to publish notice of rescission as to those redelegations of this authority by the Commissioner previously made to other Social Security Administration officials. Accordingly, notice is hereby given that all such redelegations by the Commissioner are rescinded.

II. The Secretary of Health, Education, and Welfare is authorized to approve agreements and modifications of such agreements filed by providers of services (section 1866(a) of the Act), and to determine that suppliers of services qualify to have their services reimbursed (sections 1861 (p) and (s) and 1864(a) of the Act). The Secretary has delegated this authority to the Commissioner of Social Security with respect to all types of providers of services except skilled nursing facilities (33 FR 5836-37, dated April 16, 1968 and 39 FR 20715, dated June 13, 1974). Such authority has also been delegated to the Commissioner with respect to suppliers of services. These authorities may be redelegated by the Commissioner.

Accordingly, notice is hereby given that the Commissioner has redelegated his authority under the foregoing delegations to other positions in the Social Security Administration, as follows:

A. Deputy Commissioner.

B. Assistant Commissioner, Field.

C. Director and Deputy Director, Bureau of Health Insurance.

D. Chief, Provider Certification Branch, Division of State Operations, Bureau of Health Insurance.

E. Regional Commissioners.

F. Regional Representatives and Deputy Regional Representatives, Bureau of Health Insurance.

G. All intervening positions in the direct line of supervision between the positions specified in items C. and D. above.

The following conditions shall apply with respect to the exercise of this authority:

1. The Commissioner reserves the authority to approve model agreements, as well as agreements and modifications that involve unusual situations or present significant policy implications.

2. The Department of Health, Education, and Welfare's Office of the General Counsel must find that there is no legal objection to the form or substance of each agreement or modification proposed under this authority.

3. Further redelegations are not authorized, except that upon receipt of formal concurrence from the Director of the Bureau of Health Insurance, the Bureau's Regional Representatives may redelegate their authority to other positions in the Bureau's Regional Offices, but not below the Program Officer level.

III. The Secretary of Health, Education, and Welfare is authorized to terminate a participation agreement with a provider of services (section 1866(b)(2)(B) of the Act), and to terminate the coverage of a supplier of services (sections 1861 (p) and (s) and 1864(a) of the Act), at such time and upon such reasonable notice to the provider or supplier of services and the public as may be specified in Social Security Regulations No. 5,

after the Secretary has determined that the provider or supplier of services no longer substantially meets the conditions of participation, or the conditions of coverage described in section 1861 of the Act. The Secretary has delegated this authority to the Commissioner of Social Security with respect to all types of providers of services except skilled nursing facilities (33 FR 5836–37, dated April 16, 1968 and 39 FR 20715, dated June 13, 1974). Such authority has also been delegated to the Commissioner with respect to suppliers of services. These authorities may be redelegated by the Commissioner.

Accordingly, notice is hereby given that the Commissioner has redelegated his authority under the foregoing delegations to other positions in the Social Security Administration, without authority to further redelegate, as follows:

A. Deputy Commissioner.

B. Assistant Commission, Field.

C. Director and Deputy Director, Bureau of Health Insurance.

D. Deputy Director (Program Operations) and Assistant Deputy Director (Program Operations), Bureau of Health Insurance.

E. Assistant Bureau Director, State Operations and Deputy Assistant Bureau Director, State Operations, Bureau of Health Insurance.

F. Regional Commissioners.

G. Regional Representatives and Deputy Regional Representatives, Bureau of Health Insurance.

IV. Section 1861(k)(2)(B)(ii) of the Act provides that the Secretary of Health, Education, and Welfare may approve the establishment of extra-institutional utilization review groups for hospitals or skilled nursing facilities. The Secretary has delegated such authority as it pertains to hospitals to the Commissioner of Social Security (33 FR 5836–37, dated April 16, 1968, and 39 FR 20715, dated June 13, 1974). This authority may be redelegated by the Commissioner.

Notice is hereby given that the Commissioner has redelegated such authority to other positions in the Social Security Administration, as follows:

A. Deputy Commissioner.

B. Assistant Commissioner, Field.

C. Director and Deputy Director, Bureau of Health Insurance.

D. Deputy Director (Program Operations) and Assistant Deputy Director (Program Operations), Bureau of Health Insurance.

E. Assistant Bureau Director, State Operations and Deputy Assistant Bureau Director, State Operations, Bureau of Health Insurance.

F. Regional Commissioners.

G. Regional Representatives and Deputy Regional Representatives, Bureau of Health Insurance.

The following condition shall apply with respect to the execrise of this authority: Further redelegations are not authorized, except that upon receipt of formal concurrence from the Director of of the Bureau of Health Insurance, the Bureau's Regional Representatives may redelegate their authority to other positions in the Bureau's Regional Offices, but not below the Program Officer level.

V. Section 1864(a) of the Act authorizes the Secretary of Health, Education, and Welfare to determine whether an institution is a hospital or skilled nursing facility; whether an agency is a home health agency; whether a laboratory meets the requirements of paragraphs (10) and (11) of section 1861(s) of the Act; and whether a clinic, rehabilitation agency or public health agency meets the requirements of subparagraph (A) or (B), as appropriate, of section 1861(p)(4) of the Act. The Secretary has delegated this authority to the Commissioner of Social Security with respect to all providers of services except skilled nursing facilities (33 FR 5836–37, dated April 16, 1968, and 39 FR 20715, dated June 13, 1974). Such authority has also been delegated to the Commissioner with respect to suppliers of services. This authority may be redelegated by the Commissioner.

Notice is hereby given that the Commissioner has redelegated such authority to other positions in the Social Security Administration, without authority to further redelegate, as follows:

A. Deputy Commissioner.

B. Assistant Commissioner, Field.

C. Director and Deputy Director, Bureau of Health Insurance.

D. Chief, Provider Certification Branch, Division of State Operations, Bureau of Health Insurance.

E. Regional Commissioners.

F. Regional Representatives and Deputy Regional Representatives, Bureau of Health Insurance.

G. Program Officers (States) in Regional Offices of the Bureau of Health Insurance.

H. All intervening positions in the direct line of supervision between the positions specified in items C. and D. above.

VI. Section 299D of Public Law 92–603 amended subsection (a) of section 1864 of the Act by adding a new sentence at the end of the subsection. This sentence authorizes the Secretary of Health, Education, and Welfare to disclose state agency survey reports to the public. These reports deal with compliance by providers and suppliers of services with the conditions of their participation in the Medicare program established by the provisions of title XVIII of the Act. The Secretary has delegated this authority to the Commissioner of Social Security with respect to all providers of services except skilled nursing facilities (33 FR 5836–37, dated April 16, 1968, and 39 FR 20715, dated June 13, 1974). Such authority has also been delegated to the Commissioner with respect to suppliers of services. This authority may be redelegated by the Commissioner.

Notice is hereby given that the Commissioner has redelegated such authority to other positions in the Social Security Administration, without authority to further redelegate, as follows:

A. Deputy Commissioner.

B. Assistant Commissioner, Field.

C. Director and Deputy Director, Bureau of Health Insurance.

D. Deputy Director (Program Operations) and Assistant Deputy Director (Program Operations), Bureau of Health Insurance.

E. Assistant Bureau Director, State Operations and Deputy Assistant Bureau Director, State Operations, Bureau of Health Insurance.

F. Regional Commissioners.

G. Regional Representatives and Deputy Regional Representatives, Bureau of Health Insurance.

This redelegation includes authority to:

1. Assure that references to internal tolerance rules and practices are excluded from such reports or deficiency statements;

2. Determine that such reports or deficiency statements have not identified individual patients, physicians, other practitioners, or individuals;

3. Determine that providers of services involved in such reports or deficiency statements have been afforded a reasonable opportunity to offer comments; and

4. Make final and official reports or deficiency statements available to the public in readily accessible form and place, along with any pertinent written statements.

VII. Section 1861(e)(5) of the Act authorizes the Secretary of Health, Education, and Welfare to waive, for any one-year period, the statutory requirement that a hospital provide 24-hour nursing service rendered or supervised by a registered professional nurse, provided that the institution meets certain specified conditions. The Secretary has delegated this authority to the Commissioner of Social Security, with authority to redelegate (Subsection a. of section D–1, and sections E and F of Part 4—Social Security Administration—in the "Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare").

Notice is hereby given that the Commissioner has redelegated such authority to other positions in the Social Security Administration, without authority to further redelegate, as follows:

A. Deputy Commissioner.

B. Assistant Commissioner, Field.

C. Director and Deputy Director, Bureau of Health Insurance.

D. Chief, Provider Certification Branch, Division of State Operations, Bureau of Health Insurance.

E. Regional Commissioners.

F. Regional Representatives and Deputy Regional Representatives, Bureau of Health Insurance.

G. Program Officers (States) in Regional Offices of the Bureau of Health Insurance.

H. All intervening positions in the direct line of supervision between the positions specified in items C. and D. above.

VIII. Section 1864(a) of the Act provides that the Secretary of Health, Education, and Welfare shall make an agreement with any State which is able and willing to do so, under which the services of the State Health Agency or

other appropriate State agency will be utilized for the purpose of determining whether an institution therein is a hospital or skilled nursing facility; whether an agency therein is a home health agency; whether a laboratory meets the requirements of paragraphs (10) and (11) of section 1861(s) of the Act; and whether a clinic, rehabilitation agency, or public health agency meets the requirements of subparagraph (A) or (B), as appropriate, of section 1861(p)(4) of the Act. Section 1864(b) of the Act provides that the Secretary shall pay any such State, in advance or by way of reimbursement (as provided by agreement), for the reasonable cost of performing the functions specified in subsection (a) of section 1864. As a result, the Secretary has the authority to make final determinations on state appeals from audit questions and recommendations by the Department of Health, Education, and Welfare Audit Agency. The Secretary has delegated this authority to the Commissioner of Social Security, with authority to redelegate (Subsection a. of section D–1, and sections E and F of Part 4—Social Security Administration—in the "Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare").

Notice is hereby given that the Commissioner has redelegated such authority to other positions in the Social Security Administration, as follows:

A. Deputy Commissioner.

B. Assistant Commissioner for Administration.

C. Director and Deputy Director, Bureau of Health Insurance.

D. Deputy Director (Program Operations) and Assistant Deputy Director (Program Operations), Bureau of Health Insurance.

E. Assistant Bureau Director, State Operations and Deputy Assistant Bureau Director, State Operations, Bureau of Health Insurance.

F. Regional Commissioners.

G. Regional Representatives and Deputy Regional Representatives, Bureau of Health Insurance.

The following conditions shall apply with respect to the exercise of this authority:

1. The Commissioner reserves authority to make final determinations on cases involving precedential situations or having significant policy implications.

2. This authority may not be further redelegated.

These redelegations are effective October 29, 1974.

Dated: October 18, 1974.

C. B. CARDWELL,
Commissioner of Social Security.

[FR Doc.74–25095 Filed 10–25–74;8:45 am]

HEARING AID HEALTH CARE

Availability of Task Force Reports

In March 1974, the Secretary of the Department of Health, Education, and Welfare established an Intradepartmental Task Force on Hearing Aids to examine the issues involved in the manufacture, sale, and use of hearing aids, determine an appropriate Departmental role, and recommend a feasible course of action. In September 1974, the Task Force prepared a Report on Hearing Aid Health Care. The Report was circulated within the Department for comments, and a Supplementary Report on Hearing Aid Health Care was prepared by the Task Force in October 1974.

The Report and Supplementary Report have now been submitted to the Secretary for his review and action. In view of the importance of the issues involved, the Secretary has concluded that no action should be taken until the public has had an opportunity to comment on these Reports.

Copies of the Report and Supplementary Report are available upon request from the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852. Background information relevant to these Reports also has been placed on public display for review in the office of the Hearing Clerk.

Interested persons may, on or before December 30, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding these documents. 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.

After receipt of all written comments, they will be transmitted to the Secretary with any additional conclusions and recommendations of the Intradepartmental Task Force, and the Secretary will then consider appropriate action.

Dated: October 23, 1974.

FRANK CARLUCCI,
Acting Secretary.

[FR Doc.74–25167 Filed 10–25–74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIR TRAFFIC CONTROL TOWER, TRAVERSE CITY, MICH.

Notice of Commissioning

Notice is hereby given that on November 6, 1974 the Airport Traffic Control Tower at Cherry Capital Airport, Traverse City, Michigan will be commissioned as an FAA facility. This information will be reflected in the FAA organization statement the next time it is issued. Communications to the tower should be as follows:

Federal Aviation Administration
Airport Traffic Control Tower
General Aviation Terminal
Cherry Capital Airport
Traverse City, Michigan 49684

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Des Plaines, Illinois on October 17, 1974.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc.74–25038 Filed 10–25–74;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS—PROCEDURES SUBCOMMITTEE

Notice of Meeting

OCTOBER 22, 1974.

In accordance with the purposes of section 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Procedures Subcommitee will hold a closed meeting at 3 p.m. on November 13, 1974, in Washington, D.C. to discuss ACRS policy and internal practices with regard to the functioning of the Committee and the conduct of its activities.

I have determined, in accordance with subsection 10(d) of Public Law 92–463 that the meeting will consist of exchanges of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). Any factual material that may be presented during the meeting will be inextricably intertwined with such exempt material, and no separation of this material is considered practical. It is essential to close this meeting to protect the free interchange of internal views and to avoid undue interference with Subcommittee and agency operation.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74–25083 Filed 10–25–74;8:45 am]

[Dockets Nos. 50–450, 50–451]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON SUMMIT POWER STATION

Meeting

OCTOBER 21, 1974.

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards' Subcommittee on the Summit Power Station will hold a meeting on November 13, 1974 in Room 1146 at 1717 H Street, NW, Washington, D.C.

The purpose of this meeting will be to develop information for consideration by the ACRS in its review of the application by the Delmarva Power and Light Company for a permit to construct the Summit Power Station, Units 1 and 2.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

Wednesday, November 13, 1974, 9 a.m. until the conclusion of business. The Subcommittee will hear presentations by representatives of the Regulatory Staff and the Delmarva Power and Light Company and will hold discussions with these groups pertinent to its review of matters related to the application

for a construction permit for the Summit Power Station, Units 1 and 2.

In connection with the above agenda items, the Subcommittee will hold Executive Sessions, not open to the public, at approximately 8:30 a.m. and at the end of the day to consider matters related to the above review. These sessions will involve an exchange of opinions and discussion of preliminary views and recommendations of Subcommittee Members and internal deliberations for the purpose of formulating recommendations to the ACRS.

In addition to the Executive Sessions, the Subcommittee may hold one or more closed sessions with representatives of the Regulatory Staff and Applicant for the purpose of discussing privileged information relating to the matters under review, if necessary.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that the above-noted Executive sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and that closed sessions may be held, if necessary, to discuss certain documents and information which are privileged and fall within exemption (4) of 5 U.S.C. 552(b). Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views, to avoid undue interference with agency or Subcommittee operation and to avoid public disclosure of proprietary information.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than November 6, 1974, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20545 and at the Newark Free Library, Elkton and Delaware Roads, Newark, Delaware 19711.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 2 p.m. and 4 p.m. on November 13, 1974.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on November 11, 1974 to the Office of the Executive Secretary of the Committee (telephone 301-973-5651) between 8:30 a.m. and 5:15 p.m., Eastern Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information is to be discussed may do so by providing to the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street, NW., Washington, D.C. 20545, 7 days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portion of the meeting will be available for inspection on or after November 15, 1974 at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545 and within approximately nine days at the Newark Free Library, Elkton and Delaware Roads, Newark, Delaware 19711. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street, NE., Washington, D.C. 20002 (telephone 202-547-6222) upon payment of appropriate charges.

(j) On request, copies of the Minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545 after February 17, 1975. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-24910 Filed 10-25-74;8:45 am]

[Dockets Nos. STN 50-528 through 50-530]

ARIZONA PUBLIC SERVICE CO. ET AL.

Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicants' Environmental Report; Time for Submission of Views on Antitrust Matters

Arizona Public Service Company on behalf of itself and five joint applicants—the Salt River Project Agricultural Improvement and Power District, Tucson Gas & Electric Company, El Paso Electric Company, Public Service Company of New Mexico, and Arizona Electric Power Cooperative, Inc., (the applicants), pursuant to section 103 of the Atomic Energy Act of 1954, as amended, have filed an application, which was docketed on October 7, 1974, for authorization to construct and operate three generating units utilizing three pressurized water nuclear reactors. The application was tendered on July 11, 1974. Following a preliminary review for completeness, the Environmental Report, the general and financial, and antitrust information were found to be acceptable for docketing. However, the Preliminary Safety Analysis Report was rejected on August 29, 1974, for lack of sufficient information. The applicant submitted additional information on September 30, 1974, and the Preliminary Safety Analysis Report was found to be acceptable for docketing. Docket Nos. STN 50-528, STN 50-529, and STN 50-530, have been assigned to the application, and they should be referenced in any correspondence relating to the application.

The proposed nuclear facility, designated by the applicants as the Palo Verde Nuclear Generating Station, Units 1, 2, and 3, is located in Maricopa County, Arizona, about 15 miles west of Buckeye and 36 miles west of Phoenix. Each of the units is designed for initial operation at 3,800 megawatts (thermal), with a net electrical output of 1,307 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 December 23, 1974. The request should be filed in connection with Docket Nos. STN 50-528-A, STN 50-529-A, and STN 50-530-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20545, and at the Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004.

The applicants have also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, an environmental report dated October 2, 1974. The report, which discusses environmental considerations related to the

construction and operation of the proposed facilities, is being made available for public inspection at the aforementioned locations and at the Department of Economic Planning and Development, State of Arizona, Phoenix, Arizona 85007, and at the Maricopa Association of Governments, 300 N. Central Avenue, Phoenix, Arizona 85012.

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 8th day of October 1974.

For the Atomic Energy Commission.

RALPH A. BIRKEL,
Acting Chief, Light Water Reactor Project Branch 1-3, Directorate of Licensing.

[FR Doc. 74-24442 Filed 10-21-74; 8:45 am]

[Dockets Nos. 50-440, 50-441]

CLEVELAND ELECTRIC ILLUMINATING CO.

Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) of the Atomic Energy Commission's (Commission) regulations, the Commission has authorized the Cleveland Electric Illuminating Company to conduct certain site activities in connection with the Perry Nuclear Power Plant, Units 1 and 2, prior to a decision regarding the issuance of a construction permit.

The activities that are authorized are within the scope of those authorized by 10 CFR 50.10(e)(1). Pursuant to the decision of the Atomic Safety and Licensing Board, no barge slip construction activities that would affect the shoreline may be undertaken until the staff completes its review of the probable maximum surge at the site and the effects of the proposed barge slip on the natural erosion rate of the shoreline. The authorized activities include the following:

1. Preparation of the site for construction of the facility (including such activities as clearing, grading, construction of temporary access roads and borrow areas) such as:

a. Site Survey and Layout—establishing permanent plant monuments and baselines.

b. Clearing, grubbing, and demolition.

c. Preliminary grading of the plant site.

d. Diversion of the minor stream east of the plant.

i. Reconstruction of 850 linear feet of Lockwood Road with a drainage culvert.

e. Relocation of the major stream.

f. Grading for Barge unloading facility.

i. Including construction of the crushed stone reactor haul road.

g. Site Service Roads.

2. Installation of temporary construction support facilities (including such items as warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and construction support buildings) such as:

a. Construction Office and Warehouse Building.

i. Foundations and slab on grade.

ii. Complete steel superstructure and concrete floors.

b. Guard House.

c. Concrete Batch Plant.

d. Construction Power Substation.

e. Construction Power Distribution System.

f. Construction Parking Lots.

g. Contoured Berms Along Parmly Road.

3. Excavation for facility structures.

4. Construction of service facilities (including such facilities as roadways, paving, railroad spurs, fencing, exterior utility and lighting systems, transmission lines, and sanitary sewerage treatment facilities such as:

a. Industrial Waste Lagoon Facility (2 lagoons—unlined):

i. Foundations.

ii. Concrete superstructure (retaining walls, etc.).

iii. Pumphouse structures complete.

iv. Underdrain filter system.

v. Earth dikes.

b. Sanitary Sewerage Facility including the Tertiary Treatment Building:

i. Foundations including sheet piling as required.

ii. Concrete retaining walls as required.

iii. Pipe anchor blocks.

iv. Building superstructures complete with equipment supports and/or foundations.

c. Railroad Spur Lines—approximately 3½ miles long, entering the plant site from the southwest.

d. Onsite Railroad Sidings.

e. Onsite Railroad Bridge—over the relocated major stream.

f. Primary Access Road:

i. Bituminous Concrete.

ii. Includes large corrugated metal drainage culvert.

g. Sediment Control Dams:

i. In each of three construction drainage areas on site.

ii. Dumped riprap protection and a spillway with a metal skimming baffle.

h. Yard Piping:

i. Plant storm drainage system—including catch basins and headwalls.

ii. Fire system.

i. Site and Access Road Lighting System.

j. Perimeter Grounding System.

k. Chemical Cleaning Waste Lagoon—lined.

l. Oil Interceptor Structures.

m. Construction Fencing.

The authorization is subject to the following conditions for the protection of the environment:

a. For the major stream sediment control dam (Site No. 1) an energy dissipater will be installed below the spillway outlet. This energy dissipater will consist of a riprap lined stilling basin. The bottom of the stilling basin will extend the full width of the spillway. A riprapped apron will be constructed on three sides of the basin. For the minor stream diversion sediment control dam (Site No. 3) and the northwest storm drainage sediment control dam (Site No. 2), a riprapped spillway and metal baffle will be installed. Gravel filter blankets will be provided under all riprap slope protection at these three sediment control dams.

b. Applicant shall take all necessary actions, including those summarized in section 4.5 of the Final Environmental Statement, to avoid unnecessary adverse environmental impacts during construction of the station and associated transmission lines.

c. Before engaging in a construction activity that may result in a significant adverse environmental impact that was not evaluated or that is significantly greater than evaluated in the Final Environmental Statement, Applicant shall provide written notification to the Director of Licensing.

d. If unexpected harmful effects or evidence of irreversible damage are detected during facility construction, Applicant shall provide to the Staff an acceptable analysis of the problem and a plan of action to eliminate or significantly reduce the harmful effects or damage.

In addition to the above conditions, pursuant to the Board's Supplemental Partial Initial Decision, the following conditions are imposed if the appropriate mineral rights are not obtained, whereby applicants are required to:

a. Submit the final design of an alternate emergency service water system prior to filing of the FSAR and following issuance of construction permits. The system will be substantively identical to a system proposed, and approved by AEC, for another nuclear facility and would be composed of two, 200 percent capacity safety-class mechanical draft cooling towers. The system is described in Applicants' Exhibit 14.

b. Commence construction of the alternate emergency service water system in the event that construction is commenced of a facility for mining salt within 1800 feet of the intake or discharge tunnels or the emergency service water pumphouse.

c. Shut down PNPP until the alternate emergency service water system is operational in the event that actual extrac-

tion of salt reaches 1800 feet of the intake or discharge tunnels or the emergency service water pumphouse.

d. Install a monitoring system capable of detecting subsidence, in a manner—and having a detection sensitivity—satisfactory to the Staff.

e. Additionally and independent of said mineral rights, the Applicants will (i) discontinue use of the presently proposed PNPP site if the appropriate portions of Center and Lockwood Roads are not acquired and (ii) install a public address system to warn people on the lake within the exclusion area in the event that such a warning were necessary.

Any activities undertaken pursuant to this authorization are entirely at the risk of the Cleveland Electric Illuminating Company and the grant of the authorization has no bearing on the issuance of construction permits with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders promulgated pursuant thereto.

A Partial Initial Decision on matters relating to the National Environmental Policy Act (NEPA) and site suitability was issued by the Atomic Safety and Licensing Board (Board) in the above captioned proceeding on September 18, 1974. In this decision the Board made all the findings required by 10 CFR Parts 50 and 51 for issuance of the construction permits with respect to NEPA matters, but owing to three deficiencies, it found it could not make a favorable determination with respect to the suitability of the Perry Nuclear Power Plant site. In a supplemental Partial Initial Decision dated October 20, 1974, the Board found favorably on site suitability. A copy of (1) the Partial Initial Decisions; (2) the applicant's Preliminary Safety Analysis Report and amendments thereto; (3) the applicant's Environmental Report, and amendments thereto; (4) the staff's Final Environmental Statement dated April 1974; and (5) the Commission's letter of authorization, dated October are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and the Perry Public Library, 3753 Main Street, Perry Township, Ohio 44081.

Dated at Bethesda, Maryland the 21st day of October 1974.

For the Atomic Energy Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch 4, Directorate of Licensing.

[FR Doc.74-25041 Filed 10-25-74;8:45 am]

[Docket No. 50-318]

BALTIMORE GAS AND ELECTRIC CO.

Order Extending Construction Completion Date

Baltimore Gas and Electric Company is the holder of Provisional Construction Permit No. CPPR-64 issued by the Commission on July 7, 1969, for construction of the Calvert Cliffs Nuclear Power Plant, Unit 2, a 2440 megawatt (thermal) pressurized water nuclear reactor presently under construction at the Company's site on the western shore of the Chesapeake Bay in Calvert County, Maryland, about ten miles southeast of Prince Frederick, Maryland.

On August 2, 1974, the Company filed a request for an extension of the completion date because its current and forecasted future loads are lower than had been previously predicted and Calvert Cliffs Unit 2 will not be required to be on line as soon as the current schedule dictates. Moreover, a delay of about one year in completion of Unit 2 will reduce its cash flow by reducing the total labor force and eliminating premium time wages which would be necessary to maintain the present schedule, and thus the reduced cash flow will minimize the requirements for external financing and materially aid in maintaining a strong financial situation. The Director of Regulation having determined that this action involves no significant hazards consideration, and good cause having been shown, for the delay; and the requested extension is for a reasonable period, the bases for which are set forth in a staff evaluation dated October 11, 1974.

It is hereby ordered, That the latest completion date for CPPR-64 is extended from November 1, 1975 to September 1, 1977, with the earliest completion date being September 1, 1976.

Date of Issuance: October 22, 1974.

For the Atomic Energy Commission.

D. B. VASSALLO,
Acting Assistant Director for Light Water Reactors Group, Directorate of Licensing.

[FR Doc.74-25042 Filed 10-25-74;8:45 am]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK AND NIAGARA MOHAWK POWER CORP.

Issuance of Facility Operating License

Notice is hereby given that pursuant to the Initial Decision and Supplemental Initial Decision of the Atomic Safety and Licensing Board, dated November 12, 1973 and January 10, 1974, respectively, and the Decision of the Atomic Safety and Licensing Appeal Board, dated January 29, 1974, the Atomic Energy Commission (the Commission) has issued Facility Operating License No. DPR-59 to the Power Authority of the State of New York (PASNY) and Niagara Mohawk Power Corporation, which authorizes PASNY to own and Niagara Mohawk to maintain and operate the James A. FitzPatrick Nuclear Power Plant at steady state reactor core power levels not in excess of 2436 megawatts thermal, in accordance with the provisions of the license and the Technical Specifications. The James A. FitzPatrick Nuclear Power Plant is a boiling water nuclear reactor located in Scriba, Oswego County, New York.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license. The application for the license complies with the standards and requirements of the Act and the Commission's rules and regulations.

The license is effective as of its date of issuance and shall expire on May 20, 2010.

A copy of (1) the Atomic Safety and Licensing Board's Initial Decision and Supplemental Initial Decision dated November 12, 1973 and January 10, 1974, respectively, and the Atomic Safety and Licensing Appeal Board's Decision dated January 29, 1974; (2) Facility Operating License No. DPR-59, complete with Technical Specifications (Appendices "A" and "B"); (3) the report of the Advisory Committee on Reactor Safeguards, dated December 15, 1972; (4) the Directorate of Licensing's Safety Evaluation dated November 20, 1972, including Supplement Nos. 1 and 2 thereto; (5) the Final Safety Analysis Report and amendments thereto; (6) the licensees' Environmental Report dated May 22, 1971 and supplements thereto; (7) the Draft Environmental Statement dated November 1972; and (8) the Final Environmental Statement dated March 1973, are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and the Oswego City Library, 120 East Second Street, Oswego, New York 13126. A copy of the license and the Safety Evaluation may be obtained upon request addressed to the United States Atomic Energy Commission, Regulation, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 17th day of October 1974.

For The Atomic Energy Commission.

SPOTTSWOOD B. BURWELL,
Acting Chief, Light Water Reactors Project Branch 2-1, Directorate of Licensing.

[FR Doc.74-25085 Filed 10-25-74;8:45 am]

[Construction Permits Nos. CPPR-77, CPPR-78]

VIRGINIA ELECTRIC AND POWER CO.

Notice of Oral Argument

In the matter of Virginia Electric and Power Company (North Anna Power Station, Units 1 and 2), Construction Permit Nos. CPPR-77, CPPR-78.

Notice is hereby given that, in accordance with the Atomic Safety and Licensing Appeal Board's Order of October 21, 1974, oral argument on the exceptions to the initial decision of June 27, 1974, in this show cause proceeding has been scheduled for 10:00 A.M. on Friday, November 8, 1974, in the Appeal Panel hearing room, fifth floor, East West

Towers Building, 4350 East-West Highway, Bethesda, Maryland.

For the Atomic Safety and Licensing Appeal Board.

ROMAYNE M. SKRUTSKI,
Secretary to the Appeal Board.

OCTOBER 22, 1974.

[FR Doc.74-25084 Filed 10-25-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 284-4; OPP-32000/132]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before November 29, 1974, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until after November 29, 1974. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received on or before November 29, 1974, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after November 29, 1974.

APPLICATIONS RECEIVED

EPA File Symbol 34696-R. Aqualar, PO Box 3780, Oak Park MI 48237. KS-9 AQUALAR ALGAECIDE. Active Ingredients: Copper as elemental 7%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 18702-R. Cascade Seed Co., 121 E. DeSmet St., Spokane WA 99220. 6-10-4 VELVAGREEN WEED & FEED. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid 0.48%; Silvex (2-(2,4,5-Trichlorophenoxy) Propionic Acid 0.16%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9404-PL. Chase & Co., PO Box 1697, Sanford FL 32771. SUNNILAND COPPER-CIDE LIQUID FUNGICIDE. Active Ingredients: Active Copper Salts of Fatty & Rosin Acids 48.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 21340-A. Chemlab Products, Inc., 4925 Airport Hwy., Birmingham AL 35212. CHEM-GUARD GERMICIDAL-CLEANER LEMON ODOR 7. Active Ingredients: Alkyl (C14 58%, C16 28% C12 14%) dimethyl benzyl ammonium chloride 2.00%; Isopropanol 1.00%; Essential oils 0.25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 21340-E. Chemlab Products, Inc. CHEM-GUARD GERMICIDAL-CLEANER MINT ODOR 7. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 2.0%; Isopropanol 2.0%; Methyl salicylate 0.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 21340-U. Chemlab Products, Inc. CHEM-GUARD GERMICIDAL-CLEANER PINE ODOR-13. Active Ingredients: Isopropanol 9.50%, Pine oil 7.90%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 3.95%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9143-LU. Chemscope Corp., 1909 Hi-Line Dr., PO Box 10752, Dallas TX 75207. CHEMSCOPE AIRCRAFT INSECTICIDE RESMETHRIN. Active Ingredients: (5-Benzyl-3 furyl) methyl 2, 2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 2.00%. Method of Support. Application proceeds under 2(b) of interim policy.

EPA File Symbol 1560-RN. Century Chemical Products Co., Inc., 3380 W. Eleven Mile Rd., Berkley MI 48072. CENTURY # 3024 MINT DISINFECTANT-CLEANER. Active Ingredients: Alkyl (C14 58%, C16 28% C12 14%) dimethyl benzyl ammonium chloride 2.0%; Isopropanol 2.0% Methyl salicylate 0.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34751-G. Encee Chemical Sales, PO Box 39, New Bern, NC 28560. ENCEE TOWER ALGAECIDE. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA Reg. No. 8901-9. Kocide Chemical Corp., PO Box 45539, Houston, TX 77045. K-LOX ALGAECIDE. Active Ingredients: Copper as elemental 8.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 1021-RGEO. McLaughlin Gormley King Co., 8810 Tenth Ave. N., Minneapolis MN 55427. D-TRANS INTERMEDIATE 2045. Active Ingredients: d-trans Allethrin (allyl homolog of Cinerin I) 5.00%; Piperonyl butoxide, technical 25.00; N-octyl bicycloheptene dicarboximide 25.00%; Petroleum distillate 45.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1021-RGGN. McLaughlin Gormley King Co., 8810 Tenth Ave. N., Minneapolis MN 55427. D-TRANS INTERMEDIATE 2044. Active Ingredients: d-trans Allethrin (allyl homolog of Cinerin I) 12.50%; Piperonyl butoxide, technical 12.50%; N-octyl bicycloheptene dicarboximide 62.50%; Petroleum distillate 12.50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2831-UN. Napasco International, PO Box 1219, Thibodaux LA 70301. NAPASCO LEMON ODOR-22 DETERGENT-DISINFECTANT-SANITIZER - DEODORANT - PATHOGENIC FUNGICIDE. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 2.50%; Essential oils 0.25%; Ethylene diamine tetraacetic acid, tetrasodium salt 0.19%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2831-UR. Napasco International, PO Box 1219, Thibodaux LA 70301. NAPASCO LEMON ODOR-44 DETERGENT-DISINFECTANT - SANITIZER - DEODORANT-PATHOGENIC FUNGICIDE. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 5.00%; Essential oils 0.50%; Ethylenediamine tetraacetic acid, tetrasodium salt 0.38%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34697-R. National Sanitation Services, Ltd., 465 First Ave. N., Saskatoon, Canada S7K1X5. TRU-SAN AUTOMATIC TOILET SANITIZER. Active Ingredients: 1.3 dichloro 5.5 Dimethyl hydantoin 100%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 8503-I. Products Chemical Co., 3645 E. 87th St., Cleveland OH 44104. PINE SCENT DEODORANT-DISINFECTANT. Active Ingredients: Isopropanol 9.50%; Pine oil 7.90%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 3.95%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 8450-RN. A. E. Staley Mfg. Co., 2200 E. Eldorado St., Decatur IL 62525. SUPER STRENGTH FORMULA SNO BOL LIQUID DISINFECTING TOILET BOWL CLEANER. Active Ingredients: Hydrogen Chloride 15.00%; Essential oils 9.2%; methyldodecylbenzyl trimethyl ammonium chloride 0.08%; methyldodecylxylylene bis (trimethyl ammonium chloride) 0.02%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 33404-U. Stat Enterprises Inc., 1865 New Highway, Farmingdale NY 11735. SAHARA GRANULAR WEED KILLER. Active Ingredients: Bromacil (5-Bromo-3-sec-butyl - 6 - methyluracil) 4.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 476-ERAA. Stauffer Chemical Co., 1200 S. 47th St., Richmond CA 94804. STAUFFER BETASAN 46% MANUFACTURING CONCENTRATE SELECTIVE HERBICIDE. Active Ingredients: S-(0,0-Diisopropyl Phosphorodithioate) of N-(2-Mercaptoethyl) Benzenesulfonamide 46%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 476-ERAE. Stauffer Chemical Co. STAUFFER TRITHION TECHNICAL ORGANOPHOSPHORUS INSECTICIDE. Active Ingredients: Carbophenothion: S-

[(P-Chlorophenylthio) Methyl] - 0,0 - Diethyl Phosphorodithioate 90%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 476-ERAG. Stauffer Chemical Co. STAUFFER ASPON 25-G INSECTICIDE. Active Ingredients: 0,0,0,0-Tetrapropyl Dithiopyrophosphate 25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 476-ERAT. Stauffer Chemical Co. STAUFFER IMIDAN 1-E INSECTICIDE AN EMULSIFIABLE CONCENTRATE. Active Ingredients: N-(Mercaptomethyl) Phthalimide S-(O,O-Dimethyl Phosphorodithioate) 11.7%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9157-EL. Sun Pool Chemicals, Div. of Sun Cleanser Co., PO Box 2188, Livonia MI 48151. SUN SWIMMING POOL ALGAECIDE SOLAR. Active Ingredients: Alkyl (C14 60%, C12 25%, C16 15%) dimethyl benzyl ammonium chloride 5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34912-E. Western Eaton Solvents & Chemicals Co., 13395 Huron River Dr., Romulus MI 48174. HERCULES YARMOR 302W PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34912-G. Western Eaton Solvents & Chemicals Co., 13395 Huron River Dr., Romulus MI 48174. HERCULES HERCO PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 6837-UT. Wilmar, Inc., PO Box 3111, Charlotte NC 28203. LEMON CDD CLEANER-DEODORIZER-DISINFECTANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 2.00%; Isopropanol 1.00%; Essential oils 0.25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2866-E. Wisconsin Solvents & Chemicals Co., 1719 S. 83rd St., Milwaukee WI 53214. HERCULES YARMOR 302 PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 2866-U. Wisconsin Solvents & Chemicals Co., 1729 S. 83rd St., Milwaukee WI 53214. HERCULES YARMOR 302W PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

REPUBLISHED ITEMS

The following items represent a change and/or correction in the list of Applications Received previously published in the FEDERAL REGISTER of October 9, 1974 (39 FR 36371).

EPA File Symbol 34884-R. Central Solvents & Chemicals Co.. 10821 N. Lombard St., Portland OR 97203. YARMOR 302 PINE OIL. Method of Support: Application proceeds under 2(b) of interim policy rather than 2(d) of interim policy.

EPA File Symbol 34883-R. Central Solvents & Chemicals Co., 13900 Carmenita Rd., Sante Fe Springs CA 90670. HERCO PINE OIL. Originally published as EPA File Symbol 34883-G.

EPA File Symbol 34883-G.. Central Solvents & Chemicals Co., 13900 Carmenita Rd., Sante Fe Springs CA 90670. YARMOR 302 W PINE OIL. Originally published as EPA File Symbol 34884-G.

EPA File Symbol 33832-G. Central Solvents & Chemicals Co., 6308 E. Sharp Ave., Spokane WA 99206. YARMOR 302W PINE OIL. Originally published as YARMOR 3021 PINE OIL.

EPA Reg. No. 1677-39. Economics Laboratory, Inc., Osborn Bldg., General Offices, St. Paul MN 55102. PHENOLIC DETERGENT-DISINFECTANT NEW MIKRO-BAC. Active Ingredients: Isopropanol 10.0% * * * Sodium xylene sulfonate 0.4%. Originally published as Sodium xylene sulfonate 0.2%.

Dated: October 16, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-24737 Filed 10-25-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Supplement No. 1]

CANADIAN FM BROADCASTING Channel Allocations

OCTOBER 15, 1974.

Amendment of Table A of the 1963 working arrangement for allocations of FM broadcast stations under the Canada-U.S.A. FM agreement of 1947.

Supplement No. 1 (to the table of Canadian FM broadcasting channel allocations within 250 miles of the Canada-U.S.A. border, dated May 16, 1973, as revised to April 1, 1973).

Pursuant to exchange of correspondence between the Department of Communications of Canada and the Federal Communications Commission, Table A of the FM Working Arrangement has been amended as follows:

City	Channel No.	
	Delete	Add
Invermere, British Columbia		296A
Kitimat, British Columbia		266A
Fredericton, New Brunswick	*221	300
St. Stephen, New Brunswick	300	243
Yarmouth, Nova Scotia	243	247
Toronto, Ontario	*1 242A	*242A
Do	*1 269C_1	*296C_1
Waterloo, Ontario		254A
Chambord, Quebec		294B
Sherbrooke, Quebec	1 221B	221B

Further amendments to Table A will be issued as public notices in the form of numbered supplements or recapitulated lists.

Copies of the basic Table of Allocations may be obtained from ABS Duplicators, Inc., 1732 Eye St., N.W., Washington, D.C. 20006, telephone (202) 298-5537.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc.74-24974 Filed 10-25-74;8:45 am]

FEDERAL MARITIME COMMISSION

KAHULUI TRUCKING & STORAGE, INC., AND McCABE, HAMILTON & RENNY 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 November 18, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. R. M. Gammie, Manager
Kahului Trucking & Storage, Inc.
140 Hobron Avenue
Kahului, Maui, Hawaii 96732

Agreement No. T-3010, between Kahului Trucking & Storage, Inc. (KTS) and McCabe, Hamilton & Renney Co., Ltd. (McCabe), is a labor loan agreement whereby McCabe will loan KTS longshore labor to perform services in connection with loading raw sugar in bulk on vessels at Kahului, Maui, Hawaii. As compensation, McCabe is to receive rates as agreed to by the parties and filed with this Commission.

Dated: October 23, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-25107 Filed 10-25-74;8:45 am]

FEDERAL RESERVE SYSTEM

EASTERN BANK CORP.

Order Denying Formation of Bank Holding Company

Eastern Bank Corporation, Bay Port, Michigan, 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)) of formation of a bank holding company through the acquisition of (1) 62.46 per cent or more of the voting shares of Imlay City State Bank, Imlay City, Michigan ("Imlay City Bank"); (2) 55.98 per cent or more of the voting shares of Akron State Bank, Akron, Michigan ("Akron Bank"); and (3) 54.38 per cent or more of the voting

shares of Bay Port State Bank, Bay Port, Michigan ("Bay Port Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a nonoperating corporation organized for the purpose of becoming a bank holding company through the acquisition of each of the subject banks. Imlay City Bank (deposits of $11.3 million) is the second largest among six banking organizations competing in its banking market[1] where it holds about 19.4 percent of the market's total commercial deposits. Akron Bank (deposits of $6.6 million) is the smallest of ten banking organizations competing in its relevant banking market[2] where it holds about 5.9 percent of the market's total commercial deposits. Bay Port Bank (deposits of $6 million) is the seventh largest among nine banking organizations competing in the Huron County banking market where it holds approximately 4.9 percent of the market's total commercial deposits. Upon consummation of the proposal, Applicant would control aggregate deposits of $23.9 million representing only 0.09 percent of the total commercial bank deposits in Michigan. Inasmuch as each of the subject banks is located in a separate banking market and no significant competition exists between any of the subject banks, consummation of the proposal would not have an adverse effect on existing or potential competition nor would it increase the concentration of banking resources or have an adverse effect on other banks in any of the relevant markets. Accordingly, the Board concludes that competitive considerations are consistent with approval of the application.

The Board has indicated on previous occasions that it believes a holding company should provide a source of strength for its subsidiary banks and that it will examine closely the condition of the applicant in each case with this view in mind. With respect to the present proposal, the subject banks would be acquired through an exchange of shares and assumption of debt totaling $774,000 (based on the minimum number of shares to be acquired). Applicant expects to service this debt primarily through the earnings of the subject banks and in this regard has projected the average operating income for each of the subject banks for the period 1974–1985 which substantially exceeds the average operating income experienced by the subject banks over the last five years. Given this record of profitability, the Board is unable to conclude that Applicant's projected earnings are reasonable or attainable. Furthermore, even if Applicant's projections are realized the projected earnings for the subject banks do not, in the Board's view, provide Applicant with the necessary financial flexibility to meet its annual debt service requirements as well as any unexpected problems that may arise at the subject banks. Accordingly, on the basis of the record, the Board concludes that the considerations relating to the financial aspects of Applicant's proposal weigh against approval of the application.

The proposed formation represents merely a restructuring of the ownership of the subject banks with no significant changes in either the operations or the services offered to customers. Consequently, considerations relating to the convenience and needs of the community to be served lend no weight toward approval of the application. On the other hand, as noted above, the servicing requirements of the acquisition debt incurred by Applicant could impair the ability of the subject banks to continue to serve their respective communities as viable banking organizations.

On the basis of all the circumstances concerning this application, the Board concludes that the financial considerations involved in this proposal present adverse factors bearing on the financial condition and prospects of Applicant and the subject banks. Such adverse factors are not outweighed by any procompetitive effects or by benefits which would result in serving the convenience and needs of the communities. Accordingly, it is the Board's judgment that approval of the application would not be in the public interest and that the application should be denied.

On the basis of the record, the application is denied for the reasons summarized above.

By Order of the Board of Governors,[3] effective October 18, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-25072 Filed 10-25-74;8:45 am]

[1] The relevant banking market of Imlay City Bank approximates the eastern two-thirds of Lapeer County, the western one-third of St. Clair County, and the extreme southwest corner of Sanilac County.

[2] The relevant market of Akron Bank is approximated by Tuscola County.

[3] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Holland, and Wallich. Absent and not voting: Chairman Burns and Governor Bucher.

FIRST BANCSHARES OF FLORIDA, INC.

Acquisition of Bank

First Bancshares of Florida, Inc., Boca Raton, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Vero Beach National Bank, Vero Beach, Florida, 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 4, 1974.

Board of Governors of the Federal Reserve System, October 18, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-25070 Filed 10-25-74;8:45 am]

LANDMANDS CORP.

Formation of Bank Holding Company

The Landmands Corporation, Kimballton, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of The Landmands National Bank of Kimballton, Kimballton, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than November 5, 1974.

Board of Governors of the Federal Reserve System, October 18, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Dc.74-25071 Filed 10-25-74;8:45 am]

MICHIGAN NATIONAL CORP.

Acquisition of Bank

Michigan National Corporation, Bloomfield Hills, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less director's qualifying shares) of Michigan National Bank of Macomb, Warren, Michigan (the successor to the deposit liabilities of Tri-City Bank, Warren, Michigan). The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 14, 1974.

Board of Governors of the Federal Reserve System, October 22, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-25082 Filed 10-25-74;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Project NAK 74512]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

OCTOBER 21, 1974.

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, November 12, 1974, from 9 am, to 4 pm, Room 1009, Arcade Plaza, Seattle, Washington. This meeting will be for the purpose of reviewing the design concepts for the proposed new Federal Building and Parking Facility in Fairbanks, Alaska. The meeting will be closed to the public in accordance with the provisions set forth in section 10(d) of Pub. L. 92-463, and the April 4, 1974, Findings and Determination of the Administrator of General Services Administration.

DAVID L. HEAD,
Regional Administrator.

[FR Doc.74-25147 Filed 10-25-74;8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

KENTUCKY MOUNTAIN COAL CO.

Opportunity for Public Hearing; Correction

In FR Doc. 74-24397 appearing at page 34734, in the issue for Monday, October 21, 1974, in the ninth line of the second docket listing, "ICP Permit No. 4327-008" should read "ICP Permit No. 4327-007."

Dated: October 23, 1974.

C. DONALD NAGLE,
Vice Chairman,
Interim Compliance Panel.

[FR Doc.74-25035 Filed 10-25-74;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

FEDERAL GRAPHICS EVALUATION ADVISORY PANEL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Federal Graphics Evaluation Advisory Panel to the National Endowment for the Arts will be held on November 12, 1974 from 1:30 p.m.-4 p.m. in Room 1100, Shoreham Building, 806 15th Street, Washington, D.C.

The purpose of this meeting is for graphic evaluation of the Council of State Governments. The meeting will be open to the public on a space available basis. Accommodations are limited. Further information can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6110.

EDWARD M. WOLFE,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.74-25251 Filed 10-25-74;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR POLITICAL SCIENCE

Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), notice is hereby given of a meeting of the Advisory Panel for Political Science to be held at 9 am on November 15, 1974 in room 517, 1800 G Street, NW., Washington, D.C.

The purpose of this Panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects.

This meeting will not be open to the public because the Panel will be reviewing, discussing, and evaluating individual research proposals. These proposals contain information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552(b). The closing of this meeting is in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of P.L. 92-463.

For further information about this Panel, please contact Dr. David C. Leege, Program Director for Political Science, Rm. 205, National Science Foundation, Washington, D.C. 20550, telephone 202/632-4348.

Dated: October 18, 1974.

FRED K. MURAKAMI,
Committee Management Officer.

[FR Doc.74-25036 Filed 10-25-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

LIST OF REQUESTS

Clearance of Reports

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 October 23, 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), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis: Survey of Firms Changing Methods of Inventory Valuation, Form BE 900M, 900W, 900R, Single time, Hulett (395-4730), Firms changing inventory methods.

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service:
- Annual Report of School Food Service, Form FNS 47, Annual, Lowry (395-3772), State educational agencies.
- Monthly Distribution of Donated Commodities to Special Groups, Form FNS 153, Monthly, Caywood (395-3443), Counties in program.
- Monthly Report of Special Milk Program, Form FNS 28, Monthly, Lowry (395-3772), State educational agencies.

Statistical Reporting Service: Potato and Sweetpotato Inquiries, Form —, Monthly, Lowry (395-3772), Potato and sweetpotato growers.

DEPARTMENT OF TRANSPORTATION

U.S. Coast Guard: Master Carpenter's Certificate (Builder's Certificate), Form CG 1261, Single time, Caywood (395-3772), Vessel builders.

VETERANS ADMINISTRATION

Title VI Compliance Review Report, Form —, Occasional, CVA (395-3532), Planchon (395-3898), Students.

EXTENSIONS

DEPARTMENT OF THE INTERIOR

Bureau of Land Management:
- Homestead Entry Final Proof, Form 2211-2, Occasional, Evinger (395-3648), Govt. agencies.
- Notice of Location of Settlement or Occupancy Claim, Form 2560-1, Occasional, Evinger (395-3648), Individuals.

DEPARTMENT OF LABOR

Employment Standards Administration: Sections 3.3 and 3.4 of Regulations, 29 CFR, Pt. 3, and Section 5.5(a)(3) of Regulations, 29 CFR, Pt. 5, Form —, Occasional, Lowry (395-3772), Federal construction contractors and subcontractors.

SMALL BUSINESS ADMINISTRATION

Registration of Construction—General Contractor or Service Facilities for Small Business Concerns, Form SBA 166B, Occasional, Evinger (395-3648), General contractors and service firms.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74-25186 Filed 10-25-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

BIO-MEDICAL SCIENCES, INC.

Suspension of Trading

OCTOBER 18, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Bio-Medical Sciences, 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 October 21, 1974 through October 30, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74–25086 Filed 10–25–74;8:45 am]

[70–5392]

CENTRAL AND SOUTH WEST CORP., ET AL.

Proposed Increase in Maximum Loans to Subsidiary by Holding Company

OCTOBER 21, 1974.

In the matter of Central and South West Corporation, 300 Delaware Avenue, Wilmington, Delaware 19899; Central Power and Light Company, 120 North Chaparral Street, Corpus Christi, Texas 78403; Public Service Company of Oklahoma, 600 South Main Street; Tulsa, Oklahoma 74102; Southwestern Electric Power Company, 428 Travis Street, Shreveport, Louisiana 71102; Transok Pipe Line Company, 712 Petroleum Club Building, Tulsa, Oklahoma 74101; West Texas Utilities Company, 1062 North Third Street, Abilene, Texas 79604.

Notice is hereby given that Central and South West Corporation ("Central"), a registered holding company, and five of its public-utility subsidiary companies, Central Power and Light Company ("CP&L"), Public Service Company of Oklahoma ("Public Service"), Southwestern Electric Power Company ("Southwestern"), West Texas Utilities Company ("West Texas"), and Transok Pipe Line Company ("Tansok") (collectively referred to as "subsidiaries"), have filed a post-effective amendment to the application-declaration previously filed in this proceeding with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), 7, 9(a), 10, 12(b), and 12(f) thereof and Rules 43 and 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By order dated November 1, 1973 (Holding Company Act Release No. 18151) in this proceeding, Central was authorized (i) to sell, prior to July 1, 1975, commercial paper in an aggregate principal amount of up to $90,000,000 (ii) to borrow from banks up to $50,000,000 in principal amount outstanding and (iii) to make certain loans to subsidiaries of Central up to a maximum amount specified for each subsidiary. In the case of Transok, the maximum amount of the authorized advances was $15,000,000.

Applicants-declarants have now filed a post-effective amendment in this proceeding requesting that the maximum amount of loans to Transok be increased by $10,000,000 to a total of $25,000,000. It is stated that the increase is necessary to enable Transok to meet construction expenditures for the remaining months of 1974 and the first part of 1975. Transok's construction expenditures for the last quarter of 1974 and the first half of 1975 are estimated to total $14,632,000, said expenditures to be incurred for transmission lines, gathering lines and compressing and dehydration facilities. It is further stated that Transok intends to retire its short-term debt to Central through the issuance of common stock to its parent, Public Service, through the sale of additional securities during the first half of 1975, and through internal sources.

At September 30, 1974, Transok had $7,460,000 in outstanding borrowings from Central. This amount is expected to increase to the present $15,000,000 limit by mid-November 1974. Additional needs of Transok are projected to a total amount of outstanding borrowings of $24,265,000 by June 30, 1975.

Fees and expenses, if any, to be incurred in connection with the proposed transaction will be filed by amendment. It is represented that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than November 11, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as further amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as further amended by said post-effective amendment, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74–25088 Filed 10–25–74;8:45 am]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Nondisapproval of Amendments to Option Plan

Notice is hereby given that on October 18, 1974, the Commission considered and did not disapprove proposed amendments to the Option Plan of the Chicago Board Options Exchange, Inc. (CBOE) pursuant to Rule 9b–1 (17 CFR 240.9b–1). The CBOE had proposed amendments to Rules 602(c), 610(f), 610(h), 801, 802, 803, 805 and 806 of the Chicago Board Option Exchange Clearing Corporation (the Corporation). These proposed changes were originally published at 39 FR 31296 on September 6, 1974.

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.

Rule 801 would be amended to provide that exercise notices on every day other than the expiration date must be filed by 3 p.m. Chicago time (4 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.

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, N.W., Washington, D.C.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 21, 1974.

[FR Doc.74–25093 Filed 10–25–74;8:45 am]

[File No. 500–1]

CONTINENTAL VENDING MACHINE CORP.

Suspension of Trading

OCTOBER 21, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Continental Vending Machine Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from October 22, 1974 through October 31, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–25089 Filed 10–25–74;8:45 am]

[File No. 500–1]

FRANKLIN NATIONAL BANK, NEW YORK, N.Y.

Suspension of Trading

OCTOBER 21, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the preferred stock and 4.75 percent debentures of Franklin National Bank 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 October 22, 1974 through October 31, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–25091 Filed 10–25–74;8:45 am]

[File No. 500–1]

FRANKLIN NEW YORK CORP.

Suspension of Trading

OCTOBER 21, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common and preferred stock and 7.30 percent notes of Franklin New York Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from October 22, 1974 through October 31, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–25090 Filed 10–25–74;8:45 am]

[File No. 7–4678]

IU INTERNATIONAL CORP.

Application for Unlisted Trading Privileges

OCTOBER 21, 1974.

In the matter of application of the Boston Stock Exchange for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the Special stock of the following company, which security is listed and registered on one or more other national securities exchange:

IU International Corporation, Special Series "A" Accum. Conv., Dividend Redeemable After 1977, NPV, File No. 7–4678.

Upon receipt of a request, on or before November 6, 1974 from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–25087 Filed 10–25–74;8:45 am]

SEC REPORT COORDINATING GROUP (ADVISORY)

Notice of Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92–463, 86 Stat. 770, the Securities and Exchange Commission announces a public advisory committee meeting.

The Commission's Report Coordinating Group (Advisory) will hold a meeting on November 15, 1974 at 301 Pine Street, First Floor Board Room, San Francisco, California. The meeting will commence at 10 a.m. local time and will be for the purpose of discussing public comments on a recently published Discussion Paper—Working Draft of the FOCUS Report of financial and operational information, and development of uniform trading forms, uniform registration forms and record retention periods, and uniform assessment forms.

The Group's meetings are open to the public. Any interested person may attend and appear before or file statements with the advisory committee. Said statements, if in written form, may be filed

before or after the meeting. Oral statements shall be made at the time and in the manner permitted by the Report Coordinating Group.

The Report Coordinating Group was formed to assist the Commission in developing a coherent, industry-wide, coordinated reporting system. In carrying out this objective, the Report Coordinating Group is to review all reports, forms, and similar materials required of broker-dealers by the Commission, the self-regulatory community and others. The Group is expected to advise the Commission on such matters as eliminating unnecessary duplication in reporting, reducing reporting requirements where feasible, and developing the FOCUS Report of financial and operational information (Securities Exchange Act Release No. 10612; Securities Exchange Act Release No. 10959).

The procedures for submitting statements to the Group and/or the FOCUS Report Discussion Paper—Working Draft may be obtained by contacting: Mr. Daniel J. Piliero II, Secretary, SEC Report Coordinating Group, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the FOCUS Report Discussion Paper—Working Draft are also available through the Public Reference Room at each Securities and Exchange Commission Regional Office.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 21, 1974.

[FR Doc.74-25092 Filed 10-25-74;8:45 am]

TARIFF COMMISSION

[AA1921-141]

WRENCHES, PLIERS, SCREWDRIVERS, AND METAL-CUTTING SNIPS AND SHEARS FROM JAPAN

Determination of No Injury or Likelihood Thereof or Prevention of Establishment

OCTOBER 21, 1974.

The Treasury Department advised the Tariff Commission on July 19, 1974, that wrenches, pliers, screwdrivers, and metal-cutting snips and shears from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act of 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160 (a)), the Tariff Commission instituted investigation AA1921-141 to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of a public hearing to be held in connection therewith was published in the FEDERAL REGISTER of July 30, 1974 (39 FR 27614). The hearing was held during August 20-23, 1974.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission[1] has unanimously determined that an industry in the United States is not being injured or is not likely to be injured, or is not prevented from being established, by reason of the importation of wrenches, pliers, screwdrivers and metal-cutting snips and shears from Japan that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS FOR NEGATIVE DETERMINATION OF CHAIRMAN BEDELL, VICE CHAIRMAN PARKER, AND COMMISSIONERS MOORE AND ABLONDI

The Antidumping Act, 1921, as amended, requires that the Tariff Commission find two conditions satisfied before an affirmative determination can be made. First, there must be injury, or likelihood of injury, to an industry in the United States, or an industry in the United States must be prevented from being established. Second, such injury or likelihood of injury or prevention of establishment of an industry[1] must be "by reason of" the importation into the United States of the class or kind of foreign merchandise which the Secretary of the Treasury has determined is being, or is likely to be, sold at less than fair value (LTFV).

On the basis of the investigation, we have determined that an industry in the United States is not being, nor is it likely to be, injured by reason of importation of wrenches, pliers, screwdrivers, and metal-cutting snips and shears from Japan found by the Secretary of the Treasury to have been sold or likely to be sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

The domestic industry of concern in this investigation consists of the facilities in the United States devoted to the production of wrenches, pliers, screwdrivers, and metal-cutting snips and shears. Such articles are produced at plants located throughout the United States. The domestic industry produces primarily forged tools, while the Japanese articles sold at less than fair value have been mostly cast or partly forged and cast.

Hand tools, including the types found by the Treasury to have been sold at less than fair value, are sold in the United States in several differentiated markets—a market for higher priced, professional-quality tools of the types considered here serviced primarily by hardware stores; one for mid-priced, medium-quality tools serviced predominantly by department stores; and one for low-priced, low-quality tools serviced mostly by discount outlets, drug stores, and supermarkets. The bulk of the domestic tools (probably more than 75 percent) are sold in the market for professional tools, and most of the remainder in the market for medium-quality tools. In contrast, the Japanese tools sold at less than fair value are sold chiefly in the market for low-priced tools.

Sales of tools in department stores, drug stores, supermarkets, and discount outlets are a relatively recent development, in contrast with the more traditional hardware-store outlet. Sales in the newer outlets comprise the fastest growing segment of the market. Several importers are credited with the development of this market through such innovative marketing devices as racking a full line of tools in blistered cards, which at the time of its introduction was untried by domestic hand-tool producers. The imported tools so marketed were generally of a lower quality and price than the traditional professional tools.

In the period of this investigation, the evidence indicates that the domestic industry has not been injured. Domestic shipments of the tools involved increased consistently, being about 39 percent greater in 1973 than in 1971. Exports of such tools by domestic producers increased from $28 million in 1971 to $37 million in 1973 and further to $27 million in the first half of 1974 (when they equalled imports). The increased demand for domestic products was reflected in higher unfilled orders, which rose from an approximate 3 to 4 months backlog at year-end 1971 to 5 to 6 months at year-end 1973. There is no evidence of price depression during the period of sales at LTFV, and no evidence of price suppression with respect to wrenches, pliers, screwdrivers, and metal-cutting snips and shears. The prices of these tools produced domestically rose in line with the Bureau of Labor Statistics index of all hand-tool prices. The average profitability of the domestic hand-tool industry was maintained during the period of this investigation, 1971-73. To the extent that some domestic producers experienced reduced operating margins, these were found to be caused primarily by increases in raw material costs during the period of price controls, and, in one instance, by a prolonged strike. There was no evidence of causality between LTFV sales of hand tools from Japan at less than fair value and any decreased profit margins.

The evidence before the Commission indicates not only that the domestic industry has not been injured, but that there is no likelihood of injury within the terms of the antidumping statute. Domestic shipments of hand tools were higher in the first half of 1974 than in the corresponding period of 1973, responding to increased domestic consumption. The prices of both the domestically produced and Japanese hand tools involved have continued to rise, but the prices of the Japanese articles have increased more steeply than those of the domestic. The steeper price increase for the Japanese articles appears to have resulted mostly from rapidly rising Japanese costs, as well as the changes in the dollar-yen exchange rate.

CONCLUSION

We conclude that an industry is not being injured or is not likely to be injured by reason of the imports of wrenches, pliers, screwdrivers, and metal-cutting snips and shears from Japan that are being, or likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS FOR NEGATIVE DETERMINATION OF COMMISSIONER LEONARD

In my opinion, an industry in the United States is not being or is not likely to be injured by reason of the importation of wrenches, pliers, screwdrivers and metal-cutting snips and shears from Japan that are being, or are likely to be sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended.[1] In reaching this determination, I have considered the most likely domestic industry to be affected by such imports to consist of all of the facilities in the United States engaged in the production of wrenches, pliers, screw-

[1] Commissioner Minchew did not participate in the decision.

[1] Prevention of the establishment of an industry is not an issue in the instant case and will not be discussed further.

[1] Prevention of the establishment of an industry is not an issue in the instant case.

drivers and metal-cutting snips and shears (hereinafter referred to as "the specified hand tools"). Approximately 50 U.S. producers account for about 95 percent of total value of domestic shipments of these tools.

DIFFERENT MARKETS

The specified hand tools from Japan sold, or likely to be sold, at LTFV generally are manufactured by different processes and are designed for a specific market that is not fully serviced by the bulk of the domestic tools. The Japanese and domestic tools, in many cases, are not alike. The specified hand tool imports from Japan have been largely concentrated in the "do-it-yourself" household market which has not been supplied traditionally by U.S. producers. These tools are of lower quality and are relatively inexpensive. Over 90 percent of the specified hand tools imported from Japan are distributed to the household market. This household market is serviced by retail outlets such as discount stores, supermarkets and drug stores for sale to the occasional user or impulse buyer whose trade or profession does not involve the regular use of hand tools. This market is generally characterized by its demand for lower-priced hand tools.

Domestic manufacturers traditionally have produced the specified hand tools of high quality for professional use. The traditional markets for the bulk of the domestically produced specified hand tools are independent distributors who sell to hardware stores and to department stores catering to tradesmen such as machinists, carpenters, plumbers, and general repairmen. In 1973, for example, over 75 percent of total domestic shipments were sold for such trade or professional use.

Moreover, domestic producers have alleged that they cannot manufacture profitably the lower quality, relatively inexpensive tools sold in the household market because of prevailing U.S. labor and materials costs. Distributors of the higher quality hand tools generally buy comparatively small quantities of tools of Japanese origin and then only to supplement domestic product lines or for the purpose of providing tools for immediate delivery[2] when domestic hand tools are in short supply.

NO INJURY

Strong market demand for the specified hand tools of all qualities is illustrated by the increase in apparent domestic consumption over the period 1970–1973. In dollar terms, overall domestic consumption of the tools covered by this investigation were 66 percent larger in 1973 than in 1970. Consumption of wrenches increased 76 percent; pliers, 26 percent; screwdrivers, 64 percent; and metal-cutting snips and shears, 58 percent. Domestic shipments of the specified hand tools rose because of increased demand. Domestic shipments of wrenches increased 66 percent; pliers, 31 percent; screwdrivers, 66 percent; and metal-cutting snips and shears, 52 percent. Thus, the increase over the period 1970–73 of domestic shipments of the specified hand tools was similar to the increase in total consumption. Imports took a slightly larger share of consumption during this time, and whatever increase imports were able to register in their share of the market seems to have been due to the inability of the domestic producers to satisfy the increased demand.

Unfilled domestic orders for each type of tool increased in 1972 and, with the exception of screwdrivers, again in 1973. Inventories of domestic producers began to decline in 1973 as compared with 1972. The combined effect of increased shipments, increased backlogs of unfilled orders reported to the Commission by producers (confirming the claims of distributors), declining inventories and temporary shortages of component materials during 1973–74 resulted in lengthened delivery times for the specified domestic hand tools and contributed to the demand for imported tools.

During the 1970–1973 period, U.S. exports of all these tools increased by about 44 percent. Exports exceeded imports in 1970 and 1971 and again during the first 6 months of 1974. Due to the increase in demand for the specified hand tools, domestic producers have enlarged existing production facilities, undertaken new plant construction, and registered increases in manhours of production-related workers for the years 1972 and 1973.

There has been no price depression, as prices of the specified domestic hand tools generally rose between 1971 and 1974. Similarly, there appears to be no evidence of price suppression.[3] Prices for all industrial commodities advanced 7.9 percent from 1971 through 1973, with price advances for all hand tools averaging 8.7 percent. In such a situation, it is difficult to conceive of any price suppression.

The lack of injury to the domestic industry is also reflected in its financial experience. As a share of net sales, net operating profits of the domestic manufacturers where the specified hand tools were produced averaged 11.8 percent in 1971, 12.9 percent in 1972, and 11.8 percent in 1973. Although profits in 1973 failed to increase with increased sales, rising material costs and price control regulation were at least in part responsible for the reduction. For the period 1971–1973, the operating profit ratios for the domestic manufacturers of the specified hand tools were equal to or better than other U.S. industries.

NO LIKELIHOOD OF INJURY

For there to be likelihood of injury, there must be a realistic connection between a situation that presently exists and what will probably happen should the present situation continue. A trend that indicates future injury must be shown. Given the evidence developed in this investigation, such a connection, such a trend, cannot be made. It would be a flight of fancy to forecast injury to the domestic industry in the future based upon the information at hand.

Demand for the specified hand tools as measured by apparent domestic consumption continued to increase in the first half of 1974 as compared with the first half of 1973, and so did domestic shipments. Prices of both the specified domestic and Japanese hand tools have continued to increase. The two currency revaluations affecting the relationship between the dollar and the yen and rapidly rising Japanese costs by the end of 1973 had substantially reduced price differentials between the specified domestic and Japanese hand tools wherever they competed. During the 12-month period June 1973–June 1974, Japanese prices generally rose at a steeper rate than did U.S. prices for the specified hand tools.

CONCLUSION

Accordingly, for the reasons indicated, I conclude that an industry is not being injured or is not likely to be injured or is not prevented from being established by reason of the importation of wrenches, pliers, screwdrivers, and metal-cutting snips and shears from Japan that are being, or are likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.74–25037 Filed 10–25–74;8:45 am]

[2] The buildup of foreign supplies by domestic distributors of hand tools to insure immediate delivery is not typical of domestic versus foreign competitive situations. Generally, domestic products are relied upon for rapid delivery, and foreign goods require longer lead times.

[3] For a discussion of price depression and price suppression, see: *Metal Punching Machines, Single-End Type, Manually Operated, from Japan . . . Investigation No. AA1921–133 Under the Antidumping Act, 1921, as Amended*, TC Publication 640, 1974, pp. 5–6.

[AA1921–143]

TAPERED ROLLER BEARINGS AND CERTAIN COMPONENTS THEREOF FROM JAPAN

New Investigation and Hearing; Termination of Prior Investigation and Cancellation of Hearing

Having received advice from the Treasury Department on October 23, 1974, amending its advice received on September 4, 1974, that tapered roller bearings, including inner race or cone assemblies and outer races or cups, exported to and sold in the United States, either as a unit or separately, from Japan, are being, or are likely to be, sold at less than fair value, the United States Tariff Commission on October 24, 1974, instituted investigation No. AA1921–143 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigation will be held in the Tariff Commission's Hearing Room, Tariff Commission Building, 8th and E Streets NW., Washington, D.C. 20436, beginning at 10 a.m., e.s.t., on Tuesday, December 3, 1974. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received by the Secretary of the Tariff Commission, in writing, at its office in Washington, D.C., not later than noon Wednesday, November 27, 1974.

Investigation AA1921–142 instituted on September 11, 1974, is hereby terminated, and the public hearing scheduled in connection therewith to begin on October 29, 1974, is hereby cancelled. (39 FR 33268 and 33840).

Issued: October 24, 1974.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.74–25262 Filed 10–25–74;10:49 am]

UNITED STATES RAILWAY ASSOCIATION

[Docket No. 75–1]

READING CO.

Abandonment; Preston Branch, Butler Township, Schuylkill County, Pa.

On June 4, 1974, the Trustees of the Reading Company, debtor, a railroad in

reorganization under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 *et seq.*), applied to the United States Railway Association for the authorization required by section 304(f) of that Act to abandon a line of railroad known as the Preston Branch, between Engineering station 0+00 and extending in a northerly and westerly direction for 1.48 miles to its termination as Engineering Station 78+15, all in Butler Township, Schuylkill County, Pennsylvania.

Section 304(f) provides that a railroad in reorganization may not abandon a line of railroad "unless it is authorized to do so by the Association and unless no state or local or regional transportation authority reasonably opposes such action."

The State of Pennsylvania has reasonably opposed the granting of this application at this time on the ground, among others, that the data now available is insufficient for an informed judgment to be made. It is anticipated that the necessary data will be available when the Association issues its Preliminary System Plan.

Accordingly, a decision on the proposed abandonment will be deferred and not reconsidered until the Preliminary System Plan is published and the State of Pennsylvania has had 30 days thereafter to provide additional comments.

Dated this 10th day of October, 1974.

[SEAL] EDWARD G. JORDAN,
President,
United States Railway Association.

[FR Doc.74-25055 Filed 10-25-74;8:45 am]

[Docket No. 75-2]

READING CO.

Abandonment; Girard Mammoth Colliery Branch, Butler and West Mahanoy Townships

On June 4, 1974, the Trustees of the Reading Company, debtor, a railroad in reorganization under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 *et seq*), applied to the United States Railway Association for the authorization required by section 304(f) of that Act to abandon a line of railroad known as the Girard Mammoth Colliery Branch, between Engineering Station 0+00 in an easterly and northerly direction for a distance of 1.63 miles to its terminus at Engineering Station 85+90 in Butler and West Mahanoy Townships, Schuylkill County, Pennsylvania.

Section 304(f) provides that a railroad in reorganization may not abandon a line of railroad "unless it is authorized to do so by the Association and unless no state or local or regional transportation authority reasonably opposes such action."

The State of Pennsylvania has reasonably opposed the granting of this application at this time on the ground, among others, that the data now available is insufficient for an informed judgment to be made. It is anticipated that the necessary data will be available when the Association issues its Preliminary System Plan.

Accordingly, a decision on the proposed abandonment will be deferred and not reconsidered until the Preliminary System Plan is published and the State of Pennsylvania has had 30 days thereafter to provide additional comments.

Dated this 10th day of October, 1974.

[SEAL] EDWARD G. JORDAN,
President,
United States Railway Association.

[FR Doc.74-25056 Filed 10-25-74;8:45 am]

[Docket No. 75-3]

READING CO.

Abandonment; Locust Gap Colliery Branch

On June 4, 1974, the Trustees of the Reading Company, debtor, a railroad in reorganization under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 *et seq*), applied to the United States Railway Association for the authorization required by section 304(f) of that Act to abandon a line of railroad known as the Locust Gap Colliery Branch, between Engineering Station 22+79 and its terminus at Engineering Station 45+02, a distance of 0.42 mile, all in Mount Carmel Township, Northumberland County, Pennsylvania.

Section 304(f) provides that a railroad in reorganization may not abandon a line of railroad "unless it is authorized to do so by the Association and unless no state or local or regional transportation authority reasonably opposes such action."

No state or local or regional transportation authority opposes this application. The Congress of Railway Unions requests the protection of the "Burlington" conditions for any employees who may be affected by this abandonment. Abandonment of this line would not otherwise be inconsistent with the purposes of the Act.

Accordingly, the application will be granted on the condition that adversely affected employees receive, until the effective date of mandatory offers to "protected employees" under Section 502(b) of the Act, the labor protection customarily imposed by the Interstate Commerce Commission, as in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700.

This Order shall be effective November 8, 1974.

Dated this 10th day of October, 1974.

[SEAL] EDWARD G. JORDAN,
President,
United States Railway Association.

[FR Doc.74-25057 Filed 10-25-74;8:45 am]

[Docket No. 75-4]

READING CO.

Abandonment; Portion, Schuylkill Valley Navigation and Railroad Branches

On June 4, 1974, the Trustees of the Reading Company, debtor, a railroad in reorganization under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 *et seq.*), applied to the United States Railway Association for the authorization required by section 304(f) of that Act to abandon a portion of a line of railroad known as the Schuylkill Valley Navigation & Railroad Branch between Engineering Station 366+21 and its terminus at Engineering Station 372+31, a distance of 0.12 mile, all in the Borough of Middleport, Schuylkill County, Pennsylvania.

Section 304(f) provides that a railroad in reorganization may not abandon a line of railroad "unless it is authorized to do so by the Association and unless no state or local or regional transportation authority reasonably opposes such action."

No state or local or regional transportation authority opposes this application. The Congress of Railway Unions requests the protection of the "Burlington" conditions for any employees who may be affected by this abandonment. Abandonment of this line would not otherwise be inconsistent with the purposes of the Act.

Accordingly, the application will be granted on the condition that adversely affected employees receive, until the effective date of mandatory offers to "protected employees" under Section 502(b) of the Act, the labor protection customarily imposed by the Interstate Commerce Commission, as in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700.

This Order shall be effective November 8, 1974.

Dated this 10th day of October, 1974.

[SEAL] EDWARD G. JORDAN,
President,
United States Railway Association.

[FR Doc.74-25058 Filed 10-25-74;8:45 am]

[Docket No. 75-5]

READING CO.

Abandonment; Reading and Columbia Branch, Borough of Columbia, Lancaster County, Pa.

On June 4, 1974, the Trustees of the Reading Company, debtor, a railroad in reorganization under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 *et seq*), applied to the United States Railway Association for the authorization required by section 304(f) of that Act to abandon a line of railroad known as the Reading and Columbia Branch extending from Engineering Station 2042+00 in a southwesterly, westerly, and northwesterly direction for a distance of 0.97 miles to its terminus at Engineering Station. 2093+16, all in the Borough of Columbia, Lancaster Co., Pennsylvania.

Section 304(f) provides that a railroad in reorganization may not abandon a line of railroad "unless it is authorized to do so by the Association and unless no state or local or regional transportation authority reasonably opposes such action."

The State of Pennsylvania has reasonably opposed the granting of this application at this time on the ground, among others, that the data now available is insufficient for an informed judgment to be made. It is anticipated that the necessary data will be available when the Association issues its Preliminary System Plan.

Accordingly, a decision on the proposed abandonment will be deferred and not reconsidered until the Preliminary System Plan is published and the State of Pennsylvania has had 30 days thereafter to provide additional comments.

Dated this 10th day of October, 1974.

[SEAL] EDWARD G. JORDAN,
President,
United States Railway Association.

[FR Doc.74-25059 Filed 10-25-74;8:45 am]

[Docket No. 75-6]

LEHIGH VALLEY RAILROAD CO.

Abandonment; Portion of National Docks Branch, Jersey City, N.J.

On April 16, 1974, the Trustees of the Lehigh Valley Railroad Company, debtor, a railroad in reorganization under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 *et seq*), applied to the United States Railway Association for the authorization required by section 304(f) of that Act to abandon a portion of line of railroad known as the National Docks Branch, between milepost M.P. +2+260' near Bright Street in Jersey City in a northernly direction to milepost M.P. 1+3,528' near Academy Street, a distance of approximately 2,012 feet, all in Jersey City, New Jersey.

Section 304(f) provides that a railroad in reorganization may not abandon a line of railroad "unless it is authorized to do so by the Association and unless no state or local or regional transportation authority reasonably opposes such action."

No state or local or regional transportation authority opposes this application. The Congress of Railway Unions requests the protection of the "Burlington" conditions for any employees who may be affected by this abandonment. Abandonment of this line would not otherwise be inconsistent with the purposes of the Act.

Accordingly, the application will be granted, on the condition that adversely affected employees receive, until the effective date of mandatory offers to "protected employees" under section 502(b) of the Act, the labor protection customarily imposed by the Interstate Commerce Commission, as in *Chicago, B. & O. R. Co., Abandonment,* 257 I.C.C. 700.

This Order shall be effective November 8, 1974.

Dated this 10th day of October, 1974.

[SEAL] EDWARD G. JORDAN,
President, United States Railway Association.

[FR Doc.74-25060 Filed 10-25-74;8:45 am]

PRESIDENTIAL CLEMENCY BOARD

PRESIDENTIAL CLEMENCY BOARD

Notice of Meetings

OCTOBER 24, 1974.

Notice is hereby given, pursuant to the provisions of the Federal Advisory Committee Act of 1972, that meetings of the Presidential Clemency Board will be held on October 30th, and November 7th and 8th, 1974, in Room 459, Old Executive Office Building, Washington, D.C.

These meetings will not be open to the public since (1) the Board will discuss matters related solely to its internal personnel and practices under 5 U.S.C. 552 (b)(2) and (2) will examine personnel and similar files, disclosure of which would constitute an unwarranted invasion of privacy under (b)(6) of the same section.

A waiver of the 15-day notice provision has been granted by the Director, Office of Management and Budget, under OMB Circular No. A-62, as revised, pertaining to the Federal Advisory Committee Act of 1972. This waiver is required for the Board to give immediate consideration to those recently furloughed from prison under Executive Order 11803.

CHARLES E. GOODELL,
Chairman.

[FR Doc.74-25325 Filed 10-25-74;11:59 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 618]

ASSIGNMENT OF HEARINGS

OCTOBER 23, 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 52657 Sub 715, Auto Carriers, Inc., now being assigned hearing January 14, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 108676 Sub 64, A. J. Metler Hauling & Rigging, Inc., now being assigned hearing January 22, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 115691 Sub 30, Murphy Transportation, Inc., now being assigned hearing January 14, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 119777 Sub 291, Ligon Specialized Haulers, Inc., now being assigned hearing January 8, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 128383 Sub 54, Pinto Trucking Service, Inc., now being assigned hearing January 13, 1975, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 139677, Auto/Bus Corporation, now being assigned hearing January 6, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 134601 Sub 6, Goose Creek Transport, Inc., now being assigned hearing January 7, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 117119 Sub 499, Willis Shaw Frozen Express, Inc., now being assigned hearing January 20, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 76 Sub 5, Mawson & Mawson, Inc.; MC 13134 Sub 35, Grant Trucking, Inc.; MC 13569 Sub 28, The Lake Shore Motor Freight Company; MC 14552 Sub 51, J. V. McNicholas Transfer Co.; MC 29069 Sub 67, Brada Miller Freight System, Inc.; MC 41406 Sub 34, Artim Transportation System, Inc.; MC 60014 Sub 35, Aero Trucking, Inc.; MC 61592 Sub 310, Jenkins Truck Line, Inc.; MC 73165 Sub 332, Eagle Motor Lines, Inc.; MC 78228 Sub 48, J. Miller Express, Inc.; MC 82841 Sub 122, Hunt Transportation, Inc.; MC 107295 Sub 711, Pre-Fab Transit Co.; MC 107445 Sub 7, Underwood Machinery Transport, Inc.; MC 109124 Sub 18, Sentle Trucking Corp.; MC 113666 Sub 76, Freeport Transport, Inc.; MC 114019 Sub 255, Midwest Emery Freight System, Inc.; MC 114211 Sub 206, Warren Transport, Inc.; MC 119641 Sub 122, Ringle Express, Inc.; MC 119656 Sub 29, North Express, Inc.; MC 121318 Sub 12, Yourga Trucking, Inc.; MC 123048 Sub 302, Diamond Transportation System, Inc.; MC 124174 Sub 97, Momsen Trucking Co.; MC 139302 Sub 2, Kreuger Trucking Co., Inc.; and MC 139539 Sub 2, Afro-Urban Transportation, Inc., now being assigned hearing December 9, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-25104 Filed 10-25-74;8:45 am]

PRODUCTIVITY MEASUREMENT

Notice of Conference

Notice is hereby given that the Interstate Commerce Commission will hold a one day Productivity Measurement Conference at the Commission offices located at 12th Street and Constitution Avenue, N.W., Washington, DC, on November 26, 1974, in Hearing Room B, commencing at 9 a.m.

The day-long Conference is being held for the purposes of discussing and better understanding the question of productivity measurement as it may be specifically applied to the transportation industries. Emphasis will be directed to the technical aspects of the problem of measuement, the appropriate tools to be used in measurement, and the data needs for effective measurement. Four basic questions will be addressed: (1) What is the appropriate definition of productivity as it applies to the transportation industries, (2) how can motor carrier productivity be measured, (3) how can railroad productivity be measured, and (4) which data are available

or which data could be useful in measuring productivity?

The Conference is open to all interested persons. Reservations are not required but an indication of interest and the names of persons who will attend is requested. Please contact the Bureau of Economics, Interstate Commerce Commission, 12th Street and Constitution Avenue, N.W., Washington, DC 20423. The telephone number is Area Code (202) 343-7938.

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

[FR Doc.74-25101 Filed 10-25-74;8:45 am]

[Notice No. 176]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

OCTOBER 29, 1974.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before November 18, 1974. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75338. By order of October 16, 1974, the Motor Carrier Board approved the transfer to Bee Line, Inc., 815 East 27th St., Paterson, N.J. 07513, of the operating rights in Certificate No. MC-85239 issued July 15, 1969, to Beaver Truck Corp., 6 Misty Ridge Circle, Kinnelon, N.J. 07405, authorizing the transportation of various commodities from, to, and between specified points in New Jersey and New York.

No. MC-FC-75411. By order of October 18, 1974, the Motor Carrier Board approved the transfer to Giroux Bros. Transportation, Inc., Sudbury, Mass., of the operating rights in Certificate No. MC-109690 issued December 29, 1949, to Reynolds Transportation, Inc., Avon, Mass., authorizing the transportation of general commodities, with exceptions over regular routes, between specified points in Rhode Island and Massachusetts. Francis P. Barrett, 60 Adams St., Milton, Mass 02187, Attorney for transferor; Kenneth B. Williams, 84 State St., Boston, Mass. 02109, Attorney for transferee.

No. MC-FC-75415. By order entered 10-16-74 the Motor Carrier Board approved the transfer to Inter-City Bus Lines, Inc., Holland, Mich., of the operating rights set forth in Certificate No. MC-126942, issued July 12, 1968, to Alvin Vander Kolk, doing business as Inter-City Bus Line, Holland, Mich., authorizing the transportation of passengers and their baggage, in the same vehicle with passengers, in charter operations, beginning and ending at Holland and Zeeland, Mich., and points in the commercial zones thereof, as defined by the Commission, and extending to points in Indiana, Illinois, and Wisconsin. Ernest M. Sharpe, 900 One Vandenberg Center, Grand Rapids, Mich. 49502, attorney for applicants.

No. MC-FC-75417. By order of October 16, 1974, the Motor Carrier Board approved the transfer to Red Mountain Transportation Company, a Colorado corporation, Ouray, Colo., of Certificate of Registration No. MC-57806 (Sub-No. 1), issued June 4, 1974, to Dennis W. Jamison, doing business as Jamison Trucking, Ouray, Colo., evidencing a right to engage in transportation in interstate commerce as described in Certificate of Public Convenience and Necessity PUC No. 871 and transferred by Decision No. 84827 dated April 16, 1974, issued by the Public Utilities Commission of the State of Colorado. Victor T. Roushar, P.O. Box 327, Montrose, Colo. 81401, Attorney for applicants.

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

[FR Doc.74-25100 Filed 10-25-74;8:45 am]

[Notice No. 144]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 17, 1974.

The following are notices of filing of application; except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 107002 (Sub-No. 459TA), filed October 8, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, U.S. Highway 80W, Jackson, Miss. 39205. Applicant's representative: John J. Borth (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal feed*, in bulk, in tank vehicles, from Memphis, Tenn., to points in Arkansas, Kentucky, Mississippi, Missouri, and Tennessee, for 180 days. Supporting shipper: Ralston Purina Company, 1725 Airways Blvd., Memphis, Tenn. 38114. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 117068 (Sub-No. 33TA), filed October 7, 1974. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., North Highway 63, P.O. Box 6418, Rochester, Minn. 55901. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., 15th & New York Avenue NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tubing, castings, steel plate and sheets*, from St. Louis, Mo.; New Orleans, La.; Tulsa, Okla.; Portland, Oreg.; Milwaukee, Wis.; Upper Sandusky and Cleveland, Ohio; McKeesport and Pittsburgh, Pa.; Detroit and Southfield, Mich.; Chicago, Ill.; Indianapolis, Ind.; and Ports of Entry on the United States-Canadian Boundary line located in Washington and Montana, to Litchfield, Minn., for 180 days. Supporting shipper: Palm Industries, Inc., Box 680, Litchfield, Minn. 55355. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 118989 (Sub-No. 119TA), filed September 30, 1974. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, Wis. 53221. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers* (except refuse containers) and *metal containers ends*, from plant site of Owens-Illinois at Perrysburg, Ohio, to Holland and Frankenmuth, Mich., and Belleville, Ill., for 180 days. Supporting shipper: Owens-Illinois, Inc., P.O. Box 1035, Toledo, Ohio 43666 (Robert A. Buster, Manager—Rates & Services). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 119774 (Sub-No. 81TA) (Correction), filed August 12, 1974, published in the FEDERAL REGISTER issue of August 26, 1974, and republished as corrected this issue. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, from the plant or warehouse sites of Ford Motor Company at Tulsa, Okla., to points in Arkansas, Alabama, Colorado, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Ohio, South Carolina, Tennessee, Texas, Virginia, and West Virginia, for 180 days. Supporting shipper: Ford Motor Company, Tulsa Glass Plant, P.O. Box 555, Tulsa, Okla. 74102. Send protests to: District Supervisor Gerald T. Holland, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

NOTE.—The purpose of this republication is to show that the Ford Motor Company is in Tulsa, Okla., which was omitted in previous publication.

No. MC 128220 (Sub-No. 14TA), filed October 7, 1974. Applicant: RALPH LATHAM, doing business as LATHAM TRUCKING COMPANY, P.O. Box 508, Burnside, Ky. 42517. Applicant's representative: John M. Nader, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fireplace logs* (manufactured from compressed sawdust with wax binder), (1) from Burnside, Ky., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Virginia, Tennessee, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, and Iowa; (2) from Dothan, Ala., to points in Florida, Georgia, South Carolina, and Mississippi; and (3) between the plant sites and storage facilities of Kingsford Charcoal Company at or near Burnside, Ky.; Parsons, W. Va.; and Dothan, Ala., for 180 days. Supporting shipper: Levern N. Forseth, Traffic Manager, The Kingsford Company, P.O. Box 1033, Louisville, Ky. 40201. Send protests to: R. W. Schneiter, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 222 Bakhaus Bldg., 1500 West Main Street, Lexington, Ky. 40505.

No. MC 129862 (Sub-No. 7TA), filed October 3, 1974. Applicant: RAJOR, INC., P.O. Box 756, Franklin, Tenn. 37064. Applicant's representative: William J. Monheim, P.O. Box 1257, City of Industry, Calif. 91749. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Air conditioning and heating units, component parts, and materials, equipment, and supplies* utilized in the manufacture, sale, and distribution of the named commodities for the account of York Division of Borg-Warner Corporation, from Madisonville, Ky., to points in Arizona, California, and Nevada, for 180 days. Restriction: Restricted against the transportation of commodities which by reason of size or weight require the use of special equipment. Supporting shipper: Borg-Warner Corporation, York Division, P.O. Box 1592, York, Pa. 17405. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803–1818 West End Building, Nashville, Tenn. 37203.

No. MC 133566 (Sub-No. 44TA), filed October 7, 1974. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, Ind. 46947. Applicant's representative: William L. Slover, 1224 17th Street, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, from the plantsite and storage facilities utilized by Cadbury Schweppes U.S.A., at or near Hazleton, Pa., to points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, the District of Columbia, Virginia, West Virginia, Ohio, Kentucky, Indiana, Illinois, Missouri, Iowa, Minnesota, Wisconsin, and Michigan, restricted to traffic originating at the above named facilities and destined to points in the states named, excluding commodities in bulk, for 180 days. Supporting shipper: Cadbury Schweppes U.S.A., 1200 High Ridge Road, Stanford, Conn. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 W. Wayne Street, Room 204, Ft. Wayne, Ind. 46802.

No. MC 140270 (Sub-No. 1TA), filed October 7, 1974. Applicant: DOUGLAS S. WHYTE AND TONY I. CENBRANO, doing business as MOLASSES TRUCK SERVICE, 707 Redwood Road, Stockton, Calif. 95201. Applicant's representative: Richard E. Macey, 1122 North Eldorado Street, Stockton, Calif. 95202. Authority sought to operate as a *contract carrier*, by motor vehicle, over iregular routes, transporting: *Natural spring potable water*, in bulk, in tank vehicles, from Mill Creek, Calif., to Las Vegas, Henderson, and Boulder City, Nev., under contract with Five Springs Water Company, for 180 days. Supporting shipper: Five Springs Water Company, Mill Creek, Calif. 96061. Send protests to: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

MOTOR CARRIERS OF PASSENGERS

No. MC 140282 TA filed October 4, 1974. Applicant: COMMUNITY COACH, INC., 315 Howe Avenue, Passaic, N.J. 07055. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Passengers*, between points in the Boroughs of Manhattan and Bronx, New York, N.Y., on the one hand, and, on the other, the plantsite of Kohner Bros., Inc. at Elmwood Park, N.J., under a continuing contract, or contracts with Kohner Bros., Inc., Elmwood Park, N.J., and (2) *Passengers*, between the Borough of Bronx, New York, N.Y., on the one hand, and, on the other, the plantsite of the Duralite Company, Inc., at Passaic, N.J., under a continuing contract, or contracts with Duralite Company, Inc., Passaic, N.J., for 180 days. Supporting shippers: Duralite Company, Inc., 2 Barbour Avenue, Passaic, N.J. 07056, and Kohner Bros., Inc., 1 Paul Kohner Place, E. Paterson, N.J. 07407. Send protests to: District Supervisor Joel Morrows, Interstate Commerce Commission, Bureau of Operations, 9 Clinton St., Newark, N.J. 07102.

By The Commission.

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

[FR Doc.74-25102 Filed 10-25-74;8:45 am]

[Notice No. 145]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 21, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 18535 (Sub-No. 58TA), filed October 9, 1974. Applicant: HICKLIN MOTOR LINE, INC., P.O. Box 377, St. Matthews, S.C. 29135. Applicant's representative: Edward J. Morrison, P.O. Box 67, Lexington, S.C. 29072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural limestone*, from Austinville, Va. (and Commercial Zone thereof), to points in South Carolina, for 180 days. Supporting shipper: Pee Dee Fuel & Fertilizer Co., Inc., P.O.

Box 108, Lydia, S.C. 29079. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 302, 1400 Building, 1400 Pickens Street, Columbia S.C. 29201.

No. MC 63417 (Sub-No. 69TA), filed October 8, 1974. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, 1814 Hollins Road NE., Roanoke, Va. 24012. Applicant's representative: William E. Bain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, from New Castle, Va., to points in Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia and (2) *Materials and supplies* used in the manufacture of furniture and *refused, rejected, or returned shipments of new furniture*, from the above named destinations, to New Castle, Va., for 180 days. Supporting shipper: Craig Furniture Corporation, P.O. Box 305, New Castle, Va. 24127. Send protests to: Danny R. Beeler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, Va. 24011.

No. MC 100449 (Sub-No. 54TA), filed October 8, 1974. Applicant: MALLINGER TRUCK LINE, INC., Route 4, Fort Dodge, Iowa 50501. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Iowa Beef Processors, Inc., at or near Amarillo, Tex., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, and Wisconsin, restricted to traffic originating at and destined to named points, for 180 days. Supporting shipper: Iowa Beef Processors, Inc., P.O. Box 515, Dakota City, Nebr. 68731. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 106400 (Sub-No. 103TA), filed October 9, 1974. Applicant: KAW TRAN October 9, 1974. Applicant: KAW TRANSPORT COMPANY, a Corporation, P.O. Box 12628, North Kansas City, Mo. 64116. Applicant's representative: Harold D. Holwick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid adhesives*, in bulk, in tank vehicles, from North Kansas City, Mo., to Sand Springs, Okla., for 90 days. Supporting shipper: National Starch and Chemical Corporation, 10 Finderne Avenue, Bridgewater, N.J. 08876. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 911 Walnut St., 600 Federal Building, Kansas City, Mo. 64106.

No. MC 112822 (Sub-No. 353TA), filed September 9, 1974. Applicant: BRAY LINE INCORPORATED, 1401 N. Little Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: William W. Frick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from the plant site and facilities of L. D. Schreiber Cheese Company, at Logan, Utah, to Chicago, Ill.; Toledo, Dayton, and Cleveland, Ohio; and Atlanta, Ga., and to within a 50-mile radius of Chicago, Ill.; Toledo, Dayton, and Cleveland, Ohio; and Atlanta, Ga., for 180 days. Supporting shipper(s): L. D. Schreiber Cheese Co., Robert Buchberger, P.O. Box 610, Green Bay, Wis. 54305. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 114896 (Sub-No. 20TA), filed September 7, 1974. Applicant: RUROLATOR SECURITY, INC., 1101 E. Mockingbird Towers, Suite 1001E, Dallas, Tex. 75247. Applicant's representative: William E. Fuilingim (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precious metal (gold), spent gold plating solution, gold stripping bath.* (1) Between Nutley, N.J., and Greensboro, Winston-Salem, and Gastonia, N.C., and (2) between Waterbury, Conn., and Greensboro, Winston-Salem, and Gastonia, N.C.

NOTE.—Applicant does not intend to tack authority, for 180 days.

Supporting shipper(s): AMP, Incorporated, Harrisburg, Pa. 17105. Send protests to: District Supervisor, Gerald T. Holland, Interstate Commerce Commission, 1100 Commerce Street, Room 13012, Dallas, Tex. 75202.

No. MC 118034 (Sub-No. 22TA), filed September 9, 1974. Applicant: MILLER TRUCK LINE, INC., 901 NE. 28th Street, Fort Worth, Tex. 76106. Applicant's representative: Mert Starnes, P.O. Box 2207, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in Section A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant site and/or storage facilities utilized by Iowa Beef Processors, Inc., at or near Amarillo, Tex., to points in Arkansas, Louisiana, Mississippi, New Mexico, Oklahoma, and Tennessee. Restricted to traffic originating at and destined to named points, for 180 days. Supporting shipper(s): Iowa Beef Processors, Inc., P.O. Box 515, Dakota City, Nebr. 68731. Send protests to: H. C. Morrison, Sr., District Supervisor, 919 Taylor St., Room 9A27, Federal Building, Fort Worth, Tex. 76102.

No. MC 118039 (Sub-No. 19TA), filed October 7, 1974. Applicant: ROBERT HEATH TRUCKING, INC., P.O. Box 2501, 2909 Avenue C, Lubbock, Tex. 79408. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Bldg., Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by Iowa Beef Processors, Inc., at or near Amarillo, Tex., to points in Alabama, Arkansas, Arizona, California, Colorado, Connecticut, District of Columbia, Florida, Georgia, Idaho, Kansas, Louisiana, Maryland Massachusetts, Mississippi, Montana, New Mexico, New Jersey, New York, Nevada, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, and Washington, restricted to traffic originating at and destined to named points, for 180 days. Supporting shipper: H. L. Dennison, General Traffic Manager, Iowa Beef Processors, Inc., P.O. Box 515, Dakota, City, Nebr. 68731. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395, Herring Plaza, Amarillo, Tex. 79101.

No. MC 126111 (Sub-No. 6TA), filed October 9, 1974. Applicant: LYLE W. SCHAETZEL, doing business as SCHAETZEL TRUCKING COMPANY, 520 Sullivan Drive, Fond du Lac, Wis. 54935. Applicant's representative: Richard C. Alexander, 710 N. Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sweetened condensed milk*, in bulk, in tank vehicles, from Fond du Lac, Wis., to Baltimore, Md., under a continuing contract with Galloway-West Company, a division of Borden Company, Inc., of Fond du Lac, Wis., for 180 days. Supporting shipper: Galloway-West Company, a division of Borden Company, Inc., 325 Tompkins Street, Fond du Lac, Wis. 54935 (John Look, Vice President). Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 126305 (Sub-No. 65TA), filed October 8, 1974. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., Route 1, Clayton, Ala. 36016. Applicant's representative: George A. Olsen, 69

Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Spheres, highway marking strip glass, ballotini, and glass, crushed, ground or powdered*, from the facilities of Potters Industries, Inc., Brownwood, Tex., to points in Arizona, California, Idaho, Nevada, New Mexico, and Utah; and (2) *Materials and supplies used in the manufacture and sale of glass spheres and glass spheres* (except in bulk, in tank vehicles), from the above named destination points to the facilities of Potters Industries, Inc., Brownwood, Tex., for 180 days. Supporting shipper: Potters Industries, Inc., P.O. Box 14, Carlstadt, New Jersey 07072. Send protests to: District Supervisor Clifford W. White, Interstate Commerce Commission, Bureau of Operations, Room 16161, 2121 Building, Birmingham, Ala. 35203.

No. MC 134323 (Sub-No. 64TA), filed October 7, 1974. Applicant: JAY LINES, INC., 720 North Grand, Amarillo, Tex. 79105. Applicant's representative: Gailyn Larsen, 521 So. 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dated, printed publications*, from the warehouse and storage facilities of Magazine Shippers Association, Inc., at or near Bridgeport, Conn., to points in Indiana, Kentucky, and Tennessee, for 180 days. Supporting shipper: William C. Ehalt, Jr., Vice President, Magazine Shippers Association, Inc., 955 Union Avenue, Bridgeport, Conn. 06607. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H–4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 135070 (Sub-No. 6TA), filed October 7, 1974. Applicant: JAY LINES, INC., 720 North Grand, Amarillo, Tex. 79105. Applicant's representative: Gailyn Larsen, 521 So. 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant site and/or storage facilities utilized by Iowa Beef Processors, Inc., at or near Amarillo, Tex., to points in Delaware, California, Connecticut, District of Columbia, Illinois, Indiana, Kentucky, Maryland, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin, restricted to traffic originating at and destined to named points, for 180 days. Supporting shipper: H. L. Dennison, General Traffic Manager, Iowa Beef Processors, Inc., P.O. Box 515, Dakota City, Nebr. 68731. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H–4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 136166 (Sub-No. 9TA), filed October 8, 1974. Applicant: CF TANK LINES, INC., 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: Robert M. Bowden (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chocolate*, in bulk, in tank vehicles, from Burlingame, Calif., to Fort Worth, Tex., for 150 days. Supporting shipper: Guittard Chocolate Company, #10 Gittard Road, Burlingame, Calif. 94010. Send protests to: District Supervisor Claud W. Reeves, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 136230 (Sub-No. 5TA), filed October 9, 1974. Applicant: INTERSTATE WAREHOUSING CORPORATION, doing business as INTERMODAL CONTAINER EXPRESS, 9805 North Main Street, Jacksonville, Fla. 32218. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Domestic* shipments, (1) *Canned goods* and (2) *Frozen citrus concentrat* · requiring refrigeration or temperature control, from Orlando, Lake Jem, La Belle, and Belle Glade, Fla., to points in Georgia and South Carolina and Jacksonville, Fla., for 180 days. Supporting shipper: Redi Foods Division, A. Duda & Sons Cooperative Assn., P.O. Box 257, Oviedo, Fla. 32765. Send protests to: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 W. Bay St., Jacksonville, Fla. 32202.

No. MC 136512 (Sub-No. 5TA), filed October 8, 1974. Applicant: SPACE CARRIERS, INC., 444 Lafayette Road, St. Paul, Minn. 55101. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment, and supplies* used in the manufacture of ribbon and non-woven fabrics, from Ames, Iowa, to Fort Dodge, Iowa; and from Fort Dodge, Iowa, to Fairmont, Minn., restricted to the transportation of traffic moving between plant sites and storage facilities of Minnesota Mining & Manufacturing Co., for 180 days. Supporting shipper: Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, Minn. 55101. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 414, Federal Building & U.S. Courthouse, 110 So. 4th Street, Minneapolis, Minn. 55401.

No. MC 138882 (Sub-No. 5TA), filed October 8, 1974. Applicant: WILEY SANDERS, INC., 212 Oak Street, Troy Ala. 36801. Applicant's representative: John W. Cooper, 1314 City Federal Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-ferrous metals*, both in bulk and in packages, bundles, or containers, between points in the United States (except Hawaii and Alaska) for 180 days. Supporting shippers: Southeast Red Metals Company, Inc., Troy, Ala. 36801, and Sanders Lead Company, Inc., Troy, Ala. 36801. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 138946 (Sub-No. 4TA), filed October 8, 1974. Applicant: MARKET TRANSPORT, LTD., 33 N.E. Middlefield Road, Portland, Oreg. 97211. Applicant's representative: Philip G. Skofstad, 3076 E. Burnside, Portland, Oreg. 97214. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cucumbers, pickled*, in drums or tote bins, from Stockton and Modesto, Calif., to Portland and Scappoose, Oreg.; (2) *Spices*, from Gilroy, San Francisco, and Vacaville, Calif., to Portland and Scappoose, Oreg.; (3) *Sugar*, in sacks, from Woodland and Sacramento, Calif., to Portland and Scappoose, Oreg.; (4) *Salt*, in sacks, from Oakland and San Leandro, Calif., to Portland and Scappoose, Oreg.; (5) *Labels*, printed, from San Francisco, Calif., to Portland and Scappoose, Oreg.; and (6) *Fibre, metal, plastic, or steel drums; fibre or plastic pails; glass or plastic bottles and caps or lids for glass or plastic bottles; cans, iron or steel, and can ends; cardboard boxes or cartons*, from Los Angeles, Pacoima, and Hayward, Calif., to Portland and Scappoose, Oreg., for 180 days. Supporting shipper: Steinfeld's Products Company, 10001 N. Polk Avenue, Portland, Oreg. 97203. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 140073 (Sub-No. 1TA), filed October 9, 1974. Applicant: VETERANS CONTRACT CARRIERS, INC., 3409 S. Wollmer Road, West Allis, Wis. 53227. Applicant's representative: Earl D. Smith (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mining equipment* such as *excavator and steel tanks and winches, hoists, and conveyors*, between Milwaukee, Wis., on the one hand, and, on the other, New Orleans, La., for 180 days. Supporting shipper: Mining Equipment Mfg. Corp., 3319 4 Mile Road, Racine, Wis. 53404 (Arthur J. Kuster, General Mgr. Manufacturing). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 140244 (Sub-No. 1TA), filed October 11, 1974. Applicant: MARGIE L. BERRIE, Route 2, Arkansas City, Kans. 67005. Applicant's representative: Tom L. Schwinn, Box 549, Wellington, Kans. 67152. Authority sought to operate

as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed ingredients, and fertilizer*, dry, in bulk, from points in Sumner and Cowley Counties, Kans., to points in Payne County, Okla., for 180 days. Supporting shippers: There are approximately 7 statements or support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

By The Commission.

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

[FR Doc.74-25103 Filed 10-25-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

OCTOBER 23, 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 November 8, 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 14702 (Sub-No. E1) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER, October 8, 1974. Applicant: OHIO FAST FREIGHT, INC. P.O. Box 808, Warren, Ohio 44482. Applicant's representative: James M. Holland (same as above). The letter-notice remains as previously published. The purpose of this correction is to indicate the correct "E" number—previously published as E7.

MC 22296 (Sub E9), filed June 4, 1974. Applicant: HERITAGE VAN LINES, INC., P.O. Box 2103, Huntington, W. Va. 25721. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in that part of Illinois, on and north of U.S. Highway 30, on the one hand, and, on the other, points in that part of Florida on, east, and south of Florida Highway 51, points in North Carolina, South Carolina, and in that part of Georgia on and south of a line beginning at the Georgia-Florida State line, thence along Georgia Highway 97 to junction Georgia Highway 112, thence along Georgia Highway 112 to junction U.S. Highway 280, thence along U.S. Highway 280 to junction U.S. Highway 301, thence along U.S. Highway 301 to the Georgia-South Carolina State line; and (2) between points in Illinois, on the one hand, and, on the other, points in that part of North Carolina on and east of U.S. Highway 220. The purpose of this filing is to eliminate the gateways of points in Cabell, Mason, and Wayne Counties, W. Va., or Boyd, Greenup, Lawrence, and Pike Counties, Ky., or Lawrence.

No. MC 22296 (Sub-No. E10), filed June 4, 1974. Applicant: HERITAGE VAN LINES, INC., P.O. Box 2103, Huntington, W. Va. 25721. Applicant's representative: William J Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in the Lower Peninsula of Michigan, on the one hand, and, on the other, points in Florida, South Carolina, Georgia, and North Carolina. The purpose of this filing is to eliminate the gateways of points in Pike, Letcher, Floyd, Morton, Johnson, and Lawrence Counties, Ky.

No. MC 64808 (Sub-No. E37), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 507, Fairmont, West Virginia 26554. Applicant's representative: William J. Lavelle 2310 Grant Bldg., Pittsburgh, Penn. 15219. 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 Barbour, Lewis, Taylor, Upshur, and Wetzel Counties, West Virginia, on the one hand, and, on the other, the District of Columbia. The purpose of this filing is to eliminate the gateway of Marion County, West Virginia.

No. MC 77005 (Sub-No. E1), filed May 19, 1974. Applicant: POINT TRANSFER, INC., P.O. Box 10392, Pittsburgh, Pa. 15234. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, machinery, and electrical appliances*, between Pittsburgh, Pa., and points within 15 miles thereof, on the one hand, and, on the other, points in that part of Ohio on, south, and west of a line beginning at Fairport Harbor, Ohio, and extending along Ohio Highway 535 to junction U.S. Highway 20, thence over U.S. Highway 20 to junction Ohio Highway 91, thence over Ohio Highway 91 to junction Interstate Highway 271, thence over Interstate Highway 271 to junction Interstate Highway 71, thence over Interstate Highway 71 to Columbus, Ohio, thence over U.S. Highway 23 to Portsmouth, Ohio. The purpose of this filing is to eliminate the gateways of Coraopolis, Pa., and points in Neville, Crescent, and Moon Townships, Allegheny County, Pa.

No. MC 77005 (Sub-No. E4), filed May 19, 1974. Applicant: POINT TRANSFER, INC., P.O. Box 10392, Pittsburgh, Pa. 15234. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, machinery, and electrical appliances*, between Pittsburgh, Pa., and points in its commercial zone, and points within 15 miles of Pittsburgh, Pa., located on and north of U.S. Highway 30, from Greensburg, Pa., to Pittsburgh, Pa., and Pennsylvania Highway 50 from Pittsburgh, Pa., to the Pennsylvania-West Virginia State line, on the one hand, and, on the other, points in that part of West Virginia on and south of a line beginning at the Ohio-West Virginia State line and extending along West Virginia Highway 33 to Spencer, W. Va., thence over West Virginia Highway 36 to junction Interstate Highway 79, thence over Interstate Highway 79 to junction U.S. Highway 19, thence over U.S. Highway 19 to Birch River, W. Va., thence over unnumbered West Virginia Highway to junction West Virginia Highway 20 at Cowen, W. Va., thence over West Virginia Highway 20 to junction West Virginia Highway 15, thence over West Virginia Highway 15 to junction U.S. Highway 219, thence over U.S. Highway 219 to junction West Virginia Highway 92, thence over West Virginia Highway 92 to junction U.S. Highway 250, and thence over U.S. Highway 250 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateways of Coraopolis, Pa., and Neville, Crescent, and Moon Townships, Allegheny County, Pa.

No. MC 94201 (Sub-No. E10), filed June 4, 1974. Applicant: BOWMAN TRANSPORTATION, INC., 1500 Cedar Grove Road, P.O. Box 17744, Atlanta, Georgia 30316. Applicant's representative: Murine F. Bishop, 601-09 Frank Nelson Bldg., Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from the plant site and storage facilities of the Procter and Gamble Company, Inc., at Augusta, Georgia, to points in Illinois and Indiana, that part of Kentucky on and west of U.S. Highway 31E, that part of Tennessee on and west of U.S. Highway 231. The purpose of this filing is to eliminate the gateway of the plant site of Revere Copper and Krase, Inc., near Scottsboro, Alabama.

No. MC 100666 (Sub-No. E193) (Correction), filed May 19, 1974, published in the FEDERAL REGISTER October 8, 1974.

Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Paul L. Caplinger (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: * * * (5) *Wallboard, fiberboard, particleboard, roofing, insulating, sheathing, gypsum plaster products, joint system compounds* (except in bulk), and *building paper and tape* from Irving, Tex., to points in Birmingham and Selma, Ala. (West Memphis, Ark.).* The purpose of this filing is to eliminate the gateways marked with asterisks above. The purpose of this partial correction is to include (5) above. The remainder remains as previously published.

No. MC 106398 (Sub-No. E18), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, in sections, when transported from origins which are points of manufacture, from points in Wayne County, New York, to points in Iowa, Missouri, Arkansas, and Louisiana. The purpose of this filing is to eliminate the gateway of any point in Pennsylvania.

No. MC 106398 (Sub-No. E19), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, in sections, when transported on wheeled undercarriages equipped with hitch-ball connectors, from origins which are points of manufacture, from Boca Raton, Jasper, and Ocala, Fla., to Mt. Clemens, Detroit, and Flint, Mich. The purpose of this filing is to eliminate the gateway of any point in Ohio.

No. MC 106398 (Sub-No. E20), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, in sections, when transported on wheeled undercarriages equipped with hitch-ball connectors, from origins which are points of manufacture, from Great Bend and Hutchinson, Kans., to Mt. Clemens, Detroit, and Flint, Mich. The purpose of this filing is to eliminate the gateway of any point in Indiana.

No. MC 106398 (Sub-No. E21), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, in Sections, when transported on wheeled undercarriages equipped with hitch-ball connectors, from origins which are points of manufacture, from Wichita, Kans., to points in New Hampshire, Maine, Massachusetts, Vermont, Connecticut, Rhode Island (except commodities the transportation of which because of size and weight requires the use of special equipment). The purpose of this filing is to eliminate the gateway of any point in New York.

No. MC 106398 (Sub-No. E22), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, in sections, when transported on wheeled undercarriages equipped with hitch-ball connectors, from origins which are points of manufacture, from Wakefield, Mass., to Mt. Clemens, Detroit, and Flint, Mich. The purpose of this filing is to eliminate the gateway of all points in Ohio.

No. MC 106398 (Sub-No. E23), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, in sections, when transported on wheeled undercarriages equipped with hitch-ball connectors, from origins which are points of manufacture, from Lawton and Chickasha, Okla., to Mt. Clemens, Detroit, and Flint, Mich. The purpose of this filing is to eliminate the gateway of any point in Indiana.

No. MC 106398 (Sub-No. E24), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, in sections, when transported on wheeled undercarriages equipped with hitch-ball connectors, from origins which are points of manufacture (except commodities the transportation of which because of size and weight requires the use of special equipment), from points in Rapides Parish, Louisiana, to points in Maine, New Hampshire, Vermont, New York, Massachusetts, Connecticut, and Rhode Island. The purpose of this filing is to eliminate the gateway of any points in Louisiana and Pennsylvania.

No. MC 106398 (Sub-No. E25), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, in sections, when transported on wheeled undercarriages equipped with hitch-ball connectors, from origins which are points of manufacture (except commodities the transportation of which because of size and weight require the use of special equipment), from points in Rapides Parish, Louisiana, to points in Iowa, Missouri, Wisconsin, Illinois, Michigan, Indiana, Ohio, Kentucky, Tennessee, Mississippi, Alabama, New York, Pennsylvania, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Vermont, Maine, New Hampshire, Massachusetts, Connecticut, and Rhode Island. The purpose of this filing is to eliminate the gateway of any point in Texas, Arkansas, Mississippi, or Pennsylvania.

No. MC 106398 (Sub-No. E29), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, in sections, when transported on wheeled undercarriages equipped with hitch-ball connector, other than from origins which are points of manufacture, from points in Arizona, California, Nevada, New Mexico, and Utah, to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the District of Columbia, restricted against the transportation of trailers or mobile homes designed to be drawn by passenger automobiles and oil field and industrial buildings. The purpose of this filing is to eliminate the gateway of any point in California, Nevada, Utah, Arizona, or New Mexico.

No. MC 106398 (Sub-No. E30), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, in sections, when transported on wheeled undercarriages equipped with hitch-ball connector, other than from origins which are points of manufacture, from Elizabethton, Tenn., to points in Arizona, California, Colorado, Connecticut, Delaware, Florida, Idaho, Illinois, Iowa, Kansas, Louisiana, Maine, Massachusetts, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Texas, Utah, Vermont, Washington, Wisconsin, Wyoming, and the District of Columbia. The purpose of this filing is to eliminate the gateway of any point in Georgia, Kentucky, or Mississippi.

No. MC 106398 (Sub-No. E31), filed May 31, 1974. Applicant: NATIONAL

TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commercial trailers*, designed to be drawn by passenger automobiles, from Kershaw, S.C., to the District of Columbia, and points in Washington, Oregon, California, Nevada, Idaho, Montana, Wyoming, Utah, Colorado, Arizona, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Arkansas, Wisconsin, Illinois, Michigan, Indiana, Ohio, Kentucky, New York, Vermont, New Hampshire, Maine, Massachusetts, Connecticut, Rhode Island, New Jersey, Maryland, Delaware, Pennsylvania, and West Virginia. The purpose of this filing is to eliminate the gateway of any point in North Carolina or Tennessee.

No. MC 106398 (Sub-No. E32), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commercial trailers*, designed to be drawn by passenger automobiles, from Natchitoches, La., to the District of Columbia, and to points in Washington, Oregon, California, Nevada, Idaho, Montana, Wyoming, Utah, Colorado, North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Michigan, Indiana, Kentucky, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine. The purpose of this filing is to eliminate the gateway of any point in Texas, Arkansas, or Tennessee.

No. MC 106398 (Sub-No. E33), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commercial trailers*, designed to be drawn by passenger automobiles, from Shelby, N.C., to points in, Washington, Oregon, California, Idaho, Nevada, Montana, Wyoming, Utah, Arizona, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, and Louisiana. The purpose of this filing is to eliminate the gateway of any point in Kentucky, Tennessee, or Mississippi.

No. MC 106398 (Sub-No. E34), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Undercarriages and frames designed to be equipped with hitchball or pintle hook connectors*, from Newton, Kans., to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateway of any point in Missouri, Iowa, or Nebraska.

No. MC 106398 (Sub-No. E38), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *commercial trailers*, designed to be drawn by passenger automobiles, from Whiteville, N.C., to points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming. The purpose of this filing is to eliminate the gateways of any point in Georgia or Virginia.

No. MC 106398 (Sub-No. E39), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commercial trailers*, designed to be drawn by passenger automobiles, from Robbins, N.C., to points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming. The purpose of this filing is to eliminate the gateway of any point in Georgia, Virginia, or Tennessee.

No. MC 107478 (Sub-No. E11) (Correction), filed May 10, 1974, published in the FEDERAL REGISTER October 15, 1974. Applicant: OLD DOMINION FREIGHT LINE, P.O. Drawer 2006, High Point, N.C. 27261. Applicant's representative: John T. Coon (same as above). The letter-notice remains as previously published. The purpose of this correction is to indicate the correct "E" number—previously published as E1.

No. MC 107515 (Sub-No. E342) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER October 3, 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. NE., Atlanta, Ga. 30326. The letter-notice remains as previously published. The purpose of this correction is to indicate the correct "E" number—previously published as E343.

No. MC 107515 (Sub-No. E344) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER October 3, 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. NE., Atlanta, Ga. 30326. The letter-notice remains as previously published. The purpose of this correction is to indicate the correct "E" number—previously published as E345.

No. MC 107541 (Sub-No. E1), filed May 13, 1974. Applicant: MAGEE TRUCK SERVICE, INC., 18101 SE. McLaughlin Blvd., Milwaukee, Oregon, 97222. Applicant's representative: Earle V. White, 2400 SW. Fourth Avenue, Portland, Oregon 97201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lumber*, (1) from points in Washington to points in Utah and those in Idaho in and south of Adams, Valley, Lemhi, Clark, and Fremont Counties, Idaho, restricted against service from points in Whitman, Garfield, Asotin, and Columbia Counties, Wash., to points in Adams and Valley Counties, Idaho; (2) from points in Washington to Sacramento, Fresno, and Los Angeles, Calif.; (3) from points in allowa, Union, Umatilla, Grant, Wheeler, Morrow, Gilliam, Sherman, Wasco, Hood River, Clackamas, Multnomah, Washington, and Columbia Counties, Oreg., to Sacramento, Fresno, and Los Angeles, Calif.; and (4) from points in Yamhill and Marion Counties, Oreg., to Los Angeles, Calif. The purpose of this filing is to eliminate the gatewavs of points in Multnomah or Union Counties, Oreg., in (1); and Klickitat, Wash., in (2), and (3), and (4).

No. MC–109397 (Sub-No. E58), filed May 15, 1974. Applicant: TRI-STATE TRANSIT CO., P.O. Box 113, Joplin, Mo. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Explosives* (except nitroglycerin), between points in that part of Louisiana west of the Mississippi River, on the one hand, and, on the other, points in Idaho and Oregon. The purpose of this filing is to eliminate the gateway of Greenville, Miss.

No. MC 110420 (Sub-No. E43), filed June 4, 1974. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: N. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Vegetable oil products*, in bulk, in tank vehicles, from Newark, New Jersey, (a) to points in Colorado, Idaho, Montana,

Utah, and Wyoming (Janesville, Wis.)*; (b) to Savanna, Ill., Hancock, Mich., and points in Missouri (except points in Stoddard, Scott, Mississippi, New Madrid, Pemiscot, and Dunkin Counties (Janesville, Wis.)*; (c) to points in Iowa (Janesville, Wis.)*; (d) to points in Nebraska (Janesville, Wis., and Clinton, Iowa)*; (e) to points in North Dakota, South Dakota, and that part of Kansas on and west of U.S. Highway 75 (Janesville, Wis., Clinton, Iowa, Fremont, Nebr.)*; (2) *Fatty acid products*, in bulk, in tank vehicles, from Newark, New Jersey, to points in Texas (Shelby, Nacogdoches, Angelina, San Augustine, and Saline Counties) and Kansas (except Wilson, Neosho, Crawford, Montgomery, Elk, Chautauqua, Labette, and Cherokee Counties) (Janesville, Wis., and Kankakee, Ill.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110420 (Sub-No. E44), filed June 4, 1974. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Varnish*, in bulk, in tank vehicles, from Sheboygan, Wis., to points in Georgia and Florida (Ringwood, Ill., and Saukville, Wis.)*; (2) *Synthetic resins*, in bulk, in tank vehicles, from Sheboygan, Wis., to points in Arkansas, Oklahoma, Texas, that part of Mississippi in and south of Coahoma, Quitman, Tallahatchie, Yalobusha, Calhoun, Webster, Clay, and Lowndes Counties, that part of Tennessee in, south and east of Tipton, Fayette, Hardeman, Chester, Hardin, Wayne, Lewis, Maury, Williamson, Davidson, and Summer Counties, and that part of Alabama in and east of Jackson, Marshall, Blount, Jefferson, Shelby, Chilton, Autauga, Lowndes, Butler, Covington, Conecuh, Excambia, Baldwin, and Mobile Counties (Ringwood, Ill., and Saukville, Wis.)*; (3) *Fatty acid products, detergents, surfactants, and washing compounds* in bulk, in tank vehicles, from Sheboygan, Wis., to points in Georgia (Ringwood, Ill., to Janesville, Wis.)*. The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 110420 (Sub-No. E45), filed June 4, 1974. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Vegetable oil products*, in bulk, in tank vehicles, from Jersey City, N.J., (a) to points in Colorado, Idaho, Montana, Utah, Wyoming (Janesville, Wis.)*; (b) to points in the Upper Peninsula of Michigan, that part of Illinois in, north, and west of Mercer, Knox, Peoria, Woodford, LaSalle, Grundy, Kendall, Kane, and McHenry Counties, and that part of Missouri in, north, and west of Barry, Lawrence, Dade, Polk, Dallas, Camden, Miller, Cole, Callaway, Montgomery, Warren, and St. Charles Counties (Janesville, Wis.)*; (c) to points in Iowa (Janesville, Wis.)*; (d) to points in Nebraska (Janesville, Wis., and Clinton, Iowa)*; and (e) to points in North Dakota, South Dakota, and points in that part of Kansas on and west of U.S. Highway 75 (Janesville, Wis., Clinton, Iowa, and Fremount, Nebr.)*; (2) *Fatty acid products*, in bulk, in tank vehicles, from Jersey City, N.J., to points in Texas (Shelby, Nocogodoches, Angelina, San Augustine, and Saline Counties) and Kansas (except Wilson, Neoshe, Crawford, Montgomery, Elk, Chautauqua, Labette, and Cherokee Counties) (Janesville, Wis., and Kankakee, Ill.)*. The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 110420 (Sub-No. E47), filed June 4, 1974. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Vegetable oil products*, in bulk, in tank vehicles, from Graselli, N.J., to points in (a) Colorado, Idaho, Montana, Utah, and Wyoming (Janesville, Wis.);* (b) the Upper Peninsula of Michigan and that part of Missouri in, north, and west of Barry, Lawrence, Dade, Polk, Dallas, Camden, Miller, Cole, Callaway, Montgomery, Warren, and St. Charles Counties (Janesville, Wis.);* (c) Iowa (Janesville, Wis.);* (d) Nebraska (Janesville, Wis., and the plant site of Hawkeye Chemical Company at or near Clinton, Iowa);* (e) North Dakota, South Dakota, and the part of Kansas in, west, and south of Marshall, Pottawatomie, Shawnee, Douglas, and Johnson Counties (Janesville, Wis., the plantsite of Hawkeye Chemical Co., at or near Clinton, Iowa, Fremont, Nebr.);* (2) *Fatty acid products*, in bulk, in tank vehicles from Graselli, N.J., to points in Kansas and that part of Texas on and west of a line beginning at Port Lavaca, thence along U.S. Highway 87 to Victoria, thence along U.S. Highway 77 to Waco, thence along Interstate Highway 35 to the Oklahoma-Texas State line (Janesville, Wis., and the plant site of General Mills at Kankakee, Ill.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E835), filed May 20, 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 and coal tar products*, in bulk, in tank vehicles, from points in that part of Pennsylvania on, east, and south of a line beginning at the Maryland-Pennsylvania State line, thence along U.S. Highway 220 to Towanda, thence along U.S. Highway 6 to Scranton, thence along Interstate Highway 81 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line, to points in Rhode Island and that part of Connecticut on and east of a line beginning at the New York-Connecticut State line, thence along Interstate Highway 84 to junction Interstate Highway 91, thence along Interstate Highway 91 to the Connecticut-Massachusetts State line. The purpose of this filing is to eliminate the gateway of Newark, N.J.

No. MC 110525 (Sub-No. E868), filed May 20, 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 the plant site of the Stauffer Chemical Company at or near Louisville, Ky., to points in California, New Mexico, that part of Texas on and west of U.S. Highway 277, and that part of Oklahoma on and west of a line beginning at the Texas-Oklahoma State line, thence along U.S. Highway 283 to junction Oklahoma Highway 6, thence along Oklahoma Highway 6 to junction Oklahoma Highway 34, thence along Oklahoma Highway 34 to the Oklahoma-Kansas State line. The purpose of this filing is to eliminate the gateway of Mapleton, Ill.

No. MC 110525 (Sub-No. E875), filed May 20, 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: *Boron tri-fluoride*, in bulk, in tank vehicles, from Brooklyn, Ohio, (1) to points in Georgia, Florida, Alabama, and that part of Tennessee on and east of U.S. Highway 27 (Charleston, W. Va.)*, and (2) to points in Connecticut, Massachusetts, and Rhode Island (Buffalo, N.Y.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E893), filed May 20, 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: *Petroleum products*, in bulk, in tank vehicles, from Brownsville, Pa.; (1) to points in Connecticut, Massachusetts, and Rhode Island (Cumberland, Md., points in Aston Township, Pa., Philadelphia, Pa., and Newark, N.J.)*; (2) to points in New Jersey (Cumberland, Md., points in Aston Township, Pa., and Philadelphia, Pa.)*; (3) to points in that part of New York on and south of Interstate Highway 87/287 (Cumberland, Md., points in Aston Township, Pa., and Philadelphia, Pa.)*; and (4) to Brattle-

boro, Rutland, Bennington, and White River Junction, Vt. (Cumberland, Md., points in Aston Township, Pa., Philadelphia, Pa., and Albany, N.Y.)*, restricted in (1) and (2) above against the transportation of liquid wax and commodities requiring attached heater equipment. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E894), filed May 20, 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: *Petroleum products*, in bulk, in tank vehicles, from Chambersburg, Pa., (1) to points in Connecticut, Massachusetts, and Rhode Island (Hagerstown, Md., points in Aston Township, Pa., Philadelphia, Pa., and Ft. Lee, N.J.)*; (2) to points in that part of New Jersey on and east of New Jersey Highway 47 (Hagerstown, Md., points in Aston Township, Pa., and Philadelphia, Pa.)*; (3) to New York, N.Y., and points in Nassau and Suffolk Counties, N.Y. (Hagerstown, Md., points in Aston Township, Pa., and Philadelphia, Pa.)*; and (4) to Brattleboro, Rutland, Bennington, and White River Junction, Vt. (Hagerstown, Md., points in Aston Township, Pa., Philadelphia, Pa., and Albany, N.Y.)*, restricted in (1) and (2) above against the transportation of liquid wax and commodities requiring attached heater equipment. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E1036), filed May 20, 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: *Dry chemicals* (except phosphatic feed supplements), in bulk, in tank vehicles from Tampa, Fla.; (1) to points in Wisconsin and that part of Iowa on, north, and west of a line beginning at the Mississippi River, thence along Iowa Highway 2 to junction Iowa Highway 81, thence along Iowa Highway 81 to the Iowa-Missouri State line (Charleston, W. Va.)*; and (2) to points in that part of Pennsylvania on and west of a line beginning at the West Virginia-Pennsylvania State line, thence along U.S. Highway 19 to junction Pennsylvania Highway 8, thence along Pennsylvania Highway 8 to the Pennsylvania-New York State line, and that part of New York on and west of New York Highway 14 (except points in Erie and Monroe Counties) (Copperhill, Tenn., and Fernald, Ohio)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E1056), filed May 20, 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: *Polyethylene*, dry, in bulk, in tank vehicles, from the plant site of Spencer Chemical Company, located approximately 3.5 miles from Orange, Tex., (1) to points in Michigan and that part of Ohio in and north of Butler, Warren, Clinton, Fayette, Ross, Vinton, and Athens Counties (except points in Ashtabula, Cuyahoga, Lake, Summit, Muskingum, Licking, Franklin, and Wayne Counties), (Milan Township, Allen County, Ind.)*; (2) to points in Maryland, Pennsylvania, New York (except points in Nassau, Suffolk, and Queens Counties), and that part of New Jersey on and east of New Jersey Highway 47 ((1) Milan Township, Allen County, Ind., and (2) Fernald, Ohio, or Morgantown, W. Va.)*; (3) to points in Massachusetts, Rhode Island, and that part of Connecticut on and east of Interstate Highway 91 (Milan Township, Allen County, Ind., Fernald, Ohio, and Buffalo, N.Y.)*; and (4) to points in Maine, New Hampshire, and Vermont (Milan Township, Allen County, Ind., Fernald, Ohio, and Solvay, N.Y.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E1317), filed June 4, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Penn. 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* (except bituminous products and materials), in bulk, in tank vehicles, from points in that part of Georgia on and north of Georgia Highway 22, and on and south of a line beginning at the Alabama-Georgia State line, thence along Interstate Highway 85 to junction Georgia Highway 16, thence along Georgia Highway 16 to Sparta, to points in that part of Florida on and west of U.S. Highway 231 and on and south of U.S. Highway 90. The purpose of this filing is to eliminate the gateway of Columbus, Georgia.

No. MC 110525 (Sub-No. E1318), filed June 4, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Penn. 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 Kentucky to points in Maryland. The purpose of this filing is to eliminate the gateway of S. Charleston, West Virginia.

No. MC 110525 (Sub- No. E1319), filed June 4, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Penn. 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*, as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles, from points in Mississippi to points in that part of Ohio on and east of a line beginning at Ironton, thence along Ohio Highway 93 to junction U.S. Highway 33, thence along U.S. Highway 33 to Lancaster, thence along Ohio Highway 37 to junction Ohio Highway 16, thence along Ohio Highway 16 to Newark, thence along Ohio Highway 13 to Huron. The purpose of this filing is to eliminate the gateway of S. Charleston, West Virginia.

No. MC 110525 (Sub No. E1320), filed June 4, 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 that part of Kentucky in and east of Greenup, Carter, Elliott, Morgan, Magoffin, Breathitt, Perry, Leslie, and Bell Counties, to points in North Dakota. The purpose of this filing is to eliminate the gateways of S. Charleston, W. Va., and Addyston, Ohio.

No. MC 110525 (Sub No. E1322), filed June 4, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Penn. 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*, as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677 (except bituminous products and materials), in bulk, in tank vehicles, from points in Maryland, to points in Michigan. The purpose of this filing is to eliminate the gateways of Morgantown and Natrium, West Virginia.

No. MC 110525 (Sub No. E1325), filed June 4, 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*, as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles, from points in that part of Florida on and east of a line beginning at the Georgia-Florida State line, thence along U.S. Highway 441 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Gulf of Mexico, to points in that part of Illinois on and north of Illinois Highway 17. The purpose of this filing is to eliminate the gateway of S. Charleston, W. Va.

No. MC 110525 (Sub-No. E1334), filed June 4, 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* (except bituminous products and materials, vegetable oils, crude tall oil, sulphate, black liquor skimmings, and naval stores), in bulk, in tank vehicles, from

points in Dade County, Fla., to points in Delaware. The purpose of this filing is to eliminate the gateway of Raleigh, N.C., and Hopewell, Va.

No. MC 110525 (Sub-No. E1335), filed June 4, 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 that part of Kentucky on and east of Interstate Highway 75, to points in California. The purpose of this filing is to eliminate the gateways of S. Charleston, W. Va., and Addyston, Ohio.

No. MC 110525 (Sub-No. E1336), filed June 4, 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 that part of Kentucky on and east of Interstate Highway 75, to points in Idaho. The purpose of this filing is to eliminate the gateways of S. Charleston, W. Va., and Addyston, Ohio.

No. MC 110525 (Sub-No. E1337), filed June 4, 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 that part of Kentucky on and east of Interstate Highway 75, to points in Arizona. The purpose of this filing is to eliminate the gateways of S. Charleston, W. Va., and Addyston, Ohio.

No. MC 110525 (Sub-No. E1338), filed June 4, 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* (except bituminous products and materials), in bulk, in tank vehicles, from points in that part of North Carolina on and west of U.S. Highway 21, to points in New Hampshire. The purpose of this filing is to eliminate the gateways of Hopewell, Va., and Syracuse, N.Y.

No. MC 110525 (Sub-No. E1339), filed June 4, 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* (except bituminous products and materials), in bulk, in tank vehicles, from points in that part of North Carolina on and west of a line beginning at the Virginia-North Carolina State line, thence along North Carolina Highway 35 to junction U.S. Highway 258, thence along U.S. Highway 258 to Jacksonville, thence along U.S. Highway 17 to Wilmington, thence along North Carolina Highway 133 to Southport, to points in that part of New Hampshire on and south of U.S. Highway 302 and on and east of U.S. Highway 3. The purpose of this filing is to eliminate the gateways of Hopewell, Virginia, and Syracuse, New York.

No. MC 110525 (Sub-No. E1340), filed June 4, 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*, as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles, from points in Alabama (except Anniston), Florida, Georgia, Mississippi, Louisiana, South Carolina, and Texas (except Ft. Worth and Velasco, and points in Harris and Jefferson Counties), to points in New Hampshire and Maine. The purpose of this filing is to eliminate the gateways of S. Charleston, W. Va., and Syracuse, N.Y.

No. MC 110525 (Sub-No. E1341), filed June 4, 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* as defined in *The Maxwell Co. Extension—Addyston*, 63 M.C.C. 677 (except liquid hydrogen, liquid nitrogen, and liquid oxygen), in bulk, in tank vehicles, from points in Alabama (except Anniston), Florida, Georgia, Mississippi, Louisiana, South Carolina, and Texas (except Fort Worth and Velasco, and points in Harris and Jefferson Counties), to points in Vermont. The purpose of this filing is to eliminate the gateways of S. Charleston, W. Va., and Syracuse, N.Y.

No. MC 110525 (Sub-No. E1342), filed June 4, 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* as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles, from points in Alabama (except Anniston), Florida, Georgia, Mississippi, Louisiana, South Carolina, and Texas (except Fort Worth and Velanco, and points in Harris and Jefferson Counties), to points in New York, restricted to the transportation of traffic moving in foreign commerce only. The purpose of this filing is to eliminate the gateway of S. Charleston, W. Va.

No. MC 125708 (Sub-No. E1), filed June 4, 1974. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., P.O. Box 192, Crawfordsville, Ind. 47933. Applicant's representative: Anthony C. Vance, 1111 E. St. N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: I. (1) *Grain products*, dry, except in bulk, in tank vehicles, and (2) *grain*, when moving in the same vehicle, and at the same time as the commodities described in (1) above, (1) from Buffalo, N.Y., to points in Arkansas, Mississippi, Missouri, and Louisiana; (2) from Superior, Wisc., and Hastings, Minn., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, and that part of Missouri on and east of U.S. Highway 67, and (3) from Dallas, Tex., to points in Indiana, Ohio, and St. Louis County, Mo. (the plantsite of Peavey Flour Mills at Alton, Ill.)*, (4) from points in Alabama to points in Minnesota, Wisconsin, the Upper Peninsula of Michigan, and that part of Kansas on and north of a line beginning at the Colorado-Kansas State line, thence along U.S. Highway 50 to Dodge City, thence along U.S. Highway 154 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction Woodson-Allen County line, thence along the Woodson-Allen County line, the Allen-Neosho County line, the Bourbon-Neosho County line, the Bourbon-Crawford County line to junction Kansas-Missouri State line; (5) from points in Arkansas to points in Wisconsin, Michigan, Pennsylvania, New Jersey, and New York; (6) from points in Georgia and that part of Florida on and east of the Apalachicola River, to points in Kansas, Minnesota, and Wisconsin; (7) from points in that part of Florida west of the Apalachicola River to points in Minnesota, Wisconsin, and that part of Kansas on and north of a line beginning at the Colorado-Kansas State line, thence along U.S. Highway 50 to Dodge City, thence along U.S. Highway 154 to junction U.S. Highway 54, thence along U.S. Highway 54a to the Kansas-Missouri State line; (8) from points in Indiana to points in Kansas and Texas; (9) from points in Louisiana and Mississippi to points in Michigan and Wisconsin; (10) from points in Missouri (except St. Louis) to points in Pennsylvania, New Jersey, New York, and the Lower Peninsula of Michigan; (11) from points in that part of Missouri (except St. Louis) on, west, and north of a line beginning at the Arkansas-Missouri State line, thence along Missouri Highway 19 to Salem.

Thence along Missouri Highway 32 to the Mississippi River, to points in West Virginia and that part of Virginia on and east of U.S. Highway 52; (12) from points in Ohio to points in Kansas and Texas; (13) from points in that part of Arkansas on and east of a line beginning at the Missouri-Arkansas State line, thence along U.S. Highway 65 to Little Rock, thence along U.S. Highway 67 to the Texas-Arkansas State line, to points in that part of Minnesota on and east of a line beginning at International Falls, thence along U.S. Highway 53 to junc-

tion U.S. Highway 167, thence along U.S. Highway 167 to the Minnesota-Iowa State line; (14) from points in that part of Missouri on and north of U.S. Highway 40 (except St. Louis), to points in that part of Kentucky east of the Tennessee River and that part of Tennessee east of the Tennessee River (the plantsite of Peavey Flour Mills at Alton, Ill.); II. *Processed and canned foodstuffs*, except apple cider and vinegar, (1) between points in Arkansas, Oklahoma, and that part of Missouri on and south of a line beginning at the Missouri-Kansas State line, thence along U.S. Highway 54 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Mississippi River (except St. Louis), on the one hand, and, on the other, points in that part of Illinois on and north of a line beginning at the Illinois-Missouri State line, thence along the St. Clair-Madison County line and the St. Clair-Clinton County line to junction Illinois Highway 161, thence along Illinois Highway 161 to junction unnumbered highway, thence along unnumbered highway to Allendale, thence along Illinois Highway 1 to Mount Carmel (except Chicago); (2) between points in that part of Missouri on and south of U.S. Highway 40 and on and north of a line beginning at the Kansas-Missouri State line.

Thence along U.S. Highway 64 to Jefferson City, thence along U.S. Highway 50 to the Mississippi River (except St. Louis), and that part of Kansas on and south of U.S. Highway 40, on the one hand, and, on the other, points in that part of Illinois on and east of a line beginning at the Wisconsin-Illinois State line, thence along U.S. Highway 51 to LaSalle, thence along Illinois Highway 29 to Springfield, thence along U.S. Highway 66 to junction Madison-Macoupin County line, thence along the Madison-Macoupin County line and the Madison-Jersey County line to the Mississippi River; (3) between points in that part of Kansas north of U.S. Highway 40, on the one hand, and, on the other, points in that part of Illinois on and south of a line beginning at the Mississippi River, thence along U.S. Highway 40 to junction U.S. Highway 45, thence along U.S. Highway 45 to the Illinois-Wisconsin State line; and (4) between points in that part of Missouri on and north of U.S. Highway 40 (except St. Louis), on the one hand, and, on the other, points in that part of Illinois on and south of a line beginning at the Mississippi River, thence along the Madison-Jersey County line, the Madison-Macoupin County line, the Madison-Montgomery County line, and the Madison-Bond County line to junction Interstate Highway 70, thence along Interstate Highway 70 to the Illinois-Indiana State line, restricted in (1), (2)(1), (2)(11), and (3) above to transportation in vehicles other than those equipped with mechanical refrigeration (Collinsville, Ill.)*; III. *Processed and canned foodstuffs*, except apple cider, vinegar, frozen foods, and commodities in bulk, in tank vehicles, from Mount Summit, Ind., to points in Arkansas, Kansas, Missouri, and Oklahoma, restricted to transportation in vehicles other than those equipped with mechanical refrigeration (Collinsville, Ill.)*; IV. *Processed and canned foods*, except apple cider and vinegar, (1) between points in Kansas and that part of Missouri on and north of U.S. Highway 66 and on and south of U.S. Highway 40, on the one hand, and, on the other, points in that part of Tennessee on and east of the Tennessee River; and (2) between points in that part of Missouri on and north of U.S. Highway 40, on the one hand, and, on the other, points in Tennessee (except Memphis and points in the Memphis Commercial Zone as defined by the Commission); restricted in (1) and (2) above to transportation in vehicles other than those equipped with mechanical refrigeration (Collinsville, Ill.)*; V. *Processed and canned foods* (1) between points in that part of Tennessee on and west of the Tennessee River on the one hand, and, on the other, points in that part of Illinois on and north of a line beginning at the Mississippi River.

Thence along U.S. Highway 66 to junction Illinois Highway 48, thence along Illinois Highway 48 to junction Illinois Highway 54, thence along Illinois Highway 54 to junction U.S. Highway 24, and thence along U.S. Highway 24 to the Indiana-Illinois State line; and (2) between points in that part of Tennessee on and east of the Tennessee River, on the one hand, and, on the other, points in that part of Illinois on and west of a line beginning at the Mississippi River thence along U.S. Highway 66 thence along Illinois Highway 29 to junction Illinois Highway 26, thence along Illinois Highway 26 to the Illinois-Wisconsin State line (Collinsville, Ill.)*; VI. *Processed and canned foodstuffs*, except commodities in bulk, in tank vehicles, and frozen foods, (1) between points in Louisiana and that part of Mississippi on and south of U.S. Highway 80, on the one hand, and, on the other, points in that part of Illinois on and north of a line beginning at the Mississippi River, thence along the St. Clair-Monroe County line, the St. Clair-Randolph County line, the St. Clair-Washington County line, and St. Clair-Clinton County line to junction Illinois Highway 161, to junction Illinois Highway 37, thence along Illinois Highway 37 to Effingham, thence along U.S. Highway 40 to the Indiana-Illinois State line; and (2) between points in that part of Mississippi on and north of U.S. Highway 80, on the one hand, and, on the other, points in that part of Illinois on and north of a line beginning at the Mississippi River, thence the St. Clair-Monroe County line, the St. Clair-Randolph County line, the St. Clair-Washington County line, the Clinton-Washington County line, the Clinton-Marion County line, the Clinton-Fayette County line, and the Bond-Fayette County line to junction U.S. Highway 40.

Thence along U.S. Highway 40 to the Illinois-Indiana State line (Collinsville, Ill.)*; VII. *Processed and canned foodstuffs*, except commodities in bulk, in tank vehicle, frozen foods, apple cider, and vinegar, between points in Mississippi and Louisiana, on the one hand, and, on the other, points in that part of Missouri on and east of a line beginning at the Mississippi River, thence along the St. Louis-Jefferson County line, the St. Louis Franklin County line, the St. Charles-Franklin County line, the St. Charles-Warren County line, and the St. Charles-Lincoln County line to junction U.S. Highway 61, thence along U.S. Highway 61 to Hannibal, restricted to transportation in vehicles other than those equipped with mechanical refrigeration (Collinsville, Ill.)*; VIII. *Canned and processed foodstuffs*, except commodities in bulk, in tank vehicles, and frozen foods, (1) from Mount Summit, Ind., to points in that part of Iowa on, west, and south of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 59 to junction Interstate Highway 80, thence along Interstate Highway 80 to Des Moines, thence along U.S. Highway 65 to Lineville; (2) from points in Mississippi and Louisiana to points in that part of Iowa on and east of U.S. Highway 69; and (3) from points in Mississippi and that part of Louisiana on and east of a line beginning at the Arkansas-Louisiana State line, thence along U.S. Highway 167 to Abbeville, thence along the Vermiilion River to the Gulf of Mexico, to points in that part of Iowa on and west of U.S. Highway 69 (Collinsville, Ill.)*; IX. *Steel, and materials and supplies* used in the manufacture of steel grinding balls as are iron and steel or iron and steel articles, (1) from points in Pennsylvania, New York, and that part of Ohio on and east of Interstate Highway 71, to points in that part of Illinois on, south, and west of a line beginning at the Mississippi River thence along U.S. Highway 36 to Springfield.

Thence along Illinois Highway 29 to junction U.S. Highway 51, thence along U.S. Highway 51 to Cairo; (1)(ii) from points in that part of Ohio west of Interstate Highway 71 to points in Jersey, Madison, St. Clair, Monroe, Bond, and Clinton Counties, Ill.; (2) from points in that part of Missouri on and south of a line beginning at the Kansas-Missouri State line, thence along U.S. Highway 54 to junction U.S. Highway 50 thence along U.S. Highway 50 to the Mississippi River, to points in that part of Illinois on, east, and north of a line beginning at Moline, thence along U.S. Highway 67 to junction U.S. Highway 125, thence along U.S. Highway 125 to the junction with Illinois Highway 29, thence Illinois Highway 29 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction U.S. Highway 50, and thence along U.S. Highway 50 to the Illinois-Indiana State line, and (3) from points in that part of Missouri on and north of a line beginning at the Kansas-Missouri State line, thence along U.S. Highway 54 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Mississippi River, to points in that part of Illinois on, south, and west of a line beginning at the Indiana-Illinois State line, thence along Illinois Highway 16 to junction U.S. Highway 51, thence

along U.S. Highway 51 to Cairo, restricted in (1), (2), and (3) above against the transportation of building materials as are included within the commodity description iron and steel articles (Greenville, Ill.)*; X. *Steel* (except such building materials as are included within the commodity description iron and steel articles), (1) from points in Pennsylvania, New York, and that part of Ohio on and north of U.S. Highway 40, to points in Missouri on and east of U.S. Highway 67; and (2) from points in New York, Ohio, and Pennsylvania to points in that part of Missouri on and west of a line beginning at Crystal City.

Thence along U.S. Highway 67 to the Missouri-Arkansas State line (except Louisiana) (Greenville and Carlinville, Ill.)*; (3) from points in that part of Florida on and east of the Appalachicola River, that part of Kentucky east of the Tennessee River and south of U.S. Highway 460, and that part of Tennessee on and east of the Tennessee River, to points in Missouri on and north of U.S. Highway 66 (except Louisiana); (4) from points in that part of Florida west of the Appalachicola River, that part of Kentucky west of the Tennessee River, and that part of Tennessee west of the Tennessee River, to points in that part of Missouri on and north of U.S. Highway 40 (except Louisiana); (5) from points in Minnesota to St. Louis, Mo.; and (6) from points in that part of Indiana in the Chicago, Ill., Commercial Zone as defined by the Commission, to points in that part of Missouri on and south of U.S. Highway 40 and west of a line beginning at Crystal City, thence along U.S. Highway 67 to the Missouri-Arkansas State line (Greenville and Collinsville, Ill.)*; (7) from points in Minnesota to points in that part of Illinois on and south of a line beginning at Alton, thence along Illinois Highway 140 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Illinois-Indiana State line; (8) from points in Florida to points in that part of Illinois in and north of Randolph, Perry, Hamilton, and White Counties, Ill.; (9) from points in that part of Tennessee on and west of Interstate Highway 65 and that part of Kentucky on and west of Interstate Highway 65 and on and south of U.S. Highway 460 to points in that part of Illinois on, north, and west of a line beginning at the Mississippi River, thence along the St. Clair-Monroe County line, the St. Clair-Randolph County line, the St. Clair-Washington County line, the Madison-Clinton County line, and the Madison-Bond County line to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Interstate Highway 57.

Thence along Interstate Highway 57 to Lake Michigan (except points in the Chicago, Ill., Commercial Zone as defined by the Commission); (10) from points in that part of Tennessee on and east of Interstate Highway 65 and that part of Kentucky on and east of Interstate Highway 65 and on and south of U.S. Highway 460, to points in that part of Illinois on, north, and west of a line beginning at the Mississippi River, thence along U.S. Highway 50, to junction U.S. Highway 51, thence along U.S. Highway 51 to the Illinois-Wisconsin State line; (11) from points in that part of Indiana in the Chicago, Ill., Commercial Zone as defined by the Commission, to points in that part of Illinois on and south of a line beginning at Alton, Ill., thence along Illinois Highway 140 to Greenville, thence along Illinois Highway 127 to Cairo; and (12) from points in Minnesota and that part of Indiana in the Chicago, Ill., Commercial Zone as defined by the Commission, to points in that part of Missouri on and east of U.S. Highway 67 (Greenville and Carlinville, Ill., or points within five miles of Carlinville)*; XI. *Steel* (except commodities which because of size or weight require special handling or the use of special equipment and building materials as are included within the commodity description iron and steel articles), (1) from points in North Dakota and South Dakota to points in Illinois on and south of Illinois Highway 16; (2) from points in North Dakota and that part of South Dakota on and north of U.S. Highway 16, to points in that part of Illinois on, south, and east of a line beginning at Shipmen, thence along Illinois Highway 4 to Springfield, thence along U.S. Highway 36 to the Illinois-Indiana State line, and on and north of Illinois Highway 61; (3) from points in North Carolina and South Carolina to points in that part of Illinois on, north, and west of a line beginning at the Mississippi River, thence along the St. Clair-Monroe County line, the St. Clair-Randolph County line, and the St. Clair-Washington County line to junction U.S. Highway 460 thence along U.S. Highway 460 to junction Interstate Highway 57, thence along Interstate Highway 57 to Lake Michigan (except points in the Chicago, Ill., Commercial Zone as defined by the Commission); (4) from points in Virginia and West Virginia to points in that part of Illinois on and west of a line beginning at the Mississippi River, thence along Interstate Highway 74 to junction U.S. Highway 51.

Thence along U.S. Highway 51 to junction Illinois Highway 149, thence along Illinois Highway 149 to junction Illinois Highway 3, thence along Illinois Highway 3 to Chester; and (5) from points in Indiana (except points in Indiana in the Chicago, Ill., Commercial Zone as defined by the Commission), to points in St. Clair, Clinton, Madison, Bond, and Jersey Counties, Ill. (Greenville, Ill.)*; (6) from points in North Dakota, South Dakota, that part of Indiana on and north of U.S. Highway 36 (except points in Indiana in the Chicago, Ill., Commercial Zone as defined by the Commission), that part of West Virginia on and north of U.S. Highway 250, and that part of Virginia on and north of a line beginning at the Virginia-West Virginia State line, thence along U.S. Highway 250 to Richmond, thence along U.S. Highway 360 to the Atlantic Ocean, to points in that part of Missouri on and east of U.S. Highway 67; and (7) from points in North Carolina, South Carolina, West Virginia, and Virginia to St. Louis, Mo. (Greenville and Carlinville, Ill., or points within five miles of Carlinville)*; (8) from points in Indiana (except points in Indiana in the Chicago, Ill., Commercial Zone as defined by the Commission) to points in that part of Missouri on and north of U.S. Highway 66 and on and south of U.S. Highway 40; (9) from points in that part of Indiana on and south of U.S. Highway 40 to points in that part of Missouri on and north of U.S. Highway 40 (except Louisiana and points in Scotland, Clark, Knox, Lewis, and Marion Counties); (10) from points in that part of Indiana on and north of Indiana Highway 46 (except points in Indiana in the Chicago, Ill., Commercial Zone as defined by the Commission) to points in that part of Missouri on and south of U.S. Highway 66 and on and west of U.S. Highway 67; (11) from points in West Virginia, that part of Virginia on and east of U.S. Highway 23, that part of North Carolina on and east of a line beginning at the Tennessee-North Carolina State line, thence along U.S. Highway 23 to Asheville, thence along U.S. Highway 25 to the North Carolina-South Carolina State line and South Carolina (except Oconee and Pickens Counties), to points in that Part of Missouri on, north, and west of a line beginning at the Arkansas-Missouri State line, thence along U.S. Highway 65 to junction Missouri Highway 76, thence along Missouri Highway 76 to junction Missouri Highway 5.

Thence along Missouri Highway 5 to junction U.S. Highway 60, thence along U.S. Highway 60 to Cabool, thence along U.S. Highway 63 to junction Missouri Highway 32, thence along Missouri Highway 32 to junction with U.S. Highway 67, thence along U.S. Highway 67 to Crystal City (except Louisiana); and (12) from points in North Dakota and South Dakota to points in St. Louis, St. Charles, Warren, Lincoln, and Pike Counties, Mo. (except Louisiana) (Greenville, Ill.)*; XII. *Sheet Steel* (except commodities which because of size or weight require special handling or special equipment and such building materials as are included within the commodity description iron and steel articles), (1) from points in New Jersey, Philadelphia, Pa., New York, N.Y., and Nassau and Suffolk Counties, N.Y.; (2) from points in that part of Minnesota on, west, and north of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 65 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Minnesota-Wisconsin State line, to points in New Jersey, Philadelphia, Pa., New York, N.Y., and Nassau and Suffolk Counties, N.Y.; (3) from points in that part of Kentucky on and south of U.S. Highway 460 and that part of Tennessee on and east of the Tennessee River to points in Kansas and that part of Oklahoma on and west of U.S. Highway 67; (4) from points in that part of Kentucky on and west of the Tennessee River and that part of Tennessee on and west of the Tennessee River to points in New York, Pennsylvania, and New Jersey; (5) from

points in that part of Tennessee west of the Tennessee River to points in Michigan; (6) from points in that part of Florida on and east of the Apalachicola River to points in Kansas; (7) from points in that part of Florida west of the Apalachicola River, to points in that part of Kansas on and North of a line beginning at the Kansas-Colorado State line.

Thence along U.S. Highway 50 to Dodge City, thence along U.S. Highway 154 to Millinville, thence along U.S. Highway 54 to the Kansas-Missouri State line. (8) from points in that part of Indiana in the Chicago, Ill., Commercial Zone, as defined by the Commission to points in Kansas, Oklahoma, and Texas (Greenville and Centralia, Ill.)*; (9) from points in Minnesota to points in Virginia, that part of West Virginia on and south of U.S. Highway 50, and that part of Louisiana on, east, and south of a line beginning at the Arkansas-Louisiana State line, thence along U.S. Highway 167 to junction U.S. Highway 84, thence along U.S. Highway 84 to the Texas-Louisiana State line; and (10) from points in that part of Indiana within the Chicago, Ill., Commercial Zone as defined by the Commission, and that part of Minnesota on, north, and east of a line beginning at the South Dakota-Minnesota State line, thence along U.S. Highway 12 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Minnesota-Iowa State line, to points in Louisiana (Greenville and Irvington, Ill.)*; (11) from points in Minnesota and that part of Indiana within the Chicago, Ill., Commercial Zone as defined by the Commission to points in Jefferson County, Ala. (Greenville, and Carlinville, Ill.)*; XIII. *Steel Articles* (except water well casing, pipe, tubing, pipe fittings, and protector and sheet steel), from points in Louisiana and Oklahoma (except Ottawa, Craig, Mayes Nowata, and Delaware Counties), to St. Louis, Mo. (Carlinville, Ill.)*; XIV. *Steel articles*, (1) from points in Wisconsin, Michigan, Pennsylvania, Iowa, and Minnesota to points in that part of Missouri on and east of U.S. Highway 67; and (2) from points in Alabama, Texas, that part of Ohio south of U.S. Highway 10 (except Scioto and Lawrence Counties), that part of Indiana on and east of U.S. Highway 31 and on and south of U.S. Highway 40, that part of Kentucky on and east of U.S. Highway 31 (except Boyd County), that part of Tennessee on and east of U.S. Highway 31, and that part of Kansas on and west of U.S. Highway 75, to St. Louis, Mo (restricted in (1) and (2) above against transportation in dump vehicles (Carlinville, Ill.)*; XV. *Iron and steel articles* (except scrap, water well pipe and casing, pipe fittings, and protectors and sheet steel), from points in Macoupin County, Ill. (except Carlinville and points in its Commercial Zone as definec by the Commission), to points in Arkansas, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Ohio, Oklahoma, Pennsylvania, Tennessee (except Shelby County), Texas and Wisconsin an' Jefferson County, Ala. (Carlinville, Ill.)*.

XVI. *Iron and Steel Articles* (except scrap), from points in Macoupin County, Ill. (except Carlinville and points in its Commercial Zone as defined by the Commission), to points in Alabama (except Jefferson County), Louisiana, Missouri, Mississippi and Shelby County, Tenn. (Carlinville, Ill.)*; XVII. *Steel Grinding Balls*, in the rough, in bulk, (1) from Kansas City, Mo., to points in Georgia and Kentucky; and (2) from Kansas City, Mo., to points in New Jersey and Florida (Greenville, Ill.)*; XVIII. Steel grinding balls, rough, in bulk (except Commodities which because of size or weight require special handling or the use of special equipment), from Kansas City, Mo., to points in New York, North Carolina, South Carolina, Virginia, West Virginia, that part of Mississippi on and east of U.S. Highway 51, and that part of Louisiana on and east of a line beginning at the Mississippi-Louisiana State line, thence along U.S. Highway 51 to the Mississippi River thence along the Mississippi River to the Gulf of Mexico (Greenville, Ill.)*; XIX. *Steel Tubing Conduit, pipe and sheet steel*, as are iron and steel articles (except such commodities which because of their size or weight, require the use of special equipment, and oilfield commodities as described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459), (1) from Waukegan, Schaumburg, Aurora, Evanston (restricted to points within the corporate limits of Evanston, Ill.), and the plant-sites and warehouse facilities of International Tube, Inc., International Conduit Corp., and Continental Tube Company, at Chicago, Ill., to points in Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, Mississippi, New Jersey, that part of Maryland on and east of Interstate Highway 95, Philadelphia, Pa., and New York, N.Y., (2) from Rockford, Freeport, Peoria, Sterling, and Galesburg, Ill., to points in Alabama, Florida, Georgia, Maryland, North Carolina, New Jersey, New York, Pennsylvania, Virginia, West Virginia, South Carolina, and Mississippi; (3) from East St. Louis, Ill., to points in New York, New Jersey, Pennsylvania, Maryland, the lower Peninsula of Michigan, that part of West Virginia on, north, and east of a line beginning at the Parkersburg.

Thence along West Virginia Highway 5 to junction West Virginia Highway 20, thence along West Virginia Highway 20 to junction U.S. Highway 60, thence along U.S. Highway 60 to the West Virginia-Virginia State line, that part of Virginia on and west of a line beginning at the West Virginia-Virginia State line, thence along Virginia Highway 311 to Roanoke, thence along U.S. Highway 220 to the North Carolina-Virginia State line, and that part of Ohio on and north of U.S. Highway 36; and (4) from Alney and Salem, Ill., to points in Michigan (Fairbury, Ill.)*; XX. *Steel* (except commodities which because of size or weight require special handling or the use of special equipment, and such building materials as are included within the commodity description iron and steel articles), (1) from points in North Dakota and South Dakota to points in Alabama, Georgia, Florida, North Carolina, and South Carolina; (2) from points in South Dakota to points in Virginia, Maryland, New Jersey, that part of Pennsylvania on and east of Interstate Highway 81, and that part of New York on and east of New York Highway 30; and (3) from points in North Dakota to points in that part of Virginia on and east of U.S. Highway 301 (Greenville and Fairbury, Ill.)*; XXI. *Steel* (except commodities which because of their size or weight, require the use of special equipment, and such building materials as are included within the commodity description iron and steel articles), (1) from points in Minnesota to points in Georgia, Florida, and South Carolina; (2) from points in that part of Tennessee on and west of the Tennessee River to points in Michigan; and (3) from points in that part of Kentucky on and west of the Tennessee River to points in that part of Michigan on and north of Interstate Highway 96 (Greenville and Fairbury, Ill.)*; XXII. *Sheet Steel* (except such commodities which because of their size or weight, require the use of special equipment, and oilfield commodities as described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459), (1) from points in that part of Missouri north and west of a line beginning at the Missouri-Kansas State line.

Thence along U.S. Highway 50 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Iowa-Missouri State line, to points in that part of Georgia on and east of Interstate Highway 75 and south of U.S. Highway 280, and points in that part of Florida east and south of the Swanee River; (2) from points in that part of Missouri east and north of a line beginning at the Missouri-Iowa State line, thence along U.S. Highway 65 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Mississippi River, to points in that part of Florida on and south of Florida Highway 50; (3) from points in that part of Missouri on and north of U.S. Highway 24, to points in South Carolina; (4) from points in that part of Missouri on and south of U.S. Highway 24 and on and north of U.S. Highway 50, to points in that part of South Carolina on, north, and east of a line beginning at the North Carolina-South Carolina State line, thence along U.S. Highway 21 to Columbia, thence along U.S. Highway 176 to the Atlantic Ocean, and that part of Ohio on and north of a line beginning at the Ohio-Indiana State line, thence along U.S. Highway 30 to junction U.S. Highway 30S.

Thence along U.S. Highway 30S to junction U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-West Virginia State line; (5) from points in that part of Missouri on and north of U.S. Highway 66, to points in that part of West Virginia on and east of U.S. Highway 21, that part of North Carolina on and east of U.S. Highway 21, and that part of Virginia on and east of U.S. Highway 21; (6) from points in Missouri to points in Michigan, New York, Pennsylvania, New Jersey, Maryland, that

part of Ohio on and east of Interstate Highway 77 (Carlinville and Fairbury, Ill.)*; XXIII, *Sheet Steel* (except such building materials as are included within the commodity description iron and steel Articles), (1) from points in that part of Missouri on and north of U.S. Highway 66 and on and south of U.S. Highway 40, to points in Indiana, Ohio, that part of Kentucky on and east of the Tennessee River, and that part of Tennessee on and east of the Tennessee River; (2) from points in that part of Missouri on and north of U.S. Highway 40, to points in Tennessee (except Shelby County) Kentucky, Ohio, and that part of Indiana on and south of U.S. Highway 40; (3) from points in that part of Missouri on, south, and east of U.S. Highway 66 to points in Ohio and that part of Indiana on and north of Indiana Highway 46; (4) from St. Louis, Mo., and points in that part of Missouri on and east of U.S. Highway 67, to points in Minnesota and Wisconsin; (5) from points in New York, Pennsylvania, and that part of Ohio on, north, and east of U.S. Highway 250, to points in that part of Kentucky on and west of the Tennessee River and that part of Tennessee on and east of the Tennessee River; (6) from New York, N.Y., and Philadelphia, Pa., to points in that part of Minnesota on, north, and west of a line beginning at the Iowa-Minnesota State line, thence along U.S. Highway 56 to Minneapolis.

Thence along U.S. Highway 12 to the Minnesota-Wisconsin State line; (7) from Cincinnati, Ohio, to points in that part of Minnesota on and west of a line beginning at the Iowa-Minnesota State line, thence along Minnesota Highway 22 to junction Minnesota Highway 55, thence along Minnesota Highway 55 to junction U.S. Highway 71, thence along U.S. Highway 71 to the International Boundary line between the United States and Canada; and (8) from points in that part of Ohio on and south of U.S. Highway 50, that part of Pennsylvania on and east of Interstate Highway 81, and that part of New York on and east of Interstate Highway 81, to points in that part of Iowa on and west of U.S. Highway 60 (Greenville and Centralia, Ill.)*; (9) from points in New York, Pennsylvania, and Ohio to points in Arkansas; (10) from points in that part of Missouri on and east of U.S. Highway 67, to points in that part of Nebraska on and west of U.S. Highway 81; and (11) from points in New York, Pennsylvania, and that part of Ohio on and south of a line beginning at the Indiana-Ohio State line, thence along U.S. Highway 40 to Columbus, thence along U.S. Highway 62 to the Pennsylvania-Ohio State line, to points in Nebraska (Greenville and Centralia, Ill.)*; (12) from points in that part of Minnesota on and east of a line beginning at International Falls, thence along U.S. Highway 53 to junction U.S. Highway 169, thence along U.S. Highway 169 to the Iowa-Minnesota State line, to points in that part of Arkansas on and east of a line beginning at the Missouri-Arkansas State line.

Thence along U.S. Highway 67 to Little Rock, thence along U.S. Highway 167 to the Arkansas-Louisiana State line; (13) from points on Tennessee, Florida, and that part of Kentucky on and south of U.S. Highway 460, to points in Nebraska; and (14) from points in that part of Indiana in the Chicago, Ill., Commercial Zone as defined by the Commission, to points in Arkansas (Greenville and Carlinville, Ill.)*; (15) from points in Tennessee, Florida, and that part of Kentucky on and south of U.S. Highway 460, to points in Iowa and Minnesota; (16) from points in Florida, that part of Tennessee on and west of U.S. Highway 41, and that part of Kentucky on and west of U.S. Highway 41 to points in Wisconsin; (17) from points in Florida that part of Kentucky on and west of the Tennessee River, and that part of Tennessee on and west of the Tennessee River, to points in that part of Indiana on and north of U.S. Highway 40; (18) from points in Minnesota to points in Kentucky, Tennessee (except Shelby County), and that part of Indiana on and south of U.S. Highway 150; and (19) from points in that part of Indiana in the Chicago, Ill., Commercial Zone as defined by the Commission, to points in that part of Kentucky on and west of U.S. Highway 41 and that part of Tennessee on and west of U.S. Highway 41 (except Shelby County) (Greenville and Centralia, Ill.)*; XXIV. *Sheet Steel* (except commodities which because of size or weight require special handling or the use of special equipment, and such building materials as are included within the commodity description iron and steel articles), (1) from points in Indiana (except points in Indiana in the Chicago, Ill., Commercial Zone as defined by the Commission) to points in Kansas, Oklahoma, and Texas; (2) from points in that part of West Virginia on and north of U.S. Highway 60 and that part of Virginia on and north of a line beginning at the West Virginia-Virginia State line, thence along U.S. Highway 60 to junction U.S. Highway 360, thence along U.S. Highway 360 to Chesapeake Bay, to points in Kansas, that part of Oklahoma on and west of U.S. Highway 60, and points in that part of Texas on and west of U.S. Highway 75; (3) from points in that part of Virginia on, south, and east of a line beginning at the North Carolina-Virginia State line.

Thence along U.S. Highway 220 to junction U.S. Highway 60, thence along U.S. Highway 60 to Richmond, thence along U.S. Highway 360 to Chesapeake Bay, to points in Kansas, that part of Oklahoma on and west of a line beginning at the Missouri-Oklahoma State Line, thence along U.S. Highway 66 to Oklahoma City, thence along Interstate Highway 35 to the Texas-Oklahoma State line, and that part of Texas on and west of a line beginning at the Texas-Oklahoma State line, thence along Interstate Highway 35 to Denton, thence along Interstate Highway 35W to Ft. Worth, thence along U.S. Highway 81 to Laredo; (3) from points in that part of West Virginia south of U.S. Highway 60 and that part of Virginia on and west of a line beginning at the Virginia-West Virginia State line, thence along Virginia Highway 311 to Roanoke, thence along U.S. Highway 220 to the Virginia-North Carolina State line, and on and east of a line beginning at the Virginia-West Virginia State line, thence along Virginia Highway 16 to junction Smyth-Tazewell County line, thence along the Smyth-Tazewell County line, the Smyth-Russell County line, the Washington-Russell County line, and the Washington-Scott County line to the Virginia-Tennessee State line, to points in Kansas, that part of Oklahoma on and west of a line beginning at the Missouri-Oklahoma State line, thence along U.S. Highway 66 to Oklahoma City, thence along U.S. Highway 277 to the Oklahoma-Texas State line, and that part of Texas on and west of U.S. Highway 227 (except points in Taylor and Jones Counties); (4) from points in that part of North Carolina on and east of U.S. Highway 25, and that part of South Carolina on, east, and north of a line beginning at the South Carolina-North Carolina State line, thence along U.S. Highway 25 to junction U.S. Highway 178, thence along U.S. Highway 178 to junction U.S. Highway 78.

Thence along U.S. Highway 78 to Charleston, to points in Kansas and that part of Oklahoma on and north of U.S. Highway 66; (3) from points in South Dakota to points in New York, Pennsylvania, and New Jersey; and (4) from points in North Dakota to points in New Jersey, that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, thence along U.S. Highway 15 to junction U.S. Highway 209, thence along U.S. Highway 209 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 U.S. Highway 209 to Kingston, thence along Interstate Highway 87 to the International Boundary line between the United States and Canada (Greenville and Centralia, Ill.)*; (5) from points in that part of Indiana on and north of U.S. Highway 40 (except points in Indiana in the Chicago, Ill., commercial zone as defined by the Commission), to points in Arkansas; (6) from points in that part of Indiana on and south of U.S. Highway 40 and on and north of U.S. Highway 50 (except points in Jennings, Ripley, Dearborn, and Franklin Counties), to points in that part of Arkansas on and west of U.S. Highway 167; (7) from points in that part of West Virginia on and north of U.S. Highway 60, and that part of Virginia on and north of U.S. Highway 60, to points in that part of 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 62, thence along U.S. Highway 62 to junction U.S. Highway 167, thence along U.S. Highway 167 to the Arkansas-Louisiana State line; (8) from points in South Carolina, North

Carolina, West Virginia, Virginia, and points in that part of Indiana on and south of Indiana Highway 32, to points in Nebraska; (9) from points in Indiana on and south of U.S. Highway 40, to points in that part of Nebraska on and west of U.S. Highway 183; and (10) from points in Indiana north of U.S. Highway 40 (except points in Indiana in the Chicago, Ill., commercial zone as defined by the Commission), to points in that part of Nebraska on, south, and west of a line beginning at the Kansas-Nebraska State line.

Thence along U.S. Highway 183 to Elm Creek, thence along U.S. Highway 30 to Ogallala, thence along U.S. Highway 36 to the Nebraska-Wyoming State line (Greenville and Carlinville, Ill.);* (11) from points in South Carolina to points in Minnesota, Iowa, and Wisconsin; (12) from points in Virginia, North Carolina, and that part of West Virginia on and south of U.S. Highway 50, to points in Minnesota and Iowa; (13) from points in that part of West Virginia on and north of U.S. Highway 50, to points in that part of Iowa or and west of U.S. Highway 67 and that part of Minnesota on and west of U.S. Highway 77; (14) from points in North Dakota and South Dakota to points in Kentucky, Tennessee (except Shelby County), that part of Indiana on and south of U.S. Highway 40, and that part of Ohio on and south of U.S. Highway 40; (15) from points in that part of Indiana on and north of U.S. Highway 36 (except points in Indiana in the Chicago, Ill., commercial zone as defined by the Commission), to points in that part of Kentucky on and west of the Tennessee River and that part of Tennessee on and west of the Tennessee River (Greenville and Centralia, Ill.);* (16) from points in North Dakota and South Dakota to points in Jefferson County, Ala. (Greenville and Carlinville, Ill.);* (17) from points in that part of Indiana on and north of a line beginning at the Indiana-Illinois State line, thence along U.S. Highway 50 to junction Indiana Highway 58, thence along Indiana Highway 58 to Columbus, thence along Flat Rock Creek to Rushville, thence along Indiana Highway 44 to the Indiana-Ohio State line (except points in Indiana in the Chicago, Ill., commercial zone as defined by the Commission), to points in Louisiana; (18) from points in that part of Indiana on and south of a line beginning at the Indiana-Illinois State line, thence along U.S. Highway 50 to junction Indiana Highway 58.

Thence along Indiana Highway 58 to Columbus, thence along Flat Rock Creek to Rushville, thence along Indiana Highway 44 to the Indiana-Ohio State line, and on and north of Indiana Highway 64, to points in that part of Louisiana on and west of a line beginning at the Arkansas-Louisiana State line thence along U.S. Highway 165 to Alexandria, thence along U.S. Highway 71 to junction U.S. Highway 190, thence along U.S. Highway 190 to Baton Rouge, thence along Louisiana Highway 1 to the Gulf of Mexico (except points in Terrebonne and LaFourche Parishes); (19) from points in North Dakota and South Dakota to points in Virginia and West Virginia; (20) from points in that part of North Dakota on and north of U.S. Highway 52 to points in Louisiana; (21) from points in that part of North Dakota on and south of U.S. Highway 52 to points in that part of Louisiana on and east of a line beginning at the Arkansas-Louisiana State line, thence along U.S. Highway 167 or Abbeville, thence along the Vermillion River to Vermillion Bay; and (22) from points in South Dakota to points in that part of Louisiana east of the Mississippi River (Greenville and Irvington, Ill.);* (23) from points in New York, Pennsylvania, and Ohio to points in Kansas, Oklahoma and Texas; (24) from points in Missouri to points in New Jersey, New York, and Pennsylvania; (25) from points in that part of Missouri on and south of U.S. Highway 40, to points in the lower peninsula of Michigan; (26) from points in Missouri to points in that part of Michigan on, east, and south of a line beginning at the Ohio-Michigan State line, thence along U.S. Highway 23 to junction Michigan Highway 21.

Thence along Michigan Highway 21 to the International Boundary line between the United States and Canada; (27) from St. Louis, Mo., to points in that part of Kansas on and west of U.S. Highway 281, that part of Oklahoma on and west of U.S. Highway 81, and that part of Texas on and west of U.S. Highway 75 (Greenville and Centralia, Ill.);* (28) from St. Louis, Mo., to points in Louisiana; (29) from points in that part of Missouri on, west, and north of a line beginning at the Arkansas-Missouri State line, thence along Missouri Highway 19 to Salem, thence along Missouri Highway 32 to the Mississippi River, to points in West Virginia and that part of Virginia on and east of U.S. Highway 32; and (30) from points in that part of Missouri east and south of a line beginning at the Arkansas-Missouri State line, thence along Missouri Highway 19 to Salem, thence along Missouri Highway 32 to the Mississippi River (except points in Dunklin, Pemiscot, and New Madrid Counties), to points in that part of West Virginia on and north of U.S. Highway 250, and that part of Virginia on and north of a line beginning at the West Virginia-Virginia State line, thence along U.S. Highway 250 to Richmond, thence along U.S. Highway 60 to Virginia Beach (Greenville and Irvington, Ill.);* XXV. *Steel*, (1) from points in New York, Ohio, and Pennsylvania to points in that part of Missouri on, north, and west of a line beginning at Crystal City, thence along U.S. Highway 67 to the Missouri-Arkansas State line (except Louisiana) (Greenville, Ill.);* XXVI. *Steel* (except sheet steel and such building materials as are included within the commodity description iron and steel articles), (1) from points in Macoupin, Bond, Jersey, Madison, and St. Clair Counties, Ill., to points in Ohio, that part of Kentucky on and east of Interstate Highway 65, and that part of Indiana on and north of Indiana Highway 26; (2) from points in that part of Illinois on and west of a line beginning at the Iowa-Illinois State line.

Thence along Interstate Highway 74 to junction U.S. Highway 66, thence along U.S. Highway 66 to the Missouri-Illinois State line, to points in Tennessee (except Shelby County); (3) from points in that part of Illinois on, north, and west of U.S. Highway 66, to points in that part of Arkansas on, south, and east of a line beginning at the Oklahoma-Texas State line, thence along U.S. Highway 70 to Little Rock, thence along U.S. Highway 67 to junction Arkansas Highway 18, thence along Arkansas Highway 18 to Jonesboro, thence along Arkansas Highway 1 to the Arkansas-Missouri State line (except points in Clay and Greene Counties); (4) from points in that part of Illinois on and north of a line beginning at Chicago, thence along U.S. Highway 66 to Springfield, thence along Illinois Highway 97 to Galesburg, thence along U.S. Highway 150 to Moline, to points in Arkansas; (5) from points in that part of Illinois on, north, and east of a line beginning at the Illinois-Wisconsin State line, thence along Illinois Highway 47 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Illinois Highway 29 thence along Illinois Highway 29 to Peoria, thence along Illinois Highway 121 to Mattoon, thence along Illinois Highway 16 to the Illinois-Indiana State line, to points in Texas, Oklahoma, and that part of Kansas on and south of a line beginning at Kansas City, thence along Interstate Highway 70 to Topeka, thence along Interstate Highway 35 to Wichita, thence along U.S. Highway 54 to junction U.S. Highway 154, thence along U.S. Highway 154 to Dodge City, thence along U.S. Highway 56 to the Kansas-Oklahoma State line; (6) from points in that part of Illinois on and south of a line beginning at Alton, thence along U.S. Highway 67 to Jacksonville, thence along Illinois Highway 78 to the Illinois River, thence along the Illinois River to Peoria, thence along Illinois Highway 121 to Mattoon, thence along Illinois Highway 16 to the Illinois-Indiana State line, and on and north of a line beginning at the Illinois-Indiana State line thence along U.S. Highway 40 to East St. Louis, to points in Texas, that part of Oklahoma on, south, and west of a line beginning at the Kansas-Oklahoma State line.

Thence along Oklahoma Highway 8 to junction Oklahoma Highway 3, thence along Oklahoma Highway 3 to the Arkansas-Oklahoma State line, and that part of Kansas on, south, and west of a line beginning at the Colorado-Kansas State line, thence along Kansas Highway 9 to Great Bend, thence along U.S. Highway 281 to the Kansas-Oklahoma State line; (7) from points in that part of Illinois on, north, and east of U.S. Highway 150, and on, north, and west of a line beginning at the Illinois-Wisconsin State line, thence along Illinois Highway 47 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Illinois Highway 29, thence along Illinois Highway 29 to Peoria, to points in Texas, and that part of Oklahoma on and south

of U.S. Highway 66; and (8) from points in Madison, Bond, Clinton, Washington, St. Clair, and Monroe Counties, Ill., to Council Bluffs, Mason City, and Sioux City, Iowa, and points in Wisconsin, Minnesota, Michigan, and Pennsylvania (Greenville and Carlinville, Ill.);* XXVII. *Steel tubing, water well casing* as is conduit or pipe, and *water pipe*, as are iron and steel articles (except commodities which because of size or weight require special handling or the use of special equipment, and oilfield commodities as described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459), (1) from points in Oklahoma to points in Pennsylvania, New Jersey, New York, Maryland, and the lower peninsula of Michigan; and (2) from points in that part of Oklahoma on and west of U.S. Highway 75, to points in that part of Virginia on and east of a line beginning at the West Virginia-Virginia State line, thence along Virginia Highway 311 to junction U.S. Highway 220, thence along U.S. Highway 220 to the North Carolina-Virginia State line, and that part of West Virginia on and north of U.S. Highway 60 (Centralia and Fairbury, Ill.);* The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 128741 (Sub-No. E108), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Alabama, on the one hand, and, on the other, points in Illinois on and north of Interstate Highway 70. The purpose of this filing is to eliminate the gateway of points in Indiana south of U.S. Highway 40.

No. MC–128741 (Sub-No. E109), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between Dothan, Ala., on the one hand, and, on the other, Colorado Springs, Colo. The purpose of this filing is to eliminate the gateways of Arnold, Nebr., and points within 40 miles thereof and points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E110), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicants representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between Dothan, Ala., on the one hand, and, on the other Jefferson City, Rolla, Clinton, and Sedalia, Mo. The purpose of this filing is to eliminate the gateway of points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E111), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between Birmingham, Ala., on the one hand, and, on the other, Jefferson City, Clinton, and Sedalia, Mo. The purpose of this filing is to eliminate the gateway of points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E112), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between Huntsville, Ala., on the one hand, and, on the other, Jefferson City, Rolla, Clinton, and Sedalia, Mo. The purpose of this filing is to eliminate the gateways of points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E113), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between East St. Louis, Ill., on the one hand, and, on the other, points in Alabama (except Lauderdale, Colbert, and Lawrence Counties). The purpose of this filing is to eliminate the gateway of points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E114), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Beadle County, S. Dak., on the one hand, and, on the other, points in Alabama, on, east, and north of a line from the Tennessee-Alabama State line along U.S. Highway 231 to the junction of U.S. Highway 278, thence along U.S. Highway 278 to the Alabama-Georgia State line. The purpose of this filing is to eliminate the gateways of Arnold, Nebr., and points within 40 miles thereof and points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E115), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Alabama (except Mobile, Baldwin, Washington, and Clarke Counties), on the one hand, and, on the other, points in Colorado on and north of a line from the Colorado-Kansas State line along U.S. Highway 36 to the junction of U.S. Highway 6, thence along U.S. Highway 6 to the Colorado-Utah State line. The purpose of this filing is to eliminate the gateways of Arnold, Nebr., and points within 40 miles thereof, and points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E116), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 S. 14th St., Lincoln, Nebr. 68501. 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 Alabama (except Lawderdale, Colbert, Mobile, and Baldwin Counties), on the one hand, and, on the other points in Missouri on and north of U.S. Highway 40. The purpose of this filing is to eliminate the gateway of points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E117), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Alabama, on the one hand, and, on the other, Owensboro, Louisville, Frankfort, Lexington, Ashland, Covington, and Newport, Ky. The purpose of this filing is to eliminate the gateway of points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E118), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Jersey, on the one hand, and, on the other, points in Hamilton, Bultler, Preble, and Darke Counties, Ohio. The purpose of this filing is

to eliminate the gateway of points in Indiana South of U.S. Highway 40.

No. MC 128741 (Sub-No. E119), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 S. 14 St., Lincoln, Nebr. 68501. 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 Iron, Gogebic, Ontonagon, and Houton Counties, Mich., on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate the gateway of points in Indiana South of U.S. Highway 40.

No. MC 128741 (Sub-No. E120), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Maryland, on the one hand, and, on the other, Frankfort, Ky., and points in Kentucky on and West of Interstate Highway 65. The purpose of this filing is to eliminate the gateway of points in Indiana South of U.S. Highway 40.

No. MC 128741 (Sub-No. E122), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 New York, on the one hand, and, on the other, points in Illinois on and south of a line from the Iowa-Illinois State line along Interstate 80 to the junction of Illinois Highway 47, thence along Illinois Highway 47 to the junction of Illinois Highway 17, thence along Illinois Highway 17 to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E123), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Missouri, on the one hand, and, on the other, points in Colorado on and north of U.S. Highway 6. The purpose of this filing is to eliminate the gateway of Arnold, Nebr., and points within 40 miles thereof.

No. MC 128741 (Sub-No. E124), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Colorado, on the one hand, and, on the other, points in Nebraska, on, north, and east of a line from the South Dakota-Nebraska State line along U.S. Highway 83 to the junction of Nebraska Highway 23, thence along Nebraska Highway 23 to the junction of U.S. Highway 283, thence along U.S. Highway 283 to the Kansas-Nebraska State line. The purpose of this filing is to eliminate the gateway of Arnold, Nebr., and points within 40 miles thereof.

No. MC 128741 (Sub-No. E125), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 321 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Kentucky, on the one hand, and, on the other, points in Colorado on, north, and west of a line from the Nebraska-Colorado State line along Interstate Highway 80 to the junction of Colorado Highway 71, thence along Colorado Highway 71 to the junction of U.S. Highway 24, thence along U.S. Highway 24 to the junction of U.S. Highway 285, thence along U.S. Highway 285 to the New Mexico-Colorado State line. The purpose of this filing is to eliminate the gateway of Arnold, Nebr., and points within 40 miles thereof.

No. MC 128741 (Sub-No. E127), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Illinois, on the one hand, and, on the other, points in Colorado on, north, and west of a line from the Nebraska-Colorado State line along Interstate Highway 80 to the junction of Colorado Highway 71, thence along Colorado Highway 71 to the junction of U.S. Highway 24, thence along U.S. Highway 24 to the junction of U.S. Highway 285, thence along U.S. Highway 285 to the New Mexico-Colorado State line. The purpose of this filing is to eliminate the gateway of Arnold, Nebr., and points within 40 miles thereof.

No. MC 128741 (Sub-No. E128), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 South Carolina, on the one hand, and, on the other, points in Colorado on, north and west of a line from the Kansas-Colorado State line along Colorado Highway 96 to the junction of Interstate Highway 25, thence along Interstate Highway 25 to the junction of U.S. Highway 160, thence along U.S. Highway 160 to the junction of Colorado Highway 159, thence along Colorado Highway 159 to the New Mexico-Colorado State line. The purpose of this filing is to eliminate the gateways of Arnold, Nebr., and points within 40 miles thereof and points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E129), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between Colorado Springs, Colo., on the one hand, and, on the other, St. Louis, Hannibal, Kirksville, and Moberly, Missouri. The purpose of this filing is to eliminate the gateway of Arnold, Nebr., and points within 40 miles thereof.

No. MC 128741 (Sub-No. E130), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Massachusetts, on the one hand, and, on the other, points in Kentucky on and west of U.S. Highway 127. The purpose of this filing is to eliminate the gateway of points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E131), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 New Jersey, on the one hand, and, on the other, points in Kentucky on and west of U.S. Highway 127. The purpose of this filing is to eliminate the gateway of points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E132), filed June 4, 1974. Applicant: AMERICAN

TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 New York, on the one hand, and, on the other, points in Kentucky on and west of U.S. Highway 127. The purpose of this filing is to eliminate the gateway of points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E133), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Pennsylvania, on the one hand, and, on the other, points in Kentucky on and west of U.S. Highway 127. The purpose of this filing is to eliminate the gateway of points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E134), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Kentucky, on the one hand, and, on the other, points in South Dakota on and west of the Missouri River. The purpose of this filing is to eliminate the gateway of points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E142), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Florida, on the one hand, and, on the other, points in Illinois (except points in Jackson, Williamson, Saline, Gallatin, Hardin, Pope, Massac, Pulaski, Union, Johnson, and Alexander Counties). The purpose of this filing is to eliminate the gateway of points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E143), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. 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 South Dakota, on the one hand, and, on the other, Perry, Fla., and points in Florida east of the Suwannee River. The purpose of this filing is to eliminate the gateways of Arnold, Nebr., and points within 40 miles thereof and points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E144), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Missouri on and north of U.S. Highway 60, on the one hand, and, on the other, Perry, Fla., and points in Florida east of the Suwannee River. The purpose of this filing is to eliminate the gateway of points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E145), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Florida, on the one hand, and, on the other, Lexington, Louisville, Covington, and Owensboro, Ky. The purpose of this filing is to eliminate the gateway of points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E146), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. 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 South Dakota on and west of South Dakota Highway 37, on the one hand, and, on the other, points in Holmes, Washington, Bay, Franklin, Liberty, Calhoun, Jackson, Gadsden, Leon, and Wakulla Counties, Fla. The purpose of this filing is to eliminate the gateways of Arnold, Nebr., and points within 40 miles thereof and points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E147), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. 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 South Dakota on and west of the Missouri River, on the one hand, and, on the other, points in Escambia, Santa Rosa, and Okaloosa Counties, Fla. The purpose of this filing is to elminiate the gateway of Arnold, Nebr., and points within 40 miles thereof, and points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E148, filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 New Mexico, on the one hand, and, on the other, points in Michigan (except points in Gogebic, Ontonugon, Houghton, Iron, Murguette, Buragap, and Keweenaw Counties). The purpose of this filing is to eliminate the gateways of points in Green County, Missouri, and points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E149), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 New York, on the one hand, and, on the other, Iron Mountain, Mich., and points in Iron, Gogebic, Ontonagon, and Houghton Counties, Michigan. The purpose of this filing is to eliminate the gateway of points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E150), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501 Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Oklahoma, on the one hand, and, on the other, points in Michigan (except points on and west of U.S. Highway 45). The purpose of this filing is to eliminate the gateway of points in Greene County, Mo.

No. MC 128741 (Sub-No. E151), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Texas, on the one hand, and, on the other, points in Michigan (except points on and west of U.S. Highway 45).

The purpose of this filing is to eliminate the gateway of points in Indiana south of U.S. Highway 40, points in Canadian County, Okla., and points in Greene County, Mo.

No. MC 128741 (Sub-No. E152), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Texas on and south of U.S. Highway 66, on the one hand, and, on the other, points in the Upper Peninsula of Michigan on and west of U.S. Highway 45. The purpose of this filing is to eliminate the gateway of points in Indiana south of U.S. Highway 40, points in Greene County, Mo., and points in Canadian County, Okla.

No. MC 128741 (Sub-No. E153), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative. A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between Cairo, Ill., on the one hand, and, on the other, points in Kansas. The purpose of this filing is to eliminate the gateway of points in Greene County, Mo.

No. MC 128741 (Sub-No. E154), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 Illinois, on the one hand, and, on the other, points in Kansas on and south of a line from the Missouri-Kansas State line along U.S. Highway 54 to the junction of U.S. Highway 154, thence along U.S. Highway 154 to the junction of U.S. Highway 50, thence along U.S. Highway 50 to the Colorado-Kansas State line. The purpose of this filing is to eliminate the gateway of points in Tasper County, Mo., on and north of U.S. Highway 66.

No. MC 128741 (Sub-No. E155), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by *Household goods*, as defined by the Commission, between points in Cherokee, Crawford, Neosho, and Labette Counties, Kans., and Fort Scott, Independence, and Coffeyville, Kans., on the one hand, and on the other, points in Minnesota on and north of U.S. Highway 2. The purpose of this filing is to eliminate the gateway of points in Greene County, Mo.

No. MC 128741 (Sub-No. E156), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between Omaha and Blair, Nebr., on the one hand, and, on the other, points in Texas on, west, and south of a line from Port Lavaca along U.S. Highway 87 to the junction of U.S. Highway 77, thence along U.S. Highway 77 to the junction of U.S. Highway 290, thence along U.S. Highway 290 to the junction of Texas Highway 71, thence along Texas Highway 71 to the junction of U.S. Highway 87, thence along U.S. Highway 87 to the junction of U.S. Highway 180, thence along U.S. Highway 180 to the New Mexico-Texas State line. The purpose of this filing is to eliminate the gateways of points in Jasper County, Mo., on and north of U.S. Highway 66 and points in Indiana on and south of U.S. Highway 40.

No. MC 128741 (Sub-No. E157), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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 New Mexico, on the one hand, and, on the other, points in the District of Columbia. The purpose of this filing is to eliminate the gateways of points in Canadian County, Okla., points in Jasper County, Mo., on and north of U.S. Highway 66 and points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E158), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between Hancock, Mich., on the one hand, and, on the other, points in Pennsylvania (except points in Erie County). The purpose of this filing is to eliminate the gateway of points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E159), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commision, between points in the District of Columbia on the one hand, and on the other, points in Colorado and Wyoming. The purpose of this filing is to eliminate the gateways of Arnold, Nebr., and points within 40 miles thereof and points in Indiana south of U.S. Highway 40.

No. MC 133689 (Sub-No. E2) (Correction), filed May 28, 1974, published in the FEDERAL REGISTER October 10, 1974. Applicant: OVERLAND EXPRESS, INC., 651 First St. SW., New Brighton, Minn. 55112. Applicant's representative: Daniel C. Sullivan, 327 South LaSalle St., Chicago, Ill. 60604. The letter-notice remains as previously published. The purpose of this correction is to indicate the correct docket number—previously published as No. MC 113689 (Sub-No. E2).

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

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■

NOISE EMISSION STANDARDS FOR CONSTRUCTION EQUIPMENT

Proposed Portable Air Compressor Standards

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 204]

[FRL 282-2]

NOISE EMISSION STANDARDS FOR CONSTRUCTION EQUIPMENT

New Portable Air Compressors

The Environmental Protection Agency proposes to establish a new Part 204 of Title 40 of the Code of Federal Regulations, which will contain noise emission standards for construction equipment distributed in commerce. This notice proposes noise emission standards for portable air compressors. It was originally announced, in an advance notice of proposed rulemaking (39 FR 7594, February 27, 1974) that noise emission standards for portable air compressors would appear at 40 CFR Part 200. With the present proposal, EPA withdraws that statement, reserving, however, 40 CFR Part 200 for future use by EPA.

I. Introduction

A. *Statutory authority.* Through the Noise Control Act of 1972 (86 Stat. 1234), Congress established a National policy "to promote an environment for all Americans free from noise that jeopardizes their health and welfare." In pursuit of that policy, Congress stated, in section 2 of the Act, "that, while primary responsibility for control of noise rests with State and local governments, Federal action is essential to deal with major noise sources in commerce, control of which requires National uniformity of treatment." As part of this essential Federal action, section 5(b)(1) of the act requires the Administrator, after consultation with appropriate Federal agencies, to publish a report or series of reports "identifying products (or classes of products) which in his judgments are major sources of noise." Section 6 of the Act requires the Administrator to publish proposed regulations for each product which is identified or which is part of a product class identified as a major source of noise, where in his judgment noise standards are feasible and which fall into various specified categories. Construction equipment is one such specified category. Pursuant to section 5(b)(1), the Administrator published in the Federal Register (39 FR 22297, June 21, 1974), a report which identified portable air compressors with a rated output of 75 cfm or more as a major source of noise.

B. *Relationships to other parts of the Act.* Section 6 of the Act specifies that the manufacturer of each new product shall warrant to the ultimate user and each subsequent purchaser that the product is designed, built and equipped so as to conform at the time of sale with the regulation.

Labeling requirements in addition to warranty provisions specified in section 6, are authorized under section 8 and may be implemented in conjunction with new product regulations under section 6 authority. Such labeling of products under section 8 shall be based on the potential of noise emissions to adversely affect the public health or welfare or for any product sold wholly or in part on the basis of its effectiveness in reducing noise.

Section 10 of the Act establishes prohibited acts in relation to products for which section 6 regulations are applicable. Distribution in commerce of any new product manufactured after the effective date of regulations specified in section 6 is prohibited, unless it is in conformity with such regulations. Removal or rendering inoperative of any device or element of design incorporated into any product in compliance with section 6 regulations, other than for purposes of maintenance, repair, or replacement, prior to its sale or delivery to the ultimate purchaser or while it is in use or the product's use thereafter is prohibited by any person.

Section 11 of the Act specifies enforcement penalties for violation of any prohibited acts under section 10(a) (1), (3), (5) and (6). Such penalties for first violations include a fine of not more than $25,000 per day of violation or imprisonment for not more than one year or both for knowing or willful violations. The penalties double for subsequent violation.

Section 13 of the Act provides the authority for the Administrator to require a manufacturer to establish and maintain records, make such reports, and provide such information as necessary for him to determine compliance.

Section 16(d) grants the Administrator the authority to issue subpenas for the attendance and testimony of witnesses and the production of books, records and reports to assist him in collecting information to carry out the purposes of the Act.

II. Statutory Requirements for the Proposed Regulations

The Administrator has determined that noise emission standards are feasible for portable air compressors. In arriving at the noise limit considered requisite to protect public health and welfare, the Administrator has taken into account the degree of noise reduction achievable through application of the best available technology and the cost of compliance. Further, the Administrator has given appropriate consideration to standards under other laws designed to safeguard the health and welfare of persons.

To meet the requirements of the Act, to apply "the best available technology, taking into account the cost of compliance," the Agency constructed definitions of the terms "best available technology" and "cost of compliance." In so doing, the Agency carefully considered the strict language of the Act, its legislative history, and other relevant data. Based thereon, for the purposes of these regulations, the following definitions have been established by the Administrator.

"Best available technology" is defined as that noise abatement technology available which produces the greatest achievable, meaningful reduction in the noise produced by portable air compressors. "Available technology" is further defined to include:

1. Technology which has been demonstrated and is currently known to be feasible.

2. Technology for which there can be a production capacity to produce the product meeting the standards required prior to the effective date of the regulation.

3. Technology that is compatible with all safety regulations and takes into account operational considerations, including maintenance and other pollution control equipment.

"Cost of compliance" is the cost of identifying what action must be taken to meet the specified noise emission level, the cost of taking that action, and any additional cost of operation and maintenance caused by that action.

To determine what constitutes the best available technology and the cost of compliance, the Agency amassed information from numerous sources including: (1) Studies performed by Agency personnel; (2) studies performed under contract to the Agency; (3) submission by other Federal agencies; (4) submissions by the public; (5) submissions by industry; and (6) data in available literature.

III. Development of the Proposed Regulation

In order to develop regulations which fulfill these criteria, the Administrator undertook a study of portable air compressors. On February 27, 1974 an Advanced Notice of Proposed Rule Making on portable air compressor standards was published in the Federal Register soliciting public comment (39 FR 7954-95). The docket established as a result of this action is maintained at the EPA headquarters, 401 M Street SW., Washington, D.C. 20460. The information prepared for the EPA's 1971 "Report to the President and Congress on Noise" was reviewed. EPA staff and consultants gathered and analyzed technical information from other sources, and additional data was acquired in areas where there was little or no existing information. All of this information, which is summarized briefly below, is open for public inspection at the Office of Noise Abatement and Control of EPA, Room 1107, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia. A "Background Document for Proposed Portable Air Compressor Noise Emission Regulations" giving the details of the information base from which the proposed regulation was derived is available from the Public Information Center, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

IV. Background Information

A. *General.* The proposed regulation is the first in a series of regulations to be proposed in a new and unprecedented area for Federal regulation. In arriving at the proposed regulatory level, the Agency considered information accrued, from a number of sources, in regard to technology, cost, economic impact and

health and welfare. The accrued information is presented in the "Background Document for Proposed Portable Air Compressor Noise Emission Regulations."

The Agency is committed by statute and policy to in depth public participation in the decision making process for its environmental regulations. That policy encourages and solicits contributions to the public dockets and communications on technology costs, health and welfare and economic impact or benefits and any other attributes of the particular subject. These contributions are desired from as many diverse views as are possible. Such information, when submitted, is fully analysed and where this so indicates, necessary changes in proposals will be made, and explained in the final regulations. In accordance with this policy, all persons having views and recommendations are solicited to submit their comments, as provided for herein.

B. *Technology.* Portable air compressors are designed to power pneumatic tools and equipment at a construction site or other end use application. They are generally rated according to maximum flow rate at a pressure of 100 psi. The portable air compressor product line generally ranges from units of 75 cubic feet per minute (cfm) flow rate to those as high as 2000 cfm.

The majority of compressors delivering over 75 cfm are powered by gasoline engines, though some use diesel engines. Portable air compressor manufacturers have long recognized the need and desirability to provide quiet units to industry, as evidenced by their recent introduction of quiet models. To develop a technical data base, noise data of 194 units, in the 75 to 2000 cfm flow rate range, were acquired from portable air compressor manufacturers. The mean noise level for the existing quieted gas engine powered compressors evaluated is approximately 76 dBA at 7 meters. The mean of existing quieted diesel engine powered units is approximately 76 dBA at 7 meters for units delivering less than 501 cfm and approximately 79 dBA for quieted diesel-powered units delivering greater than 500 cfm. These levels compare with mean levels for the standard gasoline powered units of 83 dBA at 7 meters and approximately 86 dBA at 7 meters for diesel units delivering less than 501 cfm and approximately 93 dBA at 7 meters for the diesel units delivering greater than 500 cfm.

Noise sources associated with the portable air compressor are the engine exhaust, engine and compressor casings, engine and compressor air intake and cooling fans. For quietest versions of the portable air compressors, an exhaust muffler is used to suppress engine exhaust noise, an inlet silencer is provided to suppress engine and compressor air intake noise and the enclosure is used to provide suppression of engine and compressor case radiated noise as well as cooling fan noise. The quieting obtained through the application of these noise control techniques to portable air compressors can be defeated by operating compressors with the equipment access doors in an open position; data show that degradation of acoustic performance by 5–12 dBA can occur by this practice.

In arriving at the proposed description of portable air compressor noise, consideration was given to A-weighted sound pressure level, sound power level, and sound power as well as the test method for data acquisition. The A-weighted sound pressure level description was selected for several reasons, including its utility and ease of acquisition.

A-weighted sound pressure level can be measured directly using common, readily available equipment and as such is common to and widely known by industry, the scientific community, at State and local government levels and in the public domain to assess human response to noise. This is in contrast to the seldom used, in regard to regulatory standards setting and assessment of human response, sound power level and sound power values which cannot be measured and have to be calculated, typically from sound pressure level data.

The proposed regulation requires that the average, on an energy basis, A-weighted sound pressure level around a portable air compressor not exceed the proposed standard. In addition to the average dBA standard, consideration was given to limiting the maximum sound level, radiated in any direction around the portable air compressor, by imposition of a maximum dBA standard. The major reason for its possible inclusion was to control the noise directivity of portable air compressors; i.e., the maximum amount of noise that could be radiated in any one direction. It was concluded, however, that at this time a maximum dBA standard would not be imposed. The reasons leading to this conclusion were, (1) available data indicate that portable air compressors exhibited little noise directivity, and (2) averaging sound level data on an energy basis, in part, controls noise directivity as the highest sound level considered for averaging is more highly weighted in the averaging process.

As the Agency recognizes that portable air compressor directivity patterns may alter as units are quieted, it will, on a continuing basis assess the need for a maximum dBA standard. Accordingly, public comment and supportive data is invited as to whether the standard should include a maximum dBA level.

At this time, the proposed regulation, by adoption of the A-weighted sound level descriptor dBA, concentrates on frequencies of noise most acute to hearing and annoyance; as such, low frequency components of the portable air compressor noise spectrum are discriminated against. The significance of this and of concern to EPA, is that one method to reduce the A-weighted sound level is to shift the major spectral contribution to the frequency range discriminated against by the A-weighting network. This could result in an escalation of low frequency noise levels. This practice while achieving desired A-weighted sound level reduction could cause vibration problems, as structures are often readily excited by low frequency noise. In particular, the windows of structures adjacent to the construction site may rattle as a result of such low frequency noise.

One method to control low frequency noise is to impose C-weighted sound pressure level limits on portable air compressors since C-weighting discriminates little against low frequencies. The agency has limited data at this time on which to support a C-weighting. However, it will continue to address the potential low frequency noise problem and in the future propose control measures as may be necessary to cope with the problem.

Accordingly, public comment and supporting data is invited, in particular, as to whether a standard should be imposed on portable air compressors measured in the C-weighted sound pressure level. The Background Document to this proposed regulation indicates the adjustment of levels the Agency believes reasonable, should the data indicate the need for such a standard.

The proposed standard does not at this time address pure tones. The Agency, however, has given thought to potential pure tone noise problems. Currently, major pure tone spectral components generated by today's portable air compressors occur at low frequencies, less than 500 Hertz and are not particularly annoying as the frequencies are below the range of acute ear sensitivity. However, the Agency recognizes that as portable air compressor designs change so many the spectral character of the pure tone generating equipment. As such, the Agency will continue to address the potential of pure tone noise control and in the future propose control measures as may be necessary. Accordingly, comment and supportive data in regards to portable air compressor pure tones are invited.

The method for noise standard compliance testing, which provides for rapid acquisition of A-weighted sound pressure levels with minimum instrumentation requirements, is a modification of a method currently used by many portable air compressor manufacturers, in particular, the 12 members of the Compressed Air and Gas Institute (CAGI). The major modification of the CAGI test method is the elimination of the search for and reporting of the maximum dBA level around the portable air compressor. The major reason for its elimination was discussed above.

EPA recognizes that the proposed measurement methodology differs somewhat from the industry standard CAGI–PNEUROP methodology and from the sound power standard that is expected to be discussed at the upcoming ISO meeting on noise standards. For reasons described in this proposal, EPA believes that the proposed methodology will provide data to accurately characterize portable air compressor noise with the simplicity that is requisite to facilitate product certification at the manufacturers' plant and enforcement in the field. EPA, however, intends to closely study the recommendations of the ISO during the

public comment period. Comment is specifically solicited on the provisions of the CAGI–PNEUROP methodology deleted from the proposed methodology and on the advisability of couching on air compressor noise standard in terms of sound power rather than average sound energy.

V. Summary of Proposed Regulations

The proposed regulations will establish standards for noise emissions resulting from the operation of newly manufactured portable air compressors. The proposed standard specifies sound levels measured at a distance of 7 meters (23 feet) from surfaces of the portable air compressor enclosure in decibels on the A-weighted scale using slow meter response. The measurement procedure used to obtain the data upon which the standards are based is presented in more detail in the "Background Document for Proposed Portable Air Compressor Noise Emission Regulations" available from the Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

The proposed regulation is to take effect one year from the date of promulgation of the final notice of rulemaking. EPA is unaware of any manufacturer that would be significantly burdened by the one-year compliance date but there will be further study of this matter during the public comment period and specific comments are solicited.

The following proposed standard applies to noise produced during portable air compressor operation at maximum rated capacity:

Effective one year from the date of promulgation of this regulation, portable air compressors shall not produce an average sound level in excess of 76 dBA when measured and evaluated according to the methodology provided in this regulation.

The regulation also incorporates a detailed enforcement program which includes production verification testing, labeling requirements, selective enforcement auditing procedures and requirements applicable throughout the useful life of the vehicle.

VI. Rationale for Standard Selection

In arriving at the proposed standard, the Agency first examined the various types of construction sites in which the portable air compressor is one of approximately 20 major pieces of construction equipment that contributes to construction site noise. Studies were conducted to determine the contribution by the portable air compressor to total construction site noise associated with various construction phases in four major categories of construction (1) residential buildings, (2) non-residential buildings, (3) municipal roads, and (4) public works. These studies indicate that the portable air compressor ranks second after trucks[1] in the non-residential construction situation.

The Agency then examined the technology and costs to achieve various reduced levels of portable air compressor noise. The noise levels studied ranged in value from the present average level of 88 dBA to 65 dBA measured at 7 meters. Estimates of the cost to quiet portable air compressors were developed from data of engineering costs to quiet three representative models, industry accounting data based on 19 individual compressors, and industry-provided list price data of 194 compressor models.

The Agency then examined the health and welfare relief that various levels of reduced noise from portable air compressors would provide to the noise-impacted population. People residing around construction sites are subjected to noise levels that diminish as a function of distance from the site. The public health and welfare impact associated with these proposed regulations has been assessed in terms of the number of people 100 percent impacted by construction site noise and the impact relief that would be achieved by quieting the portable air compressor. Since truck noise contributes significantly to overall construction site noise, construction site relief provided by the proposed portable air compressor regulation in conjunction with potential proposed regulations for new medium and heavy trucks has also been assessed. In order to quantify the public health and welfare impact, the number of people impacted at noise levels above 55 L_{dn} were translated to the equivalent number of people impacted at 75 L_{dn}, which is a level corresponding to the evocation of extreme annoyance, speech interference and the potential for hearing loss.

Additionally, the Agency examined the economic impact of cost of compliance with the various portable air compressor noise levels selected for study.

Based on the results of the various examinations performed, the Agency concluded that at this time the only feasible standard for portable air compressors is 76 dBA because technology to achieve this level has been demonstrated as some "quieted" machines of this level are already on the market; the cost of compliance is not unrealistic as compressor list prices are estimated to increase by no more than an average of 16 percent; and little (about one percent as opposed to the initial 11%) extra relief for the population exposed to construction site noise is obtained through quieting air compressors below 76 dBA. At this level, and at this time until other pieces of construction equipment are quieted, the portable air compressor is not a major source of noise on a construction site.

[1] A report entitled "Speciality Construction Trucks: Noise and Cost of Abatement" indicates that contribution to the construction site noise by the dump trucks is largely engine related and will be controlled when these trucks meet standards to be proposed for medium and heavy duty trucks.

VII. Impact of Proposed Regulation

A. *Noise Reduction.* It is estimated that compliance with the proposed portable air compressor regulation will reduce the contribution of the portable air compressor to construction site noise from 17.8 percent in the worst present case to approximately one percent. It will also decrease the portable air compressor as a source of acoustic energy at a construction site, from the second noisiest source, after medium and heavy trucks, to the 16th noisiest piece of equipment comprising the hardware mix at a typical construction site.

B. *Health and Welfare.* It is estimated that the equivalent of approximately one million people in the United States are presently impacted by construction site noise levels. Compliance with the standard established in the proposed portable air compressor regulation is estimated to reduce the impact by approximately 11%, which would provide relief to approximately 115 thousand people. Compliance with the proposed portable air compressor regulation together with compliance with proposed noise standards for new medium and heavy trucks is estimated to reduce construction site noise impact by approximately 45%, which would provide relief to approximately 470,000 people.

C. *Cost and Economic Impact.* Using a worst case estimate of the cost to quiet portable air compressors to 76 dBA measured at 7 meters, is estimated to increase present list prices of compressor units by about 16 percent. There is reason to believe that this increase in portable air compressor price may result in a reduction of approximately 4.5 percent in total unit sales due to lower demand for the more expensive units.

The increase in first year capital costs to achieve the proposed standard is estimated to range from $19.8 to 21.0 million; this represents 17.5 to 18.6 percent of estimated portable air compressor 1976 sales of $113.2 million.

Various aspects of potential economic impact were assessed to evaluate changes which may occur due to promulgation of these proposed regulations. Upper bound cost values were used to provide a worst case estimate of economic impact. The results of the analysis are:

1. There should be little effect on upstream component suppliers. Distributors and end users may be affected in that alternative sources of compressor air, e.g., electric and hydraulic systems, will become competitive for many present uses of portable compressors.

2. Studies indicate that portable air compressor manufacturing employment could decline slightly due to the regulation. However, this is expected to be off-

set by the requirement to increase personnel in the air compressor manufacturing industry to incorporate the modifications necessary to meet the proposed regulation.

3. Exports are approximately 10 percent of total sales, and no changes in export patterns are expected because of these noise regulations. Imports make up approximately 7 percent of the market and no change is expected due to a 76 dBA standard.

4. There will be no impact on the balance of trade.

5. There will be no increase in transportation costs from the manufacturers' plants to distributors or end user locations due to these regulations.

VIII. Enforcement

A. *General.* The EPA enforcement strategy under the Noise Control Act of 1972 will place a major share of the responsibility on the manufacturer for pre-sale testing to determine the compliance of new portable air compressors with these regulations and emission standards. This approach, besides relieving EPA of an administrative burden, benefits the manufacturer by leaving his personnel in control of many aspects of the compliance program and imposing only a minimum burden on his business. At the same time, the inevitable conflict of interest imposed on the applicant makes monitoring by EPA personnel of these tests and manufacturers' actions taken in compliance with these regulation advisable to ensure that the Administrator is provided with the accurate test data he must have to determine whether the compressors distributed in commerce by a manufacturer are in compliance with these regulations. Accordingly, the regulations provide that EPA enforcement officers may be present and observe any testing required by these regulation. In addition, enforcement officers will be empowered to inspect records and facilities in order to assure that manufacturers are carrying out their responsibilities properly.

The enforcement strategy proposed in these regulations consists of three parts: (1) Production Verification, (2) Selective Enforcement Auditing, and (3) In-use Compliance Provisions.

B. *Production Verification.* Production verification is the testing by a manufacturer or EPA of selected first production models intended for sale to verify whether a manufacturer has the requisite noise control technology in hand and is capable of applying the technology in a manufacturing process. The tested first production models must conform with the standard prior to any distribution in commerce of that model. Any testing shall be done in accordance with the proposed test procedure.

Production verification does not involve any formal EPA approval or issuance of certificates subsequent to manufacturer testing, nor is any extensive testing required of EPA. The proposed regulations would require that prior to distribution into commerce of any manufactured configuration, as defined within the regulations, the configuration must undergo production verification. All testing is performed by the manufacturer at his test site, using his equipment and personnel, although the Administrator reserves the right to be present to monitor or perform any tests or to require that a manufacturer supply him with compressors for testing.

The production unit selected for testing is a compressor configuration, which is more definitive than compressor category. A compressor configuration is a subclassification of a category on the basis of delivery rate, cooling system, air intake system, engine system, exhaust system, and any other parameters which may be designated by the Administrator.

A manufacturer shall verify production compressors, prior to sale, by one of two methods: The first method will involve testing the first production compressor (intended for sale) of each configuration.

A compressor configuration would be considered to have been production verified after the manufacturer has shown, based on the application of the noise measurement tests, that a configuration conforms to the standard.

Alternatively, production verification testing of all configurations produced by a manufacturer may not be required where a manufacturer can establish that the noise levels of some configurations are consistently higher than others or are always representative of other configurations. In such a case the higher emitter would be the only configuration requiring verification testing.

This second method allows a manufacturer in lieu of testing compressors of every configuration, to group configurations into categories. A category will be defined by basic parameters such as engine type, and delivery rate. The manufacturer has the option of designating additional categories based on other parameters of his own choice. Within a category, the A-weighted sound pressure level for each configuration shall be estimated. By categorizing his configurations and successfully verifying the configuration with the highest sound pressure level, all configurations within the category will be considered verified. If the noisiest configuration cannot be clearly distinguished, this method may not be used.

These proposed regulations also provide that the Administrator may test or require testing (as the case may be) of additional compressors as a condition of production verification.

A production verification report must be filed by the manufacturer before any compressors of the configuration represented are distributed into commerce.

A configuration is considered production verified when testing on the first production compressor of that configuration or a compressor representing it is completed and a timely report has been mailed to EPA indicating the compressor conforms to the standards.

If a manufacturer proposes to add a new configuration to his product line or change or deviate from an existing configuration with respect to any of the parameters which define a configuration, the manufacturer must verify the new configuration either by testing a compressor and submitting data or by filing a report which demonstrates verification on the basis of previously submitted data.

The manufacturer must production verify from one model year to the next. In some instances, a manufacturer may verify new models based on data submitted during previous model years. The manufacturer need not verify configurations at any particular point in a model year. The requirement is only that he verify a configuration prior to distribution in commerce. The inherent flexibility in the scheme of categorization in many instances will allow a manufacturer to either verify a configuration that he may not produce until late in a model year based on representation or else wait until actual production of that configuration to verify it.

If a manufacturer fails to properly verify and a configuration is found to be in non-conformity with the regulations, the Administrator may issue an order requiring the manufacturer to cease the distribution in commerce of compressors of that configuration. The Administrator may provide the manufacturer the opportunity for a hearing prior to the issuance of such an order if the decision to issue was based on information which invokes no substantial question of fact.

Production verification performed on the first production models provides EPA with confidence that production models will conform to the standards and limits the possibility that non-conforming compressors will be distributed in commerce. Because the possibility still exists that subsequent models may not conform, assembly line vehicle testing is made a part of this enforcement strategy in order to determine whether production compressors continue to conform to the standard.

C. *Assembly Line Testing.* Assembly line testing of production vehicles is a process by which compressors as they are completed on the assembly line are tested to determine whether they conform to applicable standards.

These regulations provide for sample testing based on an audit of production line compressors for cause (Selective Enforcement Auditing). An auditing strategy enables EPA to determine if production compressors meet the applicable noise emission standards and provides a deterrent to the distribution in commerce of nonconforming products. An auditing strategy involves the testing of a representative number of production compressors chosen in a random fashion. Because the number of compressors tested under an auditing strategy is nominal, the cost and effort associated with implementation of such strategy for a conforming manufacturer are only a fraction of the cost of a program involving continuous testing.

The sampling strategy adopted by EPA does not attempt to impose a quality control or quality assurance scheme upon a manufacturer but merely audits the conformity of his products and thus

provides a deterrent to the distribution in commerce of nonconforming products.

D. *Selective Enforcement Auditing.* Selective enforcement auditing (SEA) is the term used in this regulation to describe the testing pursuant to an Administrative request, in accordance with the proposed test procedure, of a statistical sample of production compressors from a particular specified compressors configuration selected from a particular assembly plant in order to determine whether production compressors conform to the regulations and to provide the basis for further action in the case of non-conformity. Compressors will be selected on the basis of specific information, such as, but not limited to, marginal noise emission performance exhibited during production verification testing or a high failure rate of compressors in use.

Testing is initiated by a test request which will be issued to the manufacturer by the Assistant Administrator for Enforcement and General Counsel or his authorized representative to the manufacturer. A test request is confined to a single compressor configuration so that noncompliance can be associated with a particular compressor type, and initial testing may be kept to a minimum. This test request will require the manufacturer to test a sample of compressors of the specified configuration produced at a specified plant. An alternative configuration may be designated in the test request in the event compressors of the first configuration are not available.

Upon receipt of the test request the manufacturer will randomly select the sample from the first batch of compressors of the specified configuration that is scheduled for production; however, the Administrator may designate specific compressors for testing. (The purpose of the random selection is to ensure that a representative sample is drawn.) A batch is the collection of compressors as designated in the test request. As a guideline, the Administrator will normally select the number of compressors produced during a shift (or equivalent production run as determined by the Administrator) as a batch. A batch defined in this manner will allow the Administrator to select batch sizes small enough to keep the number of compressors to be tested at a reasonable number and yet be large enough to enable EPA eventually to draw statistically valid conclusions about the noise emission performance of all compressors of that configuration manufactured by the manufacturer at that plant.

One important factor which will influence the decision of the Administrator to issue a test request to a manufacturer is whether the manufacturer is conducting noise emission testing of production compressors on his own cognizance using a sampling scheme better than, similar to, or identical with the one proposed in these regulations. If a manufacturer can provide evidence that his compressors are meeting standards based on tests and sampling methods acceptable to EPA, issuance of a test request may not be necessary.

The basis for determining the proper sample size will be an adaptation of Military Standard 105D, Sampling Procedures and Tables for Inspection by Attributes. Military Standard 105D is a collection of sampling plans designed to be used in determining the acceptability of a batch of items for which one or more inspection criteria have been established. As applied to compressor noise emissions, the items being inspected are compressors and the inspection criterion is the noise emission standard.

Under inspection by attributes, items are inspected or tested to determine whether they meet the prescribed specification. The basic decision criterion is the number of products whose parameters meet specification rather than the average value of some parameter.

The particular type of inspection plan which has been adopted for selective noise emission testing of compressors is known as multiple sampling. Multiple sampling differs from single sampling in that small consecutive test samples are drawn from a batch rather than one large sample being drawn from a batch.

Multiple sampling offers the advantage of keeping the number of compressors testing to a minimum when the majority of compressors are meeting the standards.

The sampling plans in Military Standard 105D are arranged according to the size of the batch from which a sample is to be drawn. Each plan specifies the sample size and acceptance and rejection number for various acceptance quality levels (AQL). As applied to compressor noise emissions, the AQL is the maximum percentage of failing compressors that for purposes of sampling inspection can be considered satisfactory, where a compressor is considered a failure if it exceeds the noise emission standard. An acceptable quality level (AQL) of 6.5 percent will be established. This value was chosen to take into account some test variability. The number of failing compressors in a sample is compared to the acceptance and rejection numbers for the appropriate sampling plan. If the number of failures is less than or equal to the acceptance number, then there is a high probability that the percentage of non-complying compressors in the batch is less than the AQL. On the other hand, if the number of failing compressors in the sample is greater than or equal to the rejection number, then there is a high probability that the percentage of noncomplying compressors in the batch is greater than the AQL.

In the first case, the batch is said to be accepted while in the second case it is said to be rejected. Because the sampling strategy involves a multiple sampling plan, in some instances the number of failures in a test sample may not allow acceptance or rejection of a batch so that continued testing may be required until a decision can be made to either accept or reject a batch.

Regardless of whether a batch is accepted or rejected, failed compressors would have to be repaired and/or adjusted and pass a retest before they can be distributed in commerce.

The proposed regulations establish two types of inspection criteria in accordance with Military Standard 105D. They are known as normal and tightened inspection. Normal inspection is used for determining the acceptability of the first batch or the first two batches where the first batch was accepted and assumes that the quality of a batch, that is the percentage of non-complying compressors, is less than or equal to the AQL. If the first batch is rejected, or the second batch is rejected where the first batch was accepted, then this assumption was incorrect and tightened inspection is instituted, which assumes that the submitted quality exceeds the AQL. Under tightened inspection, the producer's risk, that is the statistical probability of a good batch being rejected, is slightly increased, whereas the consumer's risk, the statistical probability of a bad batch being accepted, is slightly decreased. This is accomplished by keeping the sample size fixed while reducing the acceptance number (i.e., number of passing compressors).

After the first batch tested is accepted, the manufacturer must test a second batch using normal inspection in order to reduce the risk (that is associated with simply testing one batch of compressors pursuant to a test request) of accepting a bad batch and ending tests. However, where a first batch is rejected, tightened inspection is instituted immediately. Similarly tightened inspection is instituted when the second batch is rejected after acceptance of the first batch.

If the first two batches inspected in response to a test request are accepted, then the manufacturer will not be required, at that time to do any further sampling and testing of that configuration pursuant to the initial test request. Rejection of the first or the second batch however, would result in a number of subsequent actions. First, the manufacturer must begin to inspect consecutive batches of the affected configuration using tightened inspection, to determine whether each batch can be accepted. If a sufficient number of consecutive batches are rejected, then the manufacturer may be required to institute 100% testing for all compressors of that configuration produced at that plant. In this alternative the Administrator may, based on criteria stated in the regulations, issue an order requiring the manufacturer to cease distribution of the affected configuration into commerce. The Administrator may not provide a manufacturer the opportunity for a hearing prior to issuance of such an order if the decision to issue it was based on information which invokes no substantial question of fact.

E. *Time limitations.* Since the number of compressors tested in response to a test order may vary considerably, a fixed time limit cannot be placed on completing all testing. The proposed approach is to establish the time limit on a test time per compressor basis, taking

transportation requirements, if any, into consideration. The manufacturer would be allowed a reasonable amount of time for transport of compressors to a test facility if one were not available at the assembly plant.

F. *Recall.* Section 11(d)(1) of the Act provides that:

> Whenever any person is in violation of section 10(a) of this Act, the Administrator may issue an order specifying such relief as he determines is necessary to protect the public health and welfare.

Clearly, this provision of the Act is intended to grant to the Administrator discretionary authority to fashion civil sanctions to supplement the criminal penalties of section 11(a). If compressors which were not designed, built, and equipped so as to conform with these regulations during their useful life, were distributed in commerce, such act would be a violation of section 10(a) and remedy of such nonconformity would be appropriate. Remedy of the affected compressors shall be carried out pursuant to a recall order.

A recall order could be triggered by one of three events. The first act which could cause a recall order to be issued would be the failure of a manufacturer to properly production verify a configuration as required by the regulations. Such an order would not be issued unless compressors of the unverified configuration actually exceeds the applicable noise emission standard. This decision to recall may be based upon a technical analysis of the configuration and other appropriate information including test data. The manufacturer would be provided with the opportunity for a hearing to challenge the Administrator's decision prior to the issuance of the order except that in cases where the decision was based upon data and information which contain no disputable issues of fact no hearing would be afforded.

The second possibility under which a recall order may be issued would occur when a configuration fails an audit test conducted under these regulations. The results of the testing would serve as the basis for the decision to issue the order. Again, the opportunity for a hearing would be discretionary with the Administrator, and would depend upon whether any issues are raised which include a substantial question of fact. A third possibility under which a recall order may be issued is when properly maintained and operated compressors fail to conform to Federal standards when in use. This possibility is discussed below under the section dealing with in-use compliance.

The third possibility under which a recall order may be issued would occur when any configuration of portable air compressors, although properly maintained, used and repaired, fails to conform to applicable noise emission standards during the actual life of the compressors.

G. *Labeling.* These regulations require that compressors subject to them shall be labeled to provide notice that the compressor conforms to these regulations. The label shall contain a notice of tampering prohibitions.

H. *Right of entry and record keeping.* Because of the inevitable conflict of interest which results from any system where a significant part of the regulatory activity is controlled by those being regulated, it is essential that EPA personnel have free access to all aspects of the system in order to determine whether the requirements of the regulations are being followed and if conforming compressors are being introduced into commerce. Such access includes all facets of the testing program required by the regulations, all records, reports, and test results which must be maintained, and all facilities (production, test, and storage), which are connected with the manufacture of the compressors used for testing. These regulations spell out exactly what records and other documents, concerning testing of production vehicles, must be retained, and for how long. The procedures by which EPA testing and inspection authorized in sections 6 and 13 of the Noise Control Act of 1972 will be exercised are also specified.

These regulations also provide for a sanction against any manufacturer who refuses to allow EPA personnel entry to his facility to conduct activities authorized by the regulations. This sanction is in the form of an order issued by the Administrator to cease distribution into commerce of compressors of the specified configuration that are being manufactured at that facility. The Administrator may not provide a manufacturer the opportunity for a hearing prior to the issuance of such an order if the decision to issue it was based on information which invokes no substantial question of fact.

Many of the compressors to which these regulations apply will be manufactured and tested in facilities located outside the United States. These regulations make clear that all testing and production facilities, wherever located, are subject to the same recordkeeping and inspection requirements. Since these requirements are necessary to ensure the integrity of the testing process, and the conformity of production compressors to the regulations, tests which are not subject to them cannot be considered reliable, nor can there be assurance that production facilities not subject to them are producing compressors that conform to the regulations. In addition, to fail to apply these requirements to facilities located overseas would discriminate unjustly against domestic manufacturers in favor of their foreign competition.

These regulations will apply even to facilities located in jurisdictions where foreign law forbids the kind of summary inspections they allow. Though it is well established that American courts will not order a person to disclose documents or other information located in a foreign jurisdiction that forbids such disclosure, the reason behind that rule is to avoid a conflict of laws, and is not applicable here. EPA will not attempt to make any inspections which it has been informed that local law forbids. However, if foreign law makes it impossible to do what is necessary to ensure the accuracy of data generated at a facility as to the conformity to design requirements of compressors produced at it, no informed judgment that a compressor complies with the regulations can properly be made. It is the responsibility of the manufacturer to locate his testing and production facilities in jurisdiction where this situation will not arise.

I. *Exemptions.* The proposed regulations also outline the procedures by which EPA will administer the granting of exemptions from the prohibitions of the Act to various product manufacturers, pursuant to section 10(b). The substantive scope of the exemption provisions of sections 10(b)(1) and (2) are defined and procedures whereby exemptions may be requested are set forth. Exemptions will be granted for testing and national security reasons only. Export exemptions will be automatically effective, without request, upon the proper labeling of the products involved. Testing exemptions must be justified in writing by a sufficient demonstration of appropriateness, necessity, reasonableness, and control. Requests for national security exemptions must be endorsed by an agency of the Federal Government charged with the responsibility of national defense. This would preclude the granting of exemptions for products used for public welfare, such as municipal fire trucks.

J. *In-use compliance.* The manufacturer is required to design, build and equip compressors subject to these regulations so that they do not exceed the prescribed noise emisison standards during their useful life, provided they are properly maintained, used and repaired. In use compliance provisions are included in these regulations to insure that this obligation is satisfied. These provisions include a requirement that the manufacturer provide a warranty to purchasers [required by section 6(d)], recall nonconforming compressors if the Administrator so orders [under section 11(d)], assist the Administrator in fully defining those acts which constitute tampering [under section 10(a)(2)(A)], and provide retail purchasers with instructions specifying the maintenance, use and repair required to assure conformity with noise emission regulations during the life of the product [authorized by section 6(c)(1)], and with a log book to record maintenance and repairs performed.

Section 6(d)(1) of the Act requires the manufacturer to warrant to the ultimate and subsequent purchasers that new portable air compressors subject to these regulations are designed, built, and equipped so as to conform at the time of sale with Federal regulations. The regulations require that the manufacturer furnish this time-of-sale warranty to the ultimate purchaser in a prescribed writ-

ten form. The regulations also provide for EPA review of the written warranty and related information furnished to purchasers, dealers, zone representatives, etc., in order that the Agency can determine whether the manufacturer's warranty policy is consistent with the intent of the Act.

The recall regulations make it clear that the manufacturer may be required by EPA to remedy compressors of a particular configuration if it is determined that properly maintained and operated compressors of this configuration do not conform to Federal or identical State or local noise emission standards when in actual use. State and local jurisdictions are encouraged to assist in the federal recall program, primarily by conducting surveillance in the field. Procedural regulations for dealing with contested recall orders, in accordance with section 11(d)(2) of the Act, will be promulgated in the future.

The tampering regulations require the manufacturer to furnish the Agency with a comprehensive list of all noise control devices and elements of design for each compressor configuration. The manufacturer is also required to furnish a "tampering list" derived from the comprehensive list. The tampering list will focus on those prohibited acts which would most likely be done on compressors in use and which if done, are likely to have a serious detrimental impact on noise emissions. An act of tampering with any device or element of design on the comprehensive list even though not on the tampering list is unlawful and subject to Federal penalty. The Federal law on tampering and the EPA approved tampering list must be provided in written form to the ultimate purchaser.

The regulations dealing with instructions for proper operation, use and repair are intended to assure that purchasers know exactly what is required so that the air compressor will comply with standards during the life of the compressor. These instructions must be both necessary to assure in-use compliance and reasonableness in the burden placed on purchasers. A record or log book must be provided to the ultimate purchaser to assist purchasers in demonstrating proper maintenance should a record be necessary at any time during the life of the product. The instructions may not contain language which tends to give the manufacturer or his dealers an unfair competitive advantage over the after market. Finally, the regulations provide for Agency review of the instructions, and related langauge.

K. *Cost of compliance testing.—Production verification.* It is anticipated that the manufacturer will be able to categorize his product line and therefore minimize the amount of production verification testing required. As the proposed test methodology is very similar to the methodology currently used by many manufacturers to evaluate the noise signature of their products, minimal cost increases, over currently incurred costs, are anticipated to result due to the proposed compliance testing procedure.

The cost of preparing and filing a production verification report is nominal since it involves transcribing information, including test data, which is already available to the manufacturer.

Selective enforcement auditing. The cost of SEA to the manufacturer will be the costs associated with performing the standard test and reporting the test results plus any transportation costs, which will vary from manufacturer to manufacturer depending upon where his plants and test facilities are located.

In many instances, the cost of the program to a manufacturer will be nominal if he has in-house quality control testing programs which use procedures and equipment similar to or identical to those proposed in these regulations.

The costs to a manufacturer producing conforming products will be nominal because of the minimal testing required resulting from the multiple sampling strategy. Weather conditions may adversely affect the cost of compliance testing. We solicit suggestions on how these effects can be minimized.

Though the Agency endeavored to quantify the costs associated with compliance testing, limited data was available on which to make a judgment. Accordingly, public comment and data, in particular, are solicited as to the anticipated costs of compliance testing.

IX. Preemption

Under section 6(e)(1) of the Noise Control Act, after the effective date of a regulation under section 6, of noise emissions from a new product, no State or political subdivision thereof may adopt or enforce any law or regulation which sets a limit of noise emissions from such new products, or components of such new products, which is not identical to the standard prescribed by the Federal regulation. Section 6(e)(2), however, provides that nothing in section 6 precludes or denies the right of any State or political subdivision thereof to establish and enforce controls on environmental noise (or one or more sources thereof) through the licensing, regulation or restriction of the use, operation or movement of any product or combination of products.

The noise controls which are reserved to State and local authority by section 6(e)(2) include, but are not limited to, the following:

(1) Controls on the manner of operation of products.

(2) Controls on the time of day or night in which products may be operated.

(3) Controls on the places in which products may be operated.

(4) Controls on the number of products which may be operated together.

(5) Controls on noise emissions from the property on which products are used.

(6) Controls on the licensing of products.

(7) Controls on environmental noise levels.

Federal regulations promulgated under section 6 preempt only State or local noise emission standards on products after the effective date of the regulations, and only to the extent that such standards are different from the Federal standards relating to such products.

Conversely, State and local authorities are free to enact regulations on new products offered for sale which are identical to Federal regulations. The Environmental Protection Agency encourages the adoption of such regulations so that State and local authorities may aid in the enforcement of such standards.

State and local noise regulations applicable to products which are not covered by Federal regulations are in no way preempted by these regulations.

X. Future Intent

The Agency is pursuing a strategy through which major contributors to overall construction site noise will be identified and subsequently regulated. This coordinated approach is necessary because in most sites, a number of different construction equipment products may be operating at the same time and the quieting of only one such product may not in itself be sufficient to adequately reduce the noise from the site to a level the Agency believes required to protect the public health and welfare.

As indicated in the EPA Identification of Major Sources of Noise Report (39 FR 22297-99, June 21, 1974) the principal candidates for future regulatory efforts are known. At this time the Agency is analyzing the alternative methods of regulating construction equipment to determine whether regulation of individual products or categories of products is more appropriate.

The Agency intends to commence regulatory action on other construction equipment products in the near future, and the levels chosen for the standards in this proposed rulemaking are consistent with the overall requirements to quiet all products in order to ultimately quiet all construction sites.

The Agency believes that the standard here proposed represents the level of noise emission achievable by the best currently available technology taking into account the cost of compliance. However, as technological advance occurs, new levels may be shown to be achievable at reasonable cost. The Agency will consider all new information and data which becomes available or is presented to it, and may subsequently revise the regulations proposed herein.

XI. Public Comment

Section 6 of the Act requires that, in the case of initial proposed regulations under section 6(a)(1), final regulations be promulgated not earlier than six months after publication of proposed regulations, and not later than twenty-four months after the date of enactment of the Act. As this latter date is, in the case of portable air compressors, October 27, 1974, it would not be possible to meet the requirements of both the "not later than" and "not earlier than" provisions of the Act. Accordingly, the

Agency intends to promulgate final regulations six months after proposal of the regulations in order to meet the "not earlier than" requirement of section 6(a)(3)(A) in order to provide full opportunity for public participation in the rulemaking process as further required by section 6(c)(2).

Under section 6(c)(2) of the Noise Control Act, after publication of any proposed regulations under section 6, the Administrator shall allow interested persons an opportunity to participate in rulemaking. Interested persons may submit 5 (five) written copies of data, views or arguments in regard to the regulations proposed herein to:

Director, Standards and Regulation Division
Office of Noise Abatement and Control (AW-571)
Docket No. ONAC 74-1
U.S. Environmental Protection Agency
Arlington, Virginia 20460

All relevant material received by December 2, 1974 will be considered. All comments will be available for public inspection during normal working hours (8:00 am to 4:30 pm) at the Office of Noise Abatement and Control, Room 1108, Crystal Mall Building 2, 1921 Jefferson Davis Highway, Arlington, VA 20460.

This regulation is proposed under the authority of 42 U.S.C. 4905, 86 Stat. 1237.

Dated: October 15, 1974.

RUSSELL E. TRAIN,
Administrator.

Part 204 of Title 40 is proposed to read as follows:

PART 204—CONSTRUCTION EQUIPMENT NOISE EMISSION CONTROLS

Subpart A—General Provisions

Subpart B—Portable Air Compressors

Subpart A—General Provisions

§ 204.1 General applicability.

The provisions of this subpart are applicable to all products for which regulations have been published under this part and which are manufactured after the effective date of such regulations.

§ 204.2 Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Act.

(1) "Act" means the Noise Control Act of 1972 (PL 92-574, 86 Stat. 1234).

(2) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(3) The "Agency" means the United States Environmental Protection Agency.

(4) "Export exemption" means an exemption from the prohibitions of section 10(a)(1), (2), (3), and (4) of the Act, granted by statute under section 10(b)(2) of the Act for the purpose of exporting regulated products.

(5) "National security exemption" means an exemption from the prohibitions of section 10(a)(1), (2), (3), and (5) of the Act, which may be granted under section 10(b)(1) of the Act for the purpose of national security.

(6) "Pre-verification exemption" means a testing exemption which is applicable to products manufactured prior to product verification and otherwise required under any section of this part, and used by a manufacturer from year to year in the ordinary course of business, for product development, production method assessment, and market promotion purposes, but in a manner not involving lease or sale.

(7) "Testing exemption" means an exemption from the prohibitions of section 10(a)(1), (2), (3), and (5) of the Act, which may be granted under section 10(b)(1) of the Act for the purpose of research, investigations, studies, demonstrations, or training, but not including national security where lease or sale of the exempted product is involved.

(8) "Warranty" means the warranty required by § 6(c)(1) of the Act.

(9) "Tampering" means those acts prohibited by § 10(a)(2) of the Act.

(10) "Maintenance instructions" or "instructions" means those instructions for maintenance, use, and repair, which the Administrator is authorized to require pursuant to section 6(c)(1) of the Act.

(11) "Type I Sound Level Meter" means a sound level meter which meets the Type I requirements of American National Standard Specification S1.4-1971 for sound level meters. This publication is available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

(12) "dBA" is a unit of sound level measured by the use of metering characteristics and the prescribed A-weighting frequency response specified in American National Standard S1.4-1971 or subsequent revisions. This publication is available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

(13) "Slow meter response" means the meter ballistics of meter dynamic characteristics as specified by American National Standard S1.4-1971, or subsequent revisions. This publication is available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

(14) "Sound level" means the weighted sound pressure level measured by the use of a metering characteristic and weighing A, B, and C as specified in American National Standard Specification for Sound Level Meters S1.4-1971 or subsequent approved revision. The weighting employed must be specified otherwise A-weighting is understood. Publication S1.4-1971 is available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

(15) "Sound pressure level" means in decibels, 20 times the logarithm to the base ten of the ratio of a sound pressure to the reference sound pressure of 20 micropascals (20 micronewtons per square meter). In the absence of any modifier, the level is understood to be that of a root-mean-square pressure.

(16) "Product" means any construction equipment for which regulations have been promulgated under this part.

§ 204.3 Number and gender.

As used in these rules of practice, words in the singular shall be deemed to import the plural, and words in the masculine gender shall be deemed to import the feminine and vice versa, as the case may require.

§ 204.4 Right of entry.

(a) In order to allow the Administrator to determine whether a manufacturer is complying with the provisions of the Act and these regulations, any manufacturer subject to regulation under this part shall admit or cause to be admitted any EPA Enforcement Officer

during operating hours upon demand and upon presentation of credentials to any of the following:

(1) Any facility where any product to be distributed into commerce is manufactured, assembled, or stored;

(2) Any facility where any tests conducted pursuant to this part or any procedures or activities connected with such tests are or were performed;

(3) Any facility where any test product is present; and

(4) Any facility where records, reports, other documents or information required to be maintained or provided to the Administrator are located.

(b)(1) Upon admission to any facility referred to in paragraph (a) of this section, any EPA Enforcement Officer shall be allowed:

(i) To inspect and monitor test product manufacture and assembly, selection, storage, preconditioning, noise emission testing, and maintenance, and to verify correlation or calibration of test equipment;

(ii) To inspect products prior to their distribution in commerce;

(iii) To inspect and make copies of any records, reports, documents, or information required to be maintained or provided to the Administrator under the Act;

(iv) To inspect and photograph any part or aspect of any such product and any component used in the assembly thereof that are reasonably related to the purpose of his entry;

(v) Any inspecting or monitoring activities conducted under this section shall be for the purpose of determining (A) whether required records are being properly maintained, (B) whether product testing is being conducted in accordance with these regulations, (C) whether test products are being manufactured or assembled, stored, selected and prepared for testing in accordance with the provisions of these regulations, and (D) whether products being produced for distribution into commerce are as described in the production verification report.

(2) Any EPA Enforcement Officer shall be furnished by those in charge of a facility being inspected with such reasonable assistance as he may request to help him discharge any function listed in this paragraph. A manufacturer is required to cause those in charge of a facility operated for its benefit to furnish such reasonable assistance without charge to EPA whether or not it controls the facility.

(3) The duty to admit or cause to be admitted any EPA Enforcement Officer applies whether the facility is owned or controlled by the manufacturer or by one who acts for the manufacturer and applies both to domestic and foreign manufacturers and facilities. EPA will not attempt to make any inspections which it has been informed that foreign law forbids. However, if foreign law makes it impossible to do what is necessary to ensure the accuracy of data generated at a facility, no informed judgment that a product has been properly tested in accordance with these regulations can properly be based on that data. It is the responsibility of the manufacturer to locate its testing and manufacturing facilities in jurisdictions where this situation will not arise.

(c) For purposes of this section:

(1) "Presentation of credentials" shall mean display of the document designating a person as a EPA Enforcement Officer.

(2) Where product or component storage areas or facilities are concerned, "operating hours" shall mean all times during which personnel other than custodial personnel are at work in the vicinity of the area or facility and have access to it.

(3) Where facilities or areas other than those covered by paragraph (c)(2) of this section are concerned, "operating hours" shall mean all times during which product assembly is in operation or all times during which product testing, maintenance, and/or production or compilation of records, or any other procedure or activity related to production verification testing, or to product manufacture or assembly is being carried out in a facility.

(4) "Reasonable assistance" includes, but is not limited to, clerical, copying, interpretation and translation services, the making available, on request, of personnel of the facility being inspected during their working hours to inform the EPA Enforcement Officer of how the facility operates and to answer his questions, and the performance on request of noise emission tests on any product which is being, has been, or will be used for testing. Such tests shall be nondestructive.

(d) Any entry without 24 hour prior written or oral notification to the affected manufacturer shall be authorized in writing by the Assistant Administrator for Enforcement and General Counsel.

(e) Pursuant to section 11(d)(1) of the Act, the Administrator may issue an order to the manufacturer to cease the distribution in commerce of particular product configurations being manufactured at a particular facility if:

(1) Any EPA Enforcement Officer is denied access on the terms specified in this section to such facility or portion thereof which contains any of the following:

(i) Any product which has been used or designated for use in conducting tests required by this part, or

(ii) Any products which are intended for distribution in commerce, or

(iii) Any step in the construction of a product described in paragraph (e)(1)(i) and (ii) of this section, or

(iv) Any records, documents, reports or histories required to be kept by this part.

(2) Any EPA Enforcement Officer is denied access on the terms specified in this section, to any facility where any tests required by this part or any procedures or activities connected with such tests are or were performed; or

(3) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 204.4(c)(4) in examining any of the items listed in subparagraphs (1) and (2) of the paragraph).

(4) The sanction of issuing an order to cease distribution into commerce of products may be imposed for the reasons in paragraph (e)(1), (2), and (3) of this section only when the infraction is substantial.

(f) Pursuant to section 11(d)(2) of the Act, the Administrator may, as appropriate, grant to the manufacturer an opportunity for a hearing prior to the issuance of an order to cease the distribution into commerce of products of a specified configuration. The Administrator may refuse to grant a hearing based upon his determination that the decision to issue such an order is based solely on inspection, tests or other information which involves no substantial question of fact. Hearings granted under this paragraph shall be conducted under appropriate regulations.

(g) Pursuant to section 16(d) of the Act, any employee of a manufacturer may be compelled to personally appear before an EPA Enforcement Officer during the course of an entry upon a facility of that manufacturer conducted under this paragraph. A written request for such appearance, signed by the Assistant Administrator for Enforcement and General Counsel, shall be served on the employee. Any such employee will be entitled to be accompanied, represented, and advised by counsel. No counsel who accompanies, represents, or advises an employee compelled to appear may accompany, represent or advise any other person in the investigation.

§ 204.5 Exemptions.

§ 204.5–1 Who may request an exemption.

(a) Any manufacturer may request an exemption provided by this subpart or exempt products as provided by § 204.5–5.

§ 204.5–2 Testing exemption.

(a) Any manufacturer requesting a testing exemption must demonstrate that the proposed test program:

(1) Has a purpose which constitutes an appropriate basis for an exemption in accordance with section 10(b)(1) of the Act;

(2) Necessitates the granting of an exemption;

(3) Exhibits reasonableness in scope; and

(4) Exhibits a degree of control consonant with the purpose of the program and the Environmental Protection Agency's (hereafter EPA) monitoring requirements. Paragraphs (b), (c), (d), and (e) of this section describe what constitutes a sufficient demonstration for each of the four above identified elements.

(b) With respect to the purpose of the proposed test program, an appropriate purpose is one which is consistent with one or more of the bases for exemption set forth under section 10(b)(1), namely research, investigations, studies, demonstrations, or training, but not including

national security. A concise statement of purpose is a required item of information.

(c) With respect to the necessity that an exemption be granted, necessity arises from an inability to achieve the stated purpose in a practicable manner without performing a prohibited act under sections 10(a) (1), (2), (3), or (5). In appropriate circumstances time constraints may be a sufficient basis for necessity.

(d) With respect to reasonableness, a test program must exhibit a duration of reasonable length and affect a reasonable number of products. In this regard, required items of information include:

(1) An estimate of the program's duration;

(2) The absolute number of products involved;

(3) The duration of the test;

(4) The ownership arrangement with regard to the products involved in the test;

(5) The intended final disposition of the products;

(6) The means or procedure whereby test results will be recorded.

(e) Paragraph (a) of this section applies irrespective of the product's place of manufacture.

§ 204.5–3 Pre-verification exemptions.

Section 205.5–2 does not apply for pre-verification products. In such cases, a request for exemption is necessary; however, the only information required is a statement setting forth the general nature of the pre-verification products program, the number of products involved and a demonstration that adequate record keeping procedures for control purposes will be employed.

§ 204.5–4 National security exemptions.

A manufacturer requesting a national security exemption must state the purpose for which the exemption is required and the request must be endorsed by an agency of the Federal government charged with responsibility for national defense.

§ 204.5–5 Export exemptions.

(a) A new product intended solely for export, and so labeled or marked on the outside of the container and on the product itself shall be exempt from the prohibitions of section 10(a) (1), (2), (3), and (4) of the Act.

(b) No request for an export exemption is required.

(c) It is a condition of any export exemption under section 10(b)(2) that such exemption shall be void ab initio with respect to each new product intended solely for export which is distributed in commerce for use in any state.

(d) Any manufacturers or person subject to the liabilities of section 11(a) with respect to any product, originally intended for export, but distributed in commerce for use in any state, may be excluded from the application of section 11(a) with respect to such product based upon a showing that such manufacturer;

(1) Had no knowledge of such product being distributed in commerce for use in any state; and

(2) Made reasonable efforts to ensure that such product would not be distributed in commerce for use in any state. Such reasonable efforts would include investigations, prior dealings, contract provisions, etc.

§ 204.5–6 Granting of exemptions.

(a) If upon completion of the review of an exemption request, the granting of an exemption is deemed appropriate, a memorandum of exemption will be prepared and submitted to the manufacturer requesting the exemption. The memorandum will set forth the basis for the exemption, its scope, and such terms and conditions as are deemed necessary to protect the public health and welfare. Such terms and conditions will generally include, but are not limited to, agreements by the applicant to conduct the exempt activity in the manner described to EPA, create and maintain adequate records accessible to EPA at reasonable times, employ labels for the exempt products setting forth the nature of the exemption, take appropriate measures to assure that the terms of the exemption are met, and advise EPA of the termination of the activity and the ultimate disposition of the products. EPA may limit the scope of any exemption by placing restrictions on time, location and duration. EPA may also withdraw the exemption at any time based upon information that the public health and welfare is being endangered.

(b) Any exemption granted pursuant to paragraph (a) of this section shall be deemed to cover any subject product only to the extent that the specified terms and conditions are complied with. A breach of any term or condition shall cause the exemption to be void ab initio with respect to any product. Consequently, the distribution in commerce for use of any subject product other than in strict conformity with all terms and conditions of this exemption shall constitute a violation of section 10(a) (1) and (3) of the Act, and shall render the manufacturer to whom the exemption is granted, and any other person to whom the provisions of section 10 are applicable, liable to suit under sections 11 and 12 of the Act.

§ 204.5–7 Submission of exemption requests.

Requests for exemption or further information concerning exemptions and/or the exemption request review procedure should be addressed to:

Director
Mobile Source Enforcement Division (EG–340)
Environmental Protection Agency
401 M Street, S.W., Room 3220J
Washington, D.C. 20460.

Subpart B—Portable Air Compressors

§ 204.50 Applicability.

The provisions of Subpart B, § 204.52 shall apply to portable air compressors manufactured 12 months or a greater period of time after the effective date of these regulations, that meet the definition of "New Product" in the Act and are distributed in interstate commerce. These provisions apply only to portable air compressors with a rated capacity above 75 cubic feet per minute operating nominally at 100 psi or at the maximum designed operational pressure. The provisions do not apply to the pneumatic tools or equipment that the portable air compressor is designed to power.

§ 204.51 Definitions.

(1) "Portable air compressor or compressors" means any wheel, skid, truck, or railroad car mounted, but not self propelled equipment designed to activate pneumatic tools. They consist of an air compressor (air end), a reciprocating, rotary or turbine engine rigidly connected in permanent alignment and mounted on a common frame. Also included are all cooling, lubricating, regulating, starting, fuel systems, and all equipment necessary to constitute a complete, self contained unit which develops 75 and over cfm while operating nominally at 100 psi or at the maximum designed operating pressure, but does not include any pneumatic tools themselves.

(2) "Noise Control System" includes any part, component, or system of a portable air compressor which controls or causes the reduction of noise emitted from the portable air compressor.

(3) "Maximum Rated Capacity" means that the portable air compressor operating at the design full speed with the compressor on load, delivers its rated cfm output and pressure, as defined by the manufacturer.

(4) "Model year" means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year: Provided, That if the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

(5) "Configuration" means the basic classification unit of a manufacturer's product line and is comprised of all compressor designs, models or series which are identical in all material respects with respect to the parameters listed in § 204.55–3.

(6) "Category" means a group of compressor configurations which are identical in all aspects with respect to the parameters listed in paragraph (d)(2)(i) of § 204.55–2.

(7) "Defeat device" means a sensor device which may adversely affect noise emission control under conditions or during operations likely to occur in actual compressor use.

(8) "Production verification compressor" means any compressor selected for testing, tested, or verified pursuant to the requirements of this subpart.

(9) "Noise emission test" means a test conducted pursuant to the measurement methodology specified in § 204.54.

(10) "Inspection Criteria" means the rejection and acceptance numbers associated with a particular sampling plan.

(11) "Compressor Configuration" means a subclassification of a category based on § 204.55–3.

(12) "Acceptable Quality Level" (AQL) means the maximum percentage of failing compressors that, for purposes of sampling inspection, will permit acceptance of a batch.

(13) "Batch" means the collection of successively produced compressors of the same configuration, as designated by the Administrator in a test request, from which a batch sample is to be randomly drawn.

(14) "Batch Sample" means the collection of compressors of the same configuration which is randomly drawn from a batch from which test samples are randomly drawn.

(15) "Batch Sample Size" means the number of compressors of the same configuration in a batch sample.

(16) "Test Sample" means the collection of compressors from the same configuration which is randomly drawn from the batch sample and which will receive emissions tests.

(17) "Batch Size" means the number, as designated by the Administrator in the test request, of vehicles of the same configuration in a batch.

(18) "Test Sample Size" means the number of compressors of the same configuration in a test sample.

(19) "Normal Inspection" means the inspection criteria (Appendix I, Table II) that will be used during inspection of the first batch and/or the second batch as applicable.

(20) "Tightened Inspection" means the tightened inspection criteria (Appendix I, Table III) that applies during inspection of all batches subsequent to rejection of the first batch or second inspected batch.

(21) "Acceptance of a Batch" means that the number of non-complying compressors in the batch sample is less than or equal to the acceptance number as determined by the appropriate sampling plan.

(22) "Rejection of a Batch" means the number of non-complying compressors in the batch sample is greater than or equal to the acceptance number as determined by the appropriate sampling plan.

(23) "Shift" means the regular production work period for one group of workers.

(24) "Failure" of a compressor means that the measured emissions of the compressor, when measured in accordance with the applicable procedure, exceeds the applicable standard.

(25) "Acceptance of a Compressor" means that the measured emissions of the compressor, when measured in accordance with the applicable procedure, conforms to the applicable standard.

(26) "Test Compressor" means a compressor in the test sample or a production verification compressor.

(27) "Tampering" means those acts prohibited by section 10(a)(2) of the Act.

§ 204.52 Portable air compressor noise emission standard.

(a) Effective one year from the date of promulgation of these regulations, portable air compressors shall be designed, built and equipped so that, if properly maintained, operated and repaired, they will not, at any time during the life of the product, produce average sound levels in excess of 76 dBA when measured and evaluated as prescribed in this subpart.

§ 204.53 Maintenance of records: submittal of information.

(a) The manufacturer of any new compressor subject to any of the standards or procedures prescribed in this subpart shall establish, maintain and retain the following adequately organized and indexed records:

(1) *General records.* (i) Identification and description of all compressors for which testing is required under this subpart.

(ii) A comprehensive list of all noise control devices and elements of design which are installed on or incorporated in each compressor.

(iii) A description of all procedures used to test each such compressor.

(iv) A record of the calibration of the acoustical instrumentation as is required by § 204.54.

(v) A properly filed production verification report, following the format prescribed by the Agency for the appropriate model year, fulfills each of the requirements with respect to this section.

(2) *Individual records.* (i) A complete record of all noise emission tests performed pursuant to these regulations (except tests performed by EPA directly), including all individual worksheets and/or other documentation relating to each such test, or exact copies thereof.

(ii) A record and description of all maintenance and other servicing performed, giving the date and time of the maintenance or service, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the conduct of the maintenance or service.

(iii) A record and description of each test performed to diagnose engine or noise emission control system performance, giving the date and time of the test, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the conduct of the test.

(iv) The dates and times that the compressor was idle in storage, and in transit.

(v) A brief description of any significant events affecting the compressor during any time in the period covered by the history not described by an entry under one of the previous headings including such extraordinary events as compressor accidents.

(3) All records required to be maintained under this part with respect to compressor configurations shall be retained by the manufacturer for a period of three (3) years from production verification of that compressor configuration. Records may be retained as hard copy or reduced to microfilm, punch cards, etc., depending on the record retention procedures of the manufacturer. However, all of the information contained in the hard copy shall be retained.

(b) The manufacturer of any new compressor subject to any of the standards prescribed in this part shall submit to the Administrator at the time of issuance by the manufacturer copies of all instructions or explanations regarding the use, repair, adjustment, maintenance, or testing of such compressor relevant to the control of noise emissions, including any lists identifying or defining any element of design or device incorporated into compressors in compliance with the Act, issued by the manufacturer for use by other manufacturers, assembly plants, distributors and dealers: *Provided*, That any material not translated into the English language need not be submitted unless specifically requested by the Administrator.

(c) The manufacturer shall, pursuant to a request made by the Administrator, submit to the Administrator the following information with regard to new compressor production:

(1) Number of compressors, by configuration, scheduled for production for the time period designated in the request.

(2) Number of compressors by configuration, produced during the time period designated in the request which are complete for distribution in commerce.

(d) Nothing in this section shall limit the Administrator's discretion to require the manufacturer to retain records or submit information not specifically required by this section.

§ 204.54 Portable air compressor noise test procedures.

(a) *General.* This section prescribes the conditions under which noise emission standard compliance testing must be conducted and the measurement procedures that must be used to measure the sound level and to calculate the average sound level of portable air compressors for which the test is conducted.

(b) *Test site description.* Locations for measuring noise employed during noise compliance testing must consist of an open site above a hard reflecting plane. The reflecting plane must consist of a surface of sealed concrete or sealed asphalt and must extend 1 meter beyond each microphone location. No reflecting surface such as a building, sign board, hillside, etc. shall be located within 10 meters of a microphone location.

(c) *Measurement equipment.* The measurement equipment must be used during noise standard compliance testing and must consist of the equivalent of the following:

(1) A sound level meter and microphone system that conform to the Type

I requirements of American National Standard (ANS) S1.4–1971, "Specification for Sound Level Meters," and to the requirements of the International Electrotechnical Commission (IEC) Publication No. 179, "Precision Sound Level Meters."

(2) A windscreen must be employed with the microphone during all measurements of portable air compressor noise when the wind speed exceeds 11 km/hr. The windscreen shall not affect sound levels from the portable air compressor in excess of ±0.5 dBA.

(3) The entire acoustical instrumentation system including the microphone and cable shall be calibrated before and after each test series. A sound level calibrator accurate within ±0.5 dB shall be used. A calibration of the instrumentation shall be performed at least annually using the methodology of sufficient presion and accuracy to determine compliance with ANS S1.4–1971 and IEC 179. This calibration shall consist, at a minimum of an overall frequency response calibration and an attenuator (gain control) calibration plus a measurement of dynamic range and instrument noise floor.

(4) An anemometer or other device accurate to within ±10% shall be used to measure wind velocity.

(5) An indicator accurate to within ±2% shall be used to measure portable air compressor engine speed.

(6) A gauge accurate to within ±5% shall be used to measure portable compressor air pressure.

(7) A metering device accurate to within ±10% shall be used to measure the portable air compressor compressed air volumetric flow rate.

(8) A barometer for measuring atmospheric pressure accurate to within ±5%.

(d) *Portable air compressor operation.* The portable air compressor must be operated at the design full speed with the compressor on load, delivering its rated flow and output pressure, during noise emission standard compliance testing. The air discharge shall be provided with a resistive loading such that no significant pressure drop or throttling occurs across the compressor discharge valve. The air discharge shall be piped clear of the test area or fed into an effective silencer. The sound pressure level, due to the air discharge shall be at least 10 dB below the sound pressure level generated by the portable air compressor.

(e) *Test conditions.* Noise standard compliance testing must be carried out under the following conditions:

(1) No rain or other precipitation.

(2) No wind above 19 km/hr.

(3) No observer located within 1 meter, in any direction of any microphone location, nor between the test unit and any microphone.

(4) Portable air compressor sound levels, at each microphone location, 10 dB or greater than the background sound level.

(5) The machine shall have been warmed up and shall be operating in a stable condition as for continuous service and at its normal rated working pressure. All cooling air vents in the engine/compressor enclosure, normally open during operation, shall be fully open during all sound level measurements. Service doors that should be closed during normal operation (at any and all ambient temperatures) shall be closed during all sound level measurements.

(f) *Microphone locations.* Five microphone locations must be employed to acquire portable air compressor sound levels to test for noise standard compliance. A microphone must be located 7±.1 meters from the right-, left-, front-, back side and top of the test unit. The microphone position to the right-, left-, front- and back side of the test unit must be located 1.5±.1 meters above the reflecting plane.

(g) *Data required.* The following data must be acquired during noise emission standard compliance testing:

(1) A-weighted and C-weighted sound levels at one mircrophone location prior to operation of the test unit and at all microphone locations during test unit operations as defined in section (d).

(2) Portable air compressor engine speed.

(3) Portable air compressor compressed gas pressure.

(4) Portable air compressor flow rate.

(h) *Calculation of average sound levels.* The average dBA and dBC sound levels from measurements at the specified microphone locations must be calculated by the following method.

$$\bar{L}=10\log_{10}\frac{1}{n}\left[\text{antilog}\,\frac{L_1}{10}+\text{antilog}\,\frac{L_2}{10}+\ \ldots\ +\text{antilog}\,\frac{L_n}{10}\right]$$

where:

$\bar{L}$ = average sound level, dBA or dBC as appropriate, in decibels
L = sound level, dBA or dBC as appropriate, in decibels
L_n = sound level, dBA or dBC as appropriate, in decibels
n = number of measuring positions

(i) *Presentation of information.* All information required by the following Noise Data Sheet must be recorded for each test. The recommended data format is shown by the following Table 1.

TABLE I.—*Portable air compressor noise data sheet*

Test report No. .....
Subject:
Manufacturer: ..... Model: ..... Serial No.: ..... Rated speed: ..... rpm: ..... Rated capacity: .....
m³/min. Configuration identification: ..... Category identification: .....
Test conditions:
Manufacturers test site identification and location: .....
Reflecting plane composition: .....
Operating speed as tested:
Beginning of test ..... rpm.
End of test ..... rpm.
Air pressure supplied: ..... kg/cm². Ambient wind speed .....
Actual flow rate: ..... m³/min. Barometric pressure .....
Instrumentation:
Microphone manufacturer: ..... Model No.: ..... Serial No. .....
Sound level meter manufacturer: ..... Model No.: ..... Serial No. .....
Calibrator manufacturer: ..... Model No.: ..... Serial No. .....
Other and manufacturer: ..... Model No.: ..... Serial No. .....
Data:

dB reference 2×10^{-4} pascals	Background sound level at location	Location					Average sound level
		1	2	3	4	5	
dBC							
dBA							

Tested by: ..... Date: .....
Reported by: ..... Date: .....
Supervisory personnel:
..... Title: .....
..... Title: .....

§ 204.55 Production verification.

§ 204.55–1 General standards.

(a) Every new compressor manufactured for distribution in commerce or imported into the United States which is subject to any of the standards prescribed in this subpart:

(1) Shall be verified in accordance with the Production Verification procedures described in this subpart;

(2) Shall be represented in a Production Verification Report, as required by § 204.55–4 of this subpart;

(3) Shall be labeled in accordance with the requirements of § 204.56 of this subpart; and

(4) Shall conform to the applicable noise emission standard established in § 204.52 at the time of distribution in commerce.

§ 204.55–2 Production verification; compliance with standards.

(a) In order for a manufacturer to distribute compressors of a compressor configuration in commerce, such configuration must have undergone production verification in accordance with the requirements of this subpart and have been found to be in compliance with the applicable standards established by this subpart.

(b) (1) Production verification requirements with regard to each compressor configuration which must be fulfilled prior to distribution in commerce of compressors of a configuration consist of:

(i) Actual testing of a compressor configuration requiring production verification, conducted pursuant to § 204.55–7, and

(ii) Recording of required information pursuant to § 204.55–8;

(iii) Actual testing or retesting by the manufacturer of any additional compressors which may be required by an EPA Enforcement Officer or testing by the Administrator pursuant to § 204.55–9 (such additional testing or retesting shall be requested within 24 hours of testing required by paragraph b(1)(i) of this section); and

(iv) Compliance of the manufacturer with any requests made pursuant to § 204.4 and § 204.53 of this subpart; and

(v) Submission of a production verification report pursuant to § 205.54–4.

(2) The manufacturer shall notify the Administrator ten (10) days prior to any production verification testing pursuant to this section so that EPA Enforcement Officers may be present and observe such testing.

(3) The test compressors selected in accordance with § 204.55–6 must comply with the applicable standards when tested in accordance with § 204.55–7.

(c)(1) In lieu of testing compressors of every configuration, the manufacturer may elect to group configurations into categories and verify the configuration based on representative testing.

(2) In order for a category to be verified based on such representative compressor testing, the following production verification requirements must be fulfilled prior to distribution in commerce of compressors of a category:

(i) Actual testing pursuant to § 204.55–7 of a compressor selected in accordance with § 204.55–5 which must be a compressor of the configuration which is identified pursuant to paragraph (d)(3) of this section as having the highest sound pressure level within the category; and

(ii) Complying with the requirements of paragraphs (b)(1)(ii), (iii), (2), (3), and (4) of this section.

(d)(1) If a manufacturer elects to production verify all or part of his product line pursuant to paragraph (c) of this section then such manufacturer shall group affected vehicle configurations into categories.

(2) Each category will be determined by a separate combination of at least the following parameters (a manufacturer may use more parameters):

(i) Engine type:
(A) Reciprocating gasoline.
(B) Diesel—two cycle.
(C) Diesel—four cycle.
(D) Rotary—(Wankel).
(E) Turbine.
(F) Reciprocating (other fuels).
(ii) Engine displacement.
(iii) Engine manufacturer.
(iv) Compressor delivery rate (cfm).

(3) The manufacturer shall identify the configuration within each category which emits the highest sound pressure level (dBA) based on the criteria in § 204.55–4(b)(3)(iii).

(e)(1) If after review of the test reports and data submitted by the manufacturer and data derived from additional testing conducted pursuant to § 204.55–7, or other data, the Administrator determines that compressor configuration has been incorrectly grouped into a category, he may notify the manufacturer of such error and request that the manufacturer submit a revised report and that he re-verify according to the corrected verification request.

(2) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any compressor configuration represented by a test compressor determined not in compliance with applicable standards:

(i) Delete that configuration from the production verification report. Configurations so deleted may be included in a later report under § 204.55–4.

(ii) Modify the test compressor and demonstrate by testing that it meets applicable standards. Select another production compressor which is in all material respects the same as the first compressor, as modified, which shall then be operated and tested in accordance with applicable test procedures.

(iii) The compressor configurations represented by the failed test compressor are not production verified.

(f) Where possible, a manufacturer should include in a single production verification report all compressors for which production verification is required. A manufacturer may, however, choose to submit separate production verification reports for part of his product line.

§ 204.55–3 Configuration identification.

(a) A separate compressor configuration shall be determined by each combination of the following parameters:

(1) The delivery rate (cfm at 100 psi).

(2) The compressor type (screw, sliding vane, etc.).

(3) Number of compressor stages.

(4) Maximum pressure (psi).

(5) Air intake system of compressor:
(i) Number of filters.
(ii) Type of filters.
(iii) Air tank capacity.

(6) The engine system:
(i) Type [gasoline, diesel (2 or four cycle), turbine, Wankel, etc.].
(ii) Number of cylinders and configuration (L–6, V–8, V–12).
(iii) Displacement.
(iv) Horsepower.
(v) Full load rpm.
(vi) Manufacturer.

(7) Type cooling system.

(8) Fan:
(i) Diameter.
(ii) Drive ratio

$$\frac{\text{max fan rpm}}{\text{max engine rpm}}$$

(iii) Blade.
(A) Tip clearance.
(B) Spacing (even/staggered).
(C) Number.

(9) Fan shroud.
(i) Height, length, and width.
(ii) Thickness.
(iii) Material composition.

(10) The compressor enclosure:
(i) Height, length, and width.
(ii) Thickness.
(iii) Material composition.

(11) The induction system (engine):
(i) Natural.
(ii) Turbocharged.

(12) The exhaust system:
(i) Number and diameter of exhaust pipes.
(ii) Number and volume of mufflers.
(iii) Manufacturer of mufflers.
(iv) Type or thickness of composition of mufflers of pipes.

(13) Other insulation apparatus, component or system installed primarily to attenuate noise emissions.

(b) For each configuration, describe the function, location, and/or operation of any device which is known or can reasonably be expected to affect noise emissions from the compressor and does not operate during all modes of compressor operation (i.e., "defeat device" and over temperature protection).

§ 204.55–4 Production verification report; required data.

(a) Prior to the distribution in commerce of any compressor to which these regulations apply the manufacturer shall submit a production verification report. The report shall be submitted to the Director, Mobile Source Enforcement Division, Office of Enforcement and General Counsel (EG–340), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

(b) The report shall be signed by a Vice-President of the manufacturer and shall include the following:

(1) A description of the manufacturer's emission test facilities which meet the specifications of § 204.54 and have been utilized to conduct testing pursuant to this Subpart B.

(2) A description of normal predelivery maintenance procedure. This information shall be updated in accordance with § 204.53.

(3)(i) A list and description of all compressor configurations, as determined in accordance with § 204.55–3, to be distributed in commerce by the manufacturer including a list identifying or defining any element of design or device incorporated into compressors for the purpose of noise control.

(ii) If a manufacturer elects to production verify pursuant to § 204.55–2(c) such list of configurations shall be grouped into categories and the configuration, within each category, which is estimated to have the highest sound pressure level shall be identified.

(iii) The average (estimated or actual) sound pressure level (dBA) shall be stated for each configuration in the category. The manufacturer may estimate the average sound pressure level based on his best technical judgment and/or data. The criteria used to estimate each sound pressure level shall be stated with the estimates.

(iv) The approximate dates of production of the first compressor of each configuration (except the configuration selected as representative pursuant to § 204.55–2) shall be stated.

(4) For each test conducted pursuant to § 204.55–7.

(i) Test compressor description including,

(A) Configuration identification in accordance with § 204.55–3 and category identification where applicable.

(B) Year, make, build date, and model of compressor.

(C) Compressor identification number.

(ii) Test numbers and results of all official tests conducted in accordance with § 204.55–7 including, (A) for a valid test, sound level measurements at all measurement points, the ambient background level at one point, and average sound levels calculated in accordance with § 204.54 and (B) for each invalid test, sound level measurements at all measurement points and the ambient background noise level at one point recorded in accordance with § 204.54 and the reason for invalidation.

(iii) A complete description of any preparation, maintenance or testing which was performed on the compressor and (A) has not been reported pursuant to any other paragraph of this subpart and (B) shall not be performed on all other production compressors.

(iv) Where a replacement compressor was necessary, the reason for replacement and test results, if any, for replaced compressor.

(v) Any other information the Administrator may request relevant to the determination as to whether the manufacturers' compressors have been or are being distributed in commerce in compliance with these regulations.

(vi) The following statement and endorsement:

This report is submitted pursuant to section 6 and section 13 of the Noise Control Act of 1972. All testing for which data is reported herein is conducted in strict confidence with applicable regulations under 40 CFR Part 204 et seq. All the data reported herein is a true and accurate representation of such testing. All other information reported herein is, to the best of _____

(company name)

knowledge, true and accurate. I am aware of the penalties associated with violations of the Noise Control Act of 1972 and the regulations thereunder.

_____

(Vice President Company)

§ 204.55–5 Test compressor sample selection.

(a) Test compressors of a configuration for which production verification testing in accordance with § 204.54 is required by § 204.55–2 shall be selected in accordance with the following criteria:

(1) The test compressor shall be the first compressor of the subject configuration which has been assembled using the manufacturer's normal mass production processes and will be sold or offered for sale in commerce.

(2) No quality control, quality assurance, testing, assembly, or selection procedures shall be used on the test compressor or any portion thereof, including parts and subassemblies that will not be used during the production and assembly of all other compressors of that configuration which will be distributed in commerce.

§ 204.55–6 Test compressor preparation.

(a) Prior to the official test, the test compressor selected in accordance with § 204.55–5 shall not be prepared, tested, modified, adjusted, or maintained in any manner (except as provided in paragraph (b) of this section) that is not part of the manufacturer's prescribed end-of-line inspection procedures which are documented in the manufacturer's compressor assembly and inspection procedures, or that is not part of the normal predelivery procedure for all similar production compressors of that configuration as are permitted under this subpart or are approved in advance by the Administrator: Except, That equipment or fixtures necessary to conduct the test may be installed on the compressor: *Provided*, That such equipment or fixtures (1) shall have no effect on the noise emissions of the compressor, and (2) shall be adequately described in the production verification report submitted pursuant to § 204.55–4.

(b) In the event of compressor malfunction (i.e., failure to start, misfiring cylinder, etc.), the manufacturer may perform the maintenance that is necessary to enable the compressor to operate in the normal manner: *Provided*, That such maintenance is documented and reported in accordance with the applicable section of this subpart.

§ 204.55–7 Test procedures.

(a) The manufacturer shall conduct one valid test in accordance with the test procedures specified in § 204.54 of this subpart for each compressor selected for verification testing pursuant to § 204.54.

(b) No maintenance will be performed on test compressors, except as provided for by § 204.55–6 nor will any compressor substitution or replacement be allowed, unless provided for by the Administrator. In the event a compressor is unable to complete the emission test, the manufacturer may request that the Administrator authorize him to repair or replace the compressor. Any replacement compressors will be production compressors of the same configuration as the replaced compressor and will be subject to all the provisions of these regulations.

(c) In the event a compressor fails to comply with the standards of this subpart when tested in accordance with the procedures specified in paragraph (a) of this section, the manufacturer may proceed in accordance with § 204.55–2(e)(2) of this subpart.

§ 204.55–8 Information to be recorded.

The following information shall be recorded with respect to each test conducted pursuant to § 204.55–7.

(a) All information to be required pursuant to § 204.54.

(b) Any other information as the Administrator may require to enable him to determine whether such manufacturer has acted or is acting in compliance with the Act.

§ 204.55–9 Testing by the Administrator.

(a)(1) The Administrator may require that the compressor tested for production verification or other compressors be submitted to him, at such place and time as he may designate for the purpose of conducting tests in accordance with § 204.55–7.

(2) The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator of the type required by these regulations shall be made available by the manufacturer for test operations.

(3) Any testing conducted pursuant to this paragraph shall be performed within fifteen (15) days of notification to the manufacturer that such testing is required except that such period may be extended by increments of 24 hours or one business day where weather conditions during the normal working hours in any 24 hour period do not permit testing: *Provided*, That weather conditions are reported.

(b)(1) If based on tests conducted by the Administrator using a manufacturer's test facilities, the Administrator determines that the test facility is inappropriate for conducting the tests required by this part he will notify the manufacturer in writing of his determination and the reasons therefor.

(2) After the notification in (b)(1) above no data derived from the subject test facility will be acceptable for the purpose of this part.

(3) The manufacturer may request in writing that the Administrator reconsider his determination in paragraph (b)(1) of this section based on data or information which indicates that changes have been made to the test facility and such changes have resolved the reasons for disqualification.

(4) The Administrator will notify the manufacturer of his determination with regard to requalification of the test facility within 10 days of the request pursuant to paragraph (b)(3) of this section.

(5) The Administrator may, as appropriate, grant to the manufacturer an opportunity for a hearing at the time of the Administrator's notification to the manufacturer, under paragraph (b)(4) above, of his determination not to requalify the manufacturer's test facility. The Administrator may refuse to grant a hearing based upon his determination that the decision to issue such an order is based solely on inspection, tests or other information under this paragraph which involves no substantial question of fact. Hearings granted under this paragraph shall be conducted under appropriate regulations.

(c)(1) Whenever the Administrator conducts a test on a test compressor, the results of that test shall constitute the official test data for that compressor and shall be used as production verification data for that compressor configuration and other compressor configurations represented by that compressor, if any.

(2) The Administrator may accept the original production verification data upon a showing by the manufacturer that the data acquired under paragraph (a) were erroneous and that the initial data were correct.

§ 204.55–10 Addition of, changes to and deviation from a compressor configuration during the model year.

(a) Any change to a configuration with respect to any of the parameters stated in § 204.55–3 shall constitute the addition of a new and separate configuration or category to the manufacturer's product line.

(b) (1) When a manufacturer introduces a new category or configuration to his product line, he shall proceed in accordance with § 204.55–2.

(2) If the configuration to be added can be grouped within a verified category and the new configuration is estimated to have a lower sound pressure level than a previously verified configuration within the same category, the configuration shall be considered verified; *Provided,* That the manufacturer submits a report pursuant to § 204.55–2 and § 204.55–4 with respect to such configuration ten (10) days before production of the first compressor of such configuration and fulfills all other requirements of § 204.55–2.

§ 204.55–11 Recall of nonverified compressors.

(a) Pursuant to section 11(d)(1) of the Act, the Administrator may issue an order to the manufacturer to recall and remedy any compressor distributed in commerce and not in compliance with this subpart.

(b) A compressor shall be deemed to be not in compliance with this subpart if it is of a configuration not represented in a properly filed production verification report as required by § 204.55–4. Such noncompliance shall include failure to report as required by § 204.55–10.

(c) Any recall order issued pursuant to this section shall be based upon a determination by the Administrator that it is probable that a compressor configuration has been introduced into commerce, that exceeds the applicable noise emission standard, as established by this Subpart. Such determination may be based upon:

(1) A technical analysis of the noise emission characteristics of the configuration in question; or

(2) any other relevant information, including test data.

(d) Recalls conducted pursuant to this section shall be administered under appropriate regulations.

(e) Pursuant to section 11(d)(2) of the Act, the Administrator, as appropriate, may grant to the manufacturer an oportunity for a hearing prior to the issuance of a recall order. The Administrator may refuse to grant a hearing based upon his determination that the decision to issue such a recall order is based solely on inspection, tests, or other information which invokes no substantial question of fact. Hearings granted under this paragraph shall be conducted under appropriate regulations.

(f) All costs associated with the recall and remedy of noncomplying compressors under this section shall be borne by the manufacturer.

(g) This section shall not limit the discretion of the Administrator to take any other actions which are authorized by the Act.

§ 204.55–12 Production verification based on data from previous model years.

(a) Production verification of each configuration will be required at the beginning of each model year except that in certain instances, the Administrator, upon request by the manufacturer, may permit the use of production verification data for specific configurations from previous production verification reports upon the following considerations:

(1) The level of the standard(s) in effect for the model years in question.

(2) Production verification data for previous years.

(3) Data obtained from selective enforcement testing during previous model years.

(4) Engineering changes incorporated during previous model years.

§ 204.55–13 Cessation of distribution.

(a) If a configuration is found to be in nonconformity with these regulations by reason of failure to be properly production verified, as required by § 204.55–2, the Administrator may issue an order to the manufacturer to cease to distribute in commerce compressors of that configuration; *Provided, however,* That such an order shall not be issued if the manufacturer has made a good faith attempt to properly production verify the configuration. The burden of establishing such good faith shall rest with the manufacturer.

(b) The Administrator may, as appropriate, grant to the manufacturer an opportunity for a hearing prior to the issuance of an order to cease the distribution in commerce of compressors of a specified configuration. The Administrator may refuse to grant a hearing based upon his determination that the decision to issue an order is based solely on inspections, tests or other information which invokes no substantial question of fact. Hearings granted under this paragraph shall be conducted under appropriate procedures prescribed by EPA.

§ 204.56 Labeling.

(a) (1) The manufacturer of any compressor subject to the standards prescribed in § 204.52 shall, at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all such compressors to be distributed in commerce.

(2) A plastic or metal label shall be welded, riveted, or otherwise permanently attached, in a readily visible position, on the compressor enclosure.

(3) The label shall be affixed by the compressor manufacturer, who has verified such compressor, in such a manner that it cannot be removed without destroying or defacing the label, and shall not be affixed to any equipment which is easily detached from such compressor.

(4) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(i) The label heading: Compressor Noise Emission Control Information;

(ii) Full corporate name and trademark of manufacturer;

(iii) The sound level does not exceed 76 dBA at 7 meters (23 feet) distance, when averaged over 5 measurement positions in accordance with the U.S. E.P.A. procedures.

(iv) Federal law prohibits removal or rendering inoperative the noise control features of this compressor necessary for conformance with U.S. E.P.A. regulations.

(v) The following parts and system are maintenance items which control or reduce noise. Replacement parts must be warranted by their manufacturer to be the equivalent in performance to the original parts and systems.

(vi) Compressor configuration identification which has been reported to the Agency pursuant to § 204.55–4.

(vii) Date of manufacturer.

(viii) Compressors manufactured solely for use outside the United States shall be clearly labeled "For Export Only."

§ 204.57 Selective enforcement auditing.

§ 204.57–1 Test request.

(a) The Administrator will request all testing under this subpart by means of a test request addressed to the manufacturer.

(b) The test request will be signed by the Assistant Administrator for Enforcement and General Counsel or his designee. The test request will be delivered by an EPA Enforcement Officer or sent by registered mail, return receipt requested, to the plant manager or other responsible official at the compressor assembly plant from which a compressor will be selected and tested, and a copy of the test request may be delivered to or sent by regular mail to the authorized company representative of the manufacturer who signs the Production Verification Report submitted by the manufacturer pursuant to the requirements of the applicable sections of this subpart.

(c) The test request will specify the compressor configuration selected for testing, the batch selected for testing, the manufacturer's plant or storage facility from which the compressor must be selected, the time at which a compressor must be selected, and the batch size. The test request may include an alternative configuration selected for testing in the event that a compressor of the first specified configuration is not available for testing because the compressor is not being manufactured at the specified plant and/or not being manufactured during the specified time or not being

stored at the specified plant or storage facility.

(d) Any manufacturer shall, upon receipt of the test request, select and test a batch sample of compressors from two consecutively produced batches of compressors specified in the test request in accordance with these regulations and the conditions specified in the test request.

(e) Any testing conducted at the manufacturer's facility pursuant to a test request shall be scheduled by the manufacturer within 24 hours of the request except that such scheduling may be delayed for increments of 24 hours where weather conditions during normal working hours in any 24 hour period do not permit testing.

(f) The Administrator may issue an order to the manufacturer to cease to distribute into commerce compressors of a specified configuration being manufactured at a particular facility if:

(1) The manufacturer refuses to comply with the provisions of a test request issued by the Administrator pursuant to this section; or

(2) The manufacturer refuses to comply with any of the requirements of this section.

(g) A cease-to-distribute order shall not be issued under paragraph (f) of this section if such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with the provisions of a test request or any other requirements of this section. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

§ 204.57–2 Testing by the Administrator.

(a) (1) The Administrator may require, pursuant to a test request that one or more production compressors of a specified configuration be selected in a manner designated by him and submitted to him at such place and time as he may designate for the purposes of conducting noise emission tests in accordance with § 204.57–5 of this Subpart to determine whether such compressors conform to the applicable regulations.

(2) The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator of the type required by these regulations shall be made available by the manufacturer for test operations.

(3) Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be performed within fifteen (15) normal working days of notification to the manufacturer that such testing is required, Except, That such period may be extended by the manufacturer by increments of 24 hours or one business day where weather conditions during the normal working hours in any 24 hour period do not permit testing; Provided, That the weather conditions are recorded.

(b) (1) If based on tests conducted by the Administrator using a manufacturer's test facility, the Administrator determines that test facility is inappropriate for conducting the tests required by this part, he will notify the manufacturer in writing of his determination and the reasons therefor.

(2) After the notification in paragraph (b) (1) of this section, no data derived from the subject test facility will be acceptable for the purpose of this part and the Administrator may issue an order with respect to the compressor configuration in question to cease to distribute in commerce compressors of such configuration.

(3) The manufacturer may request in writing that the Administrator reconsider his determination in paragraph (b) (1) of this section based on data or information which indicates that changes have been made to the test facility and such changes have resolved the reasons for disqualification.

(4) The Administrator will notify the manufacturer of his determination with regard to the requalification of the test facility within 10 days of the request pursuant to paragraph (b) (3) of this section.

(c) (1) Whenever the Administrator conducts a test on a test compressor, the results of that test shall constitute the official test data for that compressor.

(2) The Administrator may accept the original data upon a showing by the manufacturer that the data acquired under paragraph (a) of this section were erroneous and that the initial data were correct.

(d) The Administrator may, as appropriate, grant to the manufacturer an opportunity for a hearing prior to the issuance of an order to cease the distribution into commerce of compressors of a specified configuration under paragraph (b) (2) of this section. The Administrator may refuse to grant a hearing based upon his determination that the decision to issue such an order is based solely on inspection, tests or other information which invokes no substantial question of fact. Hearings granted under this paragraph shall be conducted under appropriate regulations.

§ 204.57–3 Test compressor sample selection.

(a) Compressors comprising the batch sample which are required to be tested pursuant to a test request in accordance with this subpart will be randomly selected from a batch of compressors of the configuration specified in the test request. The random sampling will be achieved by sequentially numbering all of the compressors in the batch and then using a table of random numbers to select the number of compressors as specified in paragraph (c) of this section based on the batch size designated by the Administrator in the test request. An alternative random sampling plan may be used by a manufacturer: *Provided*, That the manufacturer requests approval of such a plan in advance of receipt of a test request and if the Administrator approves such a plan. A random sampling plan will be used regardless of whether the compressors of the configuration selected for testing are scheduled for production, undergoing production or stored in the manufacturer's storage facility.

(b) After the effective date of these regulations, the designated Acceptable Quality Level is 6.5 percent. The appropriate sampling plans associated with the designated AQL are contained in Appendix I, Table II for normal inspection, and in Appendix I, Table III for tightened inspection.

(c) The appropriate batch sample size will be determined by reference to Appendix I, Table I and II or III. A code letter is obtained from Table I based on the batch size designated by the Administrator in a test request. The batch sample size will be obtained from Table II when normal inspection is in effect and from Table III when tightened inspection is in effect. Normal inspection will be used for the first batch, and for the second batch where the first batch is accepted, and tightened inspection will be used for subsequent batches after rejection of the first batch or where the first batch is accepted, after rejection of the second batch. The batch sample size will be equal to the maximum cumulative sample size for the appropriate code letter obtained from Table I plus an additional ten percent rounded off to the next highest number.

(d) Individual compressors comprising the test sample will be randomly selected from the batch sample using the same random sampling plan as in paragraph (a) of this section. Test sample size will be determined by entering Table II or III, depending on whether normal or tightened inspection is in effect, at the appropriate code letter.

(e) Unless otherwise indicated in the test order, the manufacturer will select the batch sample from the production batch, next scheduled after receipt of the test order, of the configuration specified in the test order.

(f) Unless otherwise indicated in the test request, the manufacturer shall select the compressors designated in the test request for testing.

(g) At their discretion, EPA Enforcement Officers, rather than the manufacturer, may select the compressors designated in the test request for testing according to the method described in this section.

(h) The manufacturer will keep on hand all compressors in the batch sample until such time as the batch is accepted or rejected in accordance with § 204.57–8.

§ 204.57–4 Test compressor preparation.

(a) The manufacturer shall not adjust, prepare, or modify the compressor and shall not perform any emision tests on compressors selected for testing pursuant to the test request unless such adjustments, preparation, modification and shall not perform any emission tests and/or tests are part of the manufacturer's prescribed end-of-line inspection procedures, and are documented in the manufacturer's compressor assembly and inspection procedures or unless such adjustments and/or tests are required or permitted under this subpart or are approved in advance by the Administrator. The manufacturer may perform adjustments, preparation, modification and/or tests normally performed by his dealer to prepare the compressor for delivery to a customer or the adjustments, preparation, modification and/or tests normally performed at the port-of-entry by the manufacturer to prepare the compressor for delivery to a dealer or customer: *Provided*, That, such adjustments, preparation, modification or tests are documented and approved by the Administrator in advance.

(b) Equipment or fixtures necessary to conduct the test may be installed on the compressor, Provided, That such equipment or fixtures (1) shall have no effect on the noise emissions of the compressor, and (2) shall be adequately described in the final report submitted pursuant to § 204.57–7.

(c) In the event of compressor malfunction (i.e., failure to start, misfiring cylinder, etc.), the manufacturer may perform the maintenance that is necessary to enable the compressor to operate in normal manner; Provided, That such maintenance is documented and reported in accordance with § 204.57–7 of this subpart.

(d) The test compressor of the configuration selected for testing shall have been assembled by the manufacturer for distribution in commerce using the manufacturers normal mass production processes.

(e) No quality control, testing, assembly or selection procedures shall be used on the completed compressor or any portion thereof, including parts and subassemblies, that will not be used during the production and assembly of all other compressors of that configuration or compressor configurations represented by that configuration which will be distributed in commerce.

§ 204.57–5 Test procedures.

(a) The manufacturer shall conduct one valid test in accordance with the test procedures specified in § 204.54 for each compressor selected for assembly line testing pursuant to this Subpart.

(b) No maintenance will be performed on test compressors, except as provided for by § 204.57–4, nor will any compressor substitution or replacement be allowed, unless otherwise provided by the Administrator. In the event a compressor is incapable of completing the noise emission tests because of a substantial compressor malfunction or problem, the manufacturer may request that the Administrator authorize him to repair the compressor or the manufacturer may request that the Administrator replace the compressor when the malfunction or problem is not readily repairable within a reasonable period of time, or the Administrator may order the manufacturer to repair or replace the compressor. Any replacement compressor will be randomly selected from the batch sample.

(c) The manufacturer shall complete emission testing on a minimum of ten compressors per day for each test site at his testing facility, unless otherwise provided by the Administrator.

(d) The manufacturer will be allowed 24 hours to ship compressors from a batch sample from the assembly plant to the testing facility if the facility is not located at the plant or in close proximity to the plant; Except, That the Administrator may approve more time based upon a request by the manufacturer accompanied by a satisfactory justification.

§ 204.57–6 Information to be recorded.

The following information shall be recorded with respect to each test conducted pursuant to § 204.57–5 and retained in accordance with § 204.53.

(a) All information required to be recorded pursuant to § 204.54.

(b) Any other information as the Administrator may require to enable him to determine whether such manufacturer has acted or is acting in compliance with the Act.

§ 204.57–7 Reporting of test results.

(a) (1) The manufacturer shall report by telephone the numerical results of all testing conducted pursuant to § 204.57–1, § 204.57–2, § 204.57–9, § 204.57–10 performed in any twenty-four period at the opening of the first normal working day following this test period: Except, That any manufacturer whose testing facility is not located on continental United States need only send the report required in paragraph (d) of this section.

(2) For each test conducted the manufacturer will provide the following information:

(i) Configuration and category identification where applicable.

(ii) Year, make, assembly date, and model of compressor.

(iii) Compressor serial number.

(iv) Test results by serial numbers.

(b) In addition the manufacturer shall send a copy of the test report by registered airmail for such period at the conclusion of any testing done during each twenty-four hour period. The report will contain the final test results by compressor serial number for all compressors tested in any twenty-four hour period. The first test report for each batch sample will contain a listing of all serial numbers in that batch.

(c) In the case where an EPA Enforcement Officer is present during testing required by this subpart, the written reports requested in paragraph (d) of this section may be given directly to the Enforcement Officer in lieu of an airmail and telephone report.

(d) Within five days after completion of testing of all compressors in a batch sample the manufacturer shall submit to the Administrator a final report which will include the information required by the test request in the format stipulated in the test request in addition to the following:

(1) The location and description of the manufacturer's emission test facilities which meet the specifications of Subpart A and were utilized to conduct testing reported pursuant to this section.

(2) A description of the random compressor selection method used, referencing any tables of random numbers that were used, name of the person in charge of the random number selection.

(3) For each test conducted.

(i) Test compressor description including:

(A) Configuration and category identification where applicable.

(B) Year, make, assembly date, and model of compressor.

(C) Compressor serial number.

(ii) Test numbers and results of all noise emission tests including. (A) for the valid test, sound pressure level measurements at all measurement points, the ambient background noise level at one point, and the average sound pressure level calculated in accordance with § 204.57–5 and (B) for each invalid test, sound pressure level measurements at all measurement points and the ambient background noise level at one point recorded in accordance with § 204.57–5 and the reason for invalidation.

(iii) A complete description of any modification, repair, preparation, maintenance, and/or testing which was performed on the test compressor and (A) has not been reported pursuant to any other paragraph of this subpart and (B) will not be performed on all other production compressors.

(iv) Where a replacement compressor was authorized by the Administrator, the reason for the replacement and, if any, the test results for replaced compressors.

(v) Any other information the Administrator may request relevant to the determination as to whether the manufacturer's compressors have been or are being distributed in commerce in compliance with these regulations.

(vi) The following statement and endorsement:

This report is submitted pursuant to section 6 and section 13 of the Noise Control Act of 1972. All testing for which data is reported herein was conducted in strict conformance with applicable regulations under 40 CFR Part 204, et seq. All the data reported herein is a true and accurate representation of such testing. All other information reported herein is, to the best of ---------- company knowledge, true and accurate. I am aware of the penalties associated with violations of the Noise Control Act of 1972 and the regulations thereunder.

(Vice President Company)

§ 204.57–8 Acceptance and rejection of batches.

(a) A failing compressor is one whose measured noise emission is higher than the applicable noise emission standard.

(b) The batch from which a batch sample is selected will be accepted or rejected based upon the number of failing compressors in the batch sample. A sufficient number of test samples will be drawn from the batch sample until the cumulative number of failing compressors is less than or equal to the acceptance number or greater than or equal to the rejection number appropriate for the cumulative number of compressors tested. Normal inspection level will be used for the first batch and the acceptance and rejection numbers at the appropriate code letter obtained according to § 204.57–3 will be used in determining whether the acceptance or rejection of a batch has occurred.

(c) Acceptance or rejection of a batch takes place when a decision under paragraph (a) of this section is made on the last compressor required to make a decision under paragraph (b) of this section.

(d) If the initial batch is accepted the manufacturer will be required to test, using normal inspection, compressors from a batch sample drawn from the next batch scheduled for production after the first batch.

(e) If the second batch is accepted the manufacturer shall not be required to perform any additional testing on compressors from subsequent batches pursuant to the initiating test request.

§ 204.57–9 Additional testing.

(a) Where the initial batch is rejected, or where the first batch was accepted and a second batch was rejected after being tested using normal inspection, the manufacturer shall continue to select and test vehicles of consecutive batches of the specified configuration on a continuous basis using tightened inspection until such time as five consecutive batches have been accepted or until the manufacturer has inspected ten successive consecutive batches and been unable to accept five consecutive batches, or until the testing of further consecutive batches could not result in the acceptance of five consecutive batches out of ten tested batches or until the testing of further batches could not result in the acceptance of five out of ten tested batches: Except, that the Administrator may allow the manufacturer to test one additional consecutive batch where the last four consecutive batches have been accepted and total of ten consecutive batches have been tested using tightened inspection.

(b) The Administrator may (1) terminate testing earlier than required in paragraph (a) of this section based on his judgment that further testing will not influence his judgment that the manufacturer's compressors are being manufactured in compliance with the regulations, (2) terminate testing earlier than required in paragraph (a) of this section based on a request by the manufacturer accompanied by voluntary cessation of distribution of compressors from the configuration in question at all plants; *Provided*, That once production is reinitiated the manufacturer must take the action described in § 204–57–12 (a)(1) and (2) prior to distribution in commerce of any compressors from any plant of the compressor configuration in question.

§ 204.57–10 Continued testing.

(a) If a manufacturer must in accordance with § 204.57–9 continue to inspect compressors of a particular configuration for ten consecutive batches, or some other number as may be designated by the Administrator, and is unable to accept five consecutive batches, the Administrator may require continued 100% testing with respect to all compressors of that configuration produced at that plant.

(b) If the results of compressor testing pursuant to these regulations indicate that compressors of a particular configuration do not conform to the regulations, the Administrator may require testing pursuant to a test request for compressors of that configuration manufactured by the manufacturer in other plants.

(c) If the Administrator determines that compressors in two or more compressor configurations belonging to the same category, based on tests performed pursuant to these regulations, do not conform to the regulations, the Administrator may require testing for compressors of that category produced at one or more plants.

(d) The Administrator will notify the manufacturer in writing of his intent to require any 100% testing of compressors in paragraph (a) of this section.

§ 204.57–11 Cessation of distribution.

(a) In lieu of requiring 100 percent continuous testing of compressors of configurations found to be in nonconformity with these regulations the Administrator may issue an order to the manufacturer to cease to distribute into commerce compressors of a specified configuration being manufactured at a particular facility.

(b) The decision to issue such an order will be made by the Administrator based on such criteria as the final test results, the degree of nonconformity, the nature of the nonconformity, the identified cause of the nonconformity, the identified remedy for the nonconformity or other relevant data. Except, that the Administrator's decision to issue such an order provided for in § 204.4, § 204.57–2 need not be based on such criteria.

(c) Pursuant to section 11(d)(2) of the Act, the Administrator may, as appropriate, grant to the manufacturer an opportunity for a hearing prior to the issuance of an order to cease the distribution into commerce of compressors of a specified configuration. The Administrator may refuse to grant a hearing based upon his determination that the decision to issue such an order is based solely on inspection, tests or other information which invokes no substantial question of fact. Hearing granted under this paragraph shall be conducted under appropriate procedures prescribed by EPA.

§ 204.57–12 Prohibition on distribution in commerce; manufacturer's remedy.

(a) Once continuous testing has been instituted on a configuration/category pursuant to § 204.57–10 or the Administrator has issued an order to the manufacturer to cease to distribute into commerce compressors of a configuration, the manufacturer must take the following actions before the Administrator will consider discontinuing such testing or rescinding such order requiring cessation of sale:

(1) Submit a written report to the Administrator which identifies the reason for the noncompliance of the compressors, describes the problem, and describes the proposed quality control and/or quality assurance remedies to be taken by the manufacturer to correct the problem or follows the requirements for an engineering change pursuant to § 204.55–10; and

(2) Demonstrates that the specified compressor configuration(s) complies with the applicable emission standards by testing compressors from two consecutively produced batches of that compressor configuration in accordance with these regulations and the conditions specified in the initial test request.

(b) Any compressor failing the prescribed noise emission tests may not be distributed in commerce until necessary adjustments or repairs have been made and the compressor passes a retest.

(c) No compressors of a rejected batch may be distributed in commerce unless the manufacturer has demonstrated to the satisfaction of the Administrator that such compressors do in fact conform to the regulations. Except, That: any compressor that has been tested and does, in fact, conform with these regulations may be distributed in commerce. Failing compressors may not be distributed in commerce except in accordance with paragraph (b) of this section.

§ 204.57–13 Recall of noncomplying compressors.

(a) The Administrator may issue an order to the manufacturer to recall and remedy any compressor distributed in commerce which is of a specified configuration or category which has been determined to be a failure when tested in accordance with § 204.57–5.

(b) Recalls conducted pursuant to this section shall be administered under appropriate regulations.

(c) The Administrator may, as appropriate, grant to the manufacturer an opportunity for a hearing prior to the issuance of a recall order. The Administrator may refuse to grant a hearing based upon his determination that the decision to issue such a recall order is based solely on inspection, tests, or other information which invokes no substantial question of fact. Hearings granted

under this paragraph shall be conducted under appropriate procedures prescribed by EPA.

(d) All costs associated with the recall and remedy of noncomplying compressors under this section shall be borne by the manufacturer.

(e) This section shall not limit the discretion of the Administrator to take any other actions which are authorized pursuant to the Act.

§ 204.58 Useful life requirements.

§ 204.58–1 Warranty.

(a) The manufacturer of a portable air compressor regulated under this part shall include, in the owner's mannual or in other information supplied to the ultimate purchaser, the following statement:

NOISE EMISSIONS WARRANTY

The manufacturer warrants to the first retail purchaser and each subsequent purchaser that this air compressor was designed, built, and equipped at the time of sale to the first retail purchaser to conform with all applicable U.S. E.P.A. noise control regulations.

This warranty is not limited to any particular part, component or system of the air compressor. Defects in the design, assembly, or in any part, component, or system of the compressor which, at the time of sale to the first retail purchaser, caused noise emissions to exceed Federal standards, are covered by this warranty for the life of the air compressor.

(b) Not later than the date of submission of the product verification report required by § 204.55–4, the manufacturer shall submit to the Administrator two (2) copies of the written noise emission warranty required by paragraph (a) of this section and two (2) copies of all other information provided to the ultimate purchaser which could reasonably be construed as impacting on the warranty.

(c) Not later than 10 days after dissemination, the manufacturer shall submit two (2) representative copies of all information of a general nature, or modifications thereto, which is provided to dealers, zone representatives, or other agents of the manufacturer regarding the administration and application of the noise emission warranty. Information regarding noise emission warranty claims which is also provided to a dealer or representative in response to a particular warranty claim or dealer inquiry is not considered to be information of a general nature, provided that such information does not receive broad dissemination to dealers.

(d) All information required to be forwarded to the Administrator pursuant to this section shall be addressed to: Director, Mobile Source Enforcement Division (EG–340), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

§ 204.58–2 Recall for failure to conform in use.

(a) Pursuant to section 11(d)(1) of the Act, the Administrator may order the manufacturer to recall any configuration of portable air compressors subject to this part if properly maintained and operated compressors of the configuration do not conform in use to the standards prescribed in § 204.52.

(b) For the purposes of the section, the test used to determine in-use nonconformity, may be any test prescribed in Subpart A for testing prior to sale or any other test which reasonably correlates with a test prescribed in § 204.54.

§ 204.58–3 Tampering.

(a) For each model year and for each configuration of portable air compressors covered by this part, the manufacturer shall submit to the Administrator no later than 90 days prior to the introduction into commerce:

(1) A list of the devices and elements of design which control noise;

(2) A list of those parameters, including acceptable ranges, of the devices and elements of design listed pursuant to subparagraph (1) which are known to be related to noise control;

(3) A list of those acts, which in the manufacturer's estimation, might be done to the compressor in use, on more than an occasional basis, and result in an increase noise emissions above the standards prescribed in § 204.52.

(4) The estimated impact on noise emissions of those acts listed pursuant to paragraph (a)(3) of this section; and

(5) A proposed list for distribution to the ultimate purchaser of those acts which, in the manufacturer's estimation, constitute the removal or rendering inoperative of the noise control system of the compressor, for purposes other than maintenance or repair. This list should be in language understandable to purchasers; it should focus on those acts which are likely to be done to compressors in use, and if done, will have a serious detrimental impact on noise control.

(b) The manufacturer shall include, in the owner's manual the following information:

(1) The statement:

TAMPERING WITH NOISE CONTROL SYSTEM PROHIBITED

Federal law prohibits the following acts or the causing thereof:

(1) The removal or rendering inoperative by any person, other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any new portable air compressor for the purpose of noise control, prior to its sale or delivery to the ultimate purchaser or while it is in use, or (2) the use of the air compressor after such device or element of design has been removed or rendered inoperative by any person. Among those acts included in the prohibition against tampering are those acts listed below.

(2) Immediately following the statement required by paragraph (b)(1) of this section, the manufacturer shall include the list required by paragraph (a)(5) of this section, as modified by the Administrator.

(c) For the purposes of this section, if it is necessary to test to determine whether a noise control system has been rendered inoperative, noise emissions may be measured by any test prescribed in § 204.54 for testing prior to sale or any other test which demonstrates that the compressor would fail to comply with the standards prescribed in § 204.52 as measured by a test prescribed in section 54 of this part.

(d) The provisions of this section are not intended to preclude any State or local jurisdiction from adopting and enforcing their own prohibitions against the removal or rendering inoperative of noise control systems on portable air compressors subject to this part.

(e) All information required by this section to be furnished to the Administrator shall be sent to the following address: Director, Mobile Source Enforcement Division (EG–340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

§ 204.58–4 Instructions for maintenance, use, and repair.

(a)(1) The manufacturer shall provide to the ultimate purchaser of each portable air compressor covered by this part, written instructions for the proper maintenance, use, and repair of the compressor to assure compliance with the standards contained in § 204.52 during the life of the compressor.

(2) The purpose of the instructions is to inform purchasers and mechanics of those acts necessary to assure that the air compressor will conform to Federal noise emission standards throughout its life. Manufacturers should prepare the instructions with this purpose in mind. The instructions should be in a clear, and to the extent practicable, non-technical language.

(3) The instructions must not be used to secure an unfair competitive advantage. They should not restrict replacement equipment or service to original equipment or dealer service. Manufacturers who refer to original equipment should be prepared to make performance specifications on such equipment public.

(b) The instructions required by this section shall contain a description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with these instructions.

(1) For this purpose, the manufacturer shall provide a record or log book which will contain a schedule of performance for all required noise emission control maintenance. Space shall be provided in this record book so that the purchaser can note what was done, by whom, where, and when.

(2) The record book shall contain the following statement:

In order to maintain this compressor in compliance with applicable Federal noise control regulations for the life of the product, the owner should comply with the maintenance instruction performance schedule provided in this manual. If failure to comply with the manufacturer's instructions on the proper maintenance, use and repair of noise emission controls results in the product's nonconformity with Federal regulations, the manufacturer will be relieved of all responsibility to remedy the nonconformity. However, non-compliance with these maintenance

instructions does not in any way affect the manufacturer's warranty that this product was designed, built and equipped so as to conform at the time of sale with Federal noise standards.

(c) Not later than the date of submission of the product verification report required by § 204.55–4, the manufacturer shall submit to the Administrator two (2) copies of the maintenance instructions (including the record book) required by paragraphs (a) and (b) of this section.

(d) The Administrator will require modifications to the instructions if they are not both necessary and reasonable.

(e) Information required to be submitted to the Administrator pursuant to this section, shall be sent to the following address: Director, Mobile Source Enforcement Division (EG–340), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

APPENDIX I

TABLE I.—SAMPLE SIZE CODE LETTERS

Batch size:	Code letter
2 to 8	A
9 to 15	B
16 to 25	C
26 to 50	D
51 to 90	E
91 to 150	F
151 to 280	G
281 to 500	H
501 to 1200	J

TABLE II.—*Sampling plans for normal inspection*

Sampling size code letter	Test sample	Test sample size	Cumulative test sample size	Inspection acceptance No.	Criteria rejection No.
A	1st	2	2	0	1
B	1st	2	2	0	1
C	1st	2	2	[1]	2
	2d	2	4	[1]	2
	3d	2	6	0	2
	4th	2	8	0	3
	5th	2	10	1	3
	6th	2	12	1	3
	7th	2	14	2	3
D	1st	2	2	[1]	2
	2d	2	4	[1]	2
	3d	2	6	0	2
	4th	2	8	0	3
	5th	2	10	1	3
	6th	2	12	1	3
	7th	2	14	2	3
E	1st	3	3	[1]	2
	2d	3	6	0	3
	3d	3	9	0	3
	4th	3	12	1	4
	5th	3	15	2	4
	6th	3	18	3	5
	7th	3	21	4	5
F	1st	5	5	[1]	3
	2d	5	10	0	3
	3d	5	15	1	4
	4th	5	20	2	5
	5th	5	25	3	6
	6th	5	30	4	6
	7th	5	35	6	7
G	1st	8	8	[1]	4
	2d	8	16	1	5
	3d	8	24	2	6
	4th	8	32	3	7
	5th	8	40	5	8
	6th	8	48	7	9
	7th	8	56	9	10
H	1st	13	13	0	4
	2d	13	26	1	6
	3d	13	39	3	8
	4th	13	52	5	10
	5th	13	65	7	11
	6th	13	78	10	12
	7th	13	91	13	14
J	1st	20	20	0	5
	2d	20	40	3	8
	3d	20	60	6	10
	4th	20	80	8	13
	5th	20	100	11	15
	6th	20	120	14	17
	7th	20	140	18	19

[1] Acceptance not permitted at this sample size.

TABLE III.—*Sampling plans for tightened inspection*

Sample size code letter	Test sample	Test sample size	Cumulative test sample size	Inspection acceptance No.	Criteria rejection No.
A	1st	3	3	0	1
B	1st	3	3	0	1
C [1]	1st	3	3	[2]	2
	2d	3	6	[2]	2
	3d	3	9	0	2
	4th	3	12	0	2
	5th	3	15	1	3
	6th	3	18	1	3
	7th	3	21	2	3
D	1st	3	3	[2]	2
	2d	3	6	[2]	2
	3d	3	9	0	2
	4th	3	12	0	3
	5th	3	15	1	3
	6th	3	18	1	3
	7th	3	21	2	3
E	1st	3	3	[2]	2
	2d	3	6	[2]	2
	3d	3	9	0	2
	4th	3	12	0	3
	5th	3	15	1	3
	6th	3	18	1	3
	7th	3	21	2	3
F	1st	5	5	[2]	2
	2d	5	10	0	3
	3d	5	15	0	3
	4th	5	20	1	4
	5th	5	25	2	4
	6th	5	30	3	5
	7th	5	35	4	5
G	1st	8	8	[2]	3
	2d	8	16	0	3
	3d	8	24	1	4
	4th	8	32	2	5
	5th	8	40	3	6
	6th	8	48	4	6
	7th	8	56	6	7
H	1st	13	13	[2]	4
	2d	13	26	1	5
	3d	13	39	2	6
	4th	13	52	3	7
	5th	13	65	5	8
	6th	13	78	7	9
	7th	13	91	9	10
J	1st	20	20	0	4
	2d	20	40	2	7
	3d	20	60	4	9
	4th	20	80	6	11
	5th	20	100	9	12
	6th	20	120	12	14
	7th	20	140	14	15

[1] If sample size equals or exceeds batch size, do 100 percent inspection.
[2] Acceptance not permitted at this sample size.

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PART III

ENVIRONMENTAL PROTECTION AGENCY

■

MOTOR CARRIERS ENGAGED IN INTERSTATE COMMERCE

Noise Emission Standards

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 281-8]

PART 202—MOTOR CARRIERS ENGAGED IN INTERSTATE COMMERCE

On July 27, 1973 notice was published in the FEDERAL REGISTER (38 FR 20102) that the Environmental Protection Agency (EPA or Agency) was proposing noise emission standards for motor carriers engaged in interstate commerce.

The purpose of this notice is to establish final noise emission standards for motor carriers engaged in interstate commerce by establishing a new Part 202 of Title 40 of the Code of Federal Regulations. This final rulemaking is promulgated pursuant to section 18 of the Noise Control Act of 1972; 86 Stat. 1234; Public Law 92-574.

INTRODUCTION

In section 2 of the Noise Control Act, Congress expressed its judgment "that, while primary responsibility for control of noise rests with State and local governments, Federal action is essential to deal with major noise sources in commerce, control of which require national uniformity of treatment." As a part of this essential Federal action, section 18 requires the Administrator to promulgate noise emission regulations for motor carriers engaged in interstate commerce. Such motor carriers include common carriers by motor vehicle, contract carriers by motor vehicle and private carriers of property by motor vehicle as these terms are defined by paragraphs (a)(14), (a)(15), and (a)(17) of section 203 of the Interstate Commerce Act [49 USC 303(a)]. After the effective date of a regulation under section 18, applicable to noise emissions resulting from the operation of any motor carrier engaged in interstate commerce, no State or political subdivision thereof may adopt or enforce any standard applicable to the operation of the same equipment of such motor carrier, unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by these regulations. The Administrator, after consultation with the Secretary of Transportation may, however, determine that the State or local standard, control, license, regulation, or restriction is necessitated by special local conditions and is not in conflict with regulations promulgated under section 18. Procedures for State and local governments to apply under section 18(c)(2) of the Act will be published by this Agency within 120 days of promulgation of this regulation.

The EPA regulations promulgated under section 18 are to include "noise emission standards setting such limits on noise emissions resulting from operation of motor carriers engaged in interstate commerce which reflect the degree of noise reduction achievable through the application of the best available technology taking into account the cost of compliance." These final regulations are being promulgated following consultation with the Secretary of Transportation to assure appropriate consideration for safety and for availability of technology. The Administrator, after consultation with the Secretary of Transportation, has determined that the regulations are to take effect one year after promulgation in order to permit the development and application of the requisite technology. Appropriate consideration has been given to the cost of compliance within the one year period.

The regulations promulgated under section 18 may be revised from time to time, in accordance with subsection 18(a). They shall be in addition to any regulations proposed for new motor vehicles under section 6.

Section 18 of the Noise Control Act reflects the desire of Congress to protect both the public health and welfare and interstate commerce through the establishment of uniform national noise emission regulations for those operations of interstate motor carriers which require national uniformity of treatment in order to facilitate interstate commerce. Such treatment is requisite for those operations of interstate motor carriers which would be burdened by conflicting State and local noise controls. Preemption under section 18 occurs only for State or local noise regulations on operations of interstate motor carriers for which Federal regulations are in effect.

After final interstate motor carrier noise emission standards have been promulgated by EPA and after consulting with the Administrator of EPA, the Secretary of Transportation is responsible for promulgating regulations to insure compliance with the EPA standards. This will be accomplished through the use of the Secretary's powers and duties of enforcement and inspection as authorized by the Interstate Commerce Act, the Department of Transportation Act, and the Noise Control Act of 1972.

In March 1974, in accordance with section 5(a)(2) of the Noise Control Act of 1972, EPA published a document in which levels of environmental noise requisite to protect public health and welfare were identified.

Recognizing that the Noise Control Act was enacted to protect the public from adverse health and welfare effects due to noise, EPA is carrying out its regulatory responsibilities for abating noise from motor carriers through regulatory actions under sections 6 and 18, in particular, of the Act. These regulatory actions are in consonance with the levels identified in the March 1974 document, considering the mandated constraints of available technology and cost of compliance.

Studies have been performed to measure the noise levels in residential areas and to estimate the number of people subjected to noise in those areas. The data collected clearly indicate that motor vehicles are the principal source of environmental noise in urban residential areas. Accordingly, EPA has developed a regulatory strategy that places high priority on the control of motor vehicle noise.

The Noise Control Act contains two sections of primary importance for the control of motor vehicle noise. Section 6 contains authority by which EPA may promulgate noise emission performance standards for new motor vehicles that are applicable at the time of sale of such vehicles. Section 18 of the Act requires EPA to promulgate noise emission regulations for motor carriers engaged in interstate commerce.

Accordingly, EPA has developed and is now implementing a motor vehicle noise control strategy based on sections 6 and 18 of the Act that should prove to be effective in reducing environmental noise from motor carriers in many areas to the levels identified as protective of public health and welfare. The strategy calls first, for the reduction, within one year of the promulgation of these regulations under section 18, of the noise from vehicles over 10,000 pounds GVWR or GCWR operated by motor carriers engaged in interstate commerce, to the lowest noise level consistent with the noise abatement technology available for retrofit application during the one year period, taking into account the cost of compliance.

Subsequently, under section 6, new product noise emission standards will be proposed for medium and heavy duty trucks. It is contemplated that the new product standards will be maintained for new trucks beyond the initial point of sale and through subsequent modification to these initial Interstate Motor Carrier Regulations to require that vehicles manufactured to comply with new product performance standards and used in interstate commerce shall maintain noise emission levels during operation which are consistent with noise abatement technology available and required at the time of manufacture.

Additionally, it is anticipated that the performance standards in the interstate motor carrier regulations relating to older vehicles will be made more stringent as more advanced retrofit technology becomes available and the cost of compliance permits.

A number of component changes required for compliance with the regulations could potentially affect the consumption of fuel, but overall, these regulations are expected to have a negligible effect on fuel consumption. The installation of a muffler suitable for attaining the noise abatement levels prescribed by these regulations could result in an increase in the back pressure on the engine and in turn increase the fuel consumption. Considering the wide variety of mufflers available, however, a significant increase in back pressure is avoidable. For those trucks requiring installation of a quieter, more efficient fan, the amount of engine power wasted may be reduced, and the addition of a thermostatically controlled fan clutch on some trucks may decrease fuel consumption by 1 to 1.5 percent.

If the installation of a suitable muffler increases engine back pressure, it can cause a change in the composition of the

emission of gaseous air pollutants. However, since a significant increase in back pressure is avoidable and undesirable from a truck performance standpoint, no significant increase in engine back pressure is anticipated as a result of these regulations. Accordingly, these regulations are not expected to have any significant effect on motor vehicle air pollutant emissions.

The legal basis and factual conclusions which support promulgation of this regulation were set forth in substantial detail in the notice of proposed rulemaking published in the FEDERAL REGISTER on July 27, 1973 (38 FR 20101). This publication solicited public comment, with the comment period extending from July 27, 1973 to September 10, 1973.

On November 7, 1973, a notice was published in the FEDERAL REGISTER (38 FR 23869) announcing the availability of the "Background Document to the Proposed Interstate Motor Carrier Regulations" and further soliciting public comment. This comment period extended from November 7, 1973 to December 5, 1973.

To ensure that all the issues involved in the proposed regulations had been fully addressed prior to the promulgation of final regulations, a public hearing was held on March 20 and 21, 1974 in Washington, D.C. The principal issues reviewed at this meeting related to the adequacy of the available technology to meet requirements in the proposed standards and the impact of Federal preemption of State and local noise regulations by these Federal Regulations. The transcript of this hearing, plus additional materials submitted for the record, constitute a third body of public comment. This comment period extended from March 21, 1974 to April 4, 1974.

Public comments received during each of the three public comment periods are maintained at the EPA headquarters, 401 M Street SW., Washington, D.C. 20460 and are available to the public during normal working hours (Monday to Friday, 8 am to 4:30 pm).

SUMMARY OF COMMENTS RECEIVED

The EPA has considered carefully all of the comments received and a discussion of these comments with the Agency's response thereto follows:

(1) Some commenters requested clarification of the types and numbers of vehicles subject to the regulations.

The Agency has addressed further in this preamble the types of vehicles to which these regulations are applicable. The number of vehicles subject to these regulations may be identified through the definition of "interstate commerce" used in these regulations.

The definition of "interstate commerce" contained in section 203(a) of the Interstate Commerce Act was adopted in relevant part by EPA. Section 203(a) of that Act is cited in the Noise Control Act of 1972 as defining the term "motor carrier" and is considered to be appropriate for defining "interstate commerce," as used in these regulations. Section 203(b)(8) of the Interstate Commerce Act expressly exempts the operation of carriers within the commercial zone of an interstate metropolitan area. EPA has not adopted such commercial zone exemption since the Noise Control Act of 1972 does not refer to section 203(b). Thus, a motor carrier will be subject to these regulations if it transports commodities which cross state lines.

There are approximately 5.2 million motor vehicles over 10,000 pounds GVWR/GCWR in the existing fleet, many of which are not involved in interstate commerce as defined in the regulations. The number of motor vehicles actually engaged in interstate commerce as defined is not accurately known. The Agency believes that most combination vehicles will, by definition of interstate motor carrier, be found to be subject to these regulations. Further, the Agency has conservatively assumed that all 5.2 million registered trucks could be subject to this interstate motor carrier regulations.

(2) Four commenters indicated that further classification of motor vehicles into categories over 10,000 pounds and promulgation of standards for each category would be desirable. Six commenters indicated that further classification would be neither meaningful nor desirable.

Studies performed for EPA indicate that motor vehicle mean noise levels increase with vehicle size (or number of axles) and speed. Accordingly, standards are being promulgated for both high and low speed motor vehicle operations in order to quiet both engine-related noise and tire noise. The Agency considered the development of classification scheme for trucks based on variations in weight and number of axles. This was done in order to permit consideration of requiring the use of "best available technology" as it might apply to trucks of varying configurations. Although there is a difference between the mean noise levels of medium and heavy duty trucks, it was found that there is considerable overlap in the distributions of noise levels of trucks of different sizes and that meaningful classification of vehicles at speeds under 35 MPH within the 10,000 pound GVWR/GCWR category is not practical at this time. The basic problem is that noisy propulsion systems are not confined to heavy duty trucks. Many truck manufacturers offer, and have traditionally sold, the same diesel engines in trucks having two or three axles, and due to the rise in fuel prices, more and more medium duty trucks are expected to be built with diesel engines, which until recently were installed primarily in heavy duty trucks. The non-existence of a breakpoint with regard to propulsion system selection has also characterized the use of noisy gasoline engines.

An analysis of the feasibilty of classifying trucks at speeds over 35 MPH indicated that 88 dB(A) could likely be achieved by two-axle vehicles, since they use fewer tires than multi-axle combination vehicles. However, the analysis of the environmental impact of the high speed standard indicated that highway noise levels are determined almost entirely by the noise levels of the heaviest trucks (those with four and five axles). In the Agency's analysis, the requirement of an 88 dB(A) limit on two-axle trucks above 10,000 pounds GVWR, and an 82 dB(A) limit on all passenger cars and light trucks, in addition to the coverage imposed by the proposed standards, was shown to produce essentially no further decrease in highway noise levels beyond that of the proposed standards. The Agency will, however, continue its activities in endeavoring to identify particular classifications of vehicles which will permit additional noise quieting considering available technology and the costs of compliance. Accordingly, no change has been made at this time in the proposed standards in the regulations.

(3) Several commenters recommended modifications in the coverage of the regulations with regard to the vehicle weight rating. Some commenters recommended the addition of light duty vehicles under 10,000 pounds GVWR, while other commenters recommended that medium duty vehicles above 10,000 pounds GVWR be excluded from coverage in the regulations.

The Agency analyzed the effect of limiting coverage to motor vehicles over 26,000 pounds GVWR, or to motor vehicles having three or more axles because several States had requested that coverage be limited in order that more stringent State regulations could be applied to vehicles under 26,000 pounds GVWR. Limiting coverage to motor vehicles over 26,000 pounds GVWR would potentially exclude 56 percent of all trucks over 10,000 pounds GVWR from Federal regulations. Limiting coverage to motor vehicles with more than two axles would exclude approximately 72 percent of all trucks over 10,000 pounds GVWR from Federal regulation.

Even though only about 2 percent of all two-axle trucks over 10,000 pounds GVWR exceed 86 dB(A) at speeds under 35 MPH, or 90 dB(A) at speeds over 35 MPH, the actual number of trucks exceeding the standards is not small. The intent of section 18 is clearly to provide nationwide noise regulation for vehicles involved in interstate commerce. Further limitation of coverage would allow medium duty trucks involved in interstate commerce to go unregulated in many States. The Agency has determined that at this time all trucks over 10,000 pounds GVWR operated in interstate commerce should be subject to Federal regulations.

Prior to proposing regulations applicable only to vehicles over 10,000 pounds GVWR/GCWR, the Agency analyzed both the relative noise contribution to traffic noise levels and the typical use patterns of different kinds of motor vehicles. Light trucks and automobiles were separated from medium and heavy duty trucks for the analysis because they have a higher power-to-weight ratio, they are quieter in normal operation and they have different uses than larger vehicles.

The data resulting from the analysis clearly indicated that medium and heavy duty motor vehicles contribute the most sound energy to the environment of any highway vehicles and that any individual medium or heavy duty truck will typically be perceived to be louder than other motor vehicles.

In addition to their higher noise emissions, medium and heavy duty motor vehicles are distinguished from lighter vehicles by their typical use for long distance intercity and interstate hauling. They are, therefore, operated many more miles per year on the average than light duty vehicles which are normally used for general service and delivery work within a relatively small area.

Additionally, medium as well as heavy duty motor vehicles operated by interstate motor carriers are, in significant numbers, constantly in transit between different jurisdictions, and it would be impractical for them to comply with a different noise emission standard in different jurisdictions. Thus, "medium duty" as well as "heavy duty" motor vehicles operated by interstate motor carriers are construed by the Agency to be major noise sources in commerce, control of which require uniform national treatment under section 18 of the Noise Control Act.

Conversely, since light duty vehicles are typically used for general service and delivery work within relatively small areas and are not usually subject to the noise emission regulations of many different jurisdictions, national uniformity of treatment of the noise emission resulting from their operation does not appear necessary at this time.

The specifications of a precise delineation between "light duty" or "small" vehicles and "medium and heavy duty" vehicles for purposes of regulation is largely an exercise of technical judgment. EPA has chosen to make that delineation at 10,000 pounds GVWR/GCWR in these regulations.

A break at 10,000 pounds GVWR/GCWR is convenient because most States use that weight rating as a distinction in their vehicle registration categories. The Department of Commerce and the Motor Vehicle Manufacturers Association divide light duty and medium duty vehicles at that weight rating. In addition, it is a standard weight category distinction used by the Department of Transportation (DOT) in their safety regulations, and compatibility of the Interstate Motor Carrier Regulations with the present DOT weight categories is advantageous because DOT is the Federal enforcement agent. However, if in the future it appears that the coverage of the Interstate Motor Carrier Regulations should be changed, these regulations may be revised pursuant to subsection 18(a).

Additional wording under the Applicability section of the regulations and clarification within the preamble has been added in response to these comments.

(4) Certain industry and environmental groups questioned whether the data collected in three States (California, Washington, and New Jersey) were representative of nationwide truck noise levels.

The Agency, in order to verify previous estimates of potential nationwide violation rates, has reviewed new highway noise survey data collected in Colorado, Illinois, Indiana, Kentucky, Maryland, New York, Texas and Pennsylvania. These States, together with California, Washington, and New Jersey, contain over one-third of the total number of trucks registered in the United States.

The data indicate that in some areas as few as five percent of the trucks measured exceed the 90 dB(A) level, while in other areas the percentage of trucks measured above the 90 dB(A) level may be as high as 55 percent. The areas reflecting the higher percentages directly correspond to those areas in which the greatest percentage of heavy duty trucks operate. In areas in which a small percentage of heavy duty trucks operate, or areas in which State and local noise regulations are already being enforced, a smaller percentage of trucks are expected to violate the standard.

On a nationwide basis approximately 23 percent of the trucks measured in the above cited studies exceed 90 dB(A) at highway speeds. The preamble to the proposed rule-making had estimated 19 percent of the trucks measured would exceed 90 dB(A) at highway speeds based on a much more limited data base than is now available.

Further analysis was completed relating measured truck highway passby noise levels to medium and heavy duty motor vehicle State registration data. Results indicate that approximately seven percent of the registered in-service motor vehicles over 10,000 pounds GVWR will exceed 90 dB(A) at highway speeds when measured at typical roadside sites. The difference between measured highway passby violation rates and predicted violation rates for registered vehicles is due to the difference in over-the-road operating times for interstate motor vehicles which is higher than those of other vehicles. For example, 5-axle combination trucks average 63,000 miles per year while single unit trucks average less than 11,000 miles per year. The new data is presented in the Background Document to this Final Rulemaking.

There has been no change in the basis on which the regulations were originally proposed, and thus no change in the regulation has been made as a result of the new data or these comments.

(5) Some commenters expressed concern that the Agency had underestimated the costs to the trucking industry of compliance with these regulations. Agency estimates of costs are based on the actual expenditures in 1973 of $50–200 that were required to retrofit vehicles to comply with State and local noise standards identical to the standards in these regulations. The average cost estimate of $114 for motor vehicles in violation of similar standards in 1973 was based to a large extent on a thorough evaluation of data describing the actual modifications made on some 7,800 medium and heavy duty trucks.

Since prices of most commodities and services have risen over the past year, and appear likely to continue to rise in the next year, the average retrofit cost can be expected to rise as well. Accordingly, the Agency believes that a reasonable average retrofit cost estimate for 1975 will be $135 per applicable motor vehicle requiring retrofit in order to meet the standards.

The Agency estimates that approximately one million motor vehicles over 10,000 pounds GVWR are engaged in interstate commerce and that seven percent of them would require retrofit at an average cost of $135 per vehicle. The total direct retrofit cost to the trucking industry is therefore estimated to be $9.5 million.

However, if, as a worst case, it is assumed that all 5.2 million motor vehicles above 10,000 pounds GVWR would be required to meet the standards, then the total direct retrofit cost to the trucking industry could be as high as $56 million, assuming 8 percent required retrofit.

The Agency is of the opinion that a retrofit cost of $135 per vehicle does not constitute a major burden for the interstate motor carrier industry. For a truck running 50,000 revenue miles per year, a $135 retrofit cost represents an increased expense of $.003 per revenue mile when amortized over a single year. This increase may be compared with the 1970 average expense of the industry of $1.20 per revenue mile.

From a review of the estimated number of vehicles which will require some degree of retrofit, the costs of such retrofit, and the costs to the industry, the Agency does not believe that the anticipated retrofit requirement costs are so stringent as to preclude the promulgation of these noise emission standards as required by the Act.

The high speed standard exceeds the low speed standard only by the noise differential associated with the increase in tire noise at higher speeds. Considerable high speed noise reduction can be obtained through the replacement of "pocket retread" tires by crossbar tires at no increase in cost or loss of performance. A four decibel margin has been added to the 86 dB(A) low speed standard in order to take tire noise into account at high speeds. Actual experience indicates that this will require the elimination of some crossbar tires on some heavy trucks that have a very large number of axles. However, it should still be possible for these trucks to operate with crossbar tires on the drive axles.

One industry association has indicated that the total direct and indirect costs of compliance might be as high as $150 million. No data have been submitted to support this estimate, but even should this estimate be correct the Agency does not believe it represents an unreasonable burden.

(6) Several industry commenters indicated that 86 dB(A) at speeds under 35 MPH was too stringent and unachievable within one year, while other indus-

try commenters stated that such standards were feasible.

EPA believes that a noise level of 86 dB(A), measured at typical roadside sites, similar to those used in the surveys described in Section 4 of the Background Document, is achievable within one year through the use of best available technology by almost all medium and heavy duty trucks in the existing fleet. Trucks are already being retrofitted to reach 86 dB(A) for this condition as a result of noise regulations enacted in several States. Additionally, at least one major truck manufacturer has indicated its intention to work with suppliers to develop a retrofit noise control package to bring older trucks into compliance with noise standards already proposed or which are being anticipated for the future: It is also achievable by buses, since they use the same engines and tires as trucks.

Most trucks currently exceeding 86 dB(A) at speeds below 35 MPH require only the addition of a muffler where none was being used before, or the replacement of a now defective muffler in order to be in compliance. Muffler manufacturers have testified in public hearings that adequate mufflers can be available in sufficient numbers to permit compliance of all trucks with these Interstate Motor Carrier Regulations within one year of promulgation.

(7) Three industry commenters indicated that more than a muffler improvement would be needed for their trucks to meet the 86 dB(A) and 90 dB(A) levels.

There is no disagreement with the comment since all sources of noise from the various components are intended to be included. The regulation is not directed at noisy mufflers alone. The economic analysis considered the total problem of retrofit. The Agency indicated in the Background Document to the proposed rulemaking that ten percent of all vehicles in violation of the proposed regulations might require retrofit of all or part of the fan installation and that five percent would need minor work on the air intake system. The Agency also indicated that approximately two percent of the in-use heavy duty diesel fleet that is in violation might be uneconomical to retrofit, and considered this to be reasonable in terms of "cost of compliance." Industry commenters have indicated that the two percent number is low. However, no specific data has been provided by such commenters, nor is additional information available to EPA which supports a higher national percentage estimate of vehicles which will not be economical to retrofit.

(8) Two commenters indicated that the regulations permit quiet vehicles to become noisier through the use of minimally effective replacement mufflers. Three commenters indicated that this did not appear to have occurred in States having similar regulations.

Since, at the present time, a large proportion of medium duty vehicles have noise levels that are considerably below 90 dB(A) at speeds above 35 MPH, it has been suggested that upon promulgation of these regulations, an increase in the sound level of these vehicles could occur. However, since at present several States enforce noise regulations equal to the proposed Federal regulations, while in most States vehicle noise is currently unregulated, there is no a priori reason to believe that the change from the current situation to one of Federal regulation should cause any vehicle to become noisier than it would be otherwise.

The available data indicate that promulgation of similar State regulations in the past may well have resulted in a further reduction of the noise emissions of trucks that were already below 90 dB(A) at speeds above 35 MPH prior to State regulation. Therefore, the Agency has no reason to believe that quiet vehicles will become noisier after the passage of noise regulations.

Nevertheless, the Agency is interested in this potential problem, and in the event that future studies of the noise levels of motor vehicles to which these regulations are applicable indicate that motor carriers are, for example, using replacement mufflers that are inferior to original equipment, regulations may be developed to label mufflers, or these regulations may be revised to require the use of mufflers comparable or superior to original equipment.

The Agency is aware that muffler manufacturers currently provide information to purchasers so that they will be able to comply with State and local regulations. EPA supports such voluntary activities. However, it is desirable that such information on the noise abatement characteristics of mufflers be provided to consumers in a uniform manner. Accordingly, the Agency may review these activities under section 8 of the Noise Control Act to insure that a uniform measurement methodology is used to present muffler attenuation characteristics, either voluntary or through regulations promulgated pursuant to section 8.

The Agency believes that the retention of the proposed section which requires that motor vehicles to which these regulations are applicable be equipped with an adequate exhaust system is sufficient and appropriate at this time.

(9) Numerous comments were received regarding "special local conditions." Industry commenters felt strongly that there should be one uniform national standard. Some States and localities felt that "special local conditions" should be interpreted broadly, and some commenters felt that where stricter State and local standards were feasible they should not be preempted by Federal regulations.

The Agency believes that section 18(c)(2) is intended to provide certain limited relief from a national uniform standard due to "special" local conditions. Conversely, section 18(a) calls for national uniform standards which could be significantly diluted through an overly broad interpretation of what constitutes special local conditions. The Administrator, under section 18(c)(2) of the Act, will make specific case-by-case determinations which in his judgment balance the need for national uniform standards against the need for exceptions to the national regulations in some particular situations.

(10) Several commenters stated that the Stationary Run-Up Test should be the only standard in the regulations. Another commenter expressed concern about data which appeared to show a poor correlation between stationary and pass-by test results, and between the results of repeated stationary tests of the same vehicle.

The Agency has specified both stationary and pass-by tests in the regulations in order to provide the flexibility needed for enforcement at Federal, State, and local levels. Since it is the opinion of EPA that the tests correlate well, the existence of more than one test should not constitute any additional burden on the trucking industry. Some data submitted suggest that the stationary run-up test is not a reliable test procedure. The data appear to reflect the results of a series of tests which are not representative of either the prescribed stationary run-up test or the SAE J-366a test when these tests are performed according to the required procedures. Previous data compiled by the Society of Automotive Engineers on 877 trucks are presented in the Background Document and show a good correlation between the tests. Accordingly, the Agency has retained both tests in the regulations.

(11) Comments received indicate that confusion has arisen over whether the 86 dB(A) limit included in the under 35 MPH standard refers to measurements taken according to conditions specified under SAE J366a or to measurements taken under typical roadside conditions.

The passby standards are intended to apply without the use of acoustic correction factors for surface absorption so long as the highway is paved and the surface between the microphone and highway or highway shoulder is unpaved. These standards are intended to be "reference values" for typical sites which are available to enforcement officers. Sites of this type were used in the collection of data which the Agency has used to predict the number of vehicles which emit noise in excess of the levels specified in the standards.

The standards are defined with sufficient particularity that their stringency is established for all practical purposes. EPA anticipates that the compliance regulations of the Department of Transportation will include a measurement methodology which contains correction factors for variation in site conditions. Such correction factors would make practical enforcement feasible at more sites and would thereby enhance the effect of the noise standards.

EPA has determined that technology is available to quiet trucks to 86 dB(A) as measured on a typical open roadside site. In actual practice, enforcement of the noise emission standards contained in these regulations may occur on sites

having surfaces that range from fully paved between the source and the microphone (hard site) to largely grass between road edge and microphone (soft site).

Specific measurement methodology was not included in the proposed regulations as, under the Act, the DOT has the responsibility after consultation with EPA, for promulgating compliance regulations; specific measurement methodology is more appropriately addressed by that Department through their regulatory responsibility. EPA has indicated the rationale used to specify the sound levels in the standards and anticipates that the DOT compliance regulations will be consistent with this rationale.

The stationary run-up test is a means of determining maximum propulsion system noise. A vehicle propulsion system which emits a given sound power by this test will typically emit that same value in use when power requirements are maximum for conditions of load, acceleration, and grade on a hard surface open site. Trucks sometimes exhibit slightly different noise levels when tested according to both the stationary run-up tests and SAE J366a, but the correlation between the two tests is sufficient to establish their equivalency.

The motor carrier regulation includes three different tests which enforcement agents may choose to use as best meets their circumstances. Motor carriers may thus encounter any or all of these tests from time to time. These three tests are intended to be equally stringent, so that those vehicles which meet the requirements of one test should have little or no difficulty with the others. An exception to this relation is intended: If a vehicle is equipped with tires which emit more noise than does its propulsion system, the vehicle noise could exceed the standard for high speed but be within the limits of the other two standards.

There are two roadside pass-by tests, one for speed zones of 35 MPH and less the other for speed zones of over 35 MPH. There is not a high correlation to be expected in absolute noise levels measured in the two speed ranges because the noise sources may be different, i.e., propulsion system noise dominating at low speeds and tire noise at high speeds. The high speed standard is 4 dB higher than the low speed standard because the maximum noise including tires is a function of vehicle speed. The intent of the regulation is to limit maximum propulsion system noise to the same level in both speed zones, but to provide a necessary additional margin to account for tire noise.

The comprehensive surveys conducted by EPA show that the noise level standards applicable to the two speed zones are equally stringent in that equal numbers of vehicles are out of compliance at the regulatory noise limits.

The Society of Automotive Engineers' J366a test, which is currently performed by many vehicle manufacturers, their customers, and their suppliers, is wholly unsuitable for use in roadside enforcement of a motor carrier regulation because of its technical requirements. However, the J366a test correlates well with the Stationary Runup test of these regulations. This enables a comparison to be made between the methodology used by industry and the requirements of the regulation.

The stationary standard is stated as 88dB(A) while the low speed standard is 86dB(A) because of the different measurement sites expected to be used. EPA could have stated both standards as equal numbers if both were to be implemented on pavement on a hard site or both on grassy, or soft sites. This number would have been the same if the J366 maximum noise test were included in the standards. In a tabular form the relation is:

	Stationary runup	Max-noise low speed passby	J366a
Hard site	88	88	88
Soft site	86	86	86

(12) Four commenters indicated that the proposed regulations were not adequate to protect public health and welfare.

The noise emission standards impact directly upon those motor vehicles which presently make the most noise. The principal noise reduction will be of the intrusive noise peaks which have been widely acknowledged as more objectionable to people than much lower levels of continuous noise. These peaks can be 12 dB or more above ambient highway noise levels. Therefore, significant noise reduction benefits will be realized by the effective date of these regulations, producing substantial benefits in terms of public health and welfare as indicated by a decrease in community noise levels near highways.

In a study performed under contract to the Agency Ldn (day-night sound level) values were computed for an interstate highway, using hourly traffic volume statistics submitted by the Maryland Department of Transportation. The baseline Ldn was computed using actual distributions of noise levels for various classes of trucks as measured in Maryland. The results of the study indicated that a 90 db(A) limit for all trucks above 10,000 lbs (GVWR/GCWR will produce a 3.6 dB(a) decrease in Ldn for a typical Eastern U.S. Interstate Highway. This represents a decrease of about 50 percent in the average sound energy near the highway.

As mentioned above, these regulations should not be considered alone, but only as a first step in quieting motor vehicle noise. Under the specific requirements of section 18(a) the Agency believes that these regulations meet the intent of both this section and of the Noise Control Act as a whole, and no change has been made as a result of these comments.

(13) Two commenters stated that the regulations were insufficient because truck in-cab noise levels were not addressed. The Agency believes that the intent of section 18 is to set limits on motor vehicle exterior noise emissions, not to regulate in-cab noise levels. The Bureau of Motor Carrier Safety of the Department of Transportation has established an in-cab noise level standard. Under the Agency's authorities as defined by section 4 of the Noise Control Act, which states that EPA is to coordinate all Federal programs relating to noise research and control, EPA will coordinate with that Department in any future revision of their in-cab noise level. Accordingly, as no in-cab noise level is called for here, none has been set.

(14) Two commenters indicated that the C scale would be more appropriate for this regulation than the A scale.

It has been argued that the A-weighted sound level discriminates against low frequencies and, thus, should be replaced by C-weighted sound level. However, the ear also discriminates against low frequencies so that at low frequencies the sound pressure level must be comparatively high before it can even be heard. Since the correlations between A-weighted sound level and human response are consistently better than that obtained with the C-weighted sound level, EPA believes that the measurement procedures using the A scale on which these regulations are based are appropriate, and therefore, no change has been made.

(15) There were a number of comments from State and local governments, private citizens, and industry relating to enforcement. Numerous recommendations were offered for what measurement sites, equipment, tolerances, etc., should be used, and many industry commenters reserved the right to comment on measurement procedures adopted for enforcement purposes. EPA will bring these comments and recommendations to the attention of the Department of Transportation which is the Agency responsible for enforcement procedures.

(16) Several commenters recommended further clarification of the specific applicability of the standards to motor vehicle auxiliary equipment.

Some types of auxiliary equipment used on vehicles operated by motor carriers are necessary for the comfort or safety of passengers, or for the preservation of cargo. These noise control standards are applicable to these types of equipment and for the purpose of these regulations such auxiliary equipment constitute essentially refrigeration or air conditioning units, and concrete mixer bodies and drives. These auxiliary equipment noise emissions are at a level far enough below other significant components of total vehicle noise, as EPA's data indicate, to be masked by other noise sources during normal vehicle highway operation.

EPA has identified other auxiliary equipment as normally being operated only when the transporting vehicle is stationary or moving at a very slow speed, normally less than 5 MPH. Examples of such equipment include cranes, asphalt spreaders, ditch diggers, liquid or slurry pumps, air compressors, welders, and trash compactors. The noise from the operation of such auxiliary equipment is not intended to be covered by these regu-

lations and, therefore, these regulations are not applicable to the noise resulting from the operation of this type of equipment. The transporting vehicle, however, if operated by an interstate carrier and if above 10,000 lbs, GVWR/GCWR, is subject to the Federal noise control regulation when such vehicle is in normal highway operation.

(17) Further clarification of the applicability of these standards to emergency equipment and vehicles is also appropriate. Because of the emergency or safety aspects of their operation these regulations are not applicable to vehicles such as fire engines, ambulances, police vans, and rescue vans when responding to emergency calls. Similarly, these regulations are not intended to apply to snow plow operation.

Continuing Agency Response to Public Comments

As mentioned in the foregoing Agency responses to public comments, additional study is required in a number of areas. EPA will evaluate the impact of these regulations after they become effective through monitoring and other activities, including evaluation of DOT and State enforcement data.

If data collected by or made available to the Agency indicate the existence of any problem curtailing the effectiveness of the regulations, these regulations may be revised subsequent to section 18(a)(2) of the Act.

Revision of the Proposed Regulations Prior to Promulgation

The Interstate Motor Carrier Noise Emission Regulations which are now being promulgated incorporate several changes from the proposed regulations which were published on July 27, 1973. These changes are based upon the public comments received and upon the continuing study of motor carrier noise by the Agency. In all but one instance such changes are not substantial; they are only intended to further clarify the intent of the regulations.

The sole substantive change is the deletion of proposed § 202.12, "Standards for Level Street Operations 35 MPH or Under." This section was originally proposed as it was felt that vehicles which could comply with a standard of 86 dB(A) under any conditions on highways with speed limits of 35 MPH or less could be driven so as to comply with a standard of 80 dB(A) when operated at constant speed on level streets with speed limits of 35 MPH or less. It was the intent of the Agency through this section to thereby regulate the manner of operation of the vehicle, by the driver, without imposing any additional noise reduction requirement to the vehicle proper beyond that needed to meet the 86 dB(A) standard. Substantial questions were raised regarding the validity of the data upon which the standard was based. The Agency, upon review of the relevant data, agrees with the comments and accordingly, the Standards for Level Street Operations section has been deleted.

Those changes made to clarify the intent of the regulations, and the reasons therefore, are as follows:

Section 202.10—Definitions. The definition of "motor carrier" was expanded to incorporate, by reference, the definition of related terms in paragraphs 14, 15, and 17, of section 203(a) of the Interstate Commerce Act (49 USC 303 A). This treatment more closely follows section 17(d) of the Noise Control Act and thereby insures that any question as to the definition of such related terms will be resolved by reference to the body of law which Congress intended to apply to section 18.

The definitions of "dB(A)," "sound pressure level," and "sound level," were changed slightly to be consistent with the definitions of those terms used in the document, "Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety," issued by the Environmental Protection Agency in March 1974. "Fast meter response" has been expanded for clarity.

"Gross combination weight rating" (GCWR) has been added to avoid any possible confusion over whether the regulation is applicable to combination trucks (i.e., tractor-trailer rigs) over 10,000 pounds weight rating. The provisions of Subpart B of the regulation are applicable to all single and combination vehicles over 10,000 pounds weight rating.

"Interstate commerce" has been modified to insure that any questions as to its scope would be resolved by reference to section 203(a) of the Interstate Commerce Act, consistent with the reference to that Act in section 18(d) of the Noise Control Act.

"Person" has been deleted, since (as discussed below) that word is no longer used in Subpart B of the regulations.

"Street," and "official traffic device," have been deleted, since proposed § 202.12 in which they were used has been deleted.

"Muffler" has been added to simplify the language of proposed § 202.14, "Visual Exhaust System Inspection."

"Open site" has been added to further clarify the standards.

Section 202.11—Effective Date. An effective date of October 1, 1974 was originally proposed for the regulations. The intent of the Agency in the notice of proposed rulemaking was that the proposed regulations would become effective one year from the date of promulgation. This intent is retained in this new section.

Section 202.12—Applicability. "Applicability" was moved to Subpart A of the final regulations as it is appropriately considered a "general provision" of the regulations. It has been modified to clarify the intent of the Agency that the standards do not apply to noise emission from warning devices or auxiliary equipment mounted on motor vehicles except for refrigeration and air conditioning equipment, and for concrete mixer units and drives. Illustrative examples have been cited for added clarity.

Subpart B—Interstate Motor Carrier Operations. The language used in Subpart B has been changed from, "no person shall operate," to "no motor carrier subject to these regulations shall operate * * *;" and the language in § 202.20 was modified slightly to conform to this change. This change is intended to more accurately reflect the intent of Congress and these regulations, that they are to establish uniform national noise emission regulations for those operations of interstate motor carriers which require such treatment. The revised language clearly imposes sole responsibility for meeting the requirements upon the motor carriers which own and operate the subject motor vehicles. The proposed language, using the broad term "person," would have imposed that responsibility upon the drivers of subject motor vehicles as well as the companies which operate them. "Motor carrier," as defined in these regulations, includes independent truckers who both own and drive their own vehicles.

Section 202.21—Standards for Operation Under Stationary Test. The language of this section has been modified to further clarify that it applies only to vehicles which have an engine speed governor. Application of a stationary run-up test to vehicles which are not equipped with engine speed limiting devices could result in engine damage.

Section 202.22—Visual Exhaust System Inspection. The intent of the Agency in requiring motor vehicles subject to this regulation to be equipped with exhaust system noise dissipative devices has been further clarified through modification of the language of proposed § 202.14. In addition, the exception to the proposed requirement relating to vehicles with gas driven turbochargers and equipped with engine brakes, which were demonstrated to meet the other standards of Subpart B, has been deleted. Such equipment is included in the term "other noise dissipative device," and therefore need not be treated separately.

Section 202.23—Visual Tire Inspection. The intent of the Agency was to specifically preclude the use of "pocket retread" tires which when new are demonstrably noisier without having any accompanying benefit in safety or cost over other types of tires. The proposed § 202.15 has been modified in response to comments by tire manufacturers that the regulation as proposed could have covered some types of tires which are not in fact exceptionally noisy.

Proposed Section 202.16—Enforcement procedures. This proposed section has been deleted. As the Noise Control Act places enforcement responsibilities for these regulations with the Department of Transportation, the section as proposed added nothing not specified in the Act.

Proposed Subpart C—Special Local Conditions Determinations. The procedures for applying for determinations as called for in section 18(c)(2) of the Act, will be published by EPA as "procedures" and not as part of this regulation. Accordingly, Subpart C has been deleted.

Preemption. Under subsection 18(c)(1) of the Noise Control Act, after the ef-

fective date of these regulations no State or political subdivision thereof may adopt or enforce any standard applicable to noise emissions resulting from the operation of motor vehicles over 10,000 pounds GVWR/GCWR by motor carriers engaged in interstate commerce unless such standard is identical to the standard prescribed by these regulations. Subsection 18(c)(2), however, provides that this section does not diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or control, license, regulate, or restrict the use, operation or movement of any product if the Administrator, after consultation with the Secretary of Transportation, determines that such standard, control, license, regulation, or restriction is necessitated by special local conditions and is not in conflict with regulations promulgated under section 18. Procedures for applying for such determinations will be published by the Agency within 120 days.

Conversely, subsection 18(c)(1) does not in any way preempt State or local standards applicable to noise emissions resulting from any operation of interstate motor carriers which is not covered by Federal Regulations. Thus, under the proposed regulations States and localities will remain free to enact and enforce noise regulations on motor carrier operations other than their operation of motor vehicles over 10,000 pounds GVWR/GCWR, without any special determination by the Administrator. Only after a Federal regulation on noise emissions resulting from a particular interstate motor carrier operation has become effective must the States and localities obtain a special determination by the Administrator under subsection 18(c)(2), in order to adopt or enforce their own use restrictions or environmental noise limits on that operation.

Some interstate motor carrier operations on which no Federal noise standards or regulations have become effective, and which may, therefore, be subjected to State and local noise standards without any special determination by the Administrator, may indirectly include motor vehicles which are covered by preemptive Federal regulations. Motor carrier maintenance shops, for example, may from time to time emit the noise of trucks undergoing tests along with noises common to many industrial operations such as forging and grinding; and motor carrier terminals and parking areas include trucks among their many types of noise sources.

In most instances, compliance with State or local standards on non-Federally regulated operations of motor carriers is achieveable without affecting the Federally regulated motor vehicles within them. Standards on noise emissions from repair shops, for example, can be met by such measures as improved sound insulation in the walls of the shop, buffer zones of land between the shop and noise-impacted areas, and scheduling the operation of the shop to reduce noise at those times of the day when its impact is most severe. Standards on motor carrier terminals and parking areas can be met by a variety of steps, including reducing the volume of loudspeaker systems by using a distributed sound system or replacing speakers with two-way radios, reducing noise emissions from equipment which is not covered by Federal regulations, installing noise barriers around noisy equipment, acquiring additional land to act as a noise buffer, and locating noisy equipment such as parked trucks with operating refrigeration equipment as far as possible from adjacent noise-sensitive property. State or local regulations on noise emissions from motor carrier operations which the motor carrier can reasonably meet by initiating measures such as these are not standards applicable to noise emissions resulting from the operation of motor vehicles over 10,000 pounds GVWR/GCWR, and thus would not be preempted by the proposed regulations. No special determination by the Administrator under subsection 18(c)(2) would be necessary. State or local noise standards on operations involved in interstate commerce such as motor carrier terminals are, of course, subject to Constitutional prohibition if they are so stringent as to place an undue burden on interstate commerce.

In some cases, however, a State or local noise regulation which is not stated as a regulation applicable to a Federally regulated operation may be such a regulation in effect, if the only way the regulation could be met would be to modify the equipment which meets the Federal regulation applicable to it. This would be the case, for example, if after the proposed regulations become effective, a State or locality attempted to adopt or enforce a limit on noise emissions from motor carrier terminals in urban areas which could not reasonably be met by measures such as noise barriers or relocating the motor vehicles to which this regulation is applicable. Such regulation would, in effect, require modifications to motor vehicles even though they met the Federal regulations and would thus be a regulation applicable to them which would be preempted under subsection 18(c)(1).

State or local use or operation regulations which are applicable to noise emissions resulting from the operation of Federally regulated equipment and facilities can, of course, stand if the Administrator made the determinations specified in subsection 18(c)(2) regarding them. The same would be true of any State or local standard on motor carrier operations which could not reasonably be met except by modifying motor vehicles which comply with the proposed Federal standards.

State and local regulations on motor carrier operations which are not directed at the control of noise, or which include noise control as only one of many purposes such as safety, traffic control, and the like, are not preempted by subsection 18(c)(1) of the Noise Control Act and require no special determination under subsection 18(c)(2) to be adopted or enforced. Thus, the designation of some streets as truck routes, and prohibition of trucks from other streets, by State or local governments, are valid without any special determination under subsection 18(c)(2).

Compliance Procedures. Compliance procedures are to be developed and promulgated under separate rule making by the Department of Transportation. Such compliance procedures will specify minimum requirements for instrumentation, test sites, and other conditions necessary to insure uniformity in testing and a minimum level of precision.

Enforcement of the standards is contemplated to be more efficient under some conditions if measurements are permitted to be made at distances other than 50 feet under procedures that provide for equivalency to the standards measured at 50 feet.

Effective Date. The effective date of these regulations is set as one year from promulgation of these regulations to allow adequate time for interstate motor carriers to make necessary equipment modifications to their motor vehicles during a normal maintenance cycle.

Background Document

Notice of the availability of the Document entitled "Background Document to proposed Interstate Motor Carrier Regulations" was published in the Federal Register on November 7, 1972 (38 FR 23869). This document has been revised and new data have been added. This new Document is quite lengthy, and it would be impractical to publish it in its entirety in the Federal Register. Copies may be obtained from the EPA Public Information Center, PM 215, Room 2104D, Waterside Mall, 4th and M Streets SW., Washington, D.C. 20460. To the extent possible, the significant aspects of the material have been presented in summary form in the foregoing preamble. The topics contained in the Document are the following:

1. The EPA Motor Vehicle Noise Control Strategy.
2. The Technology and Cost of Quieting In-Service Motor Vehicles.
3. The Relationship Between the Standards.
4. Noise Measurement of In-Service Vehicles.
5. The Economic and Environmental Impact of the Regulations.

Future Public Comment

If as a result of continuing government studies, or as the result of developments by industry or other institutions, it becomes evident to the Agency that more advanced technology is available, at some reasonable cost within a prescribed compliance period, prompt revision of the regulations will be initiated. Accordingly, comments and recommendations are solicited from all interested persons as to new or advanced technology and its projected cost or on any other topic relevant to these regulations or revisions thereof. Prior to actual formulation of any revision to these regulations, notice of proposed rulemaking will be published so that there may be maxi-

mum contribution to the rulemaking development process by interested parties. Interested persons may submit written data or views to the Office of Noise Abatement and Control. U.S. Environmental Protection Agency, Washington, D.C. 20460.

This regulation is promulgated under the authority of 42 U.S.C. 4917(a), 86 Stat. 1249.

Dated: October 21, 1974.

JOHN QUARLES,
Acting Administrator.

Part 202 of title 40 shall read as follows:

PART 202—MOTOR CARRIERS ENGAGED IN INTERSTATE COMMERCE

Subpart A—General Provisions

Subpart B—Interstate Motor Carrier Operations Standards

AUTHORITY: Section 18, 86 Stat. 1249, 42 U.S.C. 4917(a).

Subpart A—General Provisions

§ 202.10 Definitions.

As used in this part, all terms not defined herein shall have the meaning given them in the Act:

(a) "Act" means the Noise Control Act of 1972 (P.L. 92–574, 86 Stat. 1234)

(b) "Common carrier by motor vehicle" means any person who holds himself out to the general public to engage in the transportation by motor vehicle in interstate or foreign commerce of passengers or property or any class or classes thereof for compensation, whether over regular or irregular routes.

(c) "Contract carrier by motor vehicle" means any person who engages in transportation by motor vehicle of passengers or property in interstate or foreign commerce for compensation (other than transportation referred to in paragraph (b) of this section) under continuing contracts with one person or a limited number of persons either (1) for the furnishing of transportation services through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served or (2) for the furnishing of transportation services designed to meet the distinct need of each individual customer.

(d) "Cutout or by-pass or similar devices" means devices which vary the exhaust system gas flow so as to discharge the exhaust gas and acoustic energy to the atmosphere without passing through the entire length of the exhaust system, including all exhaust system sound attenuation components.

(e) "dB(A) means the standard abbreviation for A-weighted sound level in decibels.

(f) "Exhaust system" means the system comprised of a combination of components which provides for enclosed flow of exhaust gas from engine parts to the atmosphere.

(g) "Fast meter response" means that the fast dynamic response of the sound level meter shall be used. The fast dynamic response shall comply with the meter dynamic characteristics in paragraph 5.3 of the American National Standard Specification for Sound Level Meters, ANSI S1. 4–1971. This publication is available from the American National Standards Institute, Inc., 1420 Broadway, New York, New York 10018.

(h) "Gross Vehicle Weight Rating" (GVWR) means the value specified by the manufacturer as the loaded weight of a single vehicle.

(i) "Gross Combination Weight Rating" (GCWR) means the value specified by the manufacturer as the loaded weight of a combination vehicle.

(j) "Highway" means the streets, roads, and public ways in any State.

(k) "Interstate commerce" means the commerce between any place in a State and any place in another State or between places in the same State through another State, whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by rail, express, water or air. This definition of "interstate commerce" for purposes of these regulations is the same as the definition of "interstate commerce" in section 203(a) of the Interstate Commerce Act [49 U.S.C. Section 303(a)].

(l) "Motor carrier" means a common carrier by motor vehicle, a contract carrier by motor vehicle, or a private carrier of property by motor vehicle as those terms are defined by paragraphs (14), (15), and (17) of section 203(a) of the Interstate Commerce Act [49 U.S.C. 303 (a)].

(m) "Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails.

(n) "Muffler" means a device for abating the sound of escaping gases of an internal combustion engine.

(o) "Open site" means an area that is essentially free of large sound-reflecting objects, such as barriers, walls, board fences, signboards, parked vehicles, bridges, or buildings.

(p) "Private carrier of property by motor vehicle" means any person not included in terms "common carrier by motor vehicle" or "contract carrier by motor vehicle", who or which transports in interstate or foreign commerce by motor vehicle property of which such person is the owner, lessee, or bailee, when such transportation is for sale, lease, rent or bailment, or in furtherance of any commercial enterprise.

(q) "Sound level" means the quantity in decibles measured by a sound level meter satisfying the requirements of American National Standards Specification for Sound Level Meters S1.4–1971. This publication is available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018. Sound level is the frequency-weighted sound pressure level obtained with the standardized dynamic characteristic "fast" or "slow" and weighting A, B, or C; unless indicated otherwise, the A-weighting is understood.

§ 202.11 Effective date.

The provisions of Subpart B shall become effective October 15, 1975.

§ 202.12 Applicability.

(a) The provisions of Subpart B apply to all motor carriers engaged in interstate commerce.

(b) The provisions of Subpart B apply only to those motor vehicles of such motor carriers which have a gross vehicle weight rating or gross combination weight rating in excess of 10,000 pounds, and only when such motor vehicles are operating under the conditions specified in Subpart B.

(c) Except as provided in Subsections (d) and (e) of this section, the provisions of Subpart B apply to the total sound produced by such motor vehicles when operating under such conditions, including the sound produced by auxiliary equipment mounted on such motor vehicles.

(d) The provisions of Subpart B do not apply to auxiliary equipment which is normally operated only when the transporting vehicle is stationary or is moving at a speed of 5 miles per hour or less. Examples of such equipment include, but are not limited to, cranes, asphalt spreaders, ditch diggers, liquid or slurry pumps, air compressors, welders, and trash compactors.

(e) The provisions of Subpart B do not apply to warning devices, such as horns and sirens; or to emergency equipment and vehicles such as fire engines, ambulances, police vans, and rescue vans, when responding to emergency calls; or to snow plows when in operation.

Subpart B—Interstate Motor Carrier Operations Standards

§ 202.20 Standards for highway operations.

No motor carrier subject to these regulations shall operate any motor vehicle of a type to which this regulation is applicable which at any time or under any condition of highway grade, load, acceleration or deceleration generates a sound level in excess of 86dB(A) measured on an open site with fast meter response at 50 feet from the centerline of lane of travel on highways with speed limits of 35 MPH or less; or 90 dB(A) measured on an open site with fast meter response at 50 feet from the centerline of lane of travel on highways with speed limits of more than 35 MPH.

§ 202.21 Standard for operation under stationary test.

No motor carrier subject to these regulations shall operate any motor vehicle of a type to which this regulation is applicable which generates a sound level in

excess of 88dB(A) measured on an open site with fast meter response at 50 feet from the longitudinal centerline of the vehicle, when its engine is accelerated from idle with wide open throttle to governed speed with the vehicle stationary, transmission in neutral, and clutch engaged. This section 202.21 shall not apply to any vehicle which is not equipped with an engine speed governor.

§ 202.22 Visual exhaust system inspection.

No motor carrier subject to these regulations shall operate any motor vehicle of a type to which this regulation is applicable unless the exhaust system of such vehicle is (1) free from defects which affect sound reduction; (2) equipped with a muffler or other noise dissipative device; and (3) not equipped with any cut-out, by-pass, or similar device.

§ 202.23 Visual tire inspection.

No motor carrier subject to these regulations shall at any time operate any motor vehicle of a type to which this regulation is applicable on a tire or tires having a tread pattern which as originally manufactured, or as newly retreaded, is composed primarily of cavities in the tread (excluding sipes and local chunking) which are not vented by grooves to the tire shoulder or circumferentially to each other around the tire. This section 202.23 shall not apply to any motor vehicle which is demonstrated by the motor carrier which operates it to be in compliance with the noise emission standard specified for operations on highways with speed limits of more than 35 MPH in § 202.20 of this subpart B, if the demonstration is conducted at the highway speed limit in effect at the inspection location, or, if speed is unlimited, the demonstration is conducted at a speed of 65 MPH.

[FR Doc.74-25032 Filed 10-25-74;8:45 am]

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Our goal is twofold:

First—to make each document published in the FEDERAL REGISTER easily understandable, thus making compliance easier, more efficient, and less costly; and

Second—to identify and correct any existing Federal regulations which are obsolete, unnecessarily wordy, or unclearly stated.

We believe this effort is consistent with the objectives stated by President Ford in his October 8th speech on the economy in which he announced "a joint effort by the Congress, the executive branch and the private sector to identify and eliminate existing Federal rules and regulations that increase costs to the consumer without any good reason in today's economic climate."

The Office of the Federal Register welcomes your comments and suggestions. The survey blank below is provided for that purpose. All comments received will be maintained in a public docket and will be available for inspection in the Office of the Federal Register to any interested persons or agencies. Comments which point out the need for substantive changes in existing regulations also will be forwarded to the responsible agency.

- -

I. For the following reasons I found it difficult to understand the document from ____________ (agency) in column ______, page ______ of the ____________ (date) issue of the FEDERAL REGISTER:

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A. The document from ____________ (agency) in column ______, page ______ of the ____________ (date) issue of the FEDERAL REGISTER, or

B. Section(s) ____________ of Title ____________ of the CODE OF FEDERAL REGULATIONS

impose(s) an: ☐ unnecessary; ☐ unreasonable; ☐ impractical; or ☐ obsolete requirement on those persons subject to that regulation.

My reasons are: ________________________________

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