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PART I

HIGHLIGHTS OF THIS ISSUE

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

LOW-RENT PUBLIC HOUSING—HUD proposes dwelling lease and grievance procedures (2 documents); comments by 12–9–74 ..... 39285, 39287

PUBLIC MASS TRANSPORTATION—DOT/FHA provides guidelines for administering demonstration projects on rural area highways; effective 11–6–74 39264

ENERGY CONSERVATION—GSA provides specific policies and procedures for government-owned and government-leased space; effective 11–6–74 39266

MANDATORY PETROLEUM ALLOCATION—FEA adopts changes in price regulations 39259

DOMESTIC ANIMALS—USDA/APHIS notice of reevaluation of certain biological products used in treatment of pets 39299

FOREIGN CIVIL AIRCRAFT—CAB proposes revision of scheduled international air service operation provisions; comments by 12–6–74 39293

AIR TRAVEL—CAB proposes termination of "prior affinity" charter authority; comments by 12–5 and 12–20–74 39293

(Continued inside)

PART II:

CHILDREN'S TELEVISION—FCC outlines policy on programming and advertising 39395

PART III:

POSTSECONDARY EDUCATION—HEW/OE adopts procedures for opportunity grant program 39411

PART IV:

CRUDE OIL—FEA ruling providing guidance to refiners and refiner-sellers on calculation of increased cost 39421

November 6, 1974—Pages 39257–39424

MEETINGS—
DOD: Defense Science Board Task Force on Training Technology, 11–25 and 11–26–74 39297
DOT/FAA: Microwave Landing System Advisory Committee, 11–14 and 11–15–74 39307
CSC: Federal Employees Pay Council, 11–20–74 39314
State: Government Advisory Committee on International Book and Library Programs, 11–22–74 39297
AEC: Advisory Committee on Reactor Safeguards Subcommittee:
Allens Creek Nuclear Generating Stations, Units 1 & 2, 11–23–74 39308
Subcommittee on Perry Nuclear Power Plant, Units 1 & 2, 11–23–74 39309
Working Group on the Reactor Safety Study (WASH–1400), 11–22–74 39309
CPSC: Bicycle Regulation, 11–20–74 39314
HEW/NIH: Committee on Cancer Immunobiology, 12–23–74 39307
Diagnostic Research Advisory Group, 12–12–74 39307
Program Directors of the Asthma and Allergic Disease Centers, 12–5 and 12–6–74 39307
National Foundation on the Arts and the Humanities: National Council on the Arts, 11–22 through 11–24–74 39323
Commerce: CTAB Panel on Project Independence Blueprint, 12–3 through 12–5, and 12–10 and 12–11–74 39304
NASA: Applications Committee, 11–20 and 11–21–74 39323
GSA: Regional Public Advisory Panel on Architectural and Engineering Services, 11–21–74 39319

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contents

AGRICULTURAL MARKETING SERVICE

Rules

Almonds grown in Calif.; crediting for paid advertising 39258
Limitation of shipments:
Oranges and grapefruit grown in Texas 39257

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Animal and Plant Health Inspection Service.

Rules

Administration; obsolete authority; revocation 39257

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Notices

Viruses, serums, toxins, and analogous products; reevaluation ... 39299

ATOMIC ENERGY COMMISSION

Notices

Applications, etc.:
Nebraska Public Power District .. 39310
Niagara Mohawk Power Corp ... 39310
Philadelphia Electric Co. (2 documents) 39311
Public Service Electric & Gas Co 39311
Meetings:
Advisory Committee on Reactor Safeguards (3 documents) ... 39308, 39309

CIVIL AERONAUTICS BOARD

Proposed Rules

Charter trips and special services .. 39291
Transit flights; scheduled international air service operations .. 39293

Notices

Hearings, etc.:
Overseas National Airways, Inc .. 39312
International Air Transport Association; correction 39312

CIVIL SERVICE COMMISSION

Rules

Pay regulations; allowances and differentials; rates for Guam, Puerto Rico, and the Virgin Islands 39257

Notices

Meeting:
Federal Employees Pay Council .. 39314
Noncareer executive assignments:
Agriculture Department (2 documents) 39313
Federal Energy Administration .. 39314
Housing and Urban Development Department (2 documents) 39314
Interior Department (3 documents) 39314
Labor Department 39314

COMMERCE DEPARTMENT

See also Domestic and International Business Administration; Maritime Administration; National Oceanic and Atmospheric Administration; National Technical Information Service.

Notices

Public information services; description 39304
Meetings:
CTAB Panel on Project Independence Blueprint 39304

CONSUMER PRODUCT SAFETY COMMISSION

Notices

Meetings:
Bicycle regulation 39314

DEFENSE DEPARTMENT

Notices

Meetings:
Defense Science Board Task Force on Training Technology 39297

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Scientific articles; duty free entry:
University of Houston 39299
Chemeketa Community College .. 39301

EDUCATION OFFICE

Rules

Postsecondary education; Opportunity Grant Program 39411

ENVIRONMENTAL PROTECTION AGENCY

Proposed Rules

Air quality implementation plans:
Missouri 39295
Utah 39295
Pesticide tolerances and exemptions:
DDT 39295

Notices

Pesticides; experimental use permit to Nebraska for coyote control 39315

FARM CREDIT ADMINISTRATION

Notices

Authority delegation:
Deputy Governor for Bank Services, et al 39317

FEDERAL AVIATION ADMINISTRATION

Rules

Control zone and transition area ... 39261
IFR altitudes 39262
Restricted area (2 documents) ... 39262
VOR Federal airways (2 documents) 39261

Proposed Rules

Transition areas 39289

Notices

Meetings:
Microwave Landing System Advisory Committee 39307

FEDERAL COMMUNICATIONS COMMISSION

Notices

Children's television report and policy statement; hearing, etc ... 39395

FEDERAL ENERGY ADMINISTRATION

Rules

Mandatory petroleum price regulations:
Changes 39259
Ruling:
Crude oil allocation program; calculation of increased cost .. 39421

Proposed Rules

Administrative procedures and sanctions 39268

FEDERAL HIGHWAY ADMINISTRATION

Rules

Public transportation:
Rural highway demonstration program 39264

FEDERAL HOME LOAN BANK BOARD

Notices

Applications, etc.:
ISC Financial Corp 39317

FEDERAL INSURANCE ADMINISTRATION

Rules

National Flood Insurance Program:
Special hazard areas; correction (4 documents) ... 39265, 39266

FEDERAL MARITIME COMMISSION

Notices

Agreements, etc.:
Certificates of financial responsibility (oil pollution) (2 documents) 39317, 39318
United States Atlantic & Gulf-Santo Domingo Conference ... 39319

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
Certificates, abandonment of service 39320
Chevron Oil Co 39321
Exxon Corp 39322
Jurisdictional sales of natural gas 39319

FEDERAL RAILROAD ADMINISTRATION

Notices

Petition for exemptions:
Almanor Railroad Co 39307
Sandersville Railroad Co 39308

FISH AND WILDLIFE SERVICE

Notices

Endangered species permits, applications (2 documents) 39298

GENERAL SERVICES ADMINISTRATION

Rules

Energy conservation:
Government-owned and government-leased space; policies and procedures 39266

Notices

Meeting:
Regional Public Advisory Panel on Architectural and Engineering Services 39319

(Continued on next page)

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Education Office; National Institutes of Health; Social and Rehabilitation Service.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See also Federal Insurance Administration.

Proposed Rules

Low rent public housing:
- Grievance procedures and requirements ---- 39287
- Proposed dwelling leases procedures ---- 39285
- Prototype cost limits ---- 39284

INTERIOR DEPARTMENT

See Fish and Wildlife Service.

INTERSTATE COMMERCE COMMISSION

Notices

Hearing assigments ---- 39327
Motor carriers:
- Alternate route deviation notices (2 documents) ---- 39331
- Applications and certain other proceedings ---- 39327
- Interstate applications ---- 39332
- Irregular-route property carriers; gateway elimination ---- 39334
- Private carrier transportation ---- 39333
- Temporary authority applications ---- 39327

LAND MANAGEMENT BUREAU

Notices

Hearing:
- Outer Continental Shelf oil and gas leasing ---- 39297

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; list of reports ---- 39324

MARITIME ADMINISTRATION

Notices

Applications:
- Pacific Far East Lines, Inc ---- 39302

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notices

Committee establishment:
- Participation in Scientific Definition of Space Shuttle Missions for Solar Physics Spacelab Payloads ---- 39323

Meeting:
- Applications Committee ---- 39323

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Notices

Meeting:
- National Council on the Arts ---- 39323

NATIONAL INSTITUTES OF HEALTH

Notices

Meetings:
- National Cancer Institute (2 documents) ---- 39307
- National Institute of Allergy and Infectious Diseases ---- 39307
- National Library of Medicine ---- 39306

Recombinant DNA Molecule Program Advisory Committee; establishment ---- 39306

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notices

Marine mammal taking; hearing ---- 39302

NATIONAL TECHNICAL INFORMATION SERVICE

Notices

Government-owned inventions; availability for licensing ---- 39303

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
- Alabama Power Co ---- 39324
- Chicago Board Options Exchange, Inc. (2 documents) ---- 39325, 39326

SELECTIVE SERVICE SYSTEM

Notices

Registrant processing manual:
- Early release from alternate service ---- 39326

SMALL BUSINESS ADMINISTRATION

Proposed Rules

Small business investment companies; correction ---- 39296

SOCIAL AND REHABILITATION SERVICE

Rules

Medical assistance programs:
- Cost sharing; long-term care facility inspectors; correction ---- 39267

STATE DEPARTMENT

Notices

Culturally significant objects; archaeological finds of People's Republic of China ---- 39297

Meetings:
- Government Advisory Committee on International Book and Library Programs ---- 39297

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration.

list of cfr parts affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

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.

5 CFR

591 39257

7 CFR

1 39257
906 39257
981 39258

10 CFR

212 39259
Ruling 1974–26 39422

PROPOSED RULES:

661 39268

13 CFR

PROPOSED RULES:

107 39296

14 CFR

71 (3 documents) 39261
73 (2 documents) 39262
95 39262

PROPOSED RULES:

71 39289
207 39289
208 39289
212 39289
214 39289
217 39289
241 39289
249 39289
375 39293

23 CFR

820 39264

24 CFR

1915 (4 documents) 39265, 39266

PROPOSED RULES:

275 39284
410 (2 documents) 39285, 39287

40 CFR

PROPOSED RULES:

52 (2 documents) 39295
180 39295

41 CFR

101–20 39266

45 CFR

190 39412
249 39267

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of parts of each title of the Code Federal Regulations affected by documents published to date during November.

5 CFR Page

213 ... 39019
591 ... 39257

7 CFR

1 ... 39257
20 ... 38631
51 ... 38887
906 ... 39257
910 ... 38631
915 ... 38888
971 ... 38888
981 ... 39258
1421 ... 36831
1464 ... 38631
1474 ... 38632
1845 ... 38889

PROPOSED RULES:

730 ... 39044
929 ... 38906
987 ... 38906
993 ... 38662
1065 ... 39044

8 CFR

212 ... 38889

9 CFR

97 ... 39019

10 CFR

70 ... 39020
205 ... 39021
211 ... 39021
212 ... 39259
660 ... 39023
Ruling 1974–26 ... 39422

PROPOSED RULES:

661 ... 39268

12 CFR

201 ... 39031
555 ... 38635

PROPOSED RULES:

545 ... 38913

13 CFR

107 ... 39192

PROPOSED RULES:

107 ... 39058, 39296

14 CFR

39 ... 38636, 38890, 38891
71 ... 38637, 39261
73 ... 39262
95 ... 39262
97 ... 38892
288 ... 39031

PROPOSED RULES:

21 ... 38667
39 ... 38668
43 ... 38667
45 ... 38667
65 ... 38667
71 ... 38910, 39289
91 ... 38667

14 CFR—Continued Page

PROPOSED RULES—Continued

207 ... 39289
208 ... 39289
212 ... 39289
214 ... 39289
217 ... 39289
241 ... 39289
249 ... 39289
375 ... 39293

15 CFR

368 ... 39034
372 ... 39032
373 ... 39033
374 ... 39033
375 ... 39033
386 ... 39033

16 CFR

13 ... 38637–38643

18 CFR

PROPOSED RULES:

11 ... 39055

19 CFR

PROPOSED RULES:

24 ... 39044

20 CFR

404 ... 38892

21 CFR

1 ... 38644
46 ... 39034
51 ... 39034
121 ... 38894–38896
135 ... 38896, 38897
135a ... 38644
135b ... 38644, 38897
135c ... 39034
135e ... 38896, 38897, 38898
135e ... 38896, 38897, 39035
149b ... 38897

PROPOSED RULES:

32 ... 39046
121 ... 38907
135 ... 38909
328 ... 38909
620 ... 39046

22 CFR

41 ... 38898

23 CFR

820 ... 39264

PROPOSED RULES:

630 ... 38911

24 CFR

201 ... 38905
1915 ... 38626, 39265, 39266

PROPOSED RULES:

115 ... 38909, 38910
275 ... 39284
410 ... 39285, 39287

25 CFR Page

233 ... 38898

26 CFR

PROPOSED RULES:

1 ... 38906

29 CFR

1903 ... 39036
1952 ... 39036, 39037
1954 ... 39036

PROPOSED RULES:

553 ... 38663
1952 ... 39045

30 CFR

11 ... 39039

PROPOSED RULES:

77 ... 38660

31 CFR

PROPOSED RULES:

129 ... 38772
202 ... 39044
203 ... 39044

32 CFR

PROPOSED RULES:

1602 ... 38670
1603 ... 38670
1604 ... 38670, 38674
1608 ... 38674
1613 ... 38674
1622 ... 38670
1623 ... 38670
1624 ... 38670
1625 ... 38670
1631 ... 38670
1632 ... 38670
1641 ... 38670
1643 ... 38670
1660 ... 38675
1661 ... 38670
1680 ... 38670

33 CFR

117 ... 39040

PROPOSED RULES:

117 ... 39046

38 CFR

21 ... 39040

PROPOSED RULES:

21 ... 39058

39 CFR

257 ... 39017
258 ... 39019
262 ... 39019
273 ... 39019

40 CFR

PROPOSED RULES:

52 ... 38645, 39048, 39295
120 ... 38668
180 ... 39295

41 CFR — Page

7-7 — 38645
7-15 — 38645
101-20 — 39266
101-32 — 39041

43 CFR

PUBLIC LAND ORDERS:

5438 — 38646
5439 — 38646

45 CFR

190 — 39412
233 — 38902
249 — 39267
1400 — 38999
1403 — 38900
1405 — 38901
1407 — 38904
1409 — 39005
1410 — 39005
1412 — 39006

45 CFR—Continued — Page

1414 — 39007
1415 — 39008
1417 — 39010
1419 — 39011
1420 — 39012
1422 — 39013
1424 — 39014

PROPOSED RULES:

103 — 38666

46 CFR

506 — 38647

PROPOSED RULES:

57 — 38667
151 — 39046
401 — 39047

47 CFR

1 — 38651
2 — 38902

47 CFR—Continued — Page

73 — 38651, 38653
74 — 38652
83 — 38658
89 — 38902

PROPOSED RULES:

63 — 39049
73 — 38668, 39049
76 — 39050
83 — 39054
97 — 39055

49 CFR

1 — 39043
574 — 38658
1033 — 38658

PROPOSED RULES:

192 — 39048
582 — 38912

50 CFR

28 — 38659

FEDERAL REGISTER PAGES AND DATES—NOVEMBER

Pages	*Date*
38625–38885	Nov. 1
38887–39015	4
39017–39256	5
39257–39424	6

reminders

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

Rules Going Into Effect Today

This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

page no. and date

Next Week's Deadlines for Comments on Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—
- Middle Atlantic, New York and New Jersey; milk marketing orders; comments by 11–13–74.... 37926; 10–24–74
- Milk in Nebraska-Western Iowa marketing area; comments by 11–14–74..... 38233; 10–30–74

Agricultural, Stabilization and Conservation Service—
- Peanuts; 1975 national marketing quota; comments by 11–11–74. 36489; 10–10–74

Commodity Credit Corporation—
- Cigar tobacco; grade loan rate for price support on 1974-crop; comments by 11–15–74. 36972; 10–16–74

ATOMIC ENERGY COMMISSION

- Construction permit or operating license; initial treatment of applications; comments by 11–11–74.. 34423; 9–25–74
- Transuranic waste disposal; standards for radiation protection, exemptions and continued regulatory authority (2 documents); comments by 11–11–74..... 32921; 9–12–74

CIVIL AERONAUTICS BOARD

- Rules of practice in economic proceedings; comments by 11–11–74. 34570; 9–26–74

COMMERCE DEPARTMENT

Patent Office—
- Interference practice; clarification of testimony requirements; comments by 11–15–74..... 30358; 8–22–74

ENVIRONMENTAL PROTECTION AGENCY

- Environmental review guidelines for use by community development applicants; comments by 11–11–74. 36553; 10–10–74
- Oregon; air quality implementation plan; comments by 11–11–74. 36602; 10–11–74
- Pesticide programs; registration, reregistration, and classification procedures; comments by 11–15–74. 36973; 10–16–74

FEDERAL COMMUNICATIONS COMMISSION

- Common services and facilities; regulatory policies concerning resale and shared use; comments by 11–11–74. 29936; 8–19–74
- Importation of certain electronic equipment; comments by 11–12–74..... 35182; 9–30–74

FEDERAL HOME LOAN BANK BOARD

- Pension funds insurance; separate coverage for nonvested or contingent interest; comments by 11–11–74. 36494; 10–10–74

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—
- Certain halogenated salicylanilides as active or inactive ingredients in drug and cosmetic products; additional comments by 11–12–74. 35675; 10–3–74

Office of Education—
- Research Projects in Vocational Education; comments by 11–11–74. 36592; 10–11–74

Office of the Secretary—
- Informal grant appeals procedures; indirect cost appeals; comments by 11–14–74..... 36861; 10–15–74

INTERIOR DEPARTMENT

Bureau of Land Management—
- Oil and gas leasing; continuation by drilling; comments by 11–15–74. 36348; 10–9–74

Fish and Wildlife Service—
- Steel/nontoxic shotgun shell regulations; comments by 11–15–74. 26745; 7–23–74

LABOR DEPARTMENT

Wage and Hour Division—
- Employment of minors below certain ages; records; proof of age; comments by 11–14–74..... 36940; 10–15–74
- Student Learners; employment in logging occupations; comments by 11–11–74..... 36592; 10–11–74

LIBRARY OF CONGRESS

- Materials not subject to copyright; typeface designs; comments by 11–15–74. 32631; 9–10–74

TRANSPORTATION DEPARTMENT

Coast Guard—
- Bayou Teche, Franklin Canal, Lower Atchafalaya River, La.; drawbridge operation regulations; comments by 11–12–74..... 36349; 10–9–74
- Load line regulations; protection of crew; rail height adjustment; comments by 11–15–74..... 35820; 10–4–74
- Standards for protection against radiation; exposure; comments by 11–15–74..... 35820; 10–4–74
- Welding and brazing requirements; comments by 11–11–74.... 34565; 9–26–74

Federal Aviation Administration—
- Ground proximity warning system; turbine powered airplanes; comments by 11–16–74..... 36017; 10–7–74
- Transition area; designation, Clearfield, Pa.; comments by 11–15–74. 36973; 10–16–74
- Transition area; alteration and designation, Westminister, Md.; comments by 11–15–74..... 36972; 10–16–74
- VOR Federal airway; alteration; comments by 11–14–74..... 36862; 10–15–74
- Restricted area; alteration; comments by 11–14–74..... 36863; 10–15–74

Federal Highway Administration—
- Urban area boundaries; comments by 11–15–74..... 36350; 10–9–74

Hazardous Materials Regulations Board—
- Packaging requirements for transportation; comments by 11–12–74. 36596; 10–11–74

National Highway Safety Administration—
- Motor vehicle safety standards; seat belt adjustment requirements; comments by 11–12–74..... 32624; 9–10–74

TREASURY DEPARTMENT

Internal Revenue Service—
- Income tax; limitations on carryovers of unused credits and capital losses; comments by 11–15–74. 36968; 10–16–74

VETERANS ADMINISTRATION

- Veterans benefits; World War I training camps; comments by 11–11–74. 36610; 10–11–74

WATER RESOURCES COUNCIL

Freedom of information; policy on disclosure of records; comments by 11–14–74..... 36870; 10–15–74

Next Week's Hearings

AGRICULTURE DEPARTMENT

Forest Service—
Oregon Dunes National Recreation Area Wilderness; to be held in Salem, Oregon on 11–14–74. 36622; 10–11–74

DEFENSE DEPARTMENT

Department of the Air Force—
Norton Air Force Base, Calif., proposed joint City/Air Force use of Norton Air Force Base, San Bernardino, Calif.; to be held in San Bernardino, Calif. on 11–14–74. 37785; 10–24–74

COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT FOR THE CONDUCT OF FOREIGN POLICY

National Security, Arms Control, International Economic Policy; to be held in Atlanta, Georgia on 11–12–74. 36634; 10–11–74

NATIONAL TRANSPORTATION SAFETY BOARD

Eastern Airlines, Inc.; to be held at Charlotte, North Carolina on 11–12–74..... 34609; 9–26–74

Next Week's Meetings

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—
Shippers Advisory Committee; to be held in Lakeland, Florida (open) 11–12–74..... 37657; 10–23–74

ATOMIC ENERGY COMMISSION

Advisory Committee on Reactor Safeguards to be held in Washington, D.C. (open with restrictions) 11–14–74..... 38276; 10–30–74

Advisory Committee on Reactor Safeguards to be held in Washington, D.C. (open with restrictions) 11–15–74..... 38276; 10–30–74

Advisory Committee on Reactor Safeguards to be held in Washington, D.C. (open with restrictions) 11–16–74..... 38276; 10–30–74

Advisory Committee on Reactor Safeguard's Subcommittee on St. Lucie Nuclear Generating Station, Unit 1; to be held in Washington, D.C. (open with restrictions) 11–12–74 (rescheduled from 10–8–74)..... 34320; 9–24–74

Advisory Committee on Reactor Safeguard's Subcommittee on St. Lucie Nuclear Generating Station, Unit 2; to be held in Washington, D.C. (open with restrictions) 11–13–74 (rescheduled from 10–9–74)..... 34320; 9–24–74

Reactor Safeguards Subcommittee on Regulatory Guides; to be held in Washington, D.C. (open with restrictions) 11–13–74..... 37797; 10–24–74

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—
Coastal Zone Management Advisory Committee; to be held in Washington, D.C. (open) on 11–14–74 and 11–15–74..... 36625; 10–11–74

COMMISSION ON CIVIL RIGHTS

Missouri State Advisory Committee; to be held in Columbia, Missouri (open with restrictions) 11–15–74.. 37802; 10–24–74

New York State Advisory Committee; to be held at New York, New York (open with restrictions) 11–14–74. 37008; 10–16–74

CONSUMER PRODUCT SAFETY COMMISSION

Technical Advisory Committee on Poison Prevention Packaging; to be held in Washington, D.C., 11–12 and 11–13–74..... 37667; 10–23–74

DEFENSE DEPARTMENT

Defense Science Board Task Force on Specifications and Standards; to be held in Washington, D.C. (closed) 11–14 and 11–15–74.. 37656; 10–23–74

Air Force Department—
Air Force Academy Board of Visitors; to be held in Colorado Springs, Colorado (open with restrictions) 11–14–74 through 11–17–74. 37219; 10–18–74

Scientific Advisory Board; to be held in Washington, D.C. (open and closed sessions) 11–12 and 11–13–74..... 37657; 10–23–74

Office of the Secretary—
Defense Science Board Task Force on "Export of U.S. Technology; Implications to U.S. Defense"; to be held in Hawthorne, California (closed) 11–15–74..... 36880; 10–15–74

Defense Systems Management School, to be held in Fort Belvoir, Va. (open with limitations); 11–12–74. 36497; 10–10–74

Defense Wage Committee, to be held in Washington, D.C. (closed); 11–12–74..... 36497; 10–10–74

DEFENSE MANPOWER COMMISSION

Commissioner's Review to be held in Washington, D.C. (open with space restrictions) 11–15–74..... 38281; 10–30–74

FEDERAL COMMUNICATIONS COMMISSION

Cable Television Technical Advisory Committee (CATV) to be held in Washington, D.C. (open), 11–14–74. 38284; 10–30–74

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Committee meeting to be held in Washington, D.C. (closed) 11–14–74. 37681; 10–23–74

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—
National Advisory Council on Vocational Education; to be held in Scottsdale, Arizona (open) 11–13 through 11–15–74..... 37661; 10–23–74

Food and Drug Administration—
Panel on Review of Internal Analgesic Including Antirheumatic Drugs; to be held in Rockville, Md. (open with restrictions) 11–11–74 and 11–12–74..... 37233; 10–18–74

Panel on Review of Neurology Devices; to be held in Washington, D.C. (open with restrictions) 11–13–74. 37233; 10–18–74

Panel on Review of Orthopaedic Devices; to be held in Memphis, Tenn. (open with restrictions) 11–16–74. 37233; 10–18–74

Panel on Review of Vitamin, Mineral, and Hematinic Drug Products; to be held in Washington, D.C. (open with restrictions) 11–15–74 and 11–16–74..... 37233; 10–18–74

Radioactive Pharmaceuticals Advisory Committee; to be held in Rockville, Md. (open with restrictions) 11–14–74 and 11–15–74..... 37233; 10–18–74

National Institutes of Health—
Board of Scientific Counselors of the National Institute of Arthritis, Metabolism, and Digestive Diseases; to be held in Bethesda, Md. (open and closed) 11–15 and 11–16–74. 37662; 10–23–74

Breast Cancer Treatment Committee; to be held at Bethesda, Md. (open with restrictions) 11–15–74. 37084; 10–17–74

National Advisory Neurological Diseases and Stroke Council; to be held at Bethesda, Md. (open with restrictions) 11–11–74.... 37086; 10–17–74

National Arthritis, Metabolism and Digestive Diseases Advisory Council; to be held in Bethesda, Maryland (open and closed) 11–14 and 11–15–74..... 36885; 10–15–74

National Heart and Lung Advisory Council; to be held at Bethesda, Md. (open with restrictions) 11–14 through 11–16–74..... 37087; 10–17–74

National Heart and Lung Institute; to be held in Bethesda, Md. (open with restrictions) 11–11–74. 37663; 10–23–74

Virus Cancer Program Scientific Review Committee A; to be held at Hershey, Pa. (open with restrictions) 11–10–74..... 37087; 10–17–74

Virus Cancer Program Scientific Review Committee B; to be held at Hershey, Pa. and Bethesda, Md. (open with restrictions) 11–10 and 11–14–74 respectively..... 37087; 10–17–74

Office of Education—
Teacher Corps; to be held at College Park, Georgia (open) 11–13–74. 36997; 10–16–74
Teacher Corps; to be held at Los Angeles, California (open) 11–15–74 36997; 10–16–74
Teacher Corps; to be held at New York, New York (open) 11–11–74. 36997; 10–16–74
Teacher Corps; to be held at St. Louis, Missouri (open) 11–14–74. 36997; 10–16–74

INTERIOR DEPARTMENT

Bureau of Land Management—
Bakersfield District Advisory Board, to be held in Bakersfield, California (open) 11–12–74 34590; 9–26–74
Boise District Advisory Board; to be held in Boise, Idaho (open with restrictions) 11–14–74 and 11–15–74 37785; 10–24–74
Craig District Grazing Advisory Board, Colorado; to be held in Craig, Colorado (open with restrictions) 11–15–74 37788; 10–24–74

Land Management Bureau—
Malta District Advisory Board; to be held in Malta, Montana (open) 11–15–74 37657; 10–23–74
M–2 and M–3 Miles City District Advisory Boards; to be held in Miles City, Montana (open with restrictions) 11–15–74 37786; 10–24–74
Nevada Grazing District Advisory Board; to be held at Ely and Battle Mountain (open) 11–14–74. 35691; 10–3–74
Prineville District Advisory Board; to be held at Prineville, Oregon (open with restrictions) 11–12–74. 37077; 10–17–74
Rawlins District Advisory Board; to be held in Rawlins, Wyoming (open with restrictions) 11–14–74. 37221; 10–18–74
Vernal District Grazing Advisory Board to be held in Vernal, Utah (open); 11–21–74 38243; 10–30–74
Worland District Advisory Board; to be held in Worland, Wyoming (open with restrictions) 11–13–74. 37221; 10–18–74

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Woods Hole Oceanographic Institution; to be held at Woods Hole, Massachusetts; (open) 11–11 and 11–12–74. 35718; 10–3–74

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Community Advisory Group; to be held at Washington, D.C. (open with restrictions) 11–14–74 37017; 10–16–74

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration—
National Motor Vehicle Safety Advisory Council; to be held in Washington, D.C. (open) 11–12 through 11–14–74 37665; 10–23–74

U.S. INFORMATION AGENCY

English Teaching Advisory Panel; to be held in Washington, D.C. (open) 11–13–74 37440; 10–21–74

VETERANS ADMINISTRATION

Medical Research Service Merit Review Boards; to be held at Washington, D.C. (open with restrictions) 11–12–74 32071; 9–4–74

Weekly List of Public Laws

This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statutes citation. Subsequent lists will appear every Wednesday in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

H.R. 6642 Pub. Law 93–490
Bicycle parts, duty suspension; Internal Revenue Code of 1954, amendments
(Oct. 26, 1974; 88 Stat. 1466)

H.R. 7780 Pub. Law 93–499
Certain silk yarns, duty suspension, extension; Internal Revenue Code of 1954, amendments
(Oct. 29, 1974; 88 Stat. 1549)

H.R. 11221 Pub. Law 93–495
Deposit insurance, increase; establishment of a National Commission on Electronic Fund Transfers
(Oct. 28, 1974; 88 Stat. 1500)

H.R. 11251 Pub. Law 93–482
Methanol, duty suspension; Internal Revenue Code of 1954, amendments
(Oct. 26, 1974; 88 Stat. 1456)

H.R. 11452 Pub. Law 93–480
Crude feathers and downs, anomaly correction in duty rate; Internal Revenue Code of 1954, amendments
(Oct. 26, 1974; 88 Stat. 1454)

H.R. 11830 Pub. Law 93–470
Synthetic rutile, duty suspension
(Oct. 26, 1974; 88 Stat. 1422)

H.R. 12035 Pub. Law 93–483
Carboxymethyl cellulose salts, duty suspension; Internal Revenue Code of 1954, amendments
(Oct. 26, 1974; 88 Stat. 1457)

H.R. 12281 Pub. Law 93–497
To continue until June 30, 1975, the suspension of duties on certain forms of copper; Internal Revenue Code of 1954, amendments
(Oct. 29, 1974; 88 Stat. 1534)

H.R. 13157 Pub. Law 93–486
Certain National Historic Sites, establishment
(Oct. 26, 1974; 88 Stat. 1461)

H.R. 13561 Pub. Law 93–487
Intercoastal Shipping Act, 1933, amendment
(Oct. 26, 1974; 88 Stat. 1463)

H.R. 13631 Pub. Law 93–484
Horses, duty suspension; Social Security Act, amendments

H.R. 14217 Pub. Law 93–477
National Park System, appropriation ceilings increase, boundary changes, etc.
(Oct. 26, 1974; 88 Stat. 1445)

H.R. 15427 Pub. Law 93–496
Amtrak Improvement Act of 1974
(Oct. 28, 1974; 88 Stat. 1526)

H.R. 15540 Pub. Law 93–472
Marine Protection, Research, and Sanctuaries Act of 1972, authorization extension
(Oct. 26, 1974; 88 Stat. 1430)

H.R. 15643 Pub. Law 93–471
District of Columbia Public Postsecondary Education Reorganization Act
(Oct. 26, 1974; 88 Stat. 1423)

H.R. 15736 Pub. Law 93–493
The Reclamation Development Act of 1974
(Oct. 27, 1974; 88 Stat. 1486)

H.R. 17027 Pub. Law 93–478
National Visitor Center Facilities Act of 1968, amendment
(Oct. 26, 1974; 88 Stat. 1449)

S. 355 Pub. Law 93–492
Motor Vehicle and Schoolbus Safety Amendments of 1974
(Oct. 27, 1974; 88 Stat. 1470)

S. 628 Pub. Law 93–474
Chapter 83 of title 5 of the United States Code, amendment
(Oct. 26, 1974; 88 Stat. 1438)

S. 1411 Pub. Law 93–491
Sisseton and Wahpeton Sioux Tribe, North and South Dakota, consolidation of land holdings
(Oct. 26, 1974; 88 Stat. 1468)

S. 1412 Pub. Law 93–489
Sisseton-Wahpeton Sioux Tribe, North and South Dakota, lands held in trust
(Oct. 26, 1974; 88 Stat. 1465)

S. 1769 Pub. Law 93–498
Federal Fire Prevention and Control Act of 1974
(Oct. 29, 1974; 88 Stat. 1535)

S. 2840 Pub. Law 93–479
Foreign Investment Study Act of 1974
(Oct. 26, 1974; 88 Stat. 1450)

S. 3007 Pub. Law 93–494
Appropriations for the Indian Claims Commission and other purposes
(Oct. 27, 1974; 88 Stat. 1499)

S. 3234 Pub. Law 93–473
Solar Energy Research, Development, and Demonstration Act of 1974
(Oct. 26, 1974; 88 Stat. 1431)

S. 3355 Pub. Law 93–481
Controlled Substances Act, amendment
(Oct. 26, 1974; 88 Stat. 1455)

S. 3473 Pub. Law 93–475
State Department/USIA Authorization Act, Fiscal Year 1975
(Oct. 26, 1974; 88 Stat. 1439)

S. 3698 Pub. Law 93–485
Atomic Energy Act of 1954, amendment
(Oct. 26, 1974; 88 Stat. 1460)

S. 3792 Pub. Law 93–500
Export Administration Amendments of 1974
(Oct. 29, 1974; 88 Stat. 1552)

S. 3838 Pub. Law 93–501
Debt obligations, issuance and sale, regulation
(Oct. 29, 1974; 88 Stat. 1557)

S. J. Res. 236..... Pub. Law 93–476
Metropolitan Museum of New York, indemnification provision
(Oct. 26, 1974; 88 Stat. 1444)

S. J. Res. 250..... Pub. Law 93–488
Regional Rail Reorganization Act's reporting date, extension
(Oct. 26, 1974; 88 Stat. 1464)

The following bills were vetoed by the President:

H.R. 13342, Farm Labor Contractor Registration Act Amendments of 1974. Message dated October 29, 1974; Weekly Compilation of Presidential Documents, Vol. 10, No. 44.

H.R. 14225, Rehabilitation Act Amendments of 1974. Message dated October 29, 1974; Weekly Compilation of Presidential Documents, Vol. 10, No. 44.

rules and regulations

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

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

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 591—ALLOWANCES AND DIFFERENTIALS

Rates for Guam, Puerto Rico, and the Virgin Islands

On June 27, 1973, there was published in the FEDERAL REGISTER (38 FR 16850) a complete revision to Part 591. This revision was necessary to accommodate new program responsibilities assigned to the Civil Service Commission, and resulted in retitling and renumbering of the subparts and sections. This revision did not include changes that were published on May 25, 1973, in the FEDERAL REGISTER (38 FR 13726), and these changes were not incorporated in the January 1, 1974, revision of Title 5, Code of Federal Regulations. In addition, effective the first day of the pay period beginning on or after August 18, 1974, the Commission approved an increase in the cost of living allowance to ten percent for the Virgin Islands for employees who do not live in government housing. The five percent cost of living allowance previously authorized will be terminated effective the pay period that begins on or after October 1, 1974, for employees who occupy government housing. Effective the same day, the Commission approved a cost of living allowance of seven and one-half percent for Guam for employees who do not have military commissary and post exchange privileges. Therefore, §§ 591.203, 591.204, and 591.207 are amended accordingly.

Section 591.203 is amended to read as follows:

§ 591.203 Places and rates at which allowances shall be paid.

* * * * *

Commonwealth of Puerto Rico: 7.5 percent of basic pay.

* * * * *

Virgin Islands: 10 percent of basic pay for eligible employees.

Guam: 7.5 percent of basic pay for eligible employees.

* * * * *

2. Section 591.204 is amended to read as follows:

§ 591.204 Places and rates at which differentials shall be paid.

* * * * *

Guam: 25 percent of rate of basic pay; effective the beginning of the first pay period after January 1, 1974, reduced to 22.5 percent; and effective the first pay period after January 1, 1975, reduced to 20 percent of basic pay.

3. Section 591.207 is revised to read as follows:

§ 591.207 Deductions from allowances.

In accordance with the provisions of section 205(b)(2) of Executive Order 10,000, as amended, deductions from allowances of the following classes of employees shall be made at the following places and rates:

Virgin Islands: 10 percent for employees occupying government housing.

Guam: 7.5 percent for employees with access to military commissary and post exchange facilities.

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

[FR Doc.74-25964 Filed 11-5-74;8:45 am]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 1—ADMINISTRATIVE REGULATIONS

Revocation of Obsolete Authority

Section 1.201, Subpart H, Part 1, Subtitle A, Title 7, Code of Federal Regulations is revoked as obsolete. The provisions contained therein were replaced by § 2.7 of Title 7.

Subpart H is hereby reserved.

Effective date: November 6, 1974.

Done at Washington, D.C., this 1st day of November 1974.

EARL L. BUTZ,
Secretary.

[FR Doc.74-25974 Filed 11-5-74;8:45 am]

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

[Grapefruit Reg. 26, Amdt. 1]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Limitation of Shipments

This amendment sets the minimum size requirement for shipments of grapefruit grown in the Lower Rio Grande Valley at 3$^5/_{16}$ inches for the period November 4 through December 8, 1974, rather than 3$^9/_{16}$ inches currently established for the period. This requirement is designed to promote orderly marketing and provide consumers with an ample supply of acceptable-quality fruit.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of grapefruit grown in the Lower Rio Grande Valley in Texas, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Texas Valley Citrus Committee (established under the aforesaid amended marketing agreement and order), and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

Shipment of grapefruit 3$^5/_{16}$ inches in diameter and larger is currently authorized under Grapefruit Regulation 25 (38 FR 28284) through November 3, 1974. Grapefruit regulation 26 (39 FR 36851), which becomes effective November 4, 1974, would set the minimum at 3$^9/_{16}$ inches. However, this requirement should be modified to allow the continued shipment of grapefruit 3$^5/_{16}$ inches in diameter beyond November 3, 1974, as fruit of smaller sizes is now in limited supply, and there is a strong demand for the smaller-sized fruit. Recent unusually cool, wet weather and the light fruit set have led to accelerated fruit growth and a predominance of larger sizes. The light fruit set makes it economically unfeasible to pick many groves more than once. Thus, the smaller fruit is not being left on the trees to be harvested later as is the normal practice. At this time the processing outlet for smaller fruit is not attractive because of low juice prices.

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

Order. The provisions of paragraph (a)(2) of § 906.355 Grapefruit Regulation 26 (39 FR 36851) are amended to read as follows:

§ 906.355 Grapefruit Regulation 26.

(a) *Order.* (1) * * *

(2) Any grapefruit of any variety, grown in the production area, which are smaller than pack size 96, as such size is specified in § 51.630(c) of the U.S.

Standards for Grapefruit (Texas and States other than Florida, California, and Arizona), except that the minimum diameter limit for pack size 96 grapefruit in any lot shall be 3$^{9}/_{16}$ inches: *Provided*, That during the periods November 4, 1974, through December 8, 1974, and February 24, 1975, through November 2, 1975, no handler shall handle any grapefruit of any variety, grown in the production area, which are smaller than pack size 112, as such size is specified in § 51.630(c) of the aforesaid U.S. Standards for Grapefruit, except that the minimum diameter limit for pack size 112 grapefruit in any lot shall be 3$^{5}/_{16}$ inches;

* * * * *

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

Dated, November 1, 1974, to become effective November 4, 1974.

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

[FR Doc.74-25977 Filed 11-5-74;8:45 am]

PART 981—ALMONDS GROWN IN CALIFORNIA

Crediting for Paid Advertising

Notice of a proposal to amend Subpart —Administrative Rules and Regulations (7 CFR 981.441–981.482; 39 FR 23239) was published in the October 2, 1974, issue of the FEDERAL REGISTER (39 FR 35576). The amendment would revise § 981.441 Crediting for paid advertising with respect to the following: Outdoor advertising; advertising in Canada; and use of rate cards.

The subpart is pursuant to the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981), hereinafter collectively referred to as the "order", regulating the handling of almonds grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal is based on a unanimous recommendation of the Almond Control Board.

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal; one such comment was received from the Almond Control Board.

Section 981.41 of the order provides, in part, that the Almond Control Board may provide for crediting the pro rata expense assessment obligations of a handler with such portion of his direct expenditure for such marketing promotion including paid advertising as may be authorized. Rules and regulations pertaining to creditable advertising are contained in § 981.441.

Paragraph (b) of § 981.441 currently provides that for outdoor advertising the applicable rate schedules must be those published by the National Outdoor Advertising Bureau or the Traffic Audit Bureau. However, neither of these organizations currently publishes rate schedules for outdoor advertising. Such rate schedules are included in the Buyers Guide for Outdoor Advertising, but this Guide is not all inclusive in that it does not list smaller companies. It was, therefore, proposed that paragraph (b) be amended so that in the case of outdoor advertising, the Buyers Guide to Outdoor Advertising shall be used or, in the absence of a listing in that Guide, other documentation satisfactory to the Control Board as prescribed in § 981.441(g)(3).

The comment indicated that it was the intent of the Control Board to permit credit for outdoor advertising in Canada, as presently allowed in the United States. While it was not clear from the recommendation submitted by the Control Board that this was its intent, the Control Board's comment and other information furnished by it pursuant to the notice clarifies this. Therefore, authority is included in paragraph (b) of § 981.441 to permit credit for outdoor advertising in Canada.

The order authorizes credit for paid media advertising in foreign countries. Paragraph (e) of § 981.441 currently allows credit for a handler's foreign advertising which is conducted under contract with the Foreign Agricultural Service, U.S. Department of Agriculture. In addition to this authority, it was proposed that paragraph (e) be amended to allow credit for a handler's paid media expenditures for advertising in Canada. Except where specifically provided otherwise, the provisions of § 981.441 applicable to domestic advertising would also apply to credit for paid media advertising in Canada.

The proposal was also to amend § 981.441 to permit the use of rate cards for domestic broadcast media. A rate card is a schedule of fees for advertising which is published by agencies involved in broadcasting. Some types of broadcast packages involve rates that do not appear in Standard Rate and Data Service, which is the governing source for establishing the validity of claims for broadcast and printed media. Proposed § 981.441(f)(3) would permit the use of rate cards for such verification.

Section 981.441 would be further amended by revising a portion of paragraph (d)(1) and redesignating the portion so revised as paragraph (f)(3), and redesignating paragraphs (f) and (h) as subparagraphs (f)(1) and (f)(2), respectively.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Board, the comment received pursuant to the notice, and other available information, it is found that to amend the administrative rules and regulations pertaining to crediting handlers' assessment obligations for almonds and almond products will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) and for making it effective at the time hereinafter provided in that: (1) This action provides for crediting handler's assessment obligations for advertising almonds and almond products and imposes no restriction on handlers; (2) handlers are aware of this action and require no advance preparation to comply therewith; (3) the 1974–75 crop year began July 1, 1974, and this action should be made effective as soon as possible in that crop year to enable handlers to obtain maximum benefit from this action; and (4) no useful purpose would be served by postponing its effective time beyond that hereinafter provided.

It is, therefore, ordered, That § 981.441 of Subpart—Administrative Rules and Regulations (7 CFR 981.441–981.481; 38 FR 9987, 27381) be amended by revising paragraphs (b) and (e), and a portion of paragraph (d)(1) and redesignating the portion so revised as paragraph (f)(3), and redesignating paragraphs (f) and (h) as paragraphs (f)(1) and (f)(2), respectively.

§ 981.441 Crediting for paid advertising.

* * * * *

(b) Each advertisement must be published, broadcast, or shown during the crop year for which credit is requested. In the case of broadcast or print, the media used must be any domestic or Canadian advertising media listed by Standard Rate and Data Service. In the case of outdoor advertising, the media used shall be domestic media listed by the Buyers Guide to Outdoor Advertising, or Canadian media listed by the Standard Rate and Data Service, or in the absence of such listings, verified by the documentation prescribed in paragraph (g)(3) of this section.

* * * * *

(d) Credit against the assessment obligation shall be obtained as follows:

(1) Expenditures may be credited for 100 percent of the payment to the advertising medium: (i) For a generic advertisement of California almonds; (ii) for an advertisement of the handler's brand of almonds; or (iii) when either of these advertisements includes reference to a complementary commodity or product and the entire expenditure is borne by the handler; or

* * * * *

(e) Credit for media expenditures in a foreign country shall be as follows:

(1) Credit shall be allowed for a handler's media expenditures for advertising conducted in Canada. Except where specifically provided otherwise, the provisions of this section applicable to credit for domestic advertising shall also apply to credit for advertising in Canada.

(2) Credit shall also be allowed for the handler's unreimbursed media expenditures for advertising in any foreign country pursuant to a contract with the Foreign Agricultural Service, U.S. Department of Agriculture, and the advertisement also meets the requirements of

paragraphs (c) and (g), and the limitations of paragraphs (f) (1) and (2), of this section.

(f) Credit granted a handler shall be subject to other conditions as follows:

(1) No credit shall be granted to a handler when more than two complementary branded products are included in an advertisement.

(2) Advertisements which, in addition to promoting California almonds, also mention or promote the sale of non-complementary commodities or products, or of competing nuts, shall not be eligible for credit.

(3) Credit for paid expenses for advertising in the media in paragraph (b) shall not exceed the maximum rate for the space or time unit published in the Buyers Guide to Outdoor Advertising or by Standard Rate and Data Service, but in the case of special domestic broadcasting rates not covered by Standard Rate and Data Service, the maximum rate shall be that shown on the applicable published rate card.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–647)

Dated: November 1, 1974, to become effective November 8, 1974.

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

[FR Doc.74-25976 Filed 11-5-74;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Changes in the Price Regulations

On September 6, 1974, the Federal Energy Administration issued a notice proposing a number of significant changes in the Mandatory Petroleum Price Regulations (39 FR 32718, September 10, 1974). Comments were invited from interested persons by September 27, 1974, and more than 80 comments were received. A public hearing on the proposal was held September 30 and October 1, 1974, at which approximately 20 interested persons presented statements. The FEA has considered carefully all comments and statements submitted in this proceeding, and has concluded that action should be taken as to certain of the possible changes in the price regulations proposed in the September 10, 1974, notice, to be effective beginning November 1, 1974, and that action on other possible changes should be deferred pending further study and analysis by the FEA.

Accordingly, the FEA is amending its regulations so that, beginning November 1, 1974, the proportional restrictions on the pass through of increased product costs contained in the refiner's "special products rule" is eliminated for gasoline, but is kept in effect for middle distillate (No. 2 heating oil and No. 2–D diesel fuel). The regulations governing the carry-forward from month-to-month of unrecouped increased product costs by refiners and by resellers and retailers are also being modified to limit the amount of such costs which can be used to increase prices in any single month.

Action on all other revisions to the price regulations proposed in the September 10 notice is deferred until a later date. However, those possible revisions continue to be under active consideration by FEA for decision in this proceeding.

Changes in the Special Products Rule. The proportional increased cost pass through restrictions of the special products rule (§ 212.83(c)(2)(i)) are eliminated with respect to gasoline. This is being accomplished by the addition of a new § 212.83(c)(1)(iv), which will permit the transfer to gasoline prices of increased product costs that would otherwise be attributable under the refiner's cost formulae of § 212.83(c) to covered products other than special products. Gasoline will, however, continue to be defined as a "special product," and the formula for special products (§ 212.83(c)(2)(i)) will continue to apply to gasoline, except that, as noted above, increased product costs otherwise allocable to covered products other than special products may, under a new section of the regulations, be allocated to gasoline. Since gasoline continues to be defined as a "special product," the restriction to once-a-month price increases for special products of § 212.83(c)(1)(i) continues to apply to gasoline.

These changes, while affording pricing flexibility for refiners with respect to gasoline, will facilitate the monitoring by FEA of the actions taken by refiners in allocating increased product costs to gasoline prices.

There was almost no opposition expressed to eliminating the special product rule for gasoline, and FEA has concluded that this step should be taken to eliminate a restriction that is no longer appropriate in light of current conditions. The current and projected supply situation for gasoline makes the likelihood of significant price increases on gasoline remote, in the absence of further product cost increases. To the extent that any increases are implemented, however, they could be expected to result in further reductions in consumption. The FEA has found in the months since the special products rule was first adopted that demand for gasoline has proved to be more responsive to price movements than was originally thought.

Further, to the extent that increased product costs formerly required to be allocated to prices of covered products other than special products can now be shifted to gasoline prices, the pressure to apply those costs to products which are not in the special products category should be reduced. Since gasoline accounts for a relatively large volume of the production of most refiners, even a slight increase in gasoline prices could contribute significantly to reducing prices for other products which are not in the special products category.

The FEA also proposed in its September 10 notice that the special products rule be eliminated with respect to middle distillate. Strong opposition to this proposal was expressed by non-refiners, particularly by resellers and retailers of home heating oil. This opposition was essentially on the grounds that demand for home heating oil is much less responsive to price increases than is demand for gasoline, and that further price increases on home heating oil would cause significant hardship to those dependent on that fuel to heat their homes. It was also urged that projected natural gas shortages this winter could lead to increased consumption of middle distillate and corresponding reductions in supplies, which could contribute to a situation in which, absent the special products rule, a higher increased product cost pass through could be implemented on prices changed for home heating oil.

In light of these considerations, FEA has concluded that it would be premature to discontinue the special products rule for middle distillate.

Changes in the regulations governing the carry-forward of unrecouped increased product costs by refiners and by resellers and retailers. The regulations governing the carry-forward of unrecouped increased product costs by refiners and by resellers and retailers are amended to limit the application of increased product costs which are not recouped in the first month in which they are available for pass through and which are carried forward for use in a subsequent month. For refiners, beginning November 1, 1974, the amount of such "banked" costs (i.e., increased product costs other than those incurred in the month of measurement preceding the current month) which can be used to effect price increases in a single month is limited to a dollar amount equal to 10 percent of a refiner's total amount of banked costs as of October 31, 1974, or as of the end of any month thereafter, whichever is higher. A similar amendment is being made to reseller and retailer price regulations.

FEA proposed in its September 10 notice that the regulations for carry forward of unrecouped increased product costs be essentially eliminated prospectively, and that existing "banks" be phased out on a "take or lose" basis. There was nearly unanimous opposition by refiners and by resellers and retailers to this proposal. FEA has concluded that such a phase out of existing banks might arguably have had a modest inflationary effect, since it would have given sellers an incentive to recover the maximum amount of increased product costs as soon as possible. FEA has also concluded that prospective elimination of banking provisions is impracticable, at least until a means of equalizing crude oil costs among refiners has been made effective.

FEA is nevertheless concerned over the large amounts of "banked" costs which

have been accumulated, since they provide the potential for drastic price increases if short-term supply problems arise.

Accordingly, the amended regulations adopted today do not eliminate future accumulation of unrecouped increased product costs, as now provided for under the current regulations, nor do they require existing amounts of unrecouped increased product costs to be passed through in product prices on a "take or lose" basis. However, the amended regulations do restrict the amount of such "banked" costs which may be used to increase prices in a particular month to an amount which is equal to 10 percent of the total amount of unrecouped increased product costs available for pass through at the end of October 1974, or any month thereafter, whichever is higher.

The FEA has determined that this limitation is reasonable and necessary in order to eliminate the potential for drastic price increases in a single month, which could otherwise result from the pass through in that month of unrecouped increased product costs that have been accumulated over the course of several months.

The September 10 notice also proposed to amend the refiner's cost allocation formulae of § 212.83(c) to include a special provision to eliminate from the total "bank" of unrecouped increased product costs of each refiner any amounts attributable to double booking of crude oil costs which might have been made under a misinterpretation of former § 212.88 (e) of the regulations. Since the issuance of the September 10 notice, FEA has determined that neither § 212.88(e), nor any other provision of the price regulations, permits such double cost pass through. FEA Ruling 1974–26 provides guidance on the proper method for accounting for the costs of crude oil acquired by a refiner, including the method of accounting for crude oil resold under the mandatory allocation program.

The issuance of FEA Ruling 1974–26 has made unnecessary any special amendment to the refiner's cost allocation formulae to eliminate possible double accounting for costs in preceding months. To avoid any possible confusion in computing such costs in future months, however, FEA is making certain clarifying changes in the definitions of the "C^t" and "Q^t" factors of the refiner's cost formulae of § 212.83(c)(2). These changes are to further clarify that the overall operation of the FEA price regulations, as discussed in greater detail in FEA Ruling 1974–26, permits recovery of no more and no less than the actual amount of increased product costs on a dollar-for-dollar basis.

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

In consideration of the foregoing, Part 212 of Chapter II, Title 10 Code of Federal Regulations, is amended as set forth below, effective immediately.

Issued in Washington, D.C., November 1, 1974.

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

1. Section 212.83 is amended by adding paragraph (c)(1)(iv), amending paragraph (2) in the general formula and the definitions of "A^t" and "$H_i u$", and adding (d)(3) to read as follows:

§ 212.83 Allocation of refiner's increased product costs.

* * * * *

(c) *Allocation of increased costs.*—(1) *General rule.* * * *

(iv) *Special gasoline rule.* Notwithstanding the provisions of this section, a refiner, in computing base prices for gasoline (i=2) may include in those prices (A) that portion of the increased product costs attributable to all covered products other than special products and crude petroleum (i=3) which is not used in computing base prices for covered products other than special products and crude petroleum (i=3), plus (B) that portion of the unrecouped increased product costs carried forward pursuant to paragraph (d) of this section which is attributable to all covered products other than special products and crude petroleum (i=3) which is not used in computing base prices for covered products other than special products and crude petroleum (i=3). Refiners that include increased product costs in the base price of gasoline pursuant to this paragraph (c)(1)(iv) shall reflect that fact by an increase in the "$H_i t$" factor (for increased product costs in the period "t") or in the "$G_i t$" factor (for unrecouped increased product costs), as appropriate.

* * * * *

(2) *General formulae.* (i) For special products (i=1 and i=2):

$$d_i{}^u = \frac{A^t\left(\frac{V_i{}^n}{V^n}\right) + B_i{}^t + G_i{}^t \pm H_i{}^u}{V_i{}^u}$$

(ii) For covered products other than special products (i=3):

$$D_i{}^u = A^t\left(\frac{V_i{}^n}{V^n}\right) + B_i{}^t + G_i{}^t \pm H^u$$

* * * * *

$$A^t = Q^t\left(\frac{C^t}{Q^t} - \frac{C^o}{Q^o}\right)$$

Which is the total increased cost of crude petroleum purchased or landed in the period "t" (the month of measurement) for refining by that refiner.

where:

Q^t = The total quantity or volume of crude petroleum purchased or landed in the period "t" (the month of measurement) for refining or for resale under § 211.65, provided, however, that this amount shall be reduced by the quantity of crude petroleum sold under § 211.65 in the period "t" (the month of measurement).

Q^o = The total quantity or volume of crude petroleum purchased or landed in the period "o" (the month of May 1973) for refining.

C^o = The total cost of crude petroleum purchased or landed in the period "o" (the month of May 1973) for refining.

C^t = The total cost of crude petroleum purchased or landed in the period "t" (the month of measurement), for refining or for resale under § 211.65 provided, however, that this amount shall be reduced by the revenues from sales of crude petroleum under § 211.65 made in the period "t" (the month of measurement), except for any transportation adjustment or the handling fee provided for by § 212.94(b).

* * * * *

$H_i u$ = Where $H_i u$ is negative, the portion of the total dollar amount available in the period "u" (the current month) for inclusion in price adjustments to special products of the type "i" which pursuant to paragraph (c)(1)(ii) of this section the refiner elects to include in prices of covered products other than special products and crude petroleum (i=3) for the period "u" (the current month); or, where $H_i u$ is positive (for special product i=2), the portion of the total dollar amount available in the period "u" (the current month) for inclusion in price adjustments to covered products other than special products and crude petroleum (i=3) which pursuant to paragraph (c)(1)(iv) of this section, the refiner elects to include in prices of special product (i=2) for the period "u" (the current month).

H^u = Where H^u is positive, the sum of the dollar amounts available in the period "u" (the current month) for inclusion in price adjustments to special products which pursuant to paragraph (c)(1)(ii) of this section the refiner elects to include in calculating the base prices of covered products other than special products and crude petroleum for the period "u" (the current month); or where H^u is negative, the portion of the dollar amounts available in the period "u" (the current month) for inclusion in price adjustments to covered products other than special products and crude petroleum (i=3) which pursuant to paragraph (c)(1)(iv) of this section the refiner elects to include in calculating the base prices of special products (i=2) for the period "u" (the current month).

(d) *Carryover of costs.* * * *

(3) Notwithstanding the above provisions, the amount of unrecouped increased product costs calculated under the "$G_i t$" factor of the general formulae of paragraph (c)(2) of this section and carried forward pursuant to this paragraph (d) which may be used to compute base prices for the product or products

of the type "i" in the current month shall be limited to not more than:

(i) An amount which, when added to the increased product costs for the month of measurement, will provide for the same amount of increased product cost to be included in selling prices for the current month of the product or products of the type "i" as was included in the selling prices for the preceding month, on a weighted average per unit basis, plus

(ii) An amount which is not more than 10 percent of the amount of unrecouped increased product costs calculated under the "G_i t" factor of the general formulae of paragraph (c)(2) of this section and carried forward pursuant to this paragraph (d), as of October 31, 1974, or as of the end of any month thereafter.

* * * * *

Section 212.93 is amended by redesignating paragraph (f) as paragraph (g) and adding a new paragraph (f) to read as follows:

§ 212.93 Price rule.

* * * * *

(f) *Special rule on addition to May 15, 1973 prices of unrecouped increased costs of a product in a subsequent month.* The amount of unrecouped increased costs of product calculated and carried forward under paragraph (e) of this section which may be added to the May 15, 1973, selling prices of that product shall be limited to an amount which is not more than:

(1) An amount which, when added to May 15, 1973 selling prices, will provide for the same selling prices for that product in the current month as prevailed at the close of the preceding month, plus

(2) An amount which, based on estimated sales volumes for each product, will not result in the application to May 15, 1973 selling prices of more than 10 percent of the amount of unrecouped increased costs of product calculated and carried forward under paragraph (e) of this section, as of October 31, 1974, or as of the end of any month thereafter.

[FR Doc.74-25975 Filed 11-5-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 74-GL-26]

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

Extension of VOR Federal Airway

On August 28, 1974, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (39 FR 31329) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would extend V-175 from Redwood Falls, Minn., to Alexandria, Minn.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 2, 1975, as hereinafter set forth.

Section 71.123 (39 F. R. 307) is amended as follows:

In V-175 "Redwood Falls, Minn.," is deleted and "Redwood Falls, Minn.; Alexandria, Minn.," is substituted therefor.

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

Issued in Washington, D.C., on October 31, 1974.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74-25855 Filed 11-5-74;8:45 am]

[Airspace Docket No. 74-EA-34]

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

Alteration of Control Zone and Transition Area

On August 30, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 31649) stating that the Federal Aviation Administration proposed an amendment to Part 71 of the Federal Aviation Regulations that would alter the Farmingdale, N.Y., part-time Control Zone and Babylon, N.Y., 700-foot floor transition area.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t. January 2, 1975, as hereinafter set forth.

1. Section 71.171 (39 FR 354) Farmingdale, N.Y., is amended to read:

Within a 5-mile radius of Republic Airport, Farmingdale, N.Y., (latitude 40°43'45" N., longitude 73°24'50"W.), extending clockwise from 065° bearing to the 270° bearing and within a 6-mile radius extending clockwise from the 270° to the 065° bearing from the airport. This control zone shall be in effect from 0700 to 2300 hours, local time, daily.

2. Section 71.181 (39 FR 440) Babylon, N.Y., is amended to read:

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Republic Airport, Farmingdale, N.Y. (latitude 40°43'45" N., longitude 73°24'50" W.); within 4.5 miles northeast and 6.5 miles southwest of the Republic Airport ILS localizer northwest course, extending from the outer marker (latitude 40°46'35" N., longitude 73°28'59" W.) to 11.5 miles northwest of the outer marker; within 3.5 miles each side of a 155° bearing from the Babylon, N.Y., Radio Beacon extending from the 10-mile radius area to 11.5 miles southeast of the radio beacon; within 3.5 miles each side of a 165° bearing from the Babylon, N.Y., Radio Beacon extending from the 10-mile radius area to 11.5 miles southeast of the radio beacon; within a 9.5-mile radius of Grumman-Bethpage Airport (latitude 40°44'45" N., longitude 73°29'30" W.).

(Sec. 307(a), 1110, Federal Aviation Act of 1958, (49 U.S.C. 1348(a), 1510), Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 31, 1974.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74-25854 Filed 11-5-74;8:45 am]

[Airspace Docket No. 74-WA-30]

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

Alteration of VOR Federal Airways

On September 12, 1974, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (39 FR 32920) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter several airways in the vicinity of Monroe, La., due to the relocation of the Monroe VORTAC. The notice stated that Monroe VORTAC was being relocated to the Monroe Municipal Airport at Lat. 32°31'00" N., Long. 92°09'09" W., 5 miles northeast of its present location. The VORTAC is being relocated to the Monroe Municipal Airport 5 miles northeast, but the coordinate description of the new location should have been Lat. 32°31'00" N., Long. 92°02'09" W.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. The only comment received was from the Air Transport Association of America which endorsed the proposal, and recommended that V-94 be extended from Lambert, La., Intersection to Memphis, Tenn., as a common segment with the existing V-9W. The FAA concurs in this recommendation and such action is taken herein.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 2, 1975, as hereinafter set forth.

Section 71.123 (39 FR 307) is amended as follows:

1. In V-18 "Monroe, La., including a N alternate and also a S alternate via INT Shreveport 117° and Monroe 268° radials;" is deleted and "Monroe, La., including a N alternate and also a S alternate;" is substituted therefor.

2. In V-69 "Shreveport 087° and El Dorado, Ark., 218° radials; El Dorado, including a W alternate via INT Shreveport 087° and El Dorado 233° radials;" is deleted, and "Shreveport 084° and El Dorado, Ark., 218° radials; El Dorado, including a W alternate via INT Shreve-

port 084° and El Dorado 233° radials;" is substituted therefor.

3. In V–71 all before "Hot Springs, Ark.;" is deleted and "From Baton Rouge, La., via Natchez, Miss., including an E alternate via INT Baton Rouge 026° and Natchez 156° radials; Monroe, La., including a W alternate and also an E alternate via INT Natchez 341° and Monroe 105° radials; El Dorado, Ark.;" is substituted therefor.

4. In V–94 all after "Elm Grove, La.;" is deleted and "Monroe, La.; Greenville, Miss., including a W alternate; INT Greenville 036° and Memphis, Tenn., 205° radials; to Memphis. The airspace within R–5103A is excluded." is substituted therefor.

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

Issued in Washington, D.C., on October 30, 1974.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74–25851 Filed 11–5–74;8:45 am]

[Airspace Docket No. 74–RM–13]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

On September 11, 1974, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (39 FR 32759) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 73 of the Federal Aviation Regulations that would extend the southern boundary of restricted area R–2602 Fort Carson, Colo., to include a firing point for the Chaparral missile.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. No comments were received.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 2, 1975, as hereinafter set forth.

In § 73.26 (39 FR 658; 38 FR 35449) the description of R–2602 Fort Carson, Colo., is amended to read as follows:

R–2602 FORT CARSON, COLO.

BOUNDARIES

Beginning at Lat. 38°38'19"N., Long. 104° 52'00"W.; thence to Lat. 38°36'20"N., Long. 104°52'00"W.; to Lat. 38°32'06"N., Long. 104°49'18"W.; to Lat. 38°32'06"N., Long. 104°45'00"W.; to Lat. 38°25'35"N., Long. 104°45'00"W.; to Lat. 38°25'35"N., Long. 104°49'00"W.; to Lat. 38°26'10"N., Long. 104°49'00"W.; to Lat. 38°26'10"N., Long. 104°57'13"W.; to Lat. 38°32'58"N., Long. 104°57'00"W.; thence northeast along Colorado Highway Number 115 to point of beginning.

Designated altitudes. Surface to and including 35,000 feet MSL; 35,000 feet MSL to and including 60,000 feet MSL, by NOTAM issued 24 hours in advance.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Denver ARTC Center.

Using agency. Commanding General, Fort Carson, Colo.

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

Issued in Washington, D.C., on October 30, 1974.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74–25850 Filed 11–5–74;8:45 am]

[Airspace Docket No. 74–WA–34]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to change the controlling agency for restricted areas R–2202A Big Delta, Alaska, and R–2205A Yukon, Alaska.

The controlling agency for both R–2202A and R–2205A is the Fairbanks Air Route Traffic Control Center. However, effective January 2, 1975, the Fairbanks Center functions will be assumed by the Anchorage, Alaska, Air Route Traffic Control Center. Accordingly, it will then be necessary to designate the Anchorage Center as the new controlling agency for the aforementioned restricted areas.

Since the designation of a new controlling agency is a minor amendment upon which the public is not particularly interested, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended effective 0901 G.m.t., January 2, 1975, as hereinafter set forth.

In § 73.22 (39 FR 648):

a. The controlling agency for Restricted Area R–2202A Big Delta, Alaska, is changed to read as follows:

Controlling agency. Federal Aviation Administration, Anchorage ARTC Center.

b. The controlling agency for Restricted Area R–2205A Yukon, Alaska, is changed to read as follows:

Controlling agency. Federal Aviation Administration, Anchorage ARTC Center.

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

Issued in Washington, D.C., on October 31, 1974.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74–25856 Filed 11–5–74;8:45 am]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 14118; Amdt 95–252]

PART 95—IFR ALTITUDES

Miscellaneous Amendments

The purpose of this amendment to Part 95 of the Federal Aviation Regulations is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or portion thereof. These altitudes, when used in conjunction with the current changeover points for the routes or portions thereof, also assure navigational coverage that is adequate and free of frequency interference for that route or portion thereof.

As a situation exists which demands immediate action in the interest of safety, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 FR 5662), Part 95 of the Federal Aviation Regulations is amended, effective December 5, 1974, as follows:

1. By amending Subpart C as follows:

Section 95.1001 *Direct routes—U.S.*, is amended to read in part:

From, to, and MEA

Julian, Calif., VOR; Ontario, Calif., VOR; 8,000, MAA–41,000.
Jacksonville, Fla., VOR; Valdosta, Ga., VOR; *4,000. *1,500–MOCA.

Section 95.1001 *Direct routes—U.S.*, Puerto Rico routes—Route 1 is amended to read in part:

Mayaquez, P.R., VOR; Borinquen, P.R., VOR; 2,800.
Borinquen, P.R., VOR; *Utahs INT, P.R.; **2,500. *7,000–MRA. **1,800–MOCA.

Route 2 is amended by adding:

Borinquen, P.R., VOR; *Pueblo INT, P.R.; 2,000. *2,500–MRA.

Route 2 is amended to delete:

Ramey, P.R., VOR; *Pueblo INT, P.R.; 2,000. *2,500–MRA.

Route 3 is amended to read in part:

Steelhead INT, P.R.; *Utahs INT, P.R.; **7,000. *7,000–MRA. **1,200–MOCA.

Route 4 is amended to read in part:

*Idaho INT, P.R.; Borinquen, P.R., VOR; **2,500. *8,000–MRA. **1800–MOCA.
Borinquen, P.R., VOR; *Midway INT, P.R.; 5,300. *4,500–MRA.

Route 5 is amended to delete:

Ramey, P.R., VORTAC; *Bronson INT, P.R.; 1,800. *3,000–MRA.

Route 5 is amended by adding:

Borinquen, P.R., VOR; *Bronson INT, P.R.; 1,800. *3,000–MRA.

Section 95.5500 *High altitude RNAV routes:*

From/to, total distance, changeover point, distance from geographic location, track angle, MEA and MAA

J949R is amended to delete:

Greater Southwest, Tex., VORTAC; 172.4; 86.2; Greater Southwest; 148/328 to COP; 18,000; 45,000.
Magno, Tex., W/P; 31–29–19N; 96–23–45W; 150/330 to Magno.

J949R is amended by adding:

Greater Southwest, Tex., VORTAC; 160.0; 80.0; Greater Southwest; 152/332 to COP; 18,000; 45,000.
Navasota, Tex., W/P; 154/334 to Navasota.

Section 95.6001 *VOR Federal airway 1* is amended to read in part:

From to and MEA

Jacksonville, Fla., VOR; *St. Andrews INT, Ga.; **2,000. *5,000—MRA. **1,300—MOCA.
St. Andrews INT, Ga.; Starfish INT, Fla.; *4,000. *1,200—MOCA.

Section 95.6003 *VOR Federal airway 3* is amended to read in part:

*Bunnell INT, Fla.; Astor INT, Fla.; **2,000. *3,000—MRA. **1,100—MOCA.
Astor INT, Fla.; Durbin INT, Fla.; *4,000. *1,500—MOCA.
Durbin INT, Fla.; Jacksonville, Fla.; VOR; 2,000.

Section 95.6005 *VOR Federal airway 5:*

Jacksonville, Fla., VOR; Folkston INT, Ga.; *2,000. *1,300—MOCA.
Folkston INT, Ga.; Pafford INT, Ga.; *4,000. *1,500—MOCA.

Section 95.6009 *VOR Federal airway 9* is amended to read in part:

Cecil INT, Wis., via W. alter.; Rhinelander, Wis., VOR via W. alter.; 3,600.
Rhinelander, Wis., VOR via W. alter.; Houghton, Mich., VOR via W. alter.; 3,500.
Greenwood, Miss., VOR; Memphis, Tenn., VOR; 2,000.
Greenwood, Miss., VOR via E. alter.; Memphis, Tenn., VOR via E. alter.; 2,000.
Greenwood, Miss., VOR via W. alter.; Memphis, Tenn., VOR via W. alter.; 2,000.
Memphis, Tenn., VOR 2,700—MRA; *Drummonds INT, Tenn.; 2,300.
Drummonds INT, Tenn.; Holland INT, Mo.; 2,300.
Memphis, Tenn., VOR via W. alter.; *Cuba INT, Tenn., via W. alter.; 2,000. *2,700—MRA

Section 95.6011 *VOR Federal airway 11* is amended to read in part:

Memphis, Tenn., VOR; Braden INT, Tenn.; 2,400.
Braden INT., Tenn.; Dyersburg, Tenn., VOR; 2,000.
Memphis, Tenn., VOR via W. alter.; Keiser INT, Tenn. via W. alter.; 2,300.
Keiser INT, Tenn., via W. alter.; Dyersburg, Tenn., VOR via W. alter.; 2,000.
Memphis, Tenn., VOR via E. alter.; Dyersburg, Tenn., VOR via E. alter.; 2,000.

Section 95.6016 *VOR Federal airway 16* is amended to read in part:

Walls INT., Miss.; Memphis, Tenn., VOR; 1,800.
Prichard INT, Miss., via S. alter.; Memphis, Tenn., VOR via S. alter.; 2,000.
Memphis, Tenn., VOR; Fisherville INT, Tenn.; 2,000.
Memphis, Tenn., VOR via S. alter.; Moscow INT, Tenn., via S. alter.; 2,000.
Moscow INT, Tenn., via S. alter.; Selmer INT, Tenn., via S. alter.; *3,500. *1,700—MOCA.
Selmer INT, Tenn., via S. alter.; Graham, Tenn., VOR via S. alter.; *5,500. *2,000—MOCA.
Memphis, Tenn., VOR via N. alter.; Stanton INT, Tenn., via N. alter.; 2,000.
Stanton INT, Tenn., via N. alter.; Jacks Creek, Tenn., VOR via N. alter.; 2,300.
Hope INT, Ark.; Sparkman INT, Ark.; *7,000. *2,300—MOCA.

Section 95.6018 *VOR Federal airway 18* is amended to read in part:

Rome, Ga., VOR via N. alter.; Dawsonville INT, Ga., via N. alter.; 5,600.
Dawsonville INT, Ga., via N. alter.; Commerce INT, Ga., via N. alter.; 4,600.

Section 95.6051 *VOR Federal airway 51* is amended to read in part:

*Bunnell INT, Fla.; Astor INT, Fla.; **2,000. *3,000—MRA. **1,100—MOCA.
Astor INT, Fla.; Durbin INT, Fla.; *4,000. *1,500—MOCA.
Durbin INT, Fla.; Jacksonville, Fla., VOR; 2,000.
Jacksonville, Fla., VOR; Folkston INT, Ga.; *2,000. *1,300—MOCA.
Folkston INT, Ga.; Pafford INT, Ga.; *4,000. *1,500—MOCA.
Jacksonville, Fla., VOR via E. alter.; Kings INT, Ga., via E. alter.; *2,000. *1,300—MOCA.
Kings INT, Ga., via E. alter.; Tarboro INT, Ga., via E. alter.; *4,000. *1,200—MOCA.

Section 95.6054 *VOR Federal airway 54* is amended to read in part:

Porter INT, Ark.; Memphis, Tenn., VOR; 1,800.
*Round Pond INT, Ark.; via N. alter.; Memphis, Tenn., VOR via N. alter.; 1,800. *4,000—MRA.
Memphis, Tenn., VOR; Slayden INT, Miss.; 1,900.
Memphis, Tenn., VOR via N. alter.; Moscow INT, Tenn., via N. alter., 2,000.
Moscow INT, Tenn., via N. alter.; Selmer INT, Tenn., via N. alter.; *3,500. *1,700—MOCA.

Section 95.6064 *VOR Federal airway 64* is amended to read in part:

Seal Beach, Calif., VOR; Tustin INT, Calif., ebound, 3,000, wbound, 2,500.
Tustin INT, Calif.; *Corona INT, Calif.; 6,000. *7,400—MCA Corona INT, ebound.
Corona INT, Calif.; Perris INT, Calif.; 8,000.
Perris INT, Calif.; *Hemet INT, Calif., ebound, *11,000. wbound, *10,000. *6,600—MOCA.
Hemet INT, Calif.; Idllywild INT, Calif.; *11,000. *10,200—MOCA.
Idyllwild, Calif.; *Bald Mountain INT, Calif.; 10,500. *9,700—MCA Bald Mountain INT, wbound.
Bald Mountain INT, Calif.; Coral INT, Calif.; 7,800.
Coral INT, Calif.; Thermal, Calif.; VOR; 6,000.

Section 95.6071 *VOR Federal airway 71* is amended to read in part:

Panama INT, Nebr.; Lincoln, Nebr. VOR; 2,900.

Section 95.6088 *VOR Federal airway 88* is amended to read in part:

Vinita INT, Okla.; Waco INT, Mo.; *6,500. *3,000—MOCA.

Section 95.6124 *VOR Federal airway 124* is amended to read in part:

Porter INT, Ark.; Memphis, Tenn., VOR; 1,800.

Section 95.6140 *VOR Federal airway 140* is amended to read in part:

Holland INT, Mo.; Dyersburg, Tenn., VOR; 2,000.
Village DME, Fix, Ark.; Walnut Ridge, Ark.; VOR; 2,400.

Section 95.6159 *VOR Federal airway 159* is amended to read in part:

Wyatte INT, Miss., via W. alter; Memphis, Tenn., VOR via W. alter.; 2,000.
Memphis, Tenn., VOR; *Gilmore INT, Ark.; 2,000. *3,000—MRA.

Section 95.6198 *VOR Federal airway 198* is amended to read in part:

Taylor, Fla., VOR; Moniac INT, Fla.; *2,000. *1,400—MOCA.
Moniac INT, Fla.; Jacksonville, Fla., VOR; *2,000. *1,300—MOCA.

Section 95.6210 *VOR Federal airway 210* is amended to read in part:

Lamar, Colo., VOR; Liberal, Kans., VOR; *6,000. *5,200—MOCA.

Section 95.6217 *VOR Federal airway 217* is amended to read in part:

Cecil INT, Wis.; Rhinelader, Wis., VOR; 3,600.

Section 95.6275 *VOR Federal airway 275* is amended to read in part:

Cincinnati, Ohio, VOR via W. alter.; Richmond, Ind., VOR via W. alter.; 2,800.

Section 95.6243 *VOR Federal airway 243* is amended to read in part:

Jacksonville, Fla., VOR; Folkston INT, Fla.; *2,000. *1,300—MOCA.
Folkston INT, Fla.; Pafford INT, Fla.; *4,000. *1,500—MOCA.

Section 95.6267 *VOR Federal airway 267* is amended to read in part:

Barberville INT, Fla.; Roy INT, Fla.; *2,500. *1,200—MOCA.
Roy INT, Fla.; Shand INT, Fla., *4,000. *1,400—MOCA.
Shand INT, Fla.; Jacksonville, Fla., VOR; 2,000.
Jacksonville, Fla., VOR; Kings INT, Ga.; *2,000. *1,300—MOCA.
Kings INT, Ga.; Tarboro INT, Ga.; *4,000. *1,200—MOCA.
Tarboro INT, Ga.; Dixie INT, Ga.; *4,000. *1,400—MOCA.

Section 95.6281 *VOR Federal airway 281* is amended to read:

Albany, Ga., VOR; Ross INT, Ga.; 2,000.
Ross INT, Ga.; Butler INT, Ga.; *2,300. *1,800—MOCA.
Butler INT, Ga.; Int, 012 M rad Albany VOR and 330 M rad Macon VOR; *4,000. *2,100—MOCA.
Int. 012 M rad Albany VOR and 330 M rad Macon VOR; Hampton INT, Ga.; 2,500.

Section 95.6294 *VOR Federal airway 294* is amended to read in part:

Cedar Rapids, Iowa, VOR; Solon INT, Iowa; 2,500.

Section 95.6304 *VOR Federal airway 304* is amended to read in part:

Liberal, Kans., VOR; Lamar, Colo., VOR; *6,000. *5,200—MOCA.

Section 95.6402 *Hawaii VOR Federal airway 2* is amended to read in part:

High Tide INT, Hawaii; Broms INT, Hawaii; *3,000. *1,000—MOCA.
Broms INT, Hawaii; Honolulu, Hawaii VOR; 4,000.

Section 95.6412 *Hawaii VOR Federal airway 12* is amended to read in part:

*Sills INT, Hawaii; Orchid INT, Hawaii, westbound, 7,000, eastbound, 4,000. *700—MRA.

Section 95.6437 *VOR Federal airway 437* is amended to read in part:

*Croaker INT, Fla.; **Jetty INT, Fla.; ***2,000. *3,500—MRA. **3,500—MRA. ***1,100—MOCA.
Jetty INT, Fla.; Starfish INT, Ga.; *8,000. *1,200—MOCA.

2. By amending Sub-part D as follows:

Section 95.8003 *VOR Federal airway changeover points*

From, to, changeover point distance from

V-9 is amended to delete:

Greenwood, Miss., VOR; Memphis, Tenn., VOR; 47; Greenwood.

V-11 is amended to delete:

Memphis, Tenn., VOR; Dyersburg, Tenn., VOR; 47; Memphis.

V-16 is amended to delete:

Memphis, Tenn., VOR; Jacks Creek, Tenn., VOR; 46; Memphis.

V-64 is amended to read in part:

Seal Beach, Calif., VOR; Thermal, Calif., VOR; 59; Seal Beach.

(Secs. 307, 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1510))

Issued in Washington, D.C., on October 24, 1974.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

[FR Doc.74-25571 Filed 11-5-74;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER I—PUBLIC TRANSPORTATION

PART 820—RURAL HIGHWAY PUBLIC TRANSPORTATION DEMONSTRATION PROGRAM

Administrative Guidelines

These regulations provide guidelines for administering the Rural Highway Public Transportation Demonstration Program. Section 147 of the Federal-Aid Highway Act of 1973 permits the Federal Highway and Urban Mass Transportation Administrators, by delegation of the Secretary of Transportation, to carry out demonstration projects for public mass transportation on highways in rural areas. Not to exceed $30 million has been authorized to be appropriated.

Project selection criteria are contained in this issuance. Emphasis will be on selection of a range of innovative projects of different sizes, types, and geographical locations.

The funding commitment of local, State, or other Federal agencies to participate in the program and to continue it after the expiration of the demonstration period will be critical to project selection.

Since these regulations relate to a grant program, notice and public procedure thereon are unnecessary and they may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

Additional information not contained here may be obtained from the Federal Highway Administration division office in each State, the Urban Mass Transportation Administration regional office, or the State transportation agency.

In consideration of the foregoing, Subchapter I of Chapter I of title 23, Code of Federal Regulations, is amended by adding a new Part 820, to read as set forth below.

Sec.
820.1 Purpose
820.3 Definitions
820.5 Geographic Scope
820.7 Eligible Project Expenditures
820.9 Responsibilities
820.11 Content of Applications
820.13 Project Selection Criteria
820.15 Submission Date

AUTHORITY: Pub. L. 93-87, § 147; 49 CFR 1.48(c)(1) and 1.50(g).

§ 820.1 Purpose.

(a) The purpose of this part is to prescribe policies and procedures for administering the Rural Highway Public Transportation Demonstration Program. Section 147 of the Federal-Aid Highway Act of 1973, through delegation of authority by the Secretary of Transportation, authorizes the Federal Highway Administration (FHWA) and the Urban Mass Transportation Administration (UMTA) to carry out demonstration projects to encourage the development, improvement, and use of public mass transportation systems operating vehicles on highways for transportation of passengers within rural areas, in order to enhance access of rural populations to employment, health care, retail centers, education and public services.

(b) The program is intended to:

(1) Increase the mobility of those persons in rural areas who do not have reasonable access to alternate forms of transportation and are often deprived of mobility where public transportation is inadequate or non-existent.

(2) Encourage the various programs or agencies which provide transportation or social services to develop a coordinated approach to the organization and financing of public transportation.

(3) Develop the results of the demonstration into a useful guide for rural areas needing public transportation.

(4) Develop the technical, organizational, and economic information needed for future decisions regarding national programs for rural transportation.

§ 820.3 Definitions.

As used herein—

"Applicant" means a public agency or nonprofit public purpose organization, preferably with State or areawide responsibilities, or an Indian tribe on a Federal or State reservation.

"Program" means the Rural Highway Public Transportation Demonstration Program authorized by section 147 of the Federal-Aid Highway Act of 1973, Pub. L. 93-87, August 13, 1973.

"Rural areas" means all areas of a State not included in either an urbanized area designated by the Bureau of the Census or an urban place designated by the Bureau of the Census as having a population of 5,000 or more.

"State agency" means the State department of transportation, or State highway department if a State department of transportation is not established, except that some other agency designated by the Governor may be approved by FHWA and UMTA to be the State agency.

§ 820.5 Geographic Scope.

Projects approved under this part may serve rural areas including service by which residents may be transported to jobs, schools, shopping, social services, or other facilities located within urban areas.

§ 820.7 Eligible project expenditures.

(a) Projects eligible for Federal funds under this part include, but are not limited to: (1) Highway traffic control devices; (2) the construction of passenger loading areas and facilities, including shelters; (3) fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers; and (4) the purchase of passenger equipment other than rolling stock for fixed rail.

(b) Program funds shall not be used to provide operating subsidies for existing operations nor for overhead and administrative costs incurred by State agencies. Reasonable expenses for operating costs that are an integral part of new demonstration projects, as well as project supervision, monitoring, and evaluation costs, are eligible items of expense, if properly distributed as project costs.

(c) Nothing herein shall be interpreted to prohibit participation by private transportation companies in demonstration projects through contractual arrangements with the applicant.

(d) Nothing herein shall be interpreted to prohibit the demonstration period from extending beyond the two fiscal years for which program funds are authorized.

(e) Each proposal and the associated funding request shall present a fully developed demonstration that does not depend on future program funds for completion.

§ 820.9 Responsibilities.

(a) Each applicant:

(1) Shall submit a proposal to the appropriate State agency except that Indian tribes on Federal or State reservations may submit proposals directly to the FHWA division office in the State. Twelve (12) copies are requested.

(2) May implement projects under contractual agreements with the State agency.

(b) The State agency or Indian tribe shall:

(1) Forward each proposal received by it, with comments and recommendations, through the FHWA Division Engineer to the FHWA regional office. Ten (10) copies are requested.

(2) Administer projects approved under this part within the State or reservation, respectively.

(3) Enter into an agreement with FHWA governing each project.

(4) Make program funds available either directly for State- or tribal-implemented projects or through individual contracts with local applicants.

(c) Regional representatives of FHWA, UMTA, and the Secretary of Transportation will:

(1) Review the applications, recommend not more than ten (10) proposals worthy of demonstration for each region, and transmit seven copies of each recommended proposal to the FHWA Washington office.

(2) Forward one copy of all proposals not recommended to the Washington office.

(3) Seek the advice and comment of regional representatives of other Federal agencies, including the Departments of Health, Education, and Welfare; Labor; Agriculture; and Commerce; and the Office of Economic Opportunity, as appropriate.

(d) The Washington office of FHWA and UMTA will select projects to be funded in two phases:

(1) For FY 1975 from the first-year appropriation of $9.65 million, and

(2) From applications to be submitted in FY 1976, based upon the program appropriation for that year which could not exceed $20.35 million.

§ 820.11 Content of applications.

Each application should include as appropriate:

(a) A concise statement of what the project is designed to demonstrate and the expected results and benefits including system provisions to accommodate the elderly and handicapped.

(b) A summary of project activities, including how and where the demonstration will be conducted, changes to be made in existing services, and new services to be provided.

(c) Identification of organizations participating.

(d) Description of the area, available transportation facilities, and proposed transportation improvements.

(e) Data establishing need for the proposed project.

(f) Statements of commitment by agencies or organizations providing or needing transportation to use one areawide service funded by the demonstration.

(g) Commitment of other Federal, State, or local funds or programs to share in the costs of the system.

(h) Summary of project costs and breakdown of funding sources.

(i) Description of how service provided will be monitored and evaluated and how service may be changed as a result of that evaluation.

(j) Demonstration time schedule and plans for continuation of the service past the demonstration period.

§ 820.13 Project selection criteria.

(a) Emphasis will be on the selection of a range of projects—different sizes, types, and geographical locations.

(b) The following criteria, not necessarily in order of importance, will be applied by FHWA and UMTA in selecting demonstration projects for implementation.

(1) Innovative features that have potential for nationwide application.

(2) The commitment of local, State, or other Federal programs to participate in the demonstration.

(3) The likelihood of continuation of the project after the expiration of the demonstration.

(4) Provision for the local transportation needs in a realistic and prudent manner.

(5) Quality of proposed monitoring and evaluation along with the ability to modify operations as a result of that evaluation.

(6) Commitment of other local agencies providing or needing transportation services to purchase, share, or use the one areawide service funded for demonstration.

(7) Reasonableness and justification of estimated demand.

(8) Extent to which the proposal recognizes the transportation needs of economically deprived rural people.

(9) Appropriateness of proposed equipment needs, costs, and level of service.

(10) Adaptability of system to the needs of the elderly and handicapped.

(11) Compatibility of system with possible existing supplemental operations, e.g., taxicabs, where the vehicles, drivers, radios, and organization are already available and can provide feeder service.

(12) Extent to which currently operating rural transportation services, manpower, and equipment are utilized.

(13) Degree of management capability to administer the grant and to operate a transportation system.

(14) Suitability of proposed promotion techniques to reach potential riders.

§ 820.15 Submission date.

Proposals shall be sent to the appropriate agency in each State by February 6, 1975.

Effective Date: November 6, 1974.

FRANK C. HERRINGER,
Urban Mass Transportation Administrator.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.74-26021 Filed 11-5-74;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-226]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities; Correction

On March 26, 1974, in 39 FR 11187, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the City of Ladue, Missouri, as an eligible community and included map No. H 29 189 4310 01 which indicates that lots No. 1 through 6 of the Ferrand Woods Subdivision, City of Ladue, Missouri, recorded as ordinance No. 1037 in the Office of the Clerk for the City of Ladue, Missouri, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after a further technical review of the above map in the light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective March 15, 1974, map No. H 29 189 4310 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, December 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 21, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74-25981 Filed 11-5-74;8:45 am]

[Docket No. FI-270]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities; Correction

On May 17, 1974, in 39 FR 17518, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included Indianapolis, Indiana, as an eligible community and included map No. H 18 097 22 which indicates that the subdivision known as Timbers I, with the exception of Building A, Building B, Building G, and Unit F-5 of Building F, and the subdivision known as Timbers II, with the exception of Unit H-1 of Building H, and units N-5, 6, 7, 8, 9 of Building N, as shown on the recorded maps filed at 01560 and 15173 among the records of Marion County, Indiana, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after a further technical review of the above map in the light of additional, recently acquired flood information, that all of the above property is not within the Special Flood Hazard Area. Accordingly, effective May 17, 1974, map No. H 18 097 22 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, December 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Ad-

ministrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 10, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74-25980 Filed 11-5-74;8:45 am]

[Docket No. FI-72-270]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities; Correction

On January 8, 1972, in 37 FR 281, the Federal Insurance Administrator published a list of communities with Special Hazard Areas giving the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the unincorporated areas of Fairfax County, Virginia, as an eligible community and included map No. H 51 059 0000 18 which indicates that Danbury Forest, a subdivision development in Fairfax County, Virginia, as recorded in DB3458 at page 409 among the land records of Fairfax County, Virginia, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after a further technical review of the above map in the light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective January 7, 1972, map No. H 51 059 0000 18 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, December 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 17, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74-25979 Filed 11-5-74;8:45 am]

[Docket No. FI-321]

PART 1915—IDENTIFICATION OF SPECIAL FLOOD HAZARD AREAS

List of Communities: Correction

On August 6, 1974, in 39 FR 28265, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the Village of Irvington, New York, as an eligible community and included map No. H 360914 02 which indicates that Parcel 1A of Sheet 13 of the Official Tax Map of the Village of Irvington, New York, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after a further technical review of the above map in the light of additional, recently acquired flood information, that the above property, except for any structure located within 100 feet of the centerline of North Broadway and within 200 feet of the centerline of Harriman Road, is not within the Special Flood Hazard Area. Accordingly, effective June 28, 1974, map No. H 360914 02 is hereby corrected to reflect that Parcel 1A, except for any structure located within 100 feet of the centerline of North Broadway and within 200 feet of the centerline of Harriman Road is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 1968), as amended (secs. 408-410, Pub. L. 91-152, December 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 21, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74-25978 Filed 11-5-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER D—PUBLIC BUILDINGS AND SPACE

[FPMR Amdt. D-48]

PART 101-20—MANAGEMENT OF BUILDINGS AND GROUNDS

Conservation of Energy in Government-Owned and Government-Leased Space

This regulation provides specific policies and procedures for the conservation of energy in Government-owned and Government-leased space.

The table of contents for Part 101-20 is amended as follows:

101-20.116	Conservation of energy by executive agencies.
101-20.116-1	Agency action.
101-20.116-2	Lighting conservation policies and procedures.
101-20.116-3	Cooling and heating energy conservation policies and procedures.
101-20.116-4	Execptions.
101-20.116-5	Conservation of energy in leased space.
101-20.116-6	Reporting requirements.

Subpart 101-20.1—Building Operations, Maintenance, Protection, and Alterations

Section 101-20.116 is added as follows:

§ 101-20.116 Conservation of energy by executive agencies.

§ 101-20.116-1 Agency action.

Executive agencies shall be responsible for assigning a top management official as the agency Energy Conservation Coordinator to oversee and supervise the Government-wide effort as it pertains to the facilities under the agency's control. It is further the responsibility of executive agencies occupying space in Government-owned or -leased quarters to require their employees to observe the energy conservation practices cited herein. Also, it should be noted that implementation of the provisions of this regulation may require consultation or negotiations, as appropriate, with recognized labor organizations.

§ 101-20.116-2 Lighting conservation policies and procedures.

(a) Nonuniform lighting standards shall be applied to existing lighting systems by removing excess lamps and fixtures.

(1) During working hours, overhead lighting shall be reduced to 50 foot-candles at work stations, 30 foot-candles in work areas, and 10 (but not less than 1) foot-candles in nonworking areas. Reductions in overhead lighting shall be accomplished with minimum practicable deviation from the specified levels. Illumination levels are to be measured at the place or places where the visual requirements are present. Furthermore, lighting measurements shall be made so as not to allow natural light to influence the foot-candle reading. Work station lighting measurements shall be taken at the desk surface, typewriter surface, working surface, etc. Work area lighting measurements shall be read on the walking surface.

(2) Except where special problems may exist, an illumination level of 1 foot-candle achieved on the walking surface at the center of the corridor midway between two lighting fixtures is satisfactory and need not be achieved at the corners of corridors, against corridor walls, etc.

(3) In stairwells where lamps or bulbs are provided in tandem to guard against darkening a stairway upon failure of one lamp or bulb, the tandem system shall be continued. In other words, the target lighting levels shall not be achieved by removing one of the two lamps or bulbs provided in the tandem system.

(4) Where elevator hoistway lights, and emergency lights, such as those to be illuminated by activation of an emergency generator are provided and required, the necessary lamps or bulbs shall be maintained. At least 5 foot-candles of illumination shall be provided at the landing sills of passenger and freight elevators when the elevator is in service.

(5) Off-hour and exterior lighting except that essential for safety and security purposes; e.g., exit signs, shall be eliminated.

(6) These standards shall be maintained in all space except where "heat of light" technology is utilized. Where "heat of light" technology is used, the energy savings to be achieved by decreasing the lighting and cooling energy shall be compared to the increased use of heating energy before a determination regarding delamping is made.

(b) To the extent that projected energy savings will offset higher acquisition and maintenance costs, preference shall be given to the installation of more efficient lighting systems when constructing or remodeling space.

§ 101–20.116–3 Cooling and heating energy conservation policies and procedures.

(a) During the seasonably hot months, air cooling systems shall maintain space temperature at no lower than 78° to 80° F during working hours. Necessary adjustments shall be made to cooling system controls so that the temperature in the space shall be maintained at 78° to 80° F with no reheat, except in multizone systems where reheat is an essential element for zone control. Where this is the case, the cooling temperature shall be maintained as high as feasible to minimize the need for reheat. Furthermore, lower temperatures are permissible when obtained without cooling energy, such as with an economizer cycle. The use of heating energy to achieve the temperatures specified for cooling is prohibited.

(b) During the seasonably cold months, heating temperature control devices shall be set to maintain temperatures of 65° to 68° F during working hours and shall be set to maintain temperatures of not more than 55° F during nonworking hours. Temperatures in warehouse and similar space shall be adjusted lower than the 65° to 68° F range depending on the type of occupancy and the activity in the space. Higher temperatures than those specified for heating are permissible when obtained with normal building operation heat gains, such as solar energy, etc. The use of cooling energy to achieve the temperatures specified for heating is prohibited.

(1) Interior space in office buildings tends to have a heat build-up generated by lights, people, and equipment and, therefore, does not usually require an added heat source during the heating season. Systems serving this type of space usually utilize recirculated air mixed with some outside air for ventilation purposes. The amount of outside air shall not be increased nor refrigeration introduced for the sole purpose of lowering the temperature which might otherwise exceed 68° F.

(2) Window draperies and blinds shall be used to cut down heat losses by setting them to the closed position during nighttime and on cold, cloudy days, and setting them to the open position during periods of sunshine.

(c) Humidity control shall not be provided for general office space. Requirements for humidity controls in special type space or certain geographic locations will be handled on a case-by-case basis by the official responsible for operation and maintenance of the facility, with the concurrence of that official's energy conservation coordinator.

(d) The operation of threshold heaters, portable space heaters, and portable electric fans in Government-owned or -leased space is prohibited.

(e) Outside air intake during heating and cooling seasons shall be reduced to the greatest extent feasible. Under most conditions, a 10 percent outside air intake will be adequate for general office space. Under certain outside air temperature and humidity conditions, the use of up to 100 percent outside air will be the most economical method of operation. Special purpose space, such as laboratories, shall have the outside air intake reduced to the maximum extent possible consistent with the requirements of the mission. In laboratories and other facilities dealing with toxic materials, the level of air intake and other system features shall be maintained as necessary to protect persons from harmful dust, fumes, vapors, etc.

§ 101–20.116–4 Exceptions.

Exceptions to the policies prescribed in the foregoing §§101–20.116–2 and 101–20.116–3 may be necessary for the protection and operation of certain specialized equipment; e.g., computers, for maintaining the health and efficiency of employees, and for certain installations of high specialization; e.g., greenhouses, hospitals, guard stations, and laboratories. Such exceptions may be granted only after consultation with appropriate technical personnel of the unit requesting the exception, and the presentation of necessary supporting evidence. Exceptions will be granted by the office responsible for the operation and maintenance of the facility, and must be concurred in by the official's energy conservation coordinator.

§ 101–20.116–5 Conservation of energy in leased space.

Contracting officers shall ensure that all new lease contracts include the conservation policies prescribed in § 101–20.116–2 and § 101–20.116–3. Existing lease contracts shall include the conservation policies prescribed in § 101–20.116–2 and § 101–20.116–3 to the extent feasible within the existing contract provisions or by amendment thereto.

§ 101–20.116–6 Reporting requirements.

(a) Each agency shall report as specified in GSA Form 2973, Energy Conservation Performance Report, to the Director, Office of Energy Conservation, Federal Energy Administration, Washington, DC 20451, its energy consumption in buildings and facilities under its control within 45 calendar days after the end of each quarter. A copy of such report shall simultaneously be sent to the General Services Administration (PB), Washington, DC 20407.

(b) This report has been cleared in accordance with FPMR 101–11.11 and assigned interagency report control number 0021–GSA–QU.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and Federal Management Circular 74–1)

Effective date. This regulation is effective on November 6, 1974.

Dated: October 25, 1974.

DWIGHT A. INK,
Acting Administrator of General Services.

[FR Doc.74–25956 Filed 11–5–74;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

Cost Sharing; Long-Term Care Facility Inspectors

Correction

In FR Doc. 74–23792 appearing in the issue of Friday, October 11, 1974 on page 36590 the fourteenth, fifteenth, and sixteenth entries in the third column of the table to § 249.40(a)(2)(ii) reading "12, 10, 11" should read "10, 11, 12".

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.

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 661]

MANDATORY PETROLEUM ALLOCATION PROGRAM

Administrative Procedures and Sanctions

The Department of Consumer Affairs hereby gives notice of a proposal to amend Title 10 of the Code of Federal Regulations to add a new Part 661 to Subchapter K of Chapter II setting forth the administrative procedures and sanctions applicable to proceedings before the Department of Consumer Affairs (DOCA) in accordance with Part 660 of this subchapter.

Introduction. The DOCA issued a notice of proposed rulemaking setting forth the proposed mandatory allocation regulations applicable to gasoline, propane, butane, middle distillate and residual fuel oil sold for use within the Commonwealth of Puerto Rico (Commonwealth) (39 FR 34072, September 23, 1974). Final regulations, filed with the Office of the Federal Register on October 31, 1974, make this mandatory allocation program applicable to motor gasoline, middle distillates, propane and butane, beginning on November 1, 1974.

The purpose of this proposed rulemaking is to set forth the procedures applicable to the allocation regulations. Specifically, it provides the procedures used to obtain an assignment, adjustment, exception, exemption or an interpretation of the regulations. It also includes provisions for appeals, stays, modifications and rescissions of DOCA orders, and sets forth regulations for administrative conferences and hearings. Enforcement procedures, notices of probable violation, remedial orders, and the investigations, violations, sanctions, and judicial actions are also included.

Subpart A—General provisions. This subpart sets forth the general provisions applicable to all proceedings before the DOCA and identifies sanctions in proceedings before the DOCA in accordance with Part 660 of this subchapter, the Mandatory Petroleum Allocation Regulations for Puerto Rico. This subpart also defines certain terms and incorporates the definitions used in Part 660 which are applicable to Part 661.

Any person may make an appearance and participate in any proceeding before the DOCA, either personally or by a duly authorized representative. However, the DOCA does retain authority to deny temporarily or permanently the privilege of participating in proceedings before the DOCA in a manner consistent with the criteria set forth in § 661.3 There are general filing provisions applicable to any document filed with the DOCA; generally such documents are considered filed when they have been received by the DOCA. Provisions for the computation of time both in days and hours have been established. In certain cases, an extension of time will be permitted. Generally, the service provisions applicable to all orders, notices, interpretations or other documents required to be served under the procedural regulations, permit service either personally or by registered or by certified mail. Service upon a person's duly authorized representative will suffice. The procedure used to request confidential treatment for information submitted to the DOCA pursuant to this part is included.

Subpart B—Adjustments. Subpart B establishes procedures for filing a request for an adjustment to a wholesale purchaser's base period volume other than automatic adjustments which may be made by suppliers to wholesale purchasers of gasoline and middle distillates without any DOCA action. A person seeking an adjustment, just as a person seeking any other relief provided under Part 661, must comply with all applicable provisions set forth in Subpart A. In addition, an applicant must comply with all the provisions set forth in Subpart B.

An "Application for Adjustment" clearly labeled as such both on the application and in the outside envelope in which the application is transmitted must be filed with the DOCA at PO. Box 13934, Santurce, P.R. 00908. The application shall be accompanied by the appropriate DOCA form. However, until such form is available, the application must comply with the requirements set forth in § 661.25. Generally, this section requires a clear and concise statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application to the DOCA action sought. In addition, specific facts requested by the DOCA with respect to an adjustment are set forth in this section.

Section 661.24 provides that the DOCA shall serve notice upon any person reasonably identified by the DOCA as one who will be aggrieved by the DOCA action. A person may respond to the notice by submission of a written comment to the DOCA. The respondent must certify that a copy of the comments, with or without confidential information deleted, has been sent to the applicant.

Pursuant to § 661.26, the DOCA, in its evaluation of the application, may initiate an investigation of any statements in the application and may utilize in its evaluation any relevant facts obtained from the investigation. It may solicit and accept submissions from third persons which are relevant to the proceeding: *Provided,* That the applicant is afforded an opportunity to respond. It may also consider other sources of information. It may convene a conference at its own initiative and may request additional information. The criteria upon which the application will be granted are set forth in this section.

Section 661.27 provides that the DOCA shall issue a written decision and order summarizing briefly the factual and legal basis of the decision.

Section 661.28, provides that if the DOCA fails to take an action on any application filed under this subpart within ninety days of filing, the applicant may treat the application as having been denied in all respects and appeal therefrom as provided in Subpart G.

Under § 661.29 any person aggrieved by an order issued by the DOCA may file an appeal in accordance with Subpart G. Such appeal must be filed within 30 days of service of the order from which the appeal is taken. Administrative remedies are not exhausted until an appeal has been filed and the appellate proceeding is completed by the issuance of an order, granting or denying the appeal, or an expiration of the time as specified in Subpart G.

Subpart C—Assignment. This subpart establishes the procedures for the filing of an application for an assignment which is an action designating that an authorized purchaser be supplied a specified or an unspecified volume of a particular product by a specified supplier.

The procedures applicable to the request of an assignment are very similar to those for an application for adjustment set forth in Subpart B. However, the information requested pursuant to § 661.35 differs from that requested for an adjustment and the criteria used in evaluating such a petition differ. Moreover, there is an emergency procedure by which one may obtain a temporary assignment, § 661.40. Such an assignment shall be a one time order with a duration not to exceed 60 days. Thus, if an applicant anticipates the requirement of an assignment for longer than 60 days, he shall contemporaneously file an application for assignment. Temporary assignments will only be granted in dire circumstances and upon a finding that issuance of a regular assignment is not feasible. Other provisions such as what to file, where to file, notice by the DOCA to

other persons, timeliness and appeal are similar to those discussed under Subpart B.

Subpart D—Exceptions and Exemptions. This subpart sets forth the procedures for applying for an exception or an exemption. An "Exception" is defined as the waiver or modification of the requirements of a regulation, ruling or generally applicable requirement under a specific set of facts. An "Exemption" means the release from the obligation to comply with any of the provisions of Part 660, or the provisions of any subpart thereof. The filing of the request for an exception or an exemption shall not constitute grounds for non-compliance with the requirements of the provision involved unless a stay has been issued in accordance with Subpart H.

A person must file an "Application for Exception" or an "Application for Exemption" as appropriate. The notice requirements, § 661.44, specify that an applicant shall send by United States mail a copy of the application and any subsequent amendments or other documents relating to the application or a copy from which confidential information has been deleted, to each person who is reasonably ascertainable by the applicant as a person who will be aggrieved by the DOCA action sought. Such persons may submit comments regarding the application to the DOCA and shall send a copy, with or without the confidential information deleted, to the applicant. If an applicant determines that compliance with the notice provision discussed above will be impracticable the applicant shall comply with those requirements to the maximum extent practicable and in addition, shall include with the application a description of the persons or classes of persons to whom notice was not sent. The DOCA may require the applicant to provide additional notice, or may determine that such notice is impracticable and determine that the notice should be published in the FEDERAL REGISTER. The DOCA shall serve notice on any other person readily identifiable as one who will be aggrieved by the DOCA action sought.

Generally the application must contain a full and complete statement of all relevant facts, § 661.45. The method of DOCA evaluation and its decision and order are similar to the parallel provisions discussed in Subpart B. The timeliness provision, § 661.48, gives the DOCA 90 days from its notification of receipt of all substantive information deemed necessary to process the application in which to act. However, if the DOCA fails to take action on the application within 150 days of the filing, the applicant may treat it as having been denied and may appeal pursuant to Subpart G. Administrative procedures are not exhausted until the appeals procedure is completed.

Subpart E—Interpretation. This subpart establishes procedures for the filing of a formal request for an interpretation by the DOCA. An "Interpretation" is a written statement issued by the DOCA in response to a written request that applies regulations, rulings, and any other precedent previously issued by the DOCA to the particular facts of a perspective or completed act or transaction. Responses which may include verbal or written responses to general inquiries or to other than formal written requests for interpretations are not interpretations and merely provide general information. A person must file a "Request for Interpretation." The contents requirements and the DOCA evaluation are similar to those discussed in other subparts.

In accordance with § 661.56, the DOCA shall issue a written interpretation. Only those persons to whom the interpretation is specifically addressed and other persons upon whom the DOCA serves the interpretation and who are directly involved in the same transaction or act may rely upon it. An interpretation may be rescinded or modified at any time. It is modified by a subsequent amendment to the regulations or rulings to the extent that it is inconsistent with the amended regulation or ruling. A person may appeal from an interpretation pursuant to the provisions of Subpart G. There are no timeliness or notice provisions for interpretations.

Subpart F—Other proceedings. The purpose of this subpart is to establish procedures for the filing of such other applications, petitions or requests as may be required or permitted from time to time under the provisions of Part 660. It does not supplant any procedures presently provided in this part, but rather is in addition to these procedures and applicable only if such subparts do not fit the action requested.

Subpart G—Appeals. This subpart establishes the procedures of the filing of an administrative appeal of DOCA actions taken under Subpart B, C, D, or F, adjustments, assignments, exceptions or exemptions, interpretations, or other proceedings, respectively, or a remedial order issued pursuant to Subpart M. A person has not exhausted his administrative remedies until an appeal has been filed under this subpart and an order granting or denying the appeal has been issued. Any person aggrieved by a DOCA action under Subpart B, C, D, E, or F or a remedial order under Subpart M of this part, may file an appeal pursuant to this subpart. A person "aggrieved" is a person with an interest sought to be protected under the Federal Energy Administration Act or the Emergency Petroleum Allocation Act who is adversely affected by an order or interpretation issued by the DOCA.

A person aggrieved must file an "Appeal of Order" or an "Appeal of Interpretation" as appropriate with the DOCA at the address specified in § 611.11. The time within which the appeal must be filed is set forth in the appeal provision of each subpart, and is usually 30 days. The notice required pursuant to this part is similar to the notice provisions for exceptions and exemptions. The contents, according to § 661.76, generally requires a concise statement of grounds upon which the appeal is brought and a description of the relief sought. If the appeal includes a request for relief based on significantly changed circumstances (as defined in the regulations) there must be a complete description of such events, acts, or transactions. An appeal may be summarily denied if (1) it is not filed in a timely manner, but for good cause shown; or (2) it is defective on its face for failure to state and present facts and legal arguments that the DOCA action was erroneous in fact or law or arbitrary and capricious. In addition, the DOCA may deny any appeal if the appellant does not establish that (1) the appeal was filed by a person aggrieved by the DOCA action; (2) the DOCA action was erroneous in fact or in law; or (3) the DOCA action was arbitrary and capricious.

Appeals of remedial orders shall be in accordance with the procedures discussed above. The appeal must be filed within 10 days of service of the remedial order, and if the appeal is of a remedial order issued subsequent to a notice of probable violation that relates to an order or interpretation previously issued by the DOCA with respect to which there was an exhaustion of administrative remedies no issues will be considered on the current appeal that were raised in that prior proceeding.

The timeliness provision, § 661.80, provides that the DOCA has ninety days from its giving notice of having received all necessary information within which to make its final decision. In any case, if the DOCA fails to take action on the appeal within 120 days of the filing of the appeal, the appellant may treat the appeal as having been denied. Upon receipt of a written statement giving the ultimate determination of the issues upon appeal or upon expiration of the time specified the petitioner has exhausted his administrative remedies and may seek judicial review.

Subpart H—Stays. This subpart establishes a procedure for the application and granting of a stay by the DOCA. An application for a stay will only be considered incident to or pending an appeal from an order of the DOCA or incident to an application for an exception or an exemption or pending judicial review. All DOCA orders, regulations, rulings and generally applicable requirements shall be complied with unless and until an application for a stay is granted.

A person shall file an "Application for Stay" at the address specified in § 611.11 The notice provisions provide that the DOCA shall notify persons reasonably identifiable to the DOCA as those who would be aggrieved by the DOCA action sought, and are similar to those used in a request for an assignment or adjustment. The application must contain a full and complete statement of all relevant facts pertaining to the act or transaction which is the subject of the application and the DOCA action sought. A stay will be granted upon a showing of (1) irreparable injury; (2) that denial of the stay will result in a more immediate serious hardship or gross inequity to the

applicant and to other person affected; (3) that it would be desirable for public policy or other reasons to preserve the status quo pending the decision on the merits; (4) that it is impossible for the applicant to fulfill the requirements of the original order; and (5) likelihood of success on the merits.

Upon consideration of the application and other relevant information the DOCA shall issue an order in writing granting or denying the application. It shall include a written statement setting forth the relevant facts and legal basis of the decision and the terms and conditions of the stay. A grant or denial of the stay is not an order of the DOCA subject to administrative review.

Subpart I—Modification or rescission. This subpart establishes the procedures for the filing of an application for modification or rescission of a DOCA order or interpretation. It is a summary proceeding that will be initiated only if the applicant demonstrates significantly changed circumstances; and that the thirty day period within which a person may file an appeal has elapsed or if an appeal has been filed a final order has been issued.

A person must file an "Application for Modification (or Rescission)" with the DOCA at the address specified in § 611.11. The applicant must comply with notice provisions similar to those applicable to the request for an exception or exemption. The application must contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application of the DOCA action sought. The DOCA shall issue a written order granting or denying the application.

There is no administrative appeal available from an application for modification or rescission and thus the order issued shall be the final order from which the applicant may seek judicial review. The DOCA must act within ninety days of the filing and if it fails to so act the applicant may treat the application as having been denied and may seek judicial review thereof.

Subpart J—Rulings. This subpart establishes the criteria for the issuance of interpretative rulings by the DOCA. A "Ruling" is an official interpretative statement of general applicability issued by the DOCA and published in the FEDERAL REGISTER that applies DOCA regulations to a specified set of circumstances. A ruling may be issued at the discretion of the DOCA, and may be modified or rescinded by publication of a modification or rescission in the FEDERAL REGISTER or an amendment to Part 660. There is no administrative appeal from a ruling.

Subpart K—Conferences and hearings. This subpart establishes procedures for requesting and conducting DOCA conferences or hearings. Such proceedings are convened at the discretion of the DOCA.

A conference may be requested in connection with any proceeding of the DOCA, and may be made in writing or verbally. It must make a specific showing as to why the conference will materially advance the proceeding. The determination of persons who may attend a conference convened under this subpart shall be at the discretion of the DOCA, but it generally will not be open to the public. The conference will only be convened after actual notice of time, place and nature provided to the persons who will attend.

A hearing may be convened at the discretion of the DOCA. Determination of persons who may attend a hearing shall be at the discretion of the DOCA but it generally will not be open to the public It may only be requested in connection with an application for an exception, exemption or an appeal. The request for a hearing must be made in writing and show why the hearing will materially advance the proceeding. The DOCA will designate an agency official to conduct the hearing and will specify the time and place for the hearing.

Subpart L—Complaints. This subpart establishes the procedures for the filing and consideration of complaints relating to alleged violations of the regulations of Part 660 or any ruling or order issued thereunder. A person shall file a "Complaint" at the address specified in § 661.11. The complaint may consist of the appropriate form completed according to instructions. However, if there is not a current form appropriate or available the complaint shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the complaint.

After considering a complaint the DOCA may issue a notice of probable violation or remedial order for immediate compliance in accordance with the provisions of Subpart M of this subpart; determine that no violation has occurred or that a notice of probable violation or remedial order or immediate compliance would not be appropriate; or take such other action as it deems appropriate.

Subpart M—Notice of probable violation and remedial order. This subpart establishes the procedures for determining the nature and extent of violations of the DOCA regulations and the procedures for issuance of a notice of probable violation, a remedial order or a remedial order for immediate compliance. If it is believed that there is a violation of Part 660 the DOCA may conduct proceedings to determine the nature and extent of the violation and may issue a remedial order thereafter. The DOCA may commence such proceeding by (1) serving a notice of probable violation; or (2) issuing a remedial order for immediate compliance.

A notice of probable violation may be issued if the DOCA has reason to believe that a violation has occurred, is continuing or is about to occur. Within ten days of the service of a notice of probable violation the person upon whom the notice is served may file a reply with the DOCA. The reply shall contain a full and complete statement of all relevant facts pertinent to the act or transaction subject to the notice. A conference may be requested pursuant to Subpart K of this part. If the person does not file a reply within the 10 days provided, he will be deemed to concede the accuracy of the factual allegations and legal conclusions stated in the notice. If the DOCA finds that no violation has occurred, is continuing or is about to occur or that for any reason issuance of a remedial order would not be appropriate it shall notify in writing the person to whom the notice was issued and that notice will be rescinded. If after the 10-day period from which the notice of probable violation was issued the DOCA finds that a violation has occurred, is continuing or is about to occur, the DOCA may issue a remedial order. It is effective upon issuance in accordance with its terms unless stayed, modified, suspended or rescinded. It may be referred at any time to the Department of Justice of the Commonwealth of Puerto Rico for appropriate action in accordance with Subpart N.

In lieu of the issuance of a notice of probable violation the DOCA may issue a remedial order for immediate compliance which shall be effective upon issuance. It can be issued if (1) there is strong probability that a violation has occurred, is continuing or is about to occur; (2) irreparable harm will occur unless the violation is remedied immediately; and (3) the public interest requires the avoidance of such irreparable harm through immediate compliance.

A person may not appeal a notice of probable violation issued pursuant to this subpart. However, a person may appeal a remedial order (which is issued subsequent to the notice of probable violation) or a remedial order for immediate compliance. The appeal must be filed within 10 days of service of the order from which the appeal is taken.

Subpart N—Investigations, violations, sanctions and judicial actions. The DOCA may, in its discretion, initiate investigations relating to compliance by any person with any rule, regulation or order promulgated by the DOCA, any decree of court relating thereto or any other agency action. The investigations will be conducted by representatives of the DOCA who are duly designated and authorized for such purposes.

Any person who is under investigation by the DOCA and who is requested to furnish information shall be notified as to the general purpose for which such information or evidence is sought. If from the facts disclosed the DOCA determines that further action is unnecessary, the investigative file will be closed without prejudice to further investigation. If the DOCA determines that a violation has occurred, is occurring or is about to occur it may issue a notice of probable violation or a remedial order for immediate compliance.

Any practice that circumvents or contravenes or results in the circumvention or contravention of the requirement of any provision of Part 660 or any order issued pursuant thereto is a violation of the DOCA regulations stated in Part 660.

Any person who has violated a provision of Part 660 shall be subject to penalties and sanctions. Each day that a violation continues shall be considered a separate violation. Any person who wilfully violates any provision shall be subject to a criminal fine of not more than $5,000 for each violation and will be prosecuted by the Department of Justice of the Commonwealth of Puerto Rico. Any person who violates any provision of Part 660 shall be subject to a civil penalty of not more than $2,500 for each violation. Civil penalties may be prosecuted by the Department of Justice of the Commonwealth of Puerto Rico or, if appropriate or advisable, the DOCA may comprise the settlement and collect the civil penalties.

Whenever it appears to the Administrator of the DOCA or his delegate that any person has engaged, is engaged or is about to engage in any act or practice constituting a violation he may request that the Attorney General of the Commonwealth of Puerto Rico bring an action to enjoin such practices.

Subpart O—Antitrust applicability. This subpart sets forth regulations regarding the antitrust provisions set forth in the Emergency Petroleum Allocation Act of 1973. As a general rule the provisions in Part 660 do not provide immunity from civil or criminal liability under the antitrust laws nor create a defense to any action under the antitrust laws.

Rulemaking procedures. As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments to offer in this regard.

Interested persons are invited to participate in the rulemaking by submitting written comments on the proposed regulations set forth in this notice. Such comments should be addressed to the Department of Consumer Affairs, P.O. Box 13934, Santurce, P.R. 00908, and should be identified on the outside of the envelope with the designation "Proposed Administrative Procedures and Sanctions." Comments should be received by November 18, 1974.

In addition, public hearings will be held on November 20, 1974 at the Room for Public Hearings in the Department of Consumer Affairs, Santurce, P.R. The hearings will begin at 10 a.m. and will be open to all representatives of industry, government, retailers and consumer groups. The rules for the conduct of the hearings will be announced at the opening session and will be repeated at each subsequent session.

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10 of the Code of Federal Regulations to add a new Part 661 to Subchapter K, as set forth below.

Issued in San Juan, P.R., October 31, 1974.

FEDERICO HERNANDEZ-DENTON,
Secretary, Department of Consumer Affairs, Commonwealth of Puerto Rico.

PART 661—ADMINISTRATIVE PROCEDURES AND SANCTIONS

Subpart A—General Provisions

661.1 Purpose and scope.
661.2 Definitions.
661.3 Appearance before the DOCA.
661.4 Filing of documents.
661.5 Computation of time.
661.6 Extension of time.
661.7 Service.
661.8 General filing requirements.
661.9 Effective date of orders.
661.10 Order of precedence.
661.11 Where to file.

Subpart B—Adjustment

661.21 Purpose and scope.
661.22 What to file.
661.23 Where to file.
661.24 Notice.
661.25 Contents.
661.26 DOCA evaluation.
661.27 Decision and order.
661.28 Timeliness.
661.29 Appeal.

Subpart C—Assignment

661.31 Purpose and scope.
661.32 What to file.
661.33 Where to file.
661.34 Notice.
661.35 Contents.
661.36 DOCA evaluation.
661.37 Decision and order.
661.38 Timeliness.
661.39 Appeal.
661.40 Temporary assignment.

Subpart D—Exception

661.41 Purpose and scope.
661.42 What to file.
661.43 Where to file.
661.44 Notice.
661.45 Contents.
661.46 DOCA evaluation.
661.47 Decision and order.
661.48 Timeliness.
661.49 Appeal.

Subpart E—Interpretation

661.51 Purpose and scope.
661.52 What to file.
661.53 Where to file.
661.54 Contents.
661.55 DOCA evaluation.
661.56 Decision and effect.
661.57 Appeal.

Subpart F—Other Proceedings

661.61 Purpose and scope.
661.62 What to file.
661.63 Where to file.
661.64 Contents.
661.65 DOCA evaluation.
661.66 Decision and order.
661.67 Timeliness.
661.68 Appeal.

Subpart G—Appeal

661.71 Purpose and scope.
661.72 Who may file.
661.73 What to file.
661.74 Where to file.
661.75 Notice.
661.76 Contents.
661.77 DOCA evaluation.
661.78 Decision and order.
661.79 Appeal of a remedial order.
661.80 Timeliness.

Subpart H—Stay

661.81 Purpose and scope.
661.82 What to file.
661.83 Where to file.
661.84 Notice.
661.85 Contents.
661.86 DOCA evaluation.
661.87 Decision and order.

Subpart I—Modification or Rescission

661.91 Purpose and scope.
661.92 What to file.
661.93 Where to file.
661.94 Notice.
661.95 Contents.
661.96 DOCA evaluation.
661.97 Decision and order.
661.98 Timeliness.
661.99 Appeal.

Subpart J—Rulings

661.101 Purpose and scope.
661.102 Criteria for issuance.
661.103 Modification or rescission.
661.104 Comments.
661.105 Appeal.

Subpart K—Conferences, Hearings, and Public Hearings

661.111 Purpose and scope.
661.112 Conferences.
661.113 Hearings.

Subpart L—Complaints

661.121 Purpose and scope.
661.122 What to file.
661.123 Where to file.
661.124 Contents.
661.125 DOCA evaluation.
661.126 Decision.

Subpart M—Notices of Probable Violation and Remedial Orders

661.131 Purpose and scope.
661.132 Notice of probable violation.
661.133 Remedial order.
661.134 Remedial order for immediate compliance.
661.135 Remedies.
661.136 Appeal.

Subpart N—Investigations, Violations, Sanctions and Judicial Actions

661.141 Investigations.
661.142 Violations.
661.143 Sanctions.
661.144 Injunctions.

Subpart O—Antitrust Applicability

661.151 Scope.
661.152 General rule.
661.153 Definitions.
661.154 Meetings.
661.155 Criteria for meetings.
661.156 Defense antitrust.
661.157 Defenses: Antitrust and breach of contract.

AUTHORITY: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159; Federal Energy Administration Act of 1974, Pub. L. 93–275, E.O. 11790, 39 FR 23185; FEO Order No. 4, 39 FR 9506; Governor of the Commonwealth of Puerto Rico, E.O. No. 2039; Constitution of the Commonwealth of Puerto Rico; Department of Consumer Affairs Organic Act, Law No. 5 of April 23, 1973, as amended.

Subpart A—General Provisions

§ 661.1 Purpose and scope.

(a) This part establishes the procedures to be utilized and identifies the

sanctions that are available in proceedings before the DOCA in accordance with Part 660 of this subchapter.

(b) This subpart defines certain terms and establishes procedures that are applicable to each proceeding described in this part.

§ 661.2 Definitions.

The definitions set forth in Part 660 of this subchapter shall apply to this part, unless otherwise provided. In addition, as used in this part, the term:

"Action" means an order, interpretation, notice of probable violation, or ruling issued, or a rulemaking undertaken by the DOCA.

"Adjustment" means a modification of the base period volume or other measure of allocation entitlement in accordance with Part 660 of this subchapter.

"Aggrieved", for purposes of administrative proceedings, describes and means a person with an interest sought to be protected under the FEAA or EPAA who is adversely affected by an order or interpretation issued by the DOCA.

"Assignment" means an action designating that an authorized purchaser be supplied a specified or an unspecified volume of a specified petroleum product by a specified supplier.

"Conference" means an informal meeting, incident to any proceeding, between DOCA officials and any person aggrieved by that proceeding.

"Duly authorized representative" means a person who has been designated to appear before the DOCA in connection with a proceeding on behalf of a person interested in or aggrieved by that proceeding. Such appearance may consist of the submission of applications, petitions, requests, statements, memoranda of law, other documents, or of a personal appearance, verbal communication, or any other participation in the proceeding.

"EPAA" means the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159).

"Exception" means the waiver or modification of the requirements of a regulation, ruling or generally applicable requirement under a specific set of facts.

"Exemption" means the release from the obligation to comply with any of the provisions of Part 660 of this subchapter, or any of the provisions of a subpart thereof.

"FEAA" means the Federal Energy Administration Act of 1974 (Pub. L. 93–275).

"Interpretation" means a written statement issued by DOCA in response to a written request, that applies the regulations, rulings, and other precedents previously issued by the DOCA to the particular facts of a prospective or completed act or transaction.

"Notice of probable violation" means a written statement issued to a person by the DOCA that states one or more alleged violations of the provisions of Part 660 of this subchapter or any order issued pursuant thereto.

"Order" means a written directive or verbal communication of a written directive, if promptly confirmed in writing, issued by the DOCA. It may be issued in response to an application, petition or request for DOCA action or in response to an appeal from an order, or it may be a remedial order or other directive issued by the DOCA on its own initiative. A notice of probable violation is not an order. For purposes of this definition a "written directive" shall include telegrams, telecopies and similar transcriptions.

"Persons" means any individual, firm, estate, trust, sole proprietorship, partnership, association, company, joint-venture, corporation, governmental unit or instrumentality thereof, or a charitable, educational or other institution, and includes any officer, director, owner or duly authorized representative thereof.

"Proceeding" means the process and activity, and any part thereof, instituted by the DOCA, either on its own initiative or in response to an application, complaint, petition or request submitted by a person, that may lead to an action by the DOCA.

"Remedial order" means a directive issued by the DOCA requiring a person to cease a violation or to eliminate or to compensate for the effects of a violation, or both.

"Ruling" means an official interpretative statement of general applicability issued by the DOCA and published in the FEDERAL REGISTER that applies the DOCA regulations to a specific set of circumstances.

Throughout this part the use of a word or term in the singular shall include the plural and the use of the male gender shall include the female gender.

§ 661.3 Appearance before the DOCA.

(a) *Appearance.* A person may make an appearance, including a personal appearance at the discretion of the DOCA, and participate in any proceeding described in this part on his own behalf or by a duly authorized representative. Any application, appeal, petition, request or complaint filed by a duly authorized representative shall contain a statement by such person certifying that he is a duly authorized representative, unless a DOCA form requires otherwise.

(b) *Suspension and disqualification.* The DOCA may deny, temporarily or permanently, the privilege of participating in proceedings, including oral presentations, to any individual who is found by the DOCA:

(1) To have made false or misleading statements, either verbally or in writing;

(2) To have filed false or materially altered documents, affidavits or other writings;

(3) To lack the specific authority to represent the person seeking a DOCA action; or

(4) To have engaged in or to be engaged in contumacious conduct that substantially disrupts a proceeding.

§ 661.4 Filing of documents.

(a) Any document, including, but not limited to, an application, request, complaint, petition and other documents submitted in connection therewith, filed with the DOCA under this part or Part 660 of this subchapter is considered to be filed when it has been received by the DOCA. Documents mailed to the DOCA must be sent to P.O. Box 13934 Santurce, P.R. 00908. All documents and exhibits submitted become part of a DOCA file and will not be returned.

(b) Notwithstanding the provisions of paragraph (a) of this section, an appeal, a response to a denial of an appeal or application for modification or recission in accordance with §§ 661.77(a)(3) and 661.96(a)(3), respectively, a reply to a notice of probable violation, the appeal of a remedial order or remedial order for immediate compliance, a response to denial of a claim of confidentiality, or a comment submitted in connection with any proceeding transmitted by registered or certified mail and addressed to the appropriate office is considered to filed upon mailing.

(c) Hand-delivered documents to be filed with the DOCA shall be submitted to to the Oil Allocation Office, 4th Floor, Las Minillis, Santurce, P.R.

(d) Documents received after regular business hours are deemed filed on the next regular business day. Regular business hours for the DOCA are 8 a.m. to 4:30 p.m.

§ 661.5 Computation of time.

(a) *Days.* (1) Except as provided in paragraph (b) of this section, in computing any period of time prescribed or allowed by these regulations or by an order of the DOCA, the day of the act, event, or default from which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day that is neither a Saturday, Sunday, nor a legal holiday.

(2) Saturdays, Sundays, or intervening legal holidays shall be excluded from the computation of time when the period of time allowed or prescribed is 7 days or less.

(b) *Hours.* If the period of time prescribed in an order issued by the DOCA is stated in hours rather than days, the period of time shall begin to run upon actual notice of such order, whether by verbal or written communication, to the person directly affected, and shall run without interruption, unless otherwise provided in the order, or unless the order is stayed, modified, suspended or rescinded. When a written order is transmited by verbal communication, the written order shall be served as soon thereafter as is feasible.

(c) *Additional time after service by mail.* Whenever a person is required to perform an act, to cease and desist therefrom, or to initiate a proceeding under this part, within a prescribed period of time after issuance to such person of

an order, notice, interpretation or other document and the order, notice, interpretation or other document is served by mail, 3 days shall be added to the prescribed period.

§ 661.6 Extension of time.

When a document is required to be filed within a prescribed time, an extension of time to file may be granted by the office with which the document is required to be filed upon good cause shown.

§ 661.7 Service.

(a) All orders, notices, interpretations or other documents required to be served under this part shall be served personally or by registered or certified mail or by regular United States mail, except as otherwise provided.

(b) Service upon a person's duly authorized representative shall constitute service upon that person.

(c) Service by registered or certified mail is complete upon mailing. Official United States Postal Service receipts from such registered or certified mailing shall constitute prima facie evidence of service.

§ 661.8 General filing requirements.

(a) *Purpose and scope.* The provisions of this section shall apply to all documents required or permitted to be filed with the DOCA.

(b) *Signing.* All applications, petitions, requests, appeals, comments or any other documents that are required to be signed, shall be signed by the person filing the document or a duly authorized representative. Any application, appeal, petition, request, complaint or other document filed by a duly authorized representative shall contain a statement by such person certifying that he is a duly authorized representative, unless a DOCA form otherwise requires.

(c) *Labeling.* An application, petition, or other request for action by the DOCA should be clearly labeled according to the nature of the action involved (e.g., "Application for Assignment") both on the document and on the outside of the envelope in which the document is transmitted.

(d) *Obligation to supply information.* A person who files an application, petition, complaint, appeal or other request for action is under a continuing obligation during the proceeding to provide the DOCA with any new or newly discovered information that is relevant to that proceeding. Such information includes, but is not limited to, information regarding any other application, petition, complaint, appeal or request for action that is subsequently filed by that person with the DOCA.

(e) *The same or related matters.* A person who files an application, petition, complaint, appeal or other request for action by the DOCA shall state whether, to the best knowledge of that person, the same or related issue, act or transaction has been or presently is being considered or investigated by the DOCA, other Commonwealth or Federal agency, department or instrumentality; or a municipal agency or court; or by any law enforcement agency; including, but not limited to, a consideration or investigation in connection with any proceeding described in this part. In addition, the person shall state whether contact has been made by the person or one acting on his behalf with any person who is employed by the DOCA with regard to the same issue, act or transaction or a related issue, act or transaction arising out of the same factual situation; the name of the person contacted; whether the contact was verbal or in writing; the nature and substance of the contact; and the date or dates of the contact.

(f) *Request for confidential treatment.* (1) If any person filing a document with the DOCA claims that some or all the information contained in the document is information referred to in 18 U.S.C. 1905 (1970), or is otherwise confidential and if such person requests the DOCA not to disclose such information, such person shall file together with the document a second copy of the document from which has been deleted the information for which such person wishes to claim confidential treatment. The person shall indicate in the original document that it is confidential or contains confidential information and may file a statement specifying the justification for nondisclosure of the information for which confidential treatment is claimed. If the person filing a document does not submit a second copy of the document with the confidential information deleted, the DOCA may assume that there is no objection to public disclosure of the document in its entirety.

(2) The DOCA retains the right to make its own determination with regard to any claim of confidentiality. Notice of the decision by the DOCA to deny such claim, in whole or in part, and an opportunity to respond shall be given to a person claiming confidentiality of information no less than 5 days prior to its public disclosure.

(g) *Separate applications, petitions or requests.* Each application, petition or request for DOCA action shall be submitted as a separate document, even if the applications, petitions, or requests deal with the same or a related issue, act or transaction, or are submitted in connection with the same proceeding.

§ 661.9 Effective date of orders.

Any order issued by the DOCA under Part 660 of this subchapter is effective as against all persons having actual notice thereof upon issuance, in accordance with its terms, unless and until it is stayed, modified, suspended, or rescinded. An order is deemed to be issued on the date, as specified in the order, on which it is signed by an authorized representative of the DOCA, unless the order provides otherwise.

§ 661.10 Order of precedence.

If there is any conflict or inconsistency between the provisions of this part and any other provision of Part 660 of this subchapter, the provisions of this part shall control with respect to procedures.

§ 661.11 Where to file.

Except as otherwise specifically provided in other subparts of this part, all documents to be filed with the DOCA pursuant to this part shall be filed with the DOCA at P.O. Box 13934 Santurce, P.R. 00908.

Subpart B—Adjustment

§ 661.21 Purpose and scope.

This subpart establishes the procedures for filing an application for an adjustment as provided in Part 660 of this subchapter.

§ 661.22 What to file.

(a) A person filing under this subpart shall file an "Application for Adjustment," which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 661.8 in addition to the requirements stated in this subpart.

(b) The application shall be accompanied by the appropriate DOCA form.

(c) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 661.8(f) shall apply.

§ 661.23 Where to file.

All applications for adjustment shall be filed with the DOCA at the address provided in § 661.11.

§ 661.24 Notice.

(a) The DOCA shall serve notice on any person reasonably identifiable by the DOCA as one who will be aggrieved by the DOCA action and may serve notice on any other person that written comments regarding the application for adjustment will be accepted if filed within 10 days of service of the notice; or may determine that notice should be published in the FEDERAL REGISTER.

(b) Any person submitting written comments to the DOCA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 661.8(f), to the applicant. The person shall certify to the DOCA that he has complied with the requirements of this paragraph. The DOCA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 661.25 Contents.

(a) The application shall be the appropriate DOCA form, which shall be completed in accordance with instructions that accompany the form. If there is not a current DOCA form appropriate or available, the applicant shall file an application that contains the information required by paragraph (b) of this section.

(b) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the DOCA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be effected by the requested action; and a full discussion of the pertinent provisions and facts contained in any relevant documents. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the application shall be submitted to the DOCA upon its request. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted. The application shall also include the following information:

(1) Description of applicant's business or end use of the product;

(2) The anticipated use of the product in applicant's operation, including the present and anticipated needs of its customers, if applicable;

(3) An estimate of the anticipated effect that denial of the requested adjustment would have on the applicant's operations;

(4) A description of the extent to which the applicant has investigated the possibilities of converting to an alternative product, and the applicant's conclusion as to the feasibility of making that conversion;

(5) The identification of any previous order relevant to the present application that has been issued to the applicant or to any person who controls or is controlled by the applicant;

(6) A certification of the accuracy of the application by the chief executive officer of the applicant or his duly authorized representative; and

(7) A statement that the increased allocations shall be used only for the purpose stated in the application, shall not be diverted to other uses, and that if needs decline the applicant shall file an amended application for a downward adjustment to its base period use.

§ 661.26 DOCA evaluation.

(a) *Processing.* (1) The DOCA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The DOCA may solicit and accept submissions from third persons relevant to any application. *Provided,* That the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the DOCA may consider any other source of information. The DOCA on its own initiative may convene a conference, if, in its discretion, it considers that such will advance its evaluation of the application.

(2) If the DOCA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the DOCA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the DOCA may dismiss the application with prejudice.

(b) *Criteria.* An application for adjustment will only be granted or validated in the circumstances permitted or required by Part 660 of this subchapter. In evaluating such an application, the DOCA will apply the criteria stated in section 4(b) of the EPAA, and will consider applicant's compliance with the DOCA guidelines and regulations and the FEA price regulations.

§ 661.27 Decision and order.

(a) Upon consideration of the application or request and other relevant information received or obtained during the proceeding, the DOCA shall issue an appropriate order.

(b) The order shall include a brief written statement summarizing the factual and legal basis upon which the order was issued. The order shall provide that any person aggrieved thereby may file an appeal in accordance with Subpart G of this part.

(c) The DOCA shall serve a copy of the order upon the applicant and any other person who participated in the proceeding and upon any other person reasonably identifiable by the DOCA as one who is aggrieved by such order.

§ 661.28 Timeliness.

If the DOCA fails to take action on any application filed under this subpart within ninety (90) days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 661.29 Appeal.

Any person aggrieved by an order issued by the DOCA under this subpart may file an appeal with the DOCA in accordance with Subpart G of this part. The appeal shall be filed within thirty (30) days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart G of this part and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart C—Assignment

§ 661.31 Purpose and scope.

This subpart establishes the procedures for the filing of an application for an assignment as provided in Part 660 of this subchapter.

§ 661.32 What to file.

(a) A person filing under this subpart shall file an "Application for Assignment" or an "Application for Temporary Assignment" as provided in § 661.40, which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 661.8 in addition to the requirements stated in this subpart.

(b) The application shall be accompanied by the appropriate DOCA form.

(c) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 661.8(f) shall apply.

§ 661.33 Where to file.

All applications for assignment shall be filed with the DOCA at the address provided in § 661.11.

§ 661.34 Notice.

(a) The DOCA shall serve notice on any person reasonably identifiable by the DOCA as one who will be aggrieved by the DOCA action and may serve notice on any other person that written comments regarding the application for assignment will be accepted if filed within ten (10) days of service of the notice; or may determine that notice should be published in the FEDERAL REGISTER.

(b) Any person submitting written comments to the DOCA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 661.8(f), to the applicant. The person shall certify to the DOCA that it has complied with the requirements of this paragraph. The DOCA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 661.35 Contents.

(a) The application shall be the appropriate DOCA form, which shall be completed in accordance with the instructions that accompany the form. If there is not a current DOCA form appropriate or available, the applicant shall file an application that contains the information required by paragraph (b) of this section.

(b) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the DOCA action sought. Such facts shall include the names and addresses of all affected person (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the requested action; and a full discussion of the pertinent provisions and facts contained in any relevant documents. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the application shall be submitted to the DOCA upon its request. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be

submitted. In addition to such information, the application shall include the following information:

(1) Description of applicant's business or end use of the product;

(2) The anticipated use of the petroleum product in applicant's operation, including present and anticipated needs of its customers, if applicable;

(3) An estimate of the anticipated effect that denial of the requested assignment would have on the applicant's operation;

(4) A description of the extent to which the applicant has investigated the possibilities of converting to an alternative product, and the applicant's conclusion as to the feasibility of making such conversion;

(5) A description of applicant's efforts to find other suppliers;

(6) The identification of any previous assignment order relevant to the present application that has been issued to the applicant or to any person that controls or is controlled by the applicant;

(7) A statement as to whether the applicant had a supplier during the requisite base period, or as to whether the applicant's base period supplier or new supplier is unable to supply his requirements;

(8) The identification of any persons who will be aggrieved by the DOCA action sought, including potential suppliers; and

(9) Wholesale purchasers shall provide documentary evidence justifying its proposed base period volume as normal and reasonable for its intended use.

§ 661.36 DOCA evaluation.

(a) *Processing.* (1) The DOCA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The DOCA may solicit and accept submissions from third persons relevant to any application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the DOCA may consider any other source of information. The DOCA on its own initiative may convene a conference, if, in its discretion, it considers that a conference will advance its evaluation of the application.

(2) If the DOCA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the DOCA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the DOCA may dismiss the application with prejudice.

(b) *Criteria.* An application for assignment may be granted in the situations specified in Part 660 of this subchapter. (1) In evaluating such an application, the DOCA will, to the maximum extent possible, apply the criteria stated in section 4(b) of the EPAA.

(2) The DOCA shall consider the criteria provided in Part 660 of this subchapter and DOCA guidelines, rulings and decisions on appeal.

(3) The DOCA shall also consider applicant's compliance with the DOCA guidelines and regulations and the FEA price regulations.

(4) In selecting a supplier for an assignment, the DOCA shall consider the goal of equalizing allocation fractions among suppliers and the capability of the supplier to provide the product to an applicant on short notice.

§ 661.37 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the DOCA shall issue an appropriate order. The order shall state the duration of the assignment, which may be for the duration of the allocation program or for any lesser period specified therein.

(b) The order shall include a brief written statement summarizing the factual and legal basis upon which the order was issued. The order shall provide that any person aggrieved thereby may file an appeal with the DOCA in accordance with Subpart G of this part.

(c) Prior to issuance of an assignment order, the DOCA shall contact the proposed supplier for the purpose of determining the accuracy of the facts upon which it intends to base the proposed assignment order and the impact such order may have upon the proposed supplier's operations, and to give the supplier a reasonable opportunity to comment on the proposed order. To the extent a proposed supplier's comments present facts or other information that materially differs from those in the application, the applicant shall be advised and given an opportunity to respond verbally. The notice and comment provided herein may be in writing if time permits.

(d) The DOCA shall serve a copy of the order upon the person who thereby will be directed to supply the product or to establish a base period volume, the applicant and upon any other person reasonable identifiable by the DOCA as one who is aggrieved by said order.

§ 661.38 Timeliness.

If the DOCA fails to take action on any application filed under this subpart within ninety (90) days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 661.39 Appeal.

(a) Any person aggrieved by an order issued by the DOCA under this subpart may file an appeal with the DOCA in accordance with Subpart G of this part. The appeal shall be filed within thirty (30) days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart G of this part and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

(b) If an appeal is filed in connection with the issuance of a temporary assignment order in accordance with § 661.40, and subsequent to such appeal an assignment order from which said person also appeals is issued to the recipient of the temporary assignment order, the appeal from both the temporary assignment order and the subsequent assignment order shall be consolidated and considered in the same appellate proceeding.

§ 661.40 Temporary assignment.

(a) In certain circumstances and upon receipt of an application from a wholesale purchaser consumer, an end-user or a wholesale purchaser-reseller, other than a wholesale purchaser who requires an assignment to supply wholesale purchaser-consumers or end-users experiencing hardship or emergency, the DOCA may issue a temporary assignment order to such an applicant. The ordering of a temporary assignment shall occur only in dire circumstances and when it is not feasible to issue an assignment order that conforms to the DOCA guidelines. Temporary assignments are intended to be issued when circumstance do not permit the issuance of an assignment order in the normal time period. The "Application for Temporary Assignment" is to conform to the requirements of § 661.35, except that such requirements may be waived in whole or in part by the DOCA for good cause shown. The application shall fully describe why the assignment must be made on a short term or emergency basis. A temporary assignment order shall have a duration of not longer than sixty (60) days. It is intended that a temporary assignment order shall be a one-time order that pertains to a specific situation, and it may not be extended by issuance of another temporary assignment order. If the applicant anticipates the requirement for an assignment of longer than sixty (60) days duration, he shall file contemporaneously with the application for a temporary assignment, or as soon thereafter as feasible, an "Application for Assignment."

(b) A temporary assignment order shall conform to the requirements of § 661.36 and shall be issued only upon a finding that circumstances do not permit issuance of an assignment in accordance with DOCA guidelines, which finding shall be stated in that order.

(c) The supplier selected shall be given notice of the temporary assignment order at least twenty-four (24) hours in advance of its issuance.

(d) A temporary assignment order shall be appealable in accordance with § 661.39.

Subpart D—Exceptions and Exemptions

§ 661.41 Purpose and scope.

(a) This subpart establishes the procedures for applying for (1) an exception from a Part 660 regulation of this subchapter, ruling or generally applicable requirement and (2) an exemption from Part 660 of this subchapter or any subpart thereof.

(b) The filing of an application for an exception or an exemption shall not constitute grounds for non-compliance with the requirements of Part 660 of this subchapter, a subpart thereof, a regulation, ruling or generally applicable requirement from which an exception or exemption is sought, unless a stay has been issued in accordance with Subpart H of this part.

§ 661.42 What to file.

A person filing under this subpart shall file an "Application for Exception (or Exemption)", which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 661.8 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 661.8(f) shall apply.

§ 661.43 Where to file.

All applications for exception or exemption shall be filed with the DOCA at the address provided in § 661.11.

§ 661.44 Notice.

(a) The applicant shall send by United States mail a copy of the application and any subsequent amendments or other documents relating to the application, or a copy from which confidential information has been deleted in accordance with § 661.8(f), to each person who is reasonably ascertainable by the applicant as a person who will be aggrieved by the DOCA action sought. The copy of the application shall be accompanied by a statement that the person may submit comments regarding the application to the DOCA within ten (10) days. The application filed with the DOCA shall include certification to the DOCA that the applicant shall include the names and addresses of each person to whom a copy of the application was sent.

(b) Notwithstanding the provisions of paragraph (a) of this section, if an applicant determines that compliance with paragraph (a) of this section would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and practicable to notify; and

(2) Include with the application a description of the persons or class or classes of persons to whom notice was not sent.

The DOCA may require the applicant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the FEDERAL REGISTER.

(c) The DOCA shall serve notice on any other person readily identifiable by the DOCA as one who will be aggrieved by the DOCA action sought and may serve notice on any other person that written comments regarding the application will be accepted if filed within ten (10) days of service of such notice.

(d) Any person submitting written comments to the DOCA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 661.8 to the applicant. The person shall certify to the DOCA that he has complied with the requirements of this paragraph. The DOCA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 661.45 Contents.

The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the DOCA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the requested action; and a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the application. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the application. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted. The applicant shall state whether he requests or intends to request that there be a conference or hearing regarding the application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference or hearing is held when it will be most beneficial. The request and the DOCA's determination regarding it shall be made in accordance with Subpart K of this part.

(c) The application shall include a discussion of all relevant authorities, including, but not limited to, DOCA rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the particular action sought therein.

(d) The application shall specify the exact nature and extent of the relief requested.

§ 661.46 DOCA evaluation.

(a) *Processing.* (1) The DOCA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts by such investigation. The DOCA may solicit and accept submissions from third persons relevant to any application: *Provided,* That the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the DOCA on its own initiative may convene a hearing or conference, if, in its discretion, it considers that such hearing or conference will advance its evaluation of the application.

(2) If the DOCA determines that there is insufficient information upon which to base a decision and if upon request aditional information is not submitted by the applicant, the DOCA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the DOCA may dismiss the application with prejudice. If the applicant fails to provide the notice required by § 661.44, the DOCA may dismiss the application without prejudice.

(b) *Criteria.* (1) The DOCA shall only consider an application for an exception or exemption when it determines that a more appropriate proceeding is not provided by this part.

(2) An application for an exception or an exemption may be granted to alleviate or prevent serious hardship or gross inequity.

(3) An application for an exception or an exemption shall be decided in a manner that is, to the extent possible, consistent with the disposition of previous applications for exceptions or exemption.

(4) The DOCA shall consider applicant's compliance with the DOCA guidelines and regulations and the FEA price regulations.

§ 661.47 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the DOCA shall issue an order granting or denying the application.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order shall provide that any person aggrieved thereby may file an appeal with the DOCA in accordance with Subpart G of this part.

(c) The DOCA shall serve a copy of the order upon the applicant, any other person who participated in the proceeding and upon any other person readily identifiable by the DOCA as one who is aggrieved by such order.

§ 661.48 Timeliness.

(a) When the DOCA has received all substantive information deemed necessary to process any application filed under this subpart, the DOCA shall serve notice of that fact upon the applicant and all other persons who received notice of the proceeding pursuant to the provisions of § 661.44 and if the DOCA fails to take action on the application within ninety (90) days of serving such notice, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

(b) Notwithstanding the provisions of paragraph (a) of this section, if the

DOCA fails to take action on the application within one hundred fifty (150) days from the filing of the application, the applicant may treat it as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 661.49 Appeal.

Any persons aggrieved by an order issued by the DOCA under this subpart may file an appeal with the DOCA in accordance with Subpart G of this part. The appeal must be filed within thirty (30) days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart G of this part and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart E—Interpretation

§ 661.51 Purpose and scope.

(a) This subpart establishes the procedures for the filing of a formal request for an interpretation and for the consideration of such request by the DOCA. Interpretations shall be in writing. Responses, which may include verbal or written responses to general inquiries or to other than formal written requests for interpretation are not interpretations and merely provide general information.

(b) A request for interpretation that includes, or could be construed to include an application for an exception or an exemption may be treated solely as a request for interpretation and processed as such.

§ 661.52 What to file.

(a) A person filing under this subpart shall file a "Request for Interpretation," which should be clearly labeled as such both on the request and on the outside of the envelope in which the request is transmitted, and shall be in writing and signed by the person filing the request. The person filing the request shall comply with the general filing requirements stated in § 661.8 in addition to the requirements stated in this subpart.

(b) If the person filing the request wishes to claim confidential treatment for any information contained in the request or other documents submitted under this subpart, the procedures set out in § 661.8(f) shall apply.

§ 661.53 Where to file.

A request for interpretation shall be filed with the DOCA at the address provided in § 661.11.

§ 661.54 Contents.

(a) The request shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the request and to the DOCA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable) and a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the request. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the request. When the request pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction must be submitted.

(b) The request for interpretation shall include a discussion of all relevant authorities, including, but not limited to, DOCA rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the particular interpretation sought therein.

§ 661.55 DOCA evaluation.

(a) *Processing.* (1) The DOCA may initiate an investigation of any statement in a request and utilize in its evaluation any relevant facts obtained by such investigation. The DOCA may accept submissions from third persons relevant to any request for interpretation: *Provided,* That the person making the request is afforded an opportunity to respond to all third person submissions. In evaluating a request for interpretation, the DOCA may consider any other source of information. The DOCA on its own initiative may convene a conference, if, in its discretion, it considers that such conference will advance its evaluation of the request.

(2) The DOCA shall issue its interpretation on the basis of the information provided in the request, unless that information is supplemented by other information brought to the attention of the DOCA during the proceeding. The interpretation shall, therefore, depend for its authority on the accuracy of the factual statement and may be relied upon only to the extent that the facts of the actual situation correspond to those upon which the interpretation was based.

(3) If the DOCA determines that there is insufficient information upon which to base a decision and if upon request additional information is not submitted by the person requesting the interpretation, the DOCA may refuse to issue an interpretation.

(b) *Criteria.* (1) The DOCA shall base an interpretation on the FEAA and EPAA and the regulations and published rulings of the DOCA as applied to the specific factual situation.

(2) The DOCA shall take into consideration previously issued interpretations dealing with the same or a related issue.

§ 661.56 Decision and effect.

(a) Upon consideration of the request for interpretation and other relevant information received or obtained during the proceeding, the DOCA shall issue a written interpretation.

(b) The interpretation shall contain a statement of the information upon which it is based and a legal analysis of and conclusions regarding the application of rulings, regulations and other precedent to the situation presented in the request.

(c) Only those persons to whom an interpretation is specifically addressed and other persons upon whom the DOCA serves the interpretation and who are directly involved in the same transaction or act may rely upon it. No person entitled to rely upon an interpretation shall be subject to civil or criminal penalties stated in Subpart N of this part for any act taken in reliance upon the interpretation, notwithstanding that the interpretation shall thereafter be declared by judicial or other competent authority to be invalid.

(d) An interpretation may be rescinded or modified at any time. Rescission or modification may be effected by notifying persons entitled to rely on the interpretation that it is rescinded or modified. This notification shall include a statement of the reasons for the rescission or modification and, in the case of a modification, a restatement of the interpretation as modified.

(e) An interpretation is modified by a subsequent amendment to the regulations or ruling to the extent that it is inconsistent with the amended regulation or ruling.

§ 661.57 Appeal.

Any person aggrieved by an interpretation issued by the DOCA under this subpart may file an appeal with the DOCA in accordance with Subpart G of this part. The appeal must be filed within thirty (30) days of service of the interpretation from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart G of this part and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart F—Other Proceedings

§ 661.61 Purpose and scope.

This subpart establishes the procedures for the filing of such other applications, petitions, or requests as may be required or permitted from time to time under the provisions of Part 660 of this subchapter, but does not supplant any procedures presently provided for in this part.

§ 661.62 What to file.

(a) A person filing under this subpart shall file an "Application (petition or request, if applicable) for (identify action requested)," which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 661.8 in addition to the requirements stated in this subpart.

(b) If the person wishes to claim confidential treatment for any information contained in the application, petition, request, or other documents submitted under this subpart, the procedures set out in § 661.8(f) shall apply.

§ 661.63 Where to file.

All applications, petitions or requests not described in other subparts of this part shall be filed in accordance with any DOCA forms and instructions that relate thereto. If no such forms and instructions have been issued by the DOCA all such applications, petitions or requests shall be filed with the DOCA at the address provided in § 661.11.

§ 661.64 Contents.

Any application, petition or request filed under this subpart shall contain all the information that the DOCA by regulation, ruling, form or other instruction may require.

§ 661.65 DOCA evaluation.

(a) *Processing.* (1) The DOCA may initiate an investigation of any statement in an application, petition or request and utilize in its evaluation any relevant facts obtained by such investigation. The DOCA may solicit and accept submissions from third persons relevant to any application, petition or request: *Provided,* That the person who filed is afforded an opportunity to respond to all third person submissions. In evaluating an application, petition or request, the DOCA may consider any other source of information. The DOCA on its own initiative may convene a conference, if, in its discretion, it considers that such conference will advance its evaluation of the application, petition or request.

(2) If the DOCA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the DOCA may dismiss the application, petition or request without prejudice. If the failure to supply additional information is repeated or willful, the DOCA may dismiss the application, petition or request with prejudice.

(b) *Criteria.* In considering an application, petition or request, the DOCA will apply the criteria stated in any DOCA regulation, ruling, form or instruction that relates to such application, petition or request, and shall consider applicant's compliance with the DOCA guidelines and regulations and the FEA price regulations.

§ 661.66 Decision and order.

(a) Upon consideration of the application, petition or request and other relevant information received or obtained during the proceeding, if DOCA action is required, the DOCA shall issue an appropriate order.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order shall provide that any person aggrieved thereby may file an appeal with the DOCA in accordance with Subpart G of this part.

(c) The DOCA shall serve a copy of the order upon the person who filed and any other person who participated in the proceeding and may serve a copy of the order upon any person who is aggrieved by said order.

§ 661.67 Timeliness.

If the DOCA fails to take action on any application filed under this subpart within ninety (90) days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 661.68 Appeal.

Any person aggrieved by an order issued by the DOCA under this subpart may file an appeal with the DOCA in accordance with Subpart G of this part. The appeal shall be filed within thirty (30) days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart G of this part and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart G—Appeal

§ 661.71 Purpose and scope.

(a) This subpart establishes the procedures for the filing of an administrative appeal of any DOCA actions taken under Subparts B, C, D, E, or F of this part or of a remedial order issued pursuant to Subpart M of this part and the consideration of such appeal by the DOCA.

(b) A person who has appeared before the DOCA in connection with a matter arising under Subparts B, C, D, E or F of this part or of a remedial order issued pursuant to Subpart M of this part has not exhausted his administrative remedies until an appeal has been filed under this subpart and an order granting or denying the appeal has been issued.

§ 661.72 Who may file.

Any person aggrieved by an order or interpretation issued by the DOCA under Subparts B, C, D, E or F of this part or of a remedial order issued pursuant to Subpart M of this part may file an appeal under this subpart.

§ 661.73 What to file.

(a) A person filing under this subpart shall file an "Appeal of Order (or Interpretation)", which should be clearly labeled as such both on the appeal and on the outside of the envelope in which the appeal is transmitted, and shall be in writing and signed by the person filing the appeal. The appellant shall comply with the general filing requirements stated in § 661.8 in addition to the requirements stated in this subpart.

(b) If the appellant wishes to claim confidential treatment for any information contained in the appeal or other documents submitted under this subpart, the procedures set out in § 661.8(f) shall apply.

§ 661.74 Where to file.

The appeal shall be filed with the DOCA at the address provided in § 661.11.

§ 661.75 Notice.

(a) The appellant shall send by United States mail a copy of the appeal and any subsequent amendments or other documents relating to the appeal, or a copy from which confidential information has been deleted in accordance with § 661.8(f), to each person who is reasonably ascertainable by the appellant as a person who will be aggrieved by the DOCA action sought, including those who participated in the prior proceeding. The copy of the appeal shall be accompanied by a statement that the person may submit comments regarding the appeal to the DOCA office within ten (10) days. The appeal filed with the DOCA shall include certification to the DOCA that the appellant has complied with the requirements of this paragraph and shall include the names and addresses of each person to whom a copy of the appeal was sent.

(b) Notwithstanding the provisions of paragraph (a) of this section, if an appellant determines that compliance with paragraph (a) of this section would be impracticable, the appellant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and possible to notify; and

(2) Include with the appeal a description of the persons or class or classes of persons to whom notice was not sent.

The DOCA may require the appellant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the FEDERAL REGISTER.

(c) The DOCA shall serve notice on any other person reasonably identifiable by the DOCA as one who will be aggrieved by the DOCA action sought and may serve notice on any other person that written comments regarding the appeal will be accepted if filed within ten (10) days of service of that appeal.

(d) Any person submitting written comments to the DOCA with respect to an appeal filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 661.8(f), to the appellant. The person shall certify to the DOCA that it has complied with the requirements of this paragraph. The DOCA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 661.76 Contents.

(a) The appeal shall contain a concise statement of grounds upon which it is brought and a description of the relief sought. It shall include a discussion of all relevant authorities, including, but not limited to, DOCA rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the appeal. If the appeal includes a request based on significantly changed circumstances, there shall be a complete

description of the events, acts, or transactions that comprise the significantly changed circumstances, and the appellant shall state why, if the significantly changed circumstance is new or newly discovered facts, such facts were not or could not have been presented during the prior proceeding. For purposes of this subpart, the term "significantly changed circumstances" shall mean:

(1) The discovery of material facts that were not known or could not have been known at the time of the prior proceeding;

(2) The discovery of a law, regulation, interpretation, ruling, order or decision on an appeal or an exception that was in effect at the time of the proceeding upon which the order or interpretation is based and which, if such had been made known to DOCA, would have been relevant to the proceeding and would have substantially altered the outcome; or

(3) A substantial change in the facts or circumstances upon which an outstanding and continuing order or interpretation affecting the appellant was issued, which change has occurred during the interval between issuance of the order or interpretation and the date of the appeal and was caused by forces or circumstances beyond the control of the appellant.

(b) A copy of the order or interpretation that is the subject of the appeal shall be submitted with the appeal.

(c) The appellant shall state whether to the best of his knowledge the same or a related issue, act or transaction that is the subject of the appeal has been or presently is being considered or investigated by the DOCA, other Commonwealth or Federal agency, department or instrumentality; or a municipal agency or court; or by any law enforcement agency; including, but not limited to, a consideration or investigation in connection with a DOCA proceeding described in this part, other than the proceeding from which the appeal is taken. In addition, the appellant shall state whether contact has been made by the appellant or one acting on his behalf with any person who is employed by the DOCA subsequent to service of the order or interpretation that is being appealed with regard to the issue, act or transaction that is the subject of the appeal; the name of the person contacted; whether the contact was verbal or in writing; the nature and substance of the contact; and the date or dates of the contact. An appellant shall comply with this paragraph in lieu of § 661.8(e).

(d) The appellant shall state whether he requests or intends to request that there be a conference or hearing regarding the appeal. Any request not made at the time the appeal is filed shall be made as soon thereafter as possible, to insure that the conference or hearing is held when it will be most beneficial. The request and the DOCA's determination regarding it shall be made in accordance with Subpart K of this part.

§ 661.77 DOCA evaluation.

(a) *Processing.* (1) The DOCA may initiate an investigation of any statement in an appeal and utilize in its evaluation any relevant facts obtained by such investigation. The DOCA may solicit and accept submissions from third persons relevant to any appeal: *Provided,* That the appellant is afforded an opportunity to respond to all third person submissions. In evaluating an appeal, the DOCA may consider any other source of information. The DOCA on its own initiative may convene a conference or hearing if, in its discretion, it considers that such conference of hearing will advance its evaluation of the appeal.

(2) If the DOCA determines that there is insufficient information upon which to base a decision and if, upon request, the necessary additional information is not submitted, the DOCA may dismiss the appeal with leave to amend within a specified time. If the failure to supply additional information is repeated or willful, the DOCA may dismiss the appeal with prejudice. If the appellant fails to provide the notice required by § 661.75, the DOCA may dismiss the appeal without prejudice.

(3) *Failure to satisfy requirements.* (i) If the appellant fails to satisfy the requirements of paragraph (b)(1) of this section, the DOCA may issue an order denying the appeal. The order shall state the grounds for the denial and a copy of the order shall be served upon the appellant and any other person who participated in the proceeding.

(ii) The order denying the appeal shall become a final order of the DOCA within ten (10) days of its service upon the appellant, unless within such ten (10) day period an amendment to the appeal that corrects the deficiencies identified in the order is filed with the DOCA.

(iii) Within ten (10) days of the filing of such DOCA amendments, as provided in paragraph (b)(1) of this section, the DOCA shall notify the appellant whether the amendment corrects the specified deficiencies. If the amendment does not correct the deficiencies, that notice shall be an order dismissing the appeal as amended. Such order shall be a final order of the DOCA of which appellant may seek judicial review.

(b) *Criteria.* (1) An appeal may be summarily denied if:

(i) It is not filed in a timely manner, unless good cause is shown; or

(ii) It is defective on its face for failure to state, and to present facts and legal argument in support thereof, that the DOCA action was erroneous in fact or in law, or that it was arbitrary or capricious.

(2) The DOCA may deny any appeal if the appellant does establish that:

(i) The appeal was filed by a person aggrieved by DOCA action;

(ii) The DOCA's action was erroneous in fact or in law; or

(iii) The DOCA's action was arbitrary or capricious. The denial of an appeal shall be a final order of DOCA from which the appellant may seek judicial review.

§ 661.78 Decision and order.

(a) Upon consideration of the appeal and other relevant information received or obtained during the proceeding, the DOCA shall enter an appropriate order, which may include the modification of the order or interpretation that is the subject of the appeal.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order shall state that it is a final order of the DOCA from which the appellant may seek judicial review.

(c) The DOCA shall serve a copy of the order upon the appellant, any other person who participated in the proceeding and upon any other person reasonably identifiable by the DOCA as one who is aggrieved by such order.

§ 661.79 Appeal of a remedial order.

The appeal of a remedial order shall be in accordance with the procedures stated in this subpart, except:

(a) The appeal must be filed within ten (10) days of the service of the remedial order; and

(b) If the appeal is of a remedial order that was issued subsequent to a notice of probable violation that relates to an order or interpretation previously issued by the DOCA, with respect to which there was an exhaustion of administrative remedies, no issues will be considered on the current appeal that were raised in that prior proceeding.

(c) If an issue raised on an appeal of a remedial order is also being considered in connection with any other DOCA proceeding, the DOCA may consolidate such issues and considered them in the appellate proceeding for the remedial order.

§ 661.80 Timeliness.

(a) When the DOCA has received all substantive information deemed necessary to process any appeal filed under this subpart, the DOCA shall serve notice of that fact upon the appellant and all other persons who received notice of the proceeding pursuant to the provisions of § 661.75; and if the DOCA fails to take action on the appeal within ninety (90) days of serving such notice, the appellant may treat the appeal as having been denied in all respects and may seek judicial review thereof.

(b) Notwithstanding the provisions of paragraph (a) of this section, if the DOCA fails to take action on the appeal within 120 days of the filing of the appeal, the appellant may treat it as having been denied in all respects and may seek judicial review thereof.

Subpart H—Stay

§ 661.81 Purpose and scope.

This subpart establishes the procedures for the application for and granting of a stay by the DOCA. An application for a stay will only be considered:

(a) Incident to or pending an appeal from an order of the DOCA;

(b) Incident to an application for an exception from the application of any DOCA regulations, rulings, or generally applicable requirements when the stay sought is of the same regulation, ruling or generally applicable requirement from which the exception is sought; or

(c) Incident to an application for an exemption from Part 660 of this subchapter or any subpart thereof when the stay sought is of the same part or subpart from which the exemption is sought; or

(d) Pending judicial review.

All DOCA orders, regulations, rulings, and generally applicable requirements shall be complied with unless and until an application for a stay is granted.

§ 661.82 What to file.

(a) A person filing under this subpart shall file an "Application for Stay," which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 661.8 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 661.8(f) shall apply.

§ 661.83 Where to file.

An application for stay of a DOCA order incident to an appeal from such order shall be filed with the DOCA at the address provided in § 661.11.

§ 661.84 Notice.

(a) When administratively feasible, the DOCA shall notify each person reasonably identifiable by the DOCA as one who would be aggrieved by the DOCA action sought, that the applicant has filed for a stay and that the DOCA will accept written comment on the application.

(b) Any person submitting written comments to the DOCA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 661.8(f) to the applicant. The person shall certify to the DOCA that it has complied with the requirements of this paragraph. The DOCA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 661.85 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the application and to the DOCA action sought. Such facts shall include, but not be limited to, all information that relates to the satisfaction of the criteria in § 661.86(b).

(b) The application shall include a description of the proceeding incident to which the stay is being sought. This description shall contain a discussion of all DOCA actions relevant to the proceeding.

(c) The applicant shall state whether he requests or intends to request that there be a conference regarding the application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference is held when it will be most beneficial. The request and the DOCA's determination regarding it shall be made in accordance with Subpart K of this part.

§ 661.86 DOCA evaluation.

(a) *Processing.* (1) The DOCA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The DOCA may solicit and accept submissions from third persons relevant to any application: *Provided,* That the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the DOCA may consider any other source of information. The DOCA on its own initiative may convene a conference, if, in its discretion, it considers that such conference will advance its evaluation of the application.

(2) If the DOCA determines that there is insufficient information upon which to base a decision and if upon request additional information is not submitted by the applicant, the DOCA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the DOCA may dismiss the application with prejudice.

(3) The DOCA shall process applications for stay as expeditiously as possible. When administratively feasible, the DOCA shall grant or deny the application for stay within ten (10) business days after receipt of the application.

(4) Notwithstanding the provision for notice to third parties in § 661.84(a), the DOCA may make a decision on an application for stay prior to the receipt of written comments.

(b) *Criteria.* The grounds for granting a stay are:

(1) A showing that irreparable injury will result in the event that the stay is denied;

(2) A showing that denial of the stay will result in a more immediate serious hardship or gross inequity to the applicant than to the other persons affected by the proceeding;

(3) A showing that it would be desirable for public policy or other reasons to preserve the *status quo ante* pending a decision on the merits of the appeal, exception or exemption;

(4) A showing that it is impossible for the applicant to fulfill the requirements of the original order; and

(5) A showing that there is a likelihood of success on the merits.

§ 661.87 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the DOCA shall issue an order granting or denying the application.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the decision, and the terms and conditions of the stay.

(c) The DOCA shall serve a copy of the order upon the applicant, any other person who participated in the proceeding and upon any other person reasonably identifiable by DOCA as one who is aggrieved by such decision.

(d) The grant or denial of a stay is not an order of the DOCA subject to administrative review.

(e) In its discretion and upon a determination that such is in accordance with the objectives of the regulations and the FEAA or EPAA, the DOCA may order a stay on its own initiative.

Subpart I—Modification or Rescission

§ 661.91 Purpose and scope.

This subpart establishes the procedures for the filing of an application for modification or rescission of a DOCA order or interpretation. An application for modification or rescission is a summary proceeding that will be initiated only if the criteria described in § 661.96 (b) are satisfied.

§ 661.92 What to file.

(a) A person filing under this subpart shall file an "Application for Modification (or Rescission)," which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 661.8 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 661.8 (f) shall apply.

§ 661.93 Where to file.

The application shall be filed with the DOCA at the address provided in § 661.11.

§ 661.94 Notice.

(a) The applicant shall send by United States mail a copy of the application and any subsequent amendments or other documents relating to the application, from which confidential information has been deleted in accordance with § 661.8(f), to each person who is reasonably ascertainable by the applicant as a person woh will be aggrieved by the DOCA action sought, including persons who participated in the prior proceeding. The copy of the application shall be accompanied by a statement that the person may submit comments regarding the application to the DOCA within ten (10) days. The application filed with the DOCA shall include certification to the DOCA that the applicant has complied with the requirements of this paragraph and shall include the names and addresses of each person to whom a copy of the application was sent.

(b) Notwithstanding paragraph (a) of this section, if an applicant determines that compliance with paragraph

(a) would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and possible to notify; and

(2) Include with the application a description of the persons or class of classes of persons to whom notice was not sent. The DOCA may require the applicant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notices should be published in the FEDERAL REGISTER.

(c) The DOCA shall serve notice on any other person readily identifiable by the DOCA as one who will be aggrieved by the DOCA action sought and may serve notice on any other person that written comments regarding the application will be accepted if filed within ten (10) days of service of that notice.

(d) Any person submitting written comments to the DOCA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 661.8(f), to the applicant. The person shall certify to the DOCA that it has compiled with the requirements of this paragraph. The DOCA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 661.95 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act, or transaction that is the subject of the application and to the DOCA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the requested action; and a full description of the pertinent provisions and relevant facts contained in any relevant documents. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the application shall be submitted to the DOCA upon its request. A copy of the order or interpretation of which modification or rescission is sought shall be included with the application. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted.

(b) The applicant shall state whether he requests or intends to request that there be a conference regarding the application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference is held when it will be most beneficial. The request and the DOCA's determination regarding it shall be made in accordance with Subpart K of this part.

(c) The applicant shall fully describe the events, acts, or transactions that comprise the significantly changed circumstances, as defined in § 661.96(b)(2), upon which the application is based. The applicant shall state why, if the significantly changed circumstance is new or newly discovered facts, such facts were not or could not have been presented during the prior proceeding.

(d) The application shall include a discussion of all relevant authorities, including, but not limited to, DOCA rulings, regulations, interpretations, and decisions on appeal and exception relied upon to support the action sought therein.

§ 661.96 DOCA evaluation.

(a) *Processing.* (1) The DOCA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The DOCA may solicit and accept submissions from third persons relevant to any application for modification or rescission provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application for modification or rescission, the DOCA may convene a conference, on its own initiative, if, in its discretion, it considers that such conference will advance its evaluation of the application.

(2) If the DOCA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the DOCA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the DOCA may dismiss the application with prejudice. If the applicant fails to provide the notice required by § 661.94, the DOCA may dismiss the application without prejudice.

(3) *Failure to satisfy requirements.* (i) If the applicant fails to satisfy the requirements of paragraph (b)(1) of this section, the DOCA shall issue an order denying the application. The order shall state the grounds for the denial.

(ii) The order denying the application shall become final within ten (10) days of its service upon the applicant, unless within such ten (10) days period an amendment to correct the deficiencies identified in the order is filed with the DOCA.

(iii) Within ten (10) days of the filing of such amendment, the DOCA shall notify the applicant whether the amendment corrects the specified deficiencies. If the amendment does not correct the deficiencies, the notice shall be an order dismissing the application as amended. Such order shall be a final order of the DOCA of which the applicant may seek judicial review.

(b) *Criteria.* (1) An application for modification or rescission of an order or interpretation shall be processed only if:

(i) The application demonstrates that it is based on significantly changed circumstances; and

(ii) The thirty (30) day period within which a person may file an appeal has lapsed or, if an appeal has been filed, a final order has been issued.

(2) For purposes of this subpart, the term "significantly changed circumstances" shall mean:

(i) The discovery of material facts that were not known or could not have been known at the time of the proceeding and action upon which the application is based;

(ii) The discovery of a law, regulation, interpretation, ruling, order, or decision on appeal or exception that was in effect at the time of the proceeding upon which the application is based and which, if such had been made known to the DOCA, would have been relevant to the proceeding and would have substantially altered the outcome; or

(iii) There has been a substantial change in the facts or circumstances upon which an outstanding and continuing order or interpretation of the DOCA affecting the applicant was issued, which change has occurred during the interval between issuance of such order or interpretation and the date of the application and was caused by forces or circumstances beyond the control of the applicant.

§ 661.97 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the DOCA shall issue an order granting or denying the application.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order shall state that it is a final order from which the applicant may seek judicial review.

(c) The DOCA shall serve a copy of the order upon the applicant, any other person who participated in the proceeding and upon any other person reasonably identifiable by the DOCA as one who is aggrieved by such order.

§ 661.98 Timeliness.

(a) If the DOCA fails to take action on any application filed under this subpart within ninety (90) days of filing, the applicant may treat the application as having been denied in all respects and may seek judicial review thereof.

Subpart J—Rulings

§ 661.101 Purpose and scope.

This subpart estiblishes the criteria for the issuance of interpretative rulings by the DOCA. All rulings shall be published in the FEDERAL REGISTER. Any person is entitled to rely upon such ruling, to the extent provided in this subpart.

§ 661.102 Criteria for issuance.

(a) A ruling may be issued, in the discretion of the DOCA, whenever there have been a substantial number of inquiries with regard to similar factual situations or a particular section of the regulations.

(b) The DOCA may issue a ruling whenever it is determined that it will be

of assistance to the public in applying the regulations to a specific situation.

§ 661.103 Modification or rescission.

(a) A ruling may be modified or rescinded by:

(1) Publication of the modification or rescission in the FEDERAL REGISTER; or

(2) An amendment to Part 660 or 661.

(b) Unless and until a ruling is modified or rescinded as provided in paragraph (a) of this section, no person shall be subject to the sanctions or penalties stated in Subpart N of this part for actions taken in reliance upon the ruling, notwithstanding that the ruling shall thereafter be declared by judicial or other competent authority to be invalid. Upon such declaration, no person shall be entitled to rely upon the ruling.

§ 661.104 Comments.

A written comment on or objection to a published ruling may be filed at any time with the DOCA at the address specified in § 661.11.

§ 661.105 Appeal.

There is no administrative appeal of a ruling.

Subpart K—Conferences and Hearings

§ 661.111 Purpose and scope.

This subpart establishes the procedures for requesting and conducting a DOCA conference or hearing. Such proceedings shall be convened in the discretion of the DOCA.

§ 661.112 Conferences.

(a) The DOCA in its discretion may direct that a conference be convened, on its own initiative or upon request by a person, when it appears that such conference will materially advance the proceeding. The determination as to who may attend a conference convened under this subpart shall be in the discretion of the DOCA, but a conference will usually not be open to the public.

(b) A conference may be requested in connection with any proceeding of the DOCA by any person who might be aggrieved by that proceeding. The request may be made in writing or verbally, but must include a specific showing as to why such conference will materially advance the proceeding. The request shall be addressed to the DOCA.

(c) A conference may only be convened after actual notice of the time, place, and nature of the conference is provided to the person who requested the conference.

(d) When a conference is convened in accordance with this section, each person may present views as to the issue or issues involved. Documentary evidence may be presented at the conference, but will be treated as if submitted in the regular course of the proceedings. A transcript of the conference will not usually be prepared. However, the DOCA in its discretion may have a verbatim transcript prepared.

(e) Because a conference is solely for the exchange of views incident to a proceeding, there will be no formal reports or findings unless the DOCA in its discretion determines that such would be advisable.

§ 661.113 Hearings.

(a) The DOCA in its discretion may direct that a hearing be convened, on its own initiative or upon request by a person, when it appears that such hearing will materially advance the proceeding. The determination as to who may attend a hearing convened under this subpart shall be in the discretion of the DOCA, but a hearing will usually not be open to the public.

(b) A hearing may only be requested in connection with an application for an exception, exemption, or an appeal. Such request may be by the applicant, appellant, or any other person who might be aggrieved by the DOCA action sought. The request shall be in writing and shall include a specific showing as to why such hearing will materially advance the proceeding. The request shall be addressed to the DOCA.

(c) The DOCA will designate an agency official to conduct the hearing, and will specify the time and place for the hearing.

(d) A hearing may only be convened after actual notice of the time, place, and nature of the hearing is provided both to the applicant or appellant and to any other person reasonably identifiable by the DOCA as one who will be aggrieved by the DOCA action involved. The notice shall include, as appropriate:

(1) A statement that such person may participate in the hearing; or

(2) A statement that such person may request a separate conference or hearing regarding the application or appeal.

(e) When a hearing is convened in accordance with this section, each person may present views as to the issue or issues involved. Documentary evidence may be presented at the hearing, but will be treated as if submitted in the regular course of the proceedings. A transcript of the hearing will not usually be prepared. However, the DOCA in its discretion may have a verbatim transcript prepared.

(f) The official conducting the hearing may administer oaths and affirmations, rule on the presentation of information, receive relevant information, dispose of procedural requests, determine the format of the hearing, and otherwise regulate the course of the hearing.

(g) Because a hearing is solely for the exchange of views incident to a proceeding, there will be no formal reports or findings unless the DOCA in its discretion determines that such would be advisable.

Subpart L—Complaints

§ 661.121 Purpose and scope.

This subpart establishes the procedures for the filing and consideration of complaints relating to alleged violations of the regulations of Part 660 of this subchapter, or any ruling or order issued thereunder.

§ 661.122 What to file.

(a) A person filing under this subpart shall file a "Complaint," which should be clearly labeled as such both on the complaint and on the outside of the envelope in which the complaint is transmitted, and shall be in writing and signed by the person filing the complaint. The complainant shall comply with the general filing requirements stated in § 661.8 in addition to the requirements stated in this subpart. Verbal complaints that otherwise satisfy the requirements of this subpart will be accepted, but written verification may be requested by the DOCA.

(b) The requirements of this section and § 661.124 may be satisfied by filing the appropriate DOCA form.

§ 661.123 Where to file.

A complaint shall be filed with the DOCA at the address provided in § 661.11.

§ 661.124 Contents.

The complaint shall be the appropriate DOCA form which shall be completed in accordance with the instructions which accompany the form. If there is not a current DOCA form appropriate or available, the complaint shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the complaint and to the DOCA action sought. Such facts shall include the names and addresses of all persons involved (if reasonably ascertainable) and a description of the events that led to the complaint. It shall include a statement describing the regulation, ruling, order, or interpretation that allegedly had been violated.

§ 661.125 DOCA evaluation.

(a) *Processing.* The DOCA may initiate an investigation of any statement in a complaint and utilize in its evaluation any relevant facts obtained by such investigation. The DOCA may solicit and accept submissions relevant to a complaint from third persons to the proceeding. In evaluating a complaint, the DOCA may consider any other source of information. The DOCA on its own initiative may order a conference, if in its discretion, it considers such conference will advance its evaluation of the complaint.

(b) *Confidentiality of information.* Information received in the investigation of a complaint, including the identity of the complainant and any other person who provides information during the proceeding, shall remain confidential unless, upon proper notice to the complainant and an opportunity to respond, the DOCA determines that disclosure would be in the public interest.

§ 661.126 Decision.

After consideration of a written complaint and other relevant information received or obtained during the proceeding, the DOCA may:

(a) Issue a notice of probable violation or remedial order for immediate compliance in accordance with the provisions of Subpart M of this part;

(b) Determine that no violation has occurred or that a notice of probable violation or a remedial order for immediate compliance would not be appropriate; or

(c) Take such other action as it deems appropriate.

Subpart M—Notice of Probable Violation and Remedial Order

§ 661.131 Purpose and scope.

(a) This subpart establishes the procedures for determining the nature and extent of violations of the DOCA regulations and the procedures for issuance of a notice of probable violation, a remedial order or a remedial order for immediate compliance.

(b) When any report required by the DOCA or any audit or investigation discloses, or the DOCA otherwise discovers, that there is reason to believe a violation of any provision of Part 660 of this subchapter, or any order issued thereunder, has occurred, is continuing or is about to occur, the DOCA may conduct proceedings to determine the nature and extent of the violation and may issue a remedial order thereafter. The DOCA may commence such proceeding by serving a notice of probable violation or by issuing a remedial order for immediate compliance.

§ 661.132 Notice of probable violation.

(a) The DOCA may begin a proceeding under this subpart by issuing a notice of probable violation if the DOCA has reason to believe that a violation has occurred, is continuing, or is about to occur.

(b) Within ten (10) days of the service of a notice of probable violation, the person upon whom the notice is served may file a reply with the DOCA at the address provided in § 661.11. The DOCA may extend the ten (10) day period for good cause shown.

(c) The reply shall be in writing and signed by the person filing it. The reply shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the notice of probable violation. Such facts shall include a complete statement of the business or other reasons that justify the act or transaction, if appropriate; a detailed description of the act or transaction; and a full discussion of the pertinent provisions and relevant facts reflected in any documents submitted with the reply. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the reply. When the notice of probable violation pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information regarding the entire transaction shall be submitted.

(d) The reply shall include a discussion of all relevant authorities, including, but not limited to, DOCA rulings, regulations, interpretations, and decisions on appeals and exceptions relied upon to support the particular position taken.

(e) The reply should indicate whether the person requests or intends to request a conference regarding the notice. Any request not made at the time of the reply shall be made as soon thereafter as possible to insure that the conference is held when it will be most beneficial. A request for a conference must conform to the requirements of Subpart K of this part.

(f) If a person has not filed a reply with the DOCA within the ten (10) day period provided, and the DOCA has not extended the ten (10) day period, the person shall be deemed to have conceded the accuracy of the factual allegations and legal conclusions stated in the notice of probable violation.

(g) If the DOCA finds, after the ten (10) day period provided in § 661.132(b), that no violation has occurred, is continuing, or is about to occur, or that for any reason the issuance of a remedial order would not be appropriate, it shall notify, in writing, the person to whom a notice of probable violation has been issued that the notice is rescinded.

§ 661.133 Remedial order.

(a) If the DOCA finds, after the ten (10) day period provided in § 661.132(b), that a violation has occurred, is continuing, or is about to occur, the DOCA may issue a remedial order. The order shall include a written opinion setting forth the relevant facts and the legal basis of the remedial order.

(b) A remedial order issued under this section shall be effective upon issuance, in accordance with its terms, until stayed, suspended, modified, or rescinded. A remedial order shall remain in effect notwithstanding the filing of an application to stay it under Subpart H of this part or to modify or rescind it under Subpart I of this part.

(c) A remedial order may be referred at any time to the Department of Justice of the Commonwealth of Puerto Rico for appropriate action in accordance with Subpart N of this part.

§ 661.134 Remedial order for immediate compliance.

(a) Notwithstanding the provisions of §§ 661.132 and 661.133, the DOCA may issue a remedial order for immediate compliance, which shall be effective upon issuance and until rescinded or suspended, if it finds:

(1) There is a strong probability that a violation has occurred, is continuing or is about to occur;

(2) Irreparable harm will occur unless the violation is remedied immediately; and

(3) The public interest requires the avoidance of such irreparable harm through immediate compliance and waiver of the procedures afforded under §§ 661.132 and 661.133.

(b) A remedial order for immediate compliance shall be served promptly upon the person against whom such order is issued by telex or telegram, with a copy served by registered or certified mail. The copy shall contain a written statement of the relevant facts and the legal basis for the remedial order for immediate compliance, including the findings required by paragraph (a) of this section.

(c) The DOCA may rescind or suspend a remedial order for immediate compliance if it appears that the criteria set forth in paragraph (a) of this section are no longer satisfied. When appropriate, however, such a suspension or rescission may be accompanied by a notice of probable violation issued under § 661.132.

(d) If at any time in the course of a proceeding commenced by a notice of probable violation the criteria set forth in paragraph (a) of this section are satisfied, the DOCA may issue a remedial order for immediate compliance, even if the ten (10) day period for reply specified in § 661.132(b) has not expired.

(e) At any time after a remedial order for immediate compliance has become effective, the DOCA may refer such order to the Department of Justice of the Commonwealth of Puerto Rico for appropriate action in accordance with Subpart N of this part.

§ 661.135 Remedies.

A remedial order or a remedial order for immediate compliance may require the person to whom it is directed to take such other action as the DOCA determines is necessary to eliminate or to compensate for the effects of a violation.

§ 661.136 Appeal.

(a) No notice of probable violation issued pursuant to this subpart shall be deemed to be an action of which there may be an administrative appeal pursuant to Subpart G of this part.

(b) Any person to whom a remedial order or a remedial order for immediate compliance is issued under this subpart may file an appeal with the DOCA and in accordance with Subpart G of this part. The appeal must be filed within ten (10) days of service of the order from which the appeal is taken.

Subpart N—Investigations, Violation, Sanctions and Judicial Action

§ 661.141 Investigations.

(a) *General.* The DOCA may, in its discretion, initiate investigations relating to compliance by any person with any rule, regulation, or order promulgated by the DOCA, any decree of court relating thereto, or any other agency action. The DOCA encourages voluntary cooperation with its investigations. The DOCA may conduct investigative conferences and hearings in the course of any investigation in accordance with Subpart K of this part.

(b) *Investigators.* Investigations will be conducted by representatives of the DOCA who are duly designated and authorized for such purposes. Such representatives have the authority to administer oaths and receive affirmations in any matter under investigation by the DOCA.

(c) *Notification.* Any person who is under investigation by the DOCA in accordance with this section and who is

requested to furnish information or documentary evidence shall be notified as to the general purpose for which such information or evidence is sought.

(d) *Termination.* When the facts disclosed by an investigation indicate that further action is unnecessary or unwarranted at that time, the investigative file will be closed without prejudice to further investigation by the DOCA at any time that circumstances so warrant.

(e) *Confidentiality.* Information received in an investigation under this section, including the identity of the person investigated and any other person who provides information during the investigation, shall, unless otherwise determined by the DOCA to be in the public interest, remain confidential.

§ 661.142 Violations.

Any practice that circumvents or contravenes or results in a circumvention or contravention of the requirements of any provision of Part 660 of this subchapter or any order issued pursuant thereto is a violation of the DOCA regulations stated in Part 660 of this subchapter.

§ 661.143 Sanctions.

(a) *General.* Any person who violates any provision of Part 660 of this subchapter or any order issued pursuant thereto shall be subject to penalties and sanctions as provided herein:

(1) The provisions herein for penalties and sanctions shall be deemed cumulative and not mutually exclusive.

(2) Each day that a violation of the provisions of Part 660 of this subchapter or any order issued pursuant thereto continues shall be deemed to constitute a separate violation of the provisions of Part 660 of this subchapter and this Part 661 relating to criminal fines and civil penalties.

(b) *Criminal penalties.* Any person who wilfully violates any provision of Part 660 of this subchapter or any order issued pursuant thereto shall be subject to a fine or not more than Five Thousand Dollars ($5,000) for each violation. Criminal violations are prosecuted by the Department of Justice of the Commonwealth of Puerto Rico upon referral by the DOCA.

(c) *Civil penalties.* (1) Any person who violates any provision of Part 660 of this subchapter or any order issued pursuant thereto shall be subject to a civil penalty of not more than Two Thousand Five Hundred Dollars ($2,500) for each violation. Actions for civil penalties are prosecuted by the Department of Justice of the Commonwealth of Puerto Rico upon referral by the DOCA.

(2) When the DOCA considers it to be appropriate or advisable, the DOCA may compromise and settle and collect civil penalties.

§ 661.144 Injunctions.

Whenever it appears to the Administrator of the DOCA, or his delegate, that any person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of any regulation or order issued under Part 660 of this subchapter, the Administrator, or his delegate, may request the Attorney General of the Commonwealth of Puerto Rico to bring a court action to enjoin such acts or practices and, upon a proper showing a temporary restraining order or a preliminary restraining order or a preliminary or permanent injunction shall be granted without bond. The relief sought may include a mandatory injunction commanding any person to comply with any such order or regulation.

Subpart O—Antitrust Applicability

§ 661.151 Scope.

The purpose of this subpart is to set forth the relationship between the requirements of Part 660 of this subchapter and the antitrust laws of the United States.

§ 661.152 General rule.

Notwithstanding any provision to the contrary elsewhere in Part 660 of this subchapter, except as specifically provided in this subpart, the provisions of this subpart neither provide immunity from civil or criminal liability under the antitrust laws to any person subject to the provisions of Part 660 of this subchapter and this Part 661, nor create a defense to any action under the antitrust laws.

§ 661.153 Definitions.

For the purposes of this subpart, "antitrust laws" includes:

(1) The Sherman Antitrust Act (15 U.S.C. 1 et seq., July 2, 1890, as amended);

(2) The Clayton Act (15 U.S.C. 12 et seq., October 13, 1914, as amended);

(3) The Federal Trade Commission Act (15 U.S.C. 41 et seq.);

§ 661.154 Meetings.

By order of the DOCA, whenever it becomes necessary in order to comply with the provisions of these regulations, that owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, refining, marketing, or distributing of any product subject to the requirements of these regulations must meet, confer, or communicate in such fashion and to such ends that might otherwise be construed to constitute a violation of the antitrust laws, such activities may be permitted; provided, the criteria of § 661.155 are met.

§ 661.155 Criteria for meetings.

Persons permitted by order to so meet, confer, or otherwise communicate shall:

(a) Obtain from the DOCA an order which specifies and limits the subject matter to be discussed, and the objectives of such meeting, conference or other communication;

(b) Meet only in the presence of a representative of the Antitrust Division of the Department of Justice of the United States;

(c) Take a verbatim transcript of such meeting, conference, or other communication; and

(d) Submit such verbatim transcript and any agreement resulting from such meeting, conference, or other communication to the Attorney General of the United States and to the Federal Trade Commission.

§ 661.154 Defense antitrust.

Compliance with the provisions of § 661.155 shall make available to the affected parties a defense to any action brought under the antitrust laws arising from any meeting, conference, or communication, or agreement arising therefrom: *Provided,* That such meeting, conference, or other communication was held and any resulting agreement was made solely for the purpose of complying with the provisions of Part 660 of this subchapter and this Part 661.

§ 661.157 Defenses: Antitrust and breach of contract.

Compliance with the provisions of the regulations of Part 660 of this subchapter shall make available a defense to any action brought under the antitrust laws or for breach of contract in any Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange any product subject to these regulations: *Provided,* That such defense shall be available only if such delay or failure was caused solely by compliance with the provisions of Part 660 of this subchapter.

[FR Doc.74-25825 Filed 11-5-74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing Production and Mortgage Credit

[24 CFR Part 275]

[Docket No. R-74-267]

LOW RENT PUBLIC HOUSING

Prototype Cost Limits

In the FEDERAL REGISTER issued Friday, May 17, 1974 (39 FR 17678), prototype per unit cost schedules were published pursuant to section 15(5) of the U.S. Housing Act of 1937. Consideration of subsequent factual cost data and other information received from the Sioux Falls Insuring Office and the Denver Regional Office indicates that (1) certain prototype cost areas for South Dakota published May 17, 1974, should be deleated (2) certain existing prototype cost areas should be remand and (3) certain new prototype areas should be added. The subsequent factual cost data also indicated that certain per unit cost schedules for South Dakota should be revised.

Written data, views or statements may be filed with the appropriate HUD Area Office on or before December 6, 1974. The offices were listed in our publication of May 17, 1974.

Accordingly, it is proposed to amend 24 CFR Part 275 as follows:

1. On page 17731, delete the existing prototype costs for Black Hills and Mitchell, South Dakota entitled Prototype Per Unit Cost Schedules.

2. On page 17732, change the names of the following existing prototype cost areas as set forth below:

Winner to Mission
Stephen to Fort Thompson
Isabel to McLaughlin

3. On page 17732, add the following new prototype cost areas:

Eagle Butte
Wagner
Sisseton

The new prototype per unit costs for Mission, Fort Thompson, McLaughlin, Eagle Butte, Wagner and Sisseton, South Dakota are shown on the table set forth hereinafter entitled Prototype Per Unit Cost Schedule (section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d)).

SHELDON B. LUBAR,
Assistant Secretary-Commissioner.

PROTOTYPE PER UNIT COST SCHEDULE—REGION VIII

	Number of bedrooms						
	0	1	2	3	4	5	6
Mission, S. Dak.:							
Detached and semidetached	13,400	16,150	19,900	23,650	28,500	31,750	33,100
Row dwellings	12,650	15,350	18,900	22,600	27,200	30,050	31,600
Walk-up	11,950	15,000	18,950	22,450	26,050	28,600	30,250
Elevator-structure	17,100	19,950	25,200				
Fort Thompson, S. Dak.:							
Detached and semidetached	13,400	16,150	19,900	23,650	28,500	31,750	33,100
Row dwellings	12,650	15,350	18,900	22,600	27,200	30,050	31,600
Walk-up	11,950	15,000	18,950	22,450	26,050	28,600	30,250
Elevator-structure	17,100	19,950	25,200				
McLaughlin, S. Dak.:							
Detached and semidetached	13,150	15,850	19,600	23,250	28,000	31,250	32,600
Row dwellings	12,650	15,350	18,900	22,600	27,200	30,050	31,600
Walk-up	11,950	15,000	18,950	22,450	26,050	28,600	30,250
Elevator-structure	17,100	19,950	25,200				
Eagle Butte, S. Dak.:							
Detached and semidetached	13,150	15,850	19,600	23,250	28,000	31,250	32,600
Row dwellings	12,650	15,350	18,900	22,600	27,200	30,050	31,600
Walk-up	11,950	15,000	18,950	22,450	26,050	28,600	30,250
Elevator-structure	17,100	19,950	25,200				
Wagner, S. Dak.:							
Detached and semidetached	13,150	15,850	19,600	23,250	28,000	31,250	32,600
Row dwellings	12,650	15,350	18,900	22,600	27,200	30,050	31,600
Walk-up	11,950	15,000	18,950	22,450	26,050	28,600	30,250
Elevator-structure	17,100	19,950	25,200				
Sisseton, S. Dak.:							
Detached and semidetached	13,150	15,850	19,600	23,250	28,000	31,250	32,600
Row dwellings	12,650	15,350	18,900	22,600	27,200	30,050	31,600
Walk-up	11,950	15,000	18,950	22,450	26,050	28,600	30,250
Elevator-structure	17,100	19,950	25,200				

[FR Doc.74-25812 Filed 11-5-74;8:45 am]

[24 CFR Part 410]

[Docket No. R74-301]

LOW-RENT PUBLIC HOUSING

Proposed Dwelling Leases Procedures and Requirements

Notice is hereby given that the Department of Housing and Urban Development proposes to revise its existing procedures and requirements to restate and clarify in certain respects the requirements presently imposed on Local Housing Authorities in regard to low-rent public housing dwelling leases and, in addition, to make certain changes in the requirements and procedures of the Department. On June 14, 1973, the Department published in the FEDERAL REGISTER (38 FR 15988-9) a Notice that "a review and evaluation is being made" of Circular RHM 7465.8 "Requirements and Recommendations to be Reflected in Tenant Dwelling Leases for Low-Rent Public Housing Projects" soliciting comments from interested organizations and individuals, and advising that at the concluson of the study, regulations with any proposed changes would be published in the FEDERAL REGISTER for written comments prior to final adoption by the Department. This notice of Proposed Procedures and Requirements is being published in accordance with that Notice.

The proposed procedures and requirements include certain additional existing procedures and requirements set forth in Circular RHM 7465.6 "Prohibition of Certain Provisions in Low-Rent Public Housing Leases;" Circular RHM 7465.7 "Charges to Tenants for Excess Use of Utilities in Low-Rent Public Housing Projects;" and RHA 7465.1 "Low-Rent Housing Income Limits, Rents, and Occupancy Handbook, Paragraph 9, Termination of Tenancy;" deletes the reference to a model lease contained in Circular RHM 7465.8 and sets forth the standards and criteria applicable to the provisions required to be included in a low-rent public housing lease.

While the proposed procedures and requirements will in large measure restate the existing procedures and requirements, they will establish new procedures and requirements with respect to the following matters:

1. Section 410.53(b)(1) provides for payments under the lease to include, in addition to the amount fixed as rent for the use and occupancy, the amounts fixed for excess consumption of utilities, additional or special services, use of special equipment and reasonable cost of repairs for damages intentionally or negligently caused by the tenant, his family members or guests, so that remedies available for nonpayment of rent are applicable also to these charges.

2. Section 410.53(f) and (h) specify the tenant's right to use an occupancy and the tenant's obligations, respectively, and § 410.53(g) specifies the obligations of the Local Housing Authority which shall be set forth in the Dwelling Lease.

3. Provision is mode in § 410.53(o) that rental and other charges must be deposited in escrow as a condition to availability of the Grievance Procedure established under Part 410, Subpart F of these Regulations.

4. The provisions of § 410.53(j) specify the obligations of the parties in the event damage renders the premises uninhabitable and sets forth the conditions under which rent may be abated.

Interested parties are invited to submit written comments, suggestions and amendments particularly in regard to the new procedures and requirements listed above by December 9, 1974, addressed to the Rules Docket Clerk, Office of General Counsel, Room 10245, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. All relevant material will be considered before adoption of a final rule. A copy of each communication will be available or public inspection during regular business hours at the above address.

It is therefore proposed to amend 24 CFR by adding Part 410, Subpart E, as set forth below:

Subpart E—Dwelling Leases

Sec.
410.51 Purpose and scope.
410.53 Lease requirements.
410.55 Posting of policies, rules and regulations.
410.57 Prohibited lease provisions.
410.59 Optional provisions.

AUTHORITY: Sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); sec. 2(1) of the U.S. Housing Act of 1937 (42 U.S.C. 1402(1)); sec. 201 of the Housing and Community Development Act of 1974, Pub. L. 93-383.

Subpart E—Dwelling Leases

§ 410.51 Purpose and scope.

The purpose of this Subpart E is to prescribe the provisions that shall be incorporated in leases by Local Housing Authorities (LHA) of dwelling units assisted under the U.S. Housing Act of 1937 (the Act), implementing the requirement of the Annual Contributions Contract (ACC) between the LHA and the Department of Housing and Urban Development (HUD) for execution of written leases with tenants of dwelling units containing all provisions necessary to meet the requirements of the Act and the ACC and providing that the LHA shall not terminate the tenancy for other than violation of the lease or other good cause. The provisions of Subpart E are applicable to all dwelling leases entered into directly by LHAs with tenants. These provisions are not applicable to Section 23 leased housing including the section 23 Housing Assistance Payments Program where the owner of the accommodations leases the units directly to the tenants. This Subpart E is also inapplicable to the Low-Rent Housing Homeownership Opportunities Program (Turnkey III),

to the Mutual Help Homeownership Opportunity Program, and to the Section 8 Lower-Income Housing Assistance Program.

§ 410.53 Lease requirements.

A lease shall be entered into between the LHA and each tenant of a dwelling unit which shall contain the provisions described hereinafter.

(a) *Identification of parites and premises.* Names of the parties to the lease and identification of the premises leased.

(b) *Required payments.* The amount and due date of Required Payments.

(1) The term "Required Payments" shall include (i) the amount fixed as rent for use and occupancy of the premises, including provision of services and equipment customarily furnished by management without extra cost; (ii) amounts chargeable for excess consumption of utilities, additional or special services, and use of special equipment; and (iii) reasonable cost of repairs for damages to the leased dwelling, project buildings, project facilities or other project areas intentionally or negligently caused by the tenant, by members of the tenant's family, or by their guests.

(2) The provision for Required Payments shall separately designate the amounts fixed in accordance with subparagraph (1) of this paragraph for each of the categories specified and for each of the individual items specified in subparagraph (1) (ii) and (iii) of this paragraph for which a charge is to be made.

(c) *Utilities furnished.* The utilities and quantities thereof to be furnished to the tenant by the LHA without additional cost. The imposition of charges for excess consumption of utilities is permissible only if such charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances.

(d) *Special charges.* Special charges which will be made for excess consumption of utilities, additional or special services, use of additional equipment, and charges for repair. The schedule of such charges which shall be posted in the project office may be incorporated by reference in the lease. Flat service charges not to exceed the utility cost for normal use may be made for major electrical appliances supplied by the tenant.

(e) *Rental redeterminations.* The requirements for redetermination of rentals shall include (1) the frequency of such rental redeterminations; (2) the agreement by the tenant to furnish such information and certifications regarding family composition and income as may be necessary for the LHA to make determinations with respect to rent and appropriateness of dwelling size; (3) the agreement by the tenant to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by the LHA that such a dwelling unit is available; and (4) the LHA's policies in regard to interim determinations of income which shall be posted in the project office and incorporated in the lease by reference.

(f) *Tenant's right to use and occupancy.* The tenant shall have the right to exclusive use and occupancy of the leased premises which shall include reasonable accommodation of tenant's guests or visitors and may include, with the consent of the LHA, care of foster children and live-in care of a member of the tenant's family, until such time as the lease shall be terminated in accordance with § 410.53(n) hereof.

(g) *LHA's Obligations.* The LHA shall be obligated under the lease (1) to maintain the premises and the project in a decent, safe and sanitary condition; (2) to comply with requirements of applicable building codes, housing codes, and HUD regulations materially affecting health and safety; (3) to make necessary repairs, alterations and improvements to the premises necessitated by normal wear and tear; (4) to keep project buildings, facilities and common areas, not otherwise assigned to the tenant for maintenance and upkeep, in a clean and safe condition; (5) to maintain in good and safe working order and condition electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances, including elevators, supplied or required to be supplied by the LHA: *Provided,* That if maintenance or repairs are made necessary by reason of damages intentionally or negligently caused by the tenant, tenant's family or guests, then the reasonable cost of such maintenance or repairs shall be charged to the tenant; (6) to provide and maintain appropriate receptacles and facilities for the collection of ashes, garbage, rubbish and other waste removed from the premises by the tenant in accordance with § 410.53(h) (7) hereof, and (7) to supply running water and reasonable amounts of hot water at all times, and reasonable amounts of heat at appropriate times of the year (according to local custom and usage) except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or where heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct utility connection.

(h) *Tenant's obligations.* The tenant shall be obligated under the lease (1) not to assign the lease or sublease the premises; (2) not to provide accommodations for boarders or lodgers; (3) to use the premises solely as a private dwelling unit for the tenant, the tenant's family and/or dependents, and not to use or permit its use for any other purpose; (4) to abide by necessary and reasonable regulations promulgated by the LHA for the benefit and well-being of the housing project and the tenants which shall be posted in the project office and incorporated by reference in the lease; (5) to comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety; (6) to keep the premises and such other areas as may be assigned to him for maintenance and upkeep as clean and safe as the condition of the premises permit; (7) to dispose of all ashes, garbage, rubbish, and other waste from the premises in a sanitary and safe manner; (8) to use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators; (9) to refrain from and cause his family members and guests to refrain from deliberately or negligently destroying, defacing, damaging, or removing any part of the premises or project; (10) to pay reasonable charges for the repair of damages to the premises, project buildings, facilities or common areas intentionally or negligently caused by the tenant, his family members or guests, and (11) to conduct himself and cause other persons on the premises with his consent to conduct themselves in a manner which will not disturb his neighbors' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a safe and sanitary condition.

(i) *Single-family residence.* If the dwelling unit is a single-family residence the LHA and the tenant may agree that the tenant shall perform all or a part of the repairs, maintenance, and other of the LHA's duties as specified in § 410.53 (g) (3), (4), (5), (6) and (7). In any event, the lease shall specify the duties to be performed by the tenant.

(j) *Damage rendering the premises uninhabitable.* The rights and obligations of the tenant and the LHA in the event that premises are rendered uninhabitable under which (1) the tenant shall immediately notify project management of the extent of the damage; (2) the LHA shall be responsible for repair of the unit within a reasonable time: *Provided,* That if the damage was intentionally or negligently caused by the tenant, tenant's family or guests, the reasonable cost of the repairs shall be charged to the tenant; (3) the LHA shall offer alternative accommodations, if available, in circumstances where necessary repairs cannot be made within a reasonable time; (4) provision shall be made for abatement of rent in proportion to the seriousness of the damage and loss in value as a dwelling in the event repairs are not made in accordance with subparagraph (2) of this paragraph or alternative accommodations not provided in accordance with subparagraph (3) of this paragraph, except that no abatement of rent shall occur if the tenant rejects the alternative accommodations or if the damage was intentionally or negligently caused by the tenant, tenant's family or guests.

(k) *Pre-occupancy and pre-termination inspections.* The LHA shall be obligated to inspect the premises prior to commencement of occupancy by the tenant and furnish the tenant with a written statement of the condition of the premises, the dwelling unit and the equipment provided with the unit. The LHA shall

be further obligated to inspect the unit at the time the tenant vacates the unit and to furnish the tenant a statement of any charges to be made in accordance with § 410.53(d). Provision shall be made for the tenant's participation in such inspections.

(l) *Entry of premises during tenancy.* The circumstances under which the LHA may enter the premises during the tenant's possession thereof under which (i) the LHA shall, upon reasonable advance notification to the tenant, be permitted to enter the dwelling unit for the purpose of examining its condition, for making improvements or repairs, or to show the premises for re-leasing; (ii) entry shall be made during reasonable hours except that the LHA may enter the premises at any time when there is reasonable cause to believe that an emergency exists; and (iii) the LHA shall notify the tenant in writing, specifying the date, time and purpose of the entry, in the event that the tenant and all adult members of his family are absent from the premises at the time of entry.

(m) *Notice procedures.* Procedures to be followed in giving notice thereunder which shall require that (1) notice to the tenant shall be in writing and delivered to the tenant or to an adult member of the tenant's family residing in the dwelling or sent by prepaid first-class mail properly addressed to the tenant and (2) notice to the LHA shall be in writing, delivered to the Project Office or the LHA Central Office or sent by prepaid first-class mail, properly addressed.

(n) *Termination of lease.* Procedures to be followed by the LHA and by the tenant in terminating the lease which shall include provisions (1) that the LHA shall not terminate the lease other than for violation of the terms of the lease or for other good cause; (2) the LHA shall give a thirty-day notice of termination to the tenant in accordance with paragraph (m) of this section; (3) the notice of termination to the tenant shall state the reasons for the termination or, if deemed necessary by the LHA, the LHA shall inform the tenant in a private conference of the reasons for the termination; and (4) the notice of termination shall inform the tenant of his right to make such reply as he may wish and to request a hearing in accordance with the LHA's grievance procedure.

(o) *Grievance procedure.* All disputes concerning the obligations of the tenant or the LHA shall be resolved in accordance with the LHA's grievance procedures which shall comply with Subpart F of this part, subject to the requirement that if rent and/or other Required Payments are in dispute, the amount in dispute shall be escrowed and amounts not in dispute paid to the LHA in accordance with the payment provision of the lease, as a condition to availability of the grievance procedures.

(p) *Provision for modifications.* Provision for modification of the lease only by a written rider to the lease.

(q) *Signature clause.* Signature clause attesting that the lease has been executed by the parties.

§ 410.55 Posting of policies, rules and regulations.

Schedules of special charges for services and repairs which are required to be incorporated in the lease by reference shall be publicly posted in a conspicuous manner in the Project Office and shall be furnished to applicants and tenants on request. Other management policies, rules and regulations may be incorporated in the lease by reference and shall, if so incorporated, be publicly posted and furnished applicants and tenants in the manner specified above.

§ 410.57 Prohibited lease provisions.

Lease clauses of the nature described below shall not be included in new leases between an LHA and a tenant and shall be deleted from existing leases either by amendment thereof or execution of a new lease.

(a) *Confession or judgment.* Prior consent by tenant to any lawsuit the landlord may bring against him in connection with the lease and to a judgment in favor of the landlord.

(b) *Distraint for rent or other charges.* Agreement by tenant that landlord is authorized to take property of the tenant and hold it as a pledge until the tenant performs the obligation which the landlord has determined the tenant has failed to perform.

(c) *Exculpatory clauses.* Agreement by tenant not to hold the landlord or landlord's agents liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representatives or agents.

(d) *Waiver of legal notice by tenant prior to actions for eviction or money judgments.* Agreement by tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed, thus preventing the tenant from defending against the lawsuit.

(e) *Waiver of legal proceedings.* Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred without notice to the tenant or any determination by a court of the rights and liabilities of the parties.

(f) *Waiver of jury trial.* Authorization of the landlord's lawyer to appear in court for the tenant and waive the right to a trial by jury.

(g) *Waiver of right to appeal judicial error in legal proceedings.* Authorization to the landlord's lawyer to waive the right to appeal for judicial error in any suit or to waive the right to file a suit in equity to prevent the execution of a judgment.

(h) *Tenant chargeable with cost of legal actions regardless of outcome.* Provision that tenant agrees to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court determines that the tenant prevails in the action. Prohibition of this type of provision does not mean that the tenant as a party to a lawsuit may not be obligated to pay attorney's fees or other costs if he loses the suit.

§ 410.59 Optional provisions.

A lease may, but is not required to, contain the provisions described hereinafter.

(a) *Security deposits.* Security deposits which should not exceed one month's rent or a reasonable fixed amount may be required by the LHA. Provision may be made for gradual accumulation of the security deposit by the tenant. Subject to applicable laws, interest earned on security deposit may be refunded to the tenant on vacation of the premises or used for tenant services or activities.

(b) *Late payment penalties.* Penalties for late payment of rent are permissible but not encouraged. LHAs should accept partial payments of rent or payment more frequent than monthly where such arrangements will alleviate rental delinquencies or tenant hardships.

Issued at Washington, D.C., November 1, 1974.

H. R. CRAWFORD,
Assistant Secretary for Housing Management.

[FR Doc.74-25994 Filed 11-4-74;9:26 am]

[24 CFR Part 410]

[Docket No. R-74-302]

LOW-RENT PUBLIC HOUSING

Proposed Grievance Procedures and Requirements

Notice is hereby given that the Department of Housing and Urban Development proposes to revise its existing procedures and requirements to restate and clarify in certain respects the requirements presently imposed on Local Housing Authorities in regard to establishment of a grievance procedure and in addition, to make certain changes in the requirements and procedures of the Department. On June 14, 1973, the Department published in the FEDERAL REGISTER (38 FR 15988-9) a Notice that "a review and evaluation is being made" of Circular RHM 7465.9 "Grievance Procedures in Low-Rent Public Housing Projects," soliciting comments from interested organizations and individuals, and advising that at the conclusion of the study, regulations with any proposed changes would be published in the FEDERAL REGISTER for written comments prior to final adoption by the Department. This notice of proposed procedures and requirements is being published in accordance with that notice.

While the proposed procedures and requirements will in large measure restate the existing procedures and requirements, they clarify certain requirements and will establish new procedures and requirements with respect to the following matters:

1. Section 410.62(a) contains a new provision that, in the case of eviction for nonpayment of rent or other Required Payments as defined in § 410.51

of Subpart E, a hearing need not be provided in jurisdictions which provide for a due process trial on the merits of the case. Summary eviction procedures are not considered such trials under this procedure.

2. Provision is made in § 410.63 for an informal settlement of a grievance or complaint which a complainant may initiate by presenting any grievance or complaint personally, either orally or in writing, to the LHA office or project office, for the purpose of encouraging informal discussion and settlement without a hearing. A summary of the discussion must be prepared and furnished to the tenant specifying the proposed disposition of the complaint and procedure for obtaining a hearing if dissatisfied. This procedure is not intended to be a prerequisite to obtaining a hearing.

3. Provision is made in § 410.64(b) that, in the case of disputes involving rentals or other Required Payments, the complainant must deposit the amount in dispute in an escrow account. This requirement may be waived in extenuating circumstances by the LHA.

4. Section 410.65 clarifies the requirement with respect to persons who may serve as hearing panel members and provides that neither the impartial member of the Hearing Panel, nor the Hearing Officer (whichever is used) may be a Board Member, Officer, or employee of the Local Housing Authority, or a tenant.

5. Section 410.69 clarifies the procedure to be followed in eviction actions if the tenant requests a hearing in accordance with the LHA grievance procedure upon receipt of a Notice of Termination.

Interested parties are invited to submit written comments, suggestions and amendments particularly in regard to the new procedures and requirements listed above by December 9, 1974, addressed to the Rules Docket Clerk, Office of the General Counsel, Room 10245, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. All relevant material will be considered before adoption of a final rule. A copy of each communication will be available for public inspection during regular business hours at the above address.

It is therefore proposed to amend 24 CFR by adding Part 410, Subpart F, as set forth below:

Subpart F—Grievance Procedures

Sec.
410.61 Purpose and scope.
410.62 Applicability.
410.63 Informal Settlement of grievance or complaint.
410.64 Procedure to obtain a hearing.
410.65 Hearing panel.
410.66 Hearing.
410.67 Decision.
410.68 Appeal from decision.
410.69 Notice to vacate premises.

AUTHORITY: Sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); sec. 2(1) of the U.S. Housing Act of 1937 (42 U.S.C. 1402(1)); sec 201 of the Housing and Community Development Act of 1974, Public Law 93-383.

Subpart F—Grievance Procedures

§ 410.61 Purpose and scope.

The purpose of this part is to provide for the establishment of a grievance procedure which shall be implemented by all Local Housing Authorities (LHA) and included in their leases to tenants of housing accommodations assisted under the United States Housing Act of 1937, as amended, with such modifications as may be required by local law. Any tenant must be afforded an opportunity for a hearing if he disputes within a reasonable time any LHA action or failure to act involving LHA regulations, policies or procedures which adversely affect his rights, duties, welfare or status.

§ 410.62 Applicability.

(a) This procedure shall be applicable to all individual tenant grievances or disputes concerning the obligations of the tenant or the LHA with respect to the tenancy, except that in those jurisdictions which provide for a due process trial on the merits in eviction cases (summary eviction proceedings shall not be considered such a trial), the LHA may exclude from its grievance procedure tenant grievances or complaints concerning LHA termination of occupancy and eviction action for nonpayment of rent and/or other Required Payments as defined in § 410.51 of Subpart E of this part.

(b) This procedure shall not be applicable to disputes between tenants not involving the LHA or to class grievances such as rent strikes. This procedure is not intended to provide an administrative forum for initiating policy changes.

§ 410.63 Informal settlement of grievance or complaint.

Any grievance or complaint may be personally presented, either orally or in writing, to the LHA office or the project office in which the complainant resides so that the grievance may be discussed informally and settled without a hearing. A summary of such discussion shall be prepared within a reasonable time and one copy shall be given to the tenant and one retained in the LHA's tenant file. The summary shall specify the names of the participants, date of the meeting, the nature of and proposed disposition of the complaint, and the specific reasons therefor, and shall specify the procedures by which a hearing may be obtained, if the complainant is not satisfied.

§ 410.64 Procedure to obtain a hearing.

(a) *Written request.* The complainant shall submit a written request for a hearing to the LHA or project management office within a reasonable time of the date of either the answer to his complaint if he proceeded under § 410.63 and is dissatisfied with the proposed disposition of his grievance or the LHA action or inaction which gave rise to his grievance if he has not proceeded under § 410.63. The written request shall specify:

(1) The particular ground(s) for the grievance; and

(2) The action or relief sought.

(b) *Escrow deposit.* If the complaint involves rent or other Required Payments, as defined in § 410.51, which the LHA claims are due, the complainant shall deposit the amount in dispute in an escrow account before a hearing is scheduled. This requirement may be waived in extenuating circumstances by the LHA. Failure to make such deposit shall not constitute a waiver of complainant's right to contest the LHA's disposition of his complaint in any appropriate judicial proceeding.

(c) *Scheduling of hearing.* A hearing shall thereupon be scheduled for a time and place reasonably convenient to the complainant who shall be notified thereof in writing. The notice of the hearing shall specify the procedure governing the hearing.

(d) *Pre-hearing determination.* The Hearing Panel or Hearing Officer selected in accordance with § 410.65 may determine that the issues raised in the complaint have already been decided in favor of the LHA in another complaint based on essentially the same facts. In such case, the complainant and the LHA shall be notified of such determination and the LHA shall be free to act in accordance with the disposition of the prior complaint and the complainant may seek appropriate relief.

(e) *Failure to request a hearing.* The LHA's proposed disposition of a complaint shall become final in the event that the complainant does not request a hearing as provided in paragraph (a) of this section. Such failure to request a hearing shall not constitute a waiver of the complainant's right thereafter to contest the LHA's disposition of the complaint in an appropriate judicial proceeding.

§ 410.65 Hearing Panel.

The hearing shall be held before an impartial and disinterested person or a Hearing Panel, at the option of the LHA. If a Hearing Panel is used, it shall consist of an uneven number of members. If LHA employees, officers, or Board members are appointed as members of the Hearing Panel, the tenants shall be represented on the Panel in an equal number, and one impartial and disinterested member (together with an alternate) shall be chosen by the other Hearing Panel members. The tenant representatives on the Hearing Panel shall be selected by the tenant body. Relatives of the complainant and LHA officials and employees whose duties or responsibilities have involved them in any way with the complaint shall not be eligible to serve on the Panel. In the event a hearing is to be conducted before an impartial or disinterested person, as Hearing Officer, the selection shall be made by the LHA and shall be acceptable to the complainant. Neither the impartial and disinterested member of the Panel, nor the Hearing Officer, whichever is used, may be a Board member, Officer, or employee of the LHA, or a tenant.

§ 410.66 Hearing.

(a) *Due process requirement.* The complainant shall be afforded a fair hearing providing the basic safeguards of due process before the Hearing Panel or Hearing Officer and may be represented by counsel or another person chosen as his representative. The hearing shall be private unless the complainant requests and the Hearing Panel or Hearing Officer agrees to a public hearing. This restriction shall not be construed to limit the attendance of persons with a valid interest in the proceedings.

(b) *Availability of documents.* The complainant may examine before the hearing and, at his expense, copy all documents, records and regulations of the LHA that are relevant to the hearing. Any document not made available, after request therefor by the complainant, may not be relied on by the LHA at the hearing. The complainant may request, in advance, and at his expense, a transcript of the hearing.

(c) *Failure to appear.* If the complainant fails to appear at a hearing, the Hearing Panel or Hearing Officer may postpone the hearing for not to exceed five business days or may make a determination that complainant has waived his right to a hearing. Such determination shall not constitute a waiver of complainant's right to contest the LHA's disposition of complaint in an appropriate judicial proceeding.

(d) *Proof.* At the hearing the complainant must first make a prima facie case; thereafter, the LHA must sustain the burden of proof in justifying the action against which the complaint is directed. The complainant shall have the right to present evidence and arguments in support of his complaint, to controvert evidence relied on by the LHA or project management, and to confront in a reasonable manner and cross-examine all witnesses on whose testimony or information the LHA or project management relies. Hearings shall be conducted informally by the Hearing Panel or Hearing Officer and any oral or documentary evidence pertinent to the facts and issues raised by the complainant may be received without regard to its admissability under rules of evidence employed in judicial proceedings.

§ 410.67 Decision.

The decision of the Hearing Panel or Hearing Officer shall be based solely and exclusively upon facts presented at the hearing and upon applicable Federal and State law, and Federal and LHA regulations and requirements. The Hearing Panel or Hearing Officer shall prepare a written decision setting forth a statement of findings and conclusions, together with the reasons or basis therefor, upon all material issues raised by the parties, within a reasonable time after the hearing. The decision of the Hearing Panel or Hearing Officer shall be binding on the LHA which shall take all actions necessary to carry out the decision or refrain from any action prohibited by the decision unless the LHA determines, and notifies the complainant in writing within a reasonable time that the decision of the Hearing Panel or Hearing Officer is not within its authority or is contrary to applicable Federal, State, or local law, HUD regulations and requirements of the Annual Contributions Contract between HUD and the LHA. Any such decision of the LHA may be judicially reviewed.

§ 410.68 Appeal from decision.

A decision by the Hearing Panel or Hearing Officer in favor of the LHA or which denies the relief requested by the complainant in whole or in part shall not constitute a waiver of, nor affect in any manner whatever, rights he may have to a trial de novo in judicial proceedings which may thereafter be brought in the matter. In judicial proceedings, the LHA shall, by stipulation or other appropriate means, be limited to invoking against the complainant grounds originally relied on by the LHA in its proposed disposition of the complaint.

§ 410.69 Notice to vacate premises.

If the tenant has requested a hearing on a Notice of Termination of tenancy and the Hearing Panel or Hearing Officer upholds the LHA's decision to evict, an action to regain possession may not be commenced until the tenant's right to use and occupancy of the premises has been terminated by lawful written Notice to Vacate. Such Notice to Vacate may not be given prior to the date on which the decision of the Hearing Panel or Hearing Officer is delivered or mailed to the tenant except for complaints disposed of under § 410.64(d). In no case may eviction occur prior to the termination date stated in the original Notice of Termination of tenancy. When the Notice to Vacate is given to the tenant, he must be informed in writing that, if he fails to quit the premises within three days, or on the termination date stated in the Notice of Termination, whichever is later, appropriate action will be brought against him and he may be required to pay court costs and attorney fees. If the tenant elects to contest the legal action, the LHA must establish that the reasons on which it relied in the administrative proceedings constitute good cause for eviction under applicable laws and regulations.

Issued at Washington, D.C., November 1, 1974.

H. R. CRAWFORD,
Assistant Secretary for Housing Management.

[FR Doc.74-25993 Filed 11-4-74;9:26 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 74-GL-17]

TRANSITION AREA

Proposed Designation; Withdrawal

On Page 20082 of the FEDERAL REGISTER dated June 6, 1974, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Litchfield, Illinois.

Due to the indefinite installation date of the Litchfield, Illinois, Non-Directional Radio Beacon (NDB), the proposed alteration is withdrawn.

Issued in Des Plaines, Ill., on October 4, 1974.

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

[FR Doc.74-25852 Filed 11-5-74;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208, 212, 214, 217, 241, 249]

[Docket No. 27136]

TERMINATION OF "PRIOR AFFINITY" CHARTER AUTHORITY

Notice of Proposed Rule Making

OCTOBER 30, 1974.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments of Parts 207, 208, 212, 214, 217, 241, and 249 of the Economic Regulations which would terminate the "prior affinity" charter rules, as well as various technical amendments to other Parts of the Board's regulations so as to reflect the termination of such charter authority. The principal features of the proposals are described in the Explanatory Statement, and the proposed amendments are set forth in the Proposed Rules. The amendments are proposed under the authority of sections 101(3), 204(a), 401, 402, 407, 416(a), and 1001, of the Federal Aviation Act of 1958, as amended, 72 Stat. 737 (as amended), 743, 754 (as amended, 757, 766, 771, and 788; (49 U.S.C. 1301, 1324, 1371, 1372, 1377, 1386, and 1481).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material in initial comment received on or before December 5, 1974, and reply comments received on or before December 20, 1974, will be considered by the Board before taking final action on the proposed rules. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., upon receipt thereof.

Those persons planning to file comments or responsive comments who wish to be served with such comments filed by others, and are willing to undertake to serve their comments on others, shall file with the Docket Section at the above address by November 15, a request to be placed on the Service List in Docket 27136. The Service List will be prepared by the Docket Section and sent to the persons named thereon. The persons on

the Service List are to serve each other with their comments or responsive comments at the time of filing.

A list of all persons filing comments will be prepared by the Docket Section and sent to the persons named thereon. Responsive comments may be filed by any person by December 20, 1974, and comments so filed will be considered by the Board. In addition to these on the Service List who filed comments, persons filing responsive comments should also serve any person whose comment is dealt with in their responsive comment.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

EXPLANATORY STATEMENT

By advance notice of proposed rule making, EDR–237,[1] the Board instituted a rulemaking proceeding to consider whether it should propose amendments of Parts 207, 208, 212, and 214 of the Board's Economic Regulations which would suspend the "prior affinity" charter rules during the pendency of the Travel Group Charter (TGC) experiment. The Board's rule authorizing TGC's,[2] adopted less than two months earlier, had indeed evolved in a proceeding based largely on the deficiencies of the "prior affinity" rules.[3]

Pursuant to the Notice, 51 comments were filed by parties from all segments of the industry, as well as from governmental agencies, consumers, and miscellaneous interests including beneficiaries of business generated by so-called affinity charters. Thus, three comments were filed by trunkline carriers,[4] five by supplemental carriers,[5] seven by local service carriers,[6] eight by foreign air carriers,[7] ten by travel agents,[8] two by U.S. Government agencies,[9] one by a foreign governmental agency,[10] twelve by consumers,[11] and three by miscellaneous parties interested in these rules.[12]

Although the comments were virtually unanimous in their opposition to the proposed suspension,[13] the Board has determined, for the reasons more fully set forth hereinbelow, and particularly in light of developments which have occurred since the comments were filed,[14] that it would be appropriate at this time to consider the elimination of the "prior affinity" charter rules. Moreover, we have tentatively concluded that, if we ultimately determine to make this proposal final, then our action should become fully effective by the end of 1975. So that the industry may have ample opportunity to make advance preparations for this eventuality we therefore are giving specific notice that we contemplate cessation of all "prior affinity" charter flights by March 31, 1975, except that charter flights pursuant to such contracts as shall have been executed and duly filed with the Board prior to that date would thereafter be permitted to be performed, but only until December 31, 1975.[14a]

The "prior affinity" charter rules have long been recognized as unsatisfactory, for two major reasons:

1. They inherently tend to be discriminatory, in that they are lawfully available only to persons who belong to an organization (or are employed by an agency or company) which is large enough to mount a successful charter program. Thus, the availability of the kind of low-cost air transportation provided by charter service comes to depend upon the particular status of the prospective traveler, as determined by factors involving his personal or business life. Yet, these factors should clearly be irrelevant to his right, as a member of the general public, to have equal access to all modes of service offered by common carriers, particularly a mode of air travel which is highly economical.

2. The "prior affinity charter" rules, as demonstrated by years of actual experience, are also inherently difficult to enforce. The flouting of these rules by passenger consolidators, engaged in the illegal business of selling charter seats for a fixed price to ostensible members of ostensible organizations, has been widespread.[15] Indeed, insofar as the very concept of the rules involves questions of "bona fide" membership in "bona fide" organizations, at best they invite paper compliance with the largely artificial "objective" requirements which the Board has found it necessary to devise in order to overcome the obvious impossibility of determining the actual "bona fides" of each member of each organization. Thus, for example, certain fraternal organizations—whose bona fides are unquestioned—are known to sponsor elaborate charter programs. Since these programs are a feature prominently mentioned, if not highlighted, in their membership drives, there is no way of knowing how many of their memberships are actually motivated by a desire for the opportunity to enjoy substantial savings in vacation travel rather than by a genuine interest in strengthening fraternal ties. Yet, under our rules, a member is, in effect, conclusively presumed to be "bona fide" if he joined the organization at least 6 months before the particular charter flight departs.[16]

Despite the problems inevitably raised by the prior affinity rules (and, to a large extent, because of the difficulty of enforcing them) this mode of charter travel has traditionally been the mainstay of charter operations. And, since the operation of charters is the only type of service which may be performed by U.S. supplemental carriers[17] and those foreign

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[1] November 9, 1972; 37 F.R. 24193, November 15, 1972.

[2] Part 372a of the Special Regulations (14 CFR Part 372a) adopted in SPR–61, September 27, 1972, 37 F.R. 20808.

[3] See, for example, SPR–61 (*mimeo*), pp. 1–2.

[4] A joint comment by Certain Trunkline Carriers (Braniff Airways, Inc., Continental Air Lines, Inc., National Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., and Trans World Airlines, Inc.); a joint comment by other trunkline carriers (American Airlines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., United Air Lines, Inc. and Western Air Lines, Inc.); and a separate comment by Western Air Lines, Inc.

[5] By the National Air Carrier Association, on behalf of its members (Overseas National Airways, Inc., Saturn Airways, Inc., Trans International Airlines, Inc., and World Airways, Inc.); Johnson Flying Service, Inc.; Modern Air Transport, Inc.; McCulloch International Airlines, Inc.; and Capitol International Airways, Inc.

[6] Jointly by Hughes Airwest and Piedmont Aviation, Inc.; Allegheny Airlines, Inc.; North Central Airlines, Inc.; Ozark Air Lines, Inc.; Texas International Airlines, Inc.; Frontier Airlines, Inc.; and Southern Airways, Inc.

[7] British Overseas Airways Corporation; Sabena Belgian World Airlines; Finnair; Japan Air Lines Company, Ltd.; Scandinavian Airlines System; Windward Islands Airways International N.V.; Sterling Airways A/S of Denmark; and Pacific Western Airlines, Ltd.

[8] American Society of Travel Agents, Inc.; AITS, Inc. (American International Travel Service); Arthurs Travel Center; Ron Gift Travel; Gillespie, Kinports & Beard Travel Agency; Rogal Associates; David Travels, Inc.; Consortium Transportation Industries, Inc.; Travellers International (UK) Limited; and Vacation Ventures, Inc.

[9] Department of Transportation and Department of Defense.

[10] Department of Tourism of the Government of Bermuda.

[11] Aircraft Owners and Pilots Association; Americans for Charter Travel; B'nai B'rith; British-American Club of Northern California, Inc.; National Education Association; Michigan Credit Union League; Michigan Cooperative Advisory Council; John MacDonald Smith; Greenbelt Consumer Services, Inc.; Friends of Art of Kansas City, Missouri; Club Americana; and Chicago Council on Foreign Relations.

[12] Phoenix Airlines, Inc.; Las Vegas Parties.; and Circus Circus Hotel, SPA & Casino.

[13] Support for the proposal came only from British Overseas Airways Corporation and, in part, from Certain Trunkline Carriers.

[14] The due date for comments was extended to January 3, 1973, by EDR–237A, 37 F.R. 25958.

[14a] The within announcement of the precise time when our final rules, if adopted, will become effective, disposes of the motion filed by DOT, dated October 11, 1974, and of the supporting answers filed by David Travels, Inc., and United Air Lines, Inc., dated October 23, 1974, and October 25, 1974, respectively, in which we were requested to dispel uncertainty as to the future status of so-called affinity charters.

[15] Nor do we believe that there has been appreciable improvement in the direct air carriers' compliance disposition under these rules, since recent experience discloses that substantial violations continue. Moreover, quite aside from the sizeable number of "affinity" charters which have been totally shot through with violations of our rules, it has long been recognized that even among basically legitimate "affinity" charters, some degree of illegality has been a virtually universal phenomenon in that occasional seats are sold to ineligible persons rather than remaining unoccupied at the prorated expense of bona fide members.

[16] *E.g.*, 15 CFR § 208.210(b).

[17] The authority of this class of U.S. certificated carriers, sometimes known as "nonscheduled" or "irregular" carriers, has been expressly limited by statute, since 1962, to "supplemental air transportation," *i.e.*, "charter trips." Sections 101(34) and 401(d) of the Act; 49 U.S.C. 1301 and 1371.

carriers whose permit authority is expressly so limited, "prior affinity" charters have constituted the main source of revenue for important segments of the air transportation industry. Moreover, as the opposite side of the same coin, this mode of charter has been utilized by most members of the general public who have enjoyed the economies afforded by low-cost bulk transportation.

In light of the foregoing, the Board has felt constrained to permit "prior affinity" charters to be continued so long as no viable alternative was available. In short, continuation of these patently undesirable rules, when weighed against the drastic consequences of their elimination, has been reluctantly tolerated as the lesser of two evils. We have therefore regarded it as our duty to devise charter rules which could replace the "prior affinity" charters rather than simply to contemplate the void left by their elimination.

Accordingly, guided by the policy that our charter rules should be improved upon, but in a manner which would not impair the overall availability to the general public of charter service, the Board's first definite step toward the ultimate goal of eliminating prior affinity charters [18] was one of the immediate objectives of our innovative TGC rule, which was intended to "enable the consumers' needs to be satisfied in a lawful manner." [19] It is significant that at that time the only other type of charter available to members of the general public was the Inclusive Tour Charter (ITC).[20]

The ITC rule, which has been in existence for some years, authorizes "packaged" tours involving chartered air transportation, but it has not hitherto been readily marketable because of the traditional restrictions circumscribing its availability—mainly, the requirements that the tour include no less than three stops (at places more than 50 miles apart) and that it have a minimum duration of seven days. Yet, in proposing to suspend the "prior affinity" rules, we gave no indication of interest in acting favorably on various proposals, which were then pending, to liberalize the ITC rule. Thus, it was obvious that in looking toward a replacement for "prior affinity" charters we were relying principally on the TGC rule, possibly augmented by a special rule authorizing charters for groups wishing to attend "special events" under circumstances which would preclude their use of TGC's.[21]

The regulatory context in which we act now is markedly different from that which then prevailed. The charter rules which we have recently adopted and proposed include a significant liberalization of the TGC rule,[22] a "Special Event Charter" (SEC) rule which would not be limited to affinity groups,[23] and a "One-stop-inclusive Tour Charter" (OTC) rule.[24] By these actions we have manifested our determination to fashion a charter regime which will enable us to eliminate "prior affinity" charters in a manner which is not likely to result in a net adverse effect on the general public or any segment of the air transportation industry—except those who have profited from unlawful "prior affinity" charters.

We shall of course continue to be mindful of our responsibilities to maintain the legally required distinction between charter service and individually ticketed service and to insure that scheduled service is not unduly diverted. At the same time, we shall continue to insure the availability of charter service on a scale adequate to meet the public demand and, concomitantly, to safeguard the economic viability of those air carriers whose authority is limited to the performance of charter service.[25]

Finally, it should be noted that, as a technical matter, the within proposal to eliminate "prior affinity" charters also entails the proposed elimination of "mixed" charters. Although our rules provide for "mixed" charters,[26] as a distinct type of charter service, a "mixed" charter is only rarely operated, since it is essentially the same as a "prior affinity" charter, except that the chartering organization or other entity bears part of the charter cost.

It is proposed to amend Parts 207, 208, 212, 214, 217, 241, and 249 of the Economic Regulations as follows:

1. Amend the Table of Contents by deleting and reserving the captions to §§ 207.9 and 207.15 under Subpart A, and deleting and reserving Subparts B and D in their entirety, the amended Table to read, in part, as follows:

[18] EDR–237, cited in footnote 1, *supra*.

[19] SPR–61 (*mimeo*), p. 4. When it subsequently appeared that the TGC rules, as then constituted, had proven to be too restrictive to be a realistic alternative to "prior affinity" charters, the Board determined that the latter should be permitted to continue at least through the 1974 summer season. EDR–237B, June 21, 1973; 38 F.R. 16917, June 27, 1973.

[20] Part 378 of the Special Regulations, 14 CFR Part 378.

[21] See EDR–237 (*mimeo*) pp. 4, 8.

[22] SPR–78, August 12, 1974; 39 F.R. 29345, August 15, 1974.

[23] EDR–276/SPDR–37/ODR–8, June 18, 1974; 39 F.R. 22430, June 24, 1974.

[24] SPDR–38, issued contemporaneously herewith. This proposal also includes a proposed liberalization of the "minimum stay" requirement for TGC's, to parallel the novel proposed "minimum stay" for OTC's, which, among other things, would provide for "long weekend" charter trips in the North American market.

[25] In this connection, we need only note that we find wholly unpersuasive those filed comments which argue that we are without legal power to eliminate "prior affinity" charters. So long as we insure the continued enjoyment by "supplemental air carriers" of the charter authority which Congress intended them to have, we find nothing in the 1962 amendments to the Act, or in their legislative history, to support the contention that we are under a statutory mandate to perpetuate any particular type of charter, however undesirable it may have proven to be.

[26] *E.g.*, 14 CFR § 207.60.

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

Subpart A—General Provisions

Sec.
207.1 * * *
* * * * *
207.9 [Reserved]
* * * * *
207.15 [Reserved]
* * * * *

Subpart B [Reserved]

* * * * *

Subpart C * * *

* * * * *

Subpart D [Reserved]

2. Amend § 207.1 by deleting the definitions of the terms, "Charter organization," "Mixed charter," and "Pro rata charter," the amended section to read, in part, as follows:

§ 207.1 Definitions.

As used in this part * * *

* * * * *

"Charter group" means * * *
"Charter trip" means * * *

* * * * *

"Islands of the Caribbean" means * * *
"Off-route" shall refer to * * *

* * * * *

"Point" means * * *
"Single entity charter" means * * *

* * * * *

3. Delete and reserve §207.9, the caption thereof to read as follows:

§ 207.9 [Reserved]

4. Delete and reserve subparagraph (2) in paragraphs (b) and (c), respectively, of § 207.11, the amended section to read, in part, as follows:

§ 207.11 Charter flight limitations.

Charter flights * * *

* * * * *

(b) Air transportation * * *

* * * * *

(2) [Reserved]

* * * * *

(c) Air transportation * * *

* * * * *

(2) [Reserved]

* * * * *

5. Delete and reserve § 207.15, the caption thereof to read as follows:

§ 207.15 [Reserved]

6. Delete and reserve Subpart B, the caption thereof to read as follows:

Subpart B—[Reserved]

7. Amend § 207.53, to read as follows:

§ 207.53 Statement of Supporting Information.

The statement of supporting information attached hereto shall be applicable in the case of single entity charters.

8. Delete and reserve Subpart D, the caption thereof to read as follows:

Subpart D—[Reserved]

9. Amend the form of "Statement of Supporting Information," set forth following Subpart D, the amended statement to read, in part, as follows:

Statement of Supporting Information [1]

To be completed by air carrier for each single entity charter. (Where more than one round-trip flight * * *.)

* * * * *

5. (a) * * *
(b) * * *

* * * * *

8. Name * * *

9. Indicate purpose of flight: * * *
10. On what date was the charter contract executed? _____

WARRANTY OF AIR CARRIER [2]

To the best of my knowledge and belief all the information presented in this statement is true and correct. I represent and warrant that * * *

_____
(Date)

_____
(Signature and title of authorized official of air carrier)

10. Amend the Table of Contents by deleting and reserving the captions to §§ 208.4 and 208.35 under Subpart A, and deleting and reserving Subparts C and E in their entirety, the amended Table to read, in part, as follows:

PART 208—TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

Subpart A—General Provisions

Sec.
208.1 * * *

* * * * *

208.4 [Reserved]

* * * * *

208.35 [Reserved]

* * * * *

Subpart C [Reserved]

* * * * *

Subpart D * * *

* * * * *

Subpart E [Reserved]

11. Amend § 208.3 by deleting and reserving the terms, "Pro rata charter," "Mixed charter," and "Charter organization," the amended section to read, in part, as follows:

§ 208.3 Definitions.

As used in this part * * *

* * * * *

(g) "Ticket agent" * * *
(h) [Reserved]
(i) "Single entity charter" * * *
(j) [Reserved]

* * * * *

(n) [Reserved]

* * * * *

[1] This must be retained * * *
[2] Any air carrier, or any officer, agent, employee * * *.

12. Delete and reserve § 208.4, the caption thereof to read as follows:

§ 208.4 [Reserved]

13. Delete and reserve subparagraph (2) in paragraphs (b) and (c), respectively, of § 208.6, the amended section to read, in part, as follows:

§ 208.6 * * *

Charter flights * * *

* * * * *

(b) Air transportation * * *

* * * * *

(2) [Reserved]

* * * * *

(c) Air transportation * * *

* * * * *

(2) [Reserved]

* * * * *

14. Delete and reserve § 208.35, the caption thereof to read as follows:

§ 208.35 [Reserved]

15. Delete and reserve Subpart C, the caption thereof to read as follows:

Subpart C—[Reserved]

16. Amend § 208.303, to read as follows:

§ 208.303 Statement of Supporting Information.

The statement of supporting information attached hereto shall be applicable in the case of single entity charters.

17. Delete and reserve Subpart E, the caption thereof to read as follows:

Subpart E—[Reserved]

18. Amend the form of "Statement of Supporting Information," set forth following Subpart E, the amended statement to read, in part, as follows:

Statement of Supporting Information [1]

To be completed by air carrier for each single entity charter. (Where more than one round-trip flight * * *.)

* * * * *

5. * * *
(b) * * *

* * * * *

8. Name * * *
9. Indicate purpose of flight: * * *
10. On what date was the charter contract executed? _____

Warranty of Air Carrier [2]

To the best of my knowledge and belief all the information presented in this statement is true and correct. I represent and warrant that * * *

_____
(Date)

_____
(Signature and title of authorized official of air carrier)

19. Amend the Table of Contents by deleting and reserving the captions to §§ 212.7 and 212.12 under Subpart A, and deleting and reserving Subparts B and D in their entirety, the amended Table to read, in part, as follows:

[1] This must be retained * * *
[2] Any air carrier, or any officer, agent, employee, * * *.

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

Subpart A—General Provisions

Sec.
212.1 * * *

* * * * *

212.7 [Reserved]

* * * * *

212.7 [Reserved]

* * * * *

212.12 [Reserved]

* * * * *

Subpart B—[Reserved]

* * * * *

Subpart C—* * *

* * * * *

Subpart D—[Reserved]

20. Amend the definitions of § 212.1 by deleting the definitions of the terms, "Charter organization," "Mixed charter," and "Pro rata charter," the amended section to read, in part, as follows:

§ 212.1 Definitions.

As used in this part * * *

* * * * *

"Charter group" means * * *
"Charter trip" means * * *

* * * * *

"Inclusive tour charter trip" means * * *
"Off-route charter trip" means * * *
"On-route charter trip" means * * *
"Single entity charter" means * * *

* * * * *

21. Delete and reserve § 212.7, the caption thereof to read as follows:

§ 212.7 [Reserved]

22. Delete and reserve subparagraph (2) in paragraphs (a) and (b), respectively, of § 212.8, the amended section to read, in part, as follows:

§ 212.8 * * *

Charter flights * * *

* * * * *

(a) Where the entire capacity * * *

* * * * *

(2) [Reserved]

* * * * *

(b) Where less than the entire capacity * * *

* * * * *

(2) [Reserved]

* * * * *

23. Delete and reserve § 212.12, the caption thereof to read as follows:

§ 212.12 [Reserved]

24. Delete and reserve Subpart B, the caption thereof to read as follows:

Subpart B—[Reserved]

25. Amend § 212.53, to read as follows:

§ 212.53 Statement of Supporting Information.

The statement of supporting information attached hereto shall be applicable in the case of single entity charters.

26. Delete and reserve Subpart D, the caption thereof to read as follows:

Subpart D—[Reserved]

27. Amend the form of "Statement of Supporting Information," set forth following Subpart D, the amended statement to read, in part, as follows:

Statement of Supporting Information [1]

To be completed by air carrier for each single entity charter. (Where more than one round-trip flight * * *.)

* * * * *

5. (a) * * *
(b) * * *

* * * * *

8. Name * * *
9. Indicate purpose of flight: * * *
10. On what date was the charter contract executed? ----------

WARRANTY OF AIR CARRIER [2]

To the best of my knowledge and belief all the information presented in this statement is true and correct. I represent and warrant that * * *

(Date)

(Signature and title of authorized official of air carrier)

28. Amend the Table of Contents by deleting and reserving Subparts A and C in their entirety, the amended Table to read, in part, as follows:

PART 214—TERMS, CONDITIONS AND LIMITATIONS OF FOREIGN AIR CARRIERS PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

Sec.

* * * * *

Subpart A [Reserved]

* * * * *

Subpart B * * *

* * * * *

Subpart C [Reserved]

29. Amend the definitions of § 214.2 by deleting the definitions of the terms, "Pro rata charter," "Mixed charter," and "Charter organization," the amended section to read, in part, as follows:

§ 214.2 **Definitions.**

(c) [Reserved]

* * * * *

(e) [Reserved]

* * * * *

(i) [Reserved]

* * * * *

30. Delete and reserve subparagraph (2) in paragraphs (a) and (b), respectively, of § 214.7 the amended section to read, in part, as follows:

Charter flights * * *

Charter flights * * *

* * * * *

(a) The entire capacity * * *

* * * * *

(2) [Reserved]

* * * * *

(b) Less than the entire capacity * * *

* * * * *

(2) [Reserved]

* * * * *

31. Delete and reserve Subpart A, the caption thereof to read as follows:

Subpart A [Reserved]

32. Amend § 214.43, to read as follows:

§ 214.43 **Statement of Supporting Information.**

The statement of supporting information attached hereto shall be applicable in the case of single entity charters.

33. Delete and reserve Subpart C, the caption thereof to read as follows:

Subpart C [Reserved]

34. Amend the form of "Statement of Supporting Information," set forth following Subpart C, the amended statement to read, in part, as follows:

Statement of Supporting Information [1]

To be completed by air carrier for each single entity charter. (Where more than one round-trip flight * * *.)

* * * * *

5. (a) * * *
(b) * * *

* * * * *

8. Name * * *
9. Indicate purpose of flight: * * *
10. On what date was the charter contract executed? ----------

WARRANTY OF AIR CARRIER [2]

To the best of my knowledge and belief all the information presented in this statement is true and correct. I represent and warrant that * * *

(Date)

(Signature and title of authorized official of air carrier)

PART 217—REPORTING DATA PERTAINING TO CIVIL AIRCRAFT CHARTERS PERFORMED BY FOREIGN AIR CARRIERS

35. Amend § 217.6(b) by deleting and reserving paragraph (2), as follows:

§ 217.6 * * *

* * * * *

(b) * * *

* * * * *

(2) [Reserved.]

* * * * *

Part 241—Uniform System of Accounts and Reports for Certified Air Carriers

36. Amend Schedule T–6–Summary of Civil Aircraft Charters in Section 25–Traffic and Capacity Elements, by deleting and reserving subparagraph (2) of paragraph (c), as follows:

(c) Separate reports * * *

* * * * *

(2) [Reserved.]

* * * * *

37. Amend Schedule T–6–Summary of Civil Aircraft Charters in Section 35–Traffic and Capacity Elements, by deleting and reserving paragraph (4) of paragraph (b), as follows:

(b) Separate reports * * *

* * * * *

(4) [Reserved.]

* * * * *

Part 249—Preservation of Air Carrier Accounts, Records and Memoranda

38. Amend § 249.8 by deleting and reserving items 12, 14 and 15(c) in the "Category of Records" list, as follows:

§ 249.8 * * *

* * * * *

Category of records:	*Period to be retained*
* * * * *	
12. [Reserved.]	
* * * * *	
14. [Reserved.]	
15. The following * * *	
(a) * * *	2 years.
(b) * * *	Do.
(c) [Reserved.]	

39. Amend § 249.12(c) by deleting and reserving subparagraphs (3), (4) and (5), as follows:

§ 249.12 * * *

* * * * *

(c) Each carrier * * *

* * * * *

(3) [Reserved.]
(4) [Reserved.]
(5) [Reserved.]

40. Amend § 249.13 by revising item 302 in the "Category of Records" to read as follows:

Category of records	Period to be retained	Microfilm indicator
* * * * *		
302. Reservations * * *		
(a) * * *	2 months	
(b) * * *	1 month	
(c) [Reserved.]		
(d) Every statement of supporting information required by part 207 of this subchapter.	2 years	
(e) [Reserved.]		

[FR Doc.74-25807 Filed 11-5-74;8:45 am]

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[1] This must be retained * * *
[2] Any air carrier, or any officer, agent, employee * * *.

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[1] This must be retained * * *
[2] Any air carrier, or any officer, agent, employee * * *.

[14 CFR Part 375]

[SPDR-39; Docket No. 27145; Dated: November 1, 1974]

FOREIGN CIVIL AIRCRAFT

Scheduled International Air Service Operations in Transit Over United States

Notice is hereby given that the Civil Aeronautics Board proposes to amend Part 375 of its Special Regulations (14 CFR Part 375) so as to revise the provisions of § 375.45 thereof which relate to authority for the navigation of foreign civil aircraft in scheduled international air service in transit over the United

States. The principal features of the proposed amendment are explained in the attached Explanatory Statement and the proposed amendment is set forth in the proposed rule. The amendment is proposed under the authority of section 204 (a) and 1108(b) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 798, 49 U.S.C. 1324, 1508.

Interested persons may participate in the proposed rulemaking through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material in communications received on or before December 6, 1974, and reply comments received on or before December 23 will be considered before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C. upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

EXPLANATORY STATEMENT

Section 501 of the Federal Aviation Act of 1958 makes it unlawful for any person to navigate foreign aircraft within the United States except as provided by section 1108 of the Act. The "United States" includes "the overlaying air space thereof * * *" (section 101(36)) and, hence, aircraft which transit the United States are subject to the requirements of Section 1108.[1] Section 1108(b) of the Act, in turn, permits the navigation of foreign aircraft "only if such navigation is authorized by permit, order, or regulation issued by the Board * * *." The Board's authority under section 1108(b) necessarily encompasses authority, inter alia, to determine whether a particular scheduled international flight proposed to be operated with foreign aircraft falls within the scope of those permitted under the International Air Services Transit Agreement as scheduled international air service in transit across the United States. Board authorization may take the form of a section 402 permit, a permit issued under Part 375 of the Board's Special Regulations, or a regulation which allows the operation without the necessity of obtaining a permit or other express Board approval.

Subpart E of Part 375 of the Board's Special Regulation is concerned with operations requiring preflight authorization by the Board or the Administrator of the Federal Aviation Administration. When the predecessor of § 375.45 (section 190.45 of the Civil Air Regulations) was adopted in 1953, it provided for express Board approval of any scheduled transit operation of foreign aircraft over the United States. Thereafter, the section was revised in 1954 so as to eliminate the requirement for specific route approval by the Board. Instead, the amended regulation provided for blanket Board approval for transit flights if the necessary approval was obtained from the Administrator. Such approach was found to be consistent with the public interest at that time.

Recent consultations with the Federal Aviation Administration, however, indicate that the Administrator does not consider that he should determine whether proposed transit operations fall within the scope of § 375.45 of the Board's Special Regulations. Moreover, pending litigation[2] makes clear that a specific administrative avenue should be provided for resolution of issues of whether particular transit flights should be permitted, including issues of whether such flights fall within the scope of the International Air Services Transit Agreement, or otherwise should be authorized.[3]

In such circumstances, the Board finds that it is no longer in the public interest to grant blanket approval by regulation for transit operations. Accordingly, we shall amend the regulation to provide that an operator of foreign civil aircraft desiring to conduct a scheduled international air service (which is not authorized by a section 402 permit) which transits the United States shall obtain a permit from the Board for the service. The requirement for obtaining appropriate safety authority from the Federal Aviation Administration will remain unchanged.

PROPOSED RULE

It is therefore proposed to amend Part 375 of the Board's Special Regulations (14 CFR Part 375) as follows:

Amend § 375.45 to read as follows:

§ 375.45 Transit flights: Scheduled international air service operations.

(a) *Approval required.* Any carrier operating foreign civil aircraft that desires to conduct a scheduled international air service in transit across the United States shall, before commencing operations, obtain (1) a permit therefor from the Board and (2) the approval of the Administrator, for the routes proposed to be followed, and thereafter shall conduct such operations in accordance with the provisions of such permit and approval. Such permit may be issued only if the Board finds that the proposed operation is fully consistent with the applicable law and is in the interest of the public.

(b) *Nature of privilege conferred.* Air transportation is not authorized under this section, and the burden rests upon each applicant to show that the contemplated operation will not constitute air transportation. Stopovers for the convenience or pleasure of the passengers are not authorized under this section and stops other than for strictly operational reasons shall not be made. The consolidation on the same aircraft of an operation under this section with a service authorized under section 402 of the Act is not authorized by this section. Any permit authorized by this section is nontransferable, and may be withheld, revoked, suspended, withdrawn, or canceled by the Board, without notice or hearing, if required by the public interest.

(c) *Applications.* Scheduled international air services in transit across the United States may not be undertaken by foreign civil aircraft unless a permit authorizing such services has been granted by the Board to the carrier or carriers engaged in such scheduled services. Applications shall be filed with the Board, through diplomatic channels, addressed to the attention of the Director, Bureau of Operating Rights, by (1) the carrier or carriers holding themselves out as providing the services, and (2) any carrier from whom the aircraft to be used in providing those services are leased, if the lease, if any, together with any related arrangements, provides for the lease of an aircraft with crew.[4] Each application shall identify (i) the applicant, including (A) the name of the country under whose laws the applicant is organized and the citizenship of the applicant, (B) the percentage interest (showing whether record or beneficial or both) in the applicant held by any government and, in the aggregate, by the nationals of the home country of the applicant and of each country whose government holds any interest in the applicant, and (C) the nationality of each officer and director of the applicant; (ii) the country or countries in which the aircraft to be used in providing the services are registered; and (iii) a full description of the operations for which authority is desired, indicating type of operations (mail, passenger, property), frequency of flights, and routing, including each terminal and intermediate point to be served by the applicant in connection with the service for which approval is sought. Each application shall also be accompanied by such documents as may be necessary to establish that reciprocity for similar operations by United States-registered aircraft exists in the country of registration of the aircraft and in the country of which the applicant is a citizen. Applications shall be submitted at least 15 days in advance of the date of the commencement of the proposed operation. Such additional information as may be specifically requested by the Board shall be furnished.

(d) Notwithstanding the provisions of § 375.45(a), if within 30 days after the effective date of this part a carrier files

[1] Article 6 of the Convention on International Civil Aviation (the Chicago Convention), 61 Stat. 1180, provides that no scheduled international air service may be operated over or into the territory of a contracting State except with the special permission or authorization of that State.

[2] Air Europe Int'l. v. Robert D. Timm et al., Civil No. 74-1400 (D.D.C., filed September 24, 1974).

[3] In the usual case, where the applicant's home government is a signatory of the International Air Services Transit Agreement, it is anticipated that the appropriate approval will be routinely granted.

[4] For the scope of the terms "lease," and "lease with crew," see 14 CFR 218.1 and 218.3(b)(1).

an application for a permit to continue to perform existing transit flights which have been regularly performed by such carrier prior to November 1, 1974, such carrier may continue to engage in such transit flights until final decision by the Board on such application: *Provided*, That any such application shall, in addition to the requirements of § 375.45(c), contain a statement that the carrier is relying upon this section for continuance of preexisting transit flights, and shall fully describe such flights, including the date inaugurated, and the frequency and continuity of performance.

[FR Doc.74-25962 Filed 11-5-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 289-7]

MISSOURI

Approval of Compliance Schedules

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved portions of State plans for implementation of the national ambient air quality standards.

In August and September, 1974, the State of Missouri submitted to the Environmental Protection Agency compliance schedules to be considered as proposed revisions to the approved plans pursuant to 40 CFR 51.6. 40 CFR 51.8 requires the Administrator to approve compliance schedules submitted by the States. Therefore, the Administrator proposes the approval of the compliance schedules listed below.

The approvable schedules were adopted by the States and submitted to the Environmental Protection Agency after notice and public hearings in accordance with the procedural requirements of 40 CFR 51.4 and 51.6 and the substantive requirements of 40 CFR 51.15 pertaining to compliance schedules. The compliance schedules have been reviewed and determined to be consistent with the approved control strategies of Missouri.

Each approved revision establishes a new date by which the individual source must comply with the applicable emission limitation in the federally approved State implementation plan. This date is indicated in the table below under the heading "Final Compliance Date." In all cases, the schedules include incremental steps toward compliance with the applicable emission limitations. While the tables below do not include these interim dates, the actual compliance schedules do.

In the indication of proposed approval of individual compliance schedules, the individual schedules are included by reference only. In addition, since the large numbers of compliance schedules preclude setting forth detailed reasons for approval of individual schedules in the FEDERAL REGISTER, an evaluation report has been prepared for each individual compliance schedule. Copies of these evaluation reports and the compliance schedules proposed to be approved are available for public inspection at the Environmental Protection Agency Regional Office, 1735 Baltimore Avenue, Kansas City, Missouri.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the Region VII office at the above address. All comments submitted on or before December 6, 1974, will be considered. All comments received, as well as copies of the applicable implementation plans, will be available for inspection during normal business hours at the Regional Office.

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

Dated: October 10, 1974.

CHARLES V. WRIGHT,
Acting Regional Administrator.

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

Subpart AA—Missouri

1. In § 52.1335, the table in paragraph (a) is amended by adding the following:

52.1335 Compliance schedules.

(a) * * *

MISSOURI

Source	Location	Regulation involved	Date adopted	Effective date	Final compliance date
*	*	*	*	*	*
Texas Industries, Inc., cement bin loading:	Kansas City	18.87(A) [1]	June 11, 1974	Immediately	Aug. 30, 1974
Cargill Elevator:					
No. 1 Receiver Leg Cyclone	Kansas City	18.87(A) [1]	Sept. 10, 1974	do	May 1, 1975
Tunnel System Cyclone	do	18.87(A) [1]	do	do	Do.
Price Metals: smelting pots	do	18.87(A) [1]	do	do	Jan. 31, 1975
Alpha Portland Cement: two clinker coolers.	St. Louis County.	Regulation IV. [2]	Sept. 14, 1973	do	Do.

[1] Air Pollution Control Code of Kansas City, Mo.
[2] St. Louis County Air Pollution Control Code.

[FR Doc.74-25689 Filed 11-5-74;8:45 am]

[40 CFR Part 52]

[FRL 290-6]

UTAH

Approval and Promulgation of Implementation Plans; Change of Date and Place for Public Hearing; Extension of Comment Period

On Friday, October 18, 1974 (39 FR 37212), the Administrator gave notice of a public hearing to receive comments on proposed regulations to control sulfur oxide emission in the Wasatch Front Intrastate Region and to consider comments on the withdrawal of 40 CFR 52.2324 which concerns periodic reports of emissions and availability of information to the public.

The date and place shown in such notice is hereby changed to December 11, 1974, at the Howard Johnson Lodge, 122 W. South Temple, Salt Lake City, Utah, beginning at 10 a.m., reconvening at 7 p.m., and continuing until all present are heard. The date for acceptance of written comments is hereby extended to December 11, 1974.

Dated: October 31, 1974.

ROGER STRELOW,
Assistant Administrator for Air and Waste Management.

[FR Doc.74-25848 Filed 11-5-74;8:45 am]

[40 CFR Part 180]

[FRL 290-4; OPP-262501]

DDT

Tolerances and Exemptions from Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Proposed Revocation

In response to the order published in the FEDERAL REGISTER of August 13, 1974 (39 FR 28977), three comments were received in regard to "§ 180.147b *DDT residues in apple pomace,*" which prohibits the feeding of apple pomace containing DDT to dairy and meat animals.

Based on consideration of information and data submitted in the comments, it is concluded that the levels of DDT in meat or milk are not likely to exceed tolerances established under §§ 180.147 and 180.147c as a result of the normal feeding of apple pomace containing residues of DDT not in excess of 0.5 parts per million to meat or dairy animals in amounts not exceeding 10 percent of the diet. It is believed therefore that our former position of not feeding apple pomace to meat or dairy animals because of the likelihood of excessive residues of DDT is not realistic, especially in light of today's circumstances when it is desirable to utilize, rather than waste, potentially valuable feed sources such as apple pomace. Moreover, DDT is no longer registered under the Federal Insecticide, Fungicide, and Rodenticide Act for use on apples, and any residues of DDT on apple pomace should be inadvertent.

It is concluded that § 180.147b should be revoked. This would have the effect of clarifying that apple pomace may be used as feed for meat and dairy animals as long as residues of DDT in meat and dairy animals are not in excess of tolerances established under §§ 180.147 and 180.147c. However, under no circumstances may apple pomace containing residues of DDT in excess of the 0.5 parts per million tolerance established for apples by § 180.147 be used for animal feed. Any such use of apple pomace containing residues in excess of the tolerance established for apples would be illegal under section 409 of the Federal Food, Drug, and Cosmetic Act.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(m), 68 Stat. 517; 21 U.S.C. 346(m)), it is proposed that Part 180 be amended

1. By revoking § 180.147b

2. By redesignating §§ 180.147c and 180.147b

Interested personsare invited to submit written comments with reference to this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 421, East Tower, 401 M Street SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Environmental Protection Agency and others interested in inspecting the comments. The comments must be received on or before December 6, 1974, and should bear a notation indicating the subject. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: October 31, 1974.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-25847 Filed 11-5-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 107]

SMALL BUSINESS INVESTMENT COMPANIES

Notice of Proposed Rulemaking

Correction

In FR Doc. 74-25771 appearing at page 39058 in the issue for Tuesday, November 5, 1974, the following correction should be made. In the second column, sixth and seventh lines, the date for submission of comments should read: "on or before December 5, 1974."

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 435]

CULTURALLY SIGNIFICANT OBJECTS

Temporary Exhibition Within United States

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985), Executive Order 11312 of October 14, 1966 (31 FR 13415, October 18, 1966) and Delegation of Authority No. 113 of December 23, 1966 (32 FR 58, January 5, 1967), I hereby determine that (1) the objects in The Exhibition of Archaeological Finds of the People's Republic of China, as specified in the Catalogue filed as a part of this determination,[1] imported from the People's Republic of China, pursuant to an agreement of October 28, 1974, between the People's Republic of China and the United States of America, for temporary exhibition without profit within the United States are of cultural significance and, that (2) the temporary exhibition or display of such objects within the United States, at the National Gallery of Art, Washington, D.C., on or about December 13, 1974 to March 30, 1975, and at the Nelson Gallery-Atkins Museum, Kansas City, Missouri, on or about April 20 to June 8, 1975, is in the national interest.

Public notice of this determination is ordered to be published in the FEDERAL REGISTER.

Dated: October 31, 1974.

[SEAL] JOHN RICHARDSON, Jr.,
Assistant Secretary for Educational and Cultural Affairs.

[FR Doc.74-25949 Filed 11-5-74;8:45 am]

[Public Notice CM-185]

GOVERNMENT ADVISORY COMMITTEE ON INTERNATIONAL BOOK AND LIBRARY PROGRAMS

Meeting

The Government Advisory Committee on International Book and Library Programs will meet in open session in the Continental Room in the Watergate Hotel, 2650 Virginia Avenue, NW., Washington, D.C. from 9 a.m. to 5 p.m. on November 22, 1974.

The Committee will discuss distribution of American books overseas, relations between American and Soviet publishers, and UNESCO activities relating to library development and promotion of the reading habit.

CAROL M. OWENS,
Executive Secretary.

OCTOBER 29, 1974.

[FR Doc.74-25842 Filed 11-5-74;8:45 am]

[1] *The Exhibition of Archaeological Finds of People's Republic of China.* Filed as part of original document.

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON "TRAINING TECHNOLOGY"

Advisory Committee Meeting

A Defense Science Board Task Force on "Training Technology" will meet in closed session on November 25 and 26 at the Institute for Defense Analyses, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will provide an evaluation of the current effectiveness of DoD programs and management in the R&D area of Training Technology to serve as the basis for DoD policy decisions to reduce costs and increase effectiveness and efficiency of DoD Training.

In accordance with Pub. L. 92-463, section 10, Paragraph (d), it has been determined that Defense Science Board meetings concern matters listed in section 552(b) of Title 5 of the United States Code, particularly Subparagraph (1) thereof, and that the public interest requires such meetings to be closed insofar as the requirements of subsections (a)(1) and (a)(3) of section 10, Pub. L. 92-463 are concerned.

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

NOVEMBER 1, 1974.

[FR Doc.74-25464 Filed 11-5-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OIL AND GAS LEASING

Change of Date for Public Hearing Regarding Proposed Increase to Ten Million Acres

In the FEDERAL REGISTER of October 18, 1974 (39 FR 37222), the Department announced the availability of a draft environmental impact statement and public hearings regarding a proposed increase to ten million acres for oil and gas leasing on the Outer Continental Shelf.

In order to provide additional time for review of this draft environmental impact statement, the Department is rescheduling the public hearings in accordance with the following schedules:

LOS ANGELES COUNTY, CALIFORNIA

December 2 and 3 (Monday, Tuesday)

Santa Monica Civic Auditorium—East Wing, 1855 Main Street, Santa Monica, California 90401.

ANCHORAGE, ALASKA

December 4 and 5 (Wednesday, Thursday)

Captain Cook Hotel, Fifth and K Streets, Anchorage, Alaska 99501.

TRENTON, NEW JERSEY

December 11 and 12 (Wednesday, Thursday)

Holiday Inn, 240 West State Street, Trenton, New Jersey 08608.

All hearings will begin promptly at 9 a.m., local time, on the scheduled days. Two days have been allotted for each hearing, but every effort will be made to receive as much testimony as possible on the first day.

Interested individuals, representatives of organizations and public officials wishing to testify at the hearings are requested to contact the Director (732), Bureau of Land Management, U.S. Department of the Interior, Washington, D.C. 20240 by 4:15 p.m. e.s.t., November 22, 1974. They should specifically indicate in which of the above three cities they would like to testify.

Written comments from those unable to attend the hearings should be addressed to the Director (Attn: 732), Bureau of Land Management, U.S. Department of the Interior, Washington, D.C. 20240. The Department will accept written testimony and comments on the draft environmental statement until December 27, 1974. This should allow ample time for those unable to testify at the hearings to make their views known and for the submission of supplemental materials by those presenting oral testimony. Time limitations make it necessary to limit the length of oral presentations to ten minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to the hearing officer at the time of presentation of the oral statement. Written statements presented in person at the hearings will be considered for inclusion in the hearing record. To the extent that time is available after presentations of oral statements by those who have given advance notice, the hearing officer will give others present an opportunity to be heard.

After all testimony and comments have been received and analyzed a final environmental statement will be prepared.

CURT BERKLUND,
Director, Bureau of Land Management.

Approved: November 5, 1974.

JACK O. HORTON,
Assistant Secretary of the Interior.

[FR Doc.74-26142 Filed 11-5-74;10:26 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant:

Rocky Mountain National Park
National Park Service
Estes Park, Colorado 80517

SEPTEMBER 6, 1974

Memorandum

To: Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C.
Through: Director, National Park Service
From: Regional Director, Rocky Mountain Region, National Park Service
Subject: Application for a permit to handle an endangered species

Enclosed, in duplicate, are materials relating to an ongoing recovery program for the greenback cutthroat trout (*Salmo clarki stomias*) within Rocky Mountain National Park.

This is a cooperative project being carried out by research scientists from Rocky Mountain National Park, the U.S. Fish and Wildlife Service, and the Colorado Division of Fish and Wildlife. Immediate plans call for the monitoring of Hidden Valley Creek during October 1974 to evaluate the restoration effort. This, of course, will require the sampling and handling of the endangered greenback cutthroat trout.

We will appreciate your early consideration for a permit to carry out this project in accordance with the Endangered Species Act of 1973. We believe the simplest procedure would be to issue the permit to the Superintendent, Rocky Mountain National Park, naming the two primary researchers: Research Biologist David R. Stevens, Rocky Mountain National Park, and Management Biologist James Mullen, U.S. Fish and Wildlife Service, Vernal, Utah.

LYNN H. THOMPSON.

Please attach this certification statement to our application dated September 6, 1974, for an endangered species permit to conduct a restoration program on the greenback cutthroat trout (*Salmo clarki stemias*) within the Rocky Mountain National Park.

I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in subchapter B of Chapter I of Title 50, and I further certify that the information submitted in the application for a permit license is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

Dated: October 7, 1974.

NEIL J. REID,
Regional Chief Scientist, Rocky Mountain Region, National Park Service.

RESEARCH PROJECT—ENDANGERED SPECIES

Title: Greenback Trout Restoration
Species: Greenback Cutthroat Trout (*Salmo clarki stomias*)
Objectives:

1. To test methods of removing exotic trout from historical native fish habitat.

2. To re-establish pure greenback trout in a few accessible drainages for demonstration purposes, research and to provide stock for further restoration of the species.

3. To determine the feasibility of widespread restoration of the greenback to historic native habitats.

Specific Impact on Greenback:

1. Collection of substantial numbers of the fish from established populations for transfer to restoration sites. Primary collection technique will be electric shocker and transportation by aerated tank truck. Low mortality is expected.

2. Monitoring of restored populations by periodic sampling by electric shocker; almost no mortality experienced.

3. Collection of a small number of fish by electric shocker for further taxonomic studies of the species.

Present Status: [1]

1. The present status is well documented in the attached paper by Dr. Robert Behnke, Colorado State University, Fort Collins.

2. The restoration of Hidden Valley Creek has been completed but the success of the project has not been analyzed. (Progress Report attached, ROMO–N–20.)

Immediate Action Plan—1974:

1. It is proposed that the Hidden Valley restoration be evaluated in October, 1974 by sampling the stream with electric shocking equipment.

2. Another drainage system will be chosen and preliminary studies conducted in October, 1974 to determine restoration feasibility. Treatment of exotic fish and transfer of greenback is planned to 1975. These fish would be obtained from Como Creek if possible without affecting that population.

Researchers:

David R. Stevens—Research Biologist, National Park Service, Rocky Mountain National Park
James Mullen—Management Biologist, Bureau of Sport Fisheries and Wildlife, Vernal, Utah

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before December 6, 1974, will be considered.

Dated: October 31, 1974.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.74–25874 Filed 11–5–74;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant:

Texas Agricultural Experiment Station
Dr. Jarvis E. Miller, Director
Texas A&M University
College Station, Texas 77843

[1] On file in Service's office, 1612 K Street NW., Washington, D.C.

Dr. J. D. Dodd, Professor of Range Science
Director
U.S. Fish and Wildlife Service
Division of Law Enforcement
Washington, D.C. 20240

SEPTEMBER 30, 1974.

Enclosed is an application for a Federal Fish and Wildlife Permit to cover research being directed and conducted by Dr. J. D. Dodd, Department of Range Science. This research is concerned with habitat improvement for the endangered species, Attwater's Prairie Chicken. Also included is a copy of the study plan for this research.

If anything further is needed, please do not hesitate to contact either my office or Dr. Dodd.

Sincerely yours,

JARVIS E. MILLER,
Director.

Enclosure

PERMIT APPLICATION

The following information is provided in compliance with Section 13.12 of form 50 CFR 13(a).

(3) Applicant: Name: Texas Agricultural Experiment Station Dr. Jarvis E. Miller, Director. Address: Texas A&M University College Station, Texas 77843. Phone: (713) 845–3711.

The Texas Agricultural Experiment Station, a state agency, is charged with the conduct of agricultural research for increased production and protection of the environment. To this end, personnel of the Station conduct their research for the benefit of the State of Texas and society.

(2) Proposed research will be directed by Dr. J. D. Dodd, Professor of Range Science. Miss Winifred B. Kessler will conduct a portion of the research under Dr. Dodd's direction. This request is specifically designed to cover their research as documented in the attached study outline.

(4) Location: Attwater's prairie chicken (*Tympanuchus cupido attwateri* Bendire) is endemic to the coastal prairie of Texas. Research on habitat management for this endangered bird will be limited to land under lease-purchase agreement by the Attwater Prairie Chicken National Wildlife Refuge near Eagle Lake in Colorado County, Texas. Presently this land is owned by World Wildlife Fund.

(5) Type of Permit: Application is being made for an Endangered Species Permit for scientific purposes. The requirement for such a permit is stated in section 9(a) of Pub. L. 93–205, the Endangered Species Act of 1973. The law prohibits the "taking" of any endangered species within the United States, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. (Pub. L. 93–205, section 3(14))

The proposed study involves no physical contact with the endangered Attwater's prairie chicken. The birds will be observed from blinds, and will be subjected to as little disturbance as possible. Proposed research methods are described in the enclosed study outline.

(6) Not Applicable.

(7) Certification: I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

(8) Desired effective date of permit: 15 November 1974.

(9) 26 October 1974.
(10) JARVIS E. MILLER, *Director*.
(11) Additional information as requested in Form 50 CFR 17, Section 17.23, "zoological, educational, scientific, or propagation permits." (1) Description of wildlife to be covered in the permit Scientific name: *Tympanuchus cupido attwateri* Bendire Common name: Attwater's greater prairie chicken.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before December 6, 1974 will be considered.

Dated: October 31, 1974.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.74-25875 Filed 11-5-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

Reevaluation of Biological Products

On Friday, November 2, 1973, a notice was published in the FEDERAL REGISTER, Volume 38, Number 211, (38 FR 30289) which stated that Veterinary Services, Animal and Plant Health Inspection Service of the United States Department of Agriculture had undertaken a review of available data for host animal efficacy and potency tests for serial to serial evaluation of certain biological products intended for use in the treatment of domestic animals which are licensed under regulations (9 CFR Parts 101–117) promulgated pursuant to the Virus-Serum-Toxin Act of March 4, 1913.

The notice further stated that action by the licensees was to be taken to correct these inadequacies by July 1, 1974, or product licenses for affected biological products were to be submitted for termination.

Subsequent to the November 2, 1973, notice, micro-organisms used in the preparation of questionable products were reevaluated by industry and Veterinary Services scientists. As a result, some micro-organisms are no longer authorized to be used in the preparation of licensed biological products because proof of efficacy in the host animal was scientifically impossible to obtain or the effort was found to be economically unsound. Additionally, other micro-organisms are no longer authorized to be used because potency tests for serial to serial evaluation are not available. The decision on the use of the seven micro-organisms hereinafter referred to in this document has been deferred until work being done by industry and Veterinary Services can be completed.

Mixed Bacterins and Bacterial Antiserums are the only two classes of biological products affected by this notice. Since the use of certain micro-organisms in the preparation of these products has been discontinued, those micro-organisms authorized to be used in the preparation of bacterins and antiserums are limited to *Escherichia coli, Pasteurella multocida, Pasteurella hemolytica, Corynebacterium pyogenes, Salmonella cholerasuis, Salmonella typhimurium,* and *Salmonella dublin* but subject to the conditions of this notice.

Data satisfactory to the Department to substantiate the continued use of *Pasteurella hemolytica, Pasteurella multocida, Salmonella typhimurium,* and *Salmonella cholerasuis* has been made available to Veterinary Services. Also, serial to serial potency tests for biological products prepared with *Pasteurella multocida* and *Salmonella typhimurium* have been developed for codifying in 9 CFR Part 113. Potency tests for products prepared with *Pasteurella hemolytica* and *Salmonella cholerasuis* are expected to be available by July 1, 1975, for codifying in 9 CFR Part 113.

The continued use of *Corynebacterium pyogenes, Salmonella dublin,* or *Escherichia coli* shall not be permitted beyond July 1, 1975, unless by that date satisfactory host animal efficacy data is developed to substantiate continued use and has been filed with and accepted by Veterinary Services. In addition, the continued use of *Corynebacterium pyogenes, Salmonella dublin,* or *Escherichia coli* shall not be permitted beyond Jan-July 1, 1975, unless by that date satisfactory serial to serial potency tests for each fraction of biologics prepared with one or more of these micro-organisms has also been filed with and accepted by Veterinary Services.

The names "Mixed Bacterin" and "Bacterial Antiserum" shall no longer be used. The products shall be named in accordance with the micro-organisms used, the species from which they were isolated, and in the case of antiserums, in accordance with the species of the animal from which the blood was drawn.

Each licensee holding a product license for a "Mixed Bacterin" or a "Bacterial Antiserum" shall submit such license to Veterinary Services for termination. Licensees may apply for one or more replacement product licenses from the following list of biological products. Variations in the designation of isolates and origin shall be considered.

1. Escherichia Coli Bacterin, _____ Isolate.
2. Escherichia Coli, Pasteurella Hemolytica-Multocida, Salmonella Typhimurium Bacterin, _____ Isolates.
3. Corynebacterium Pyogenes, Pasteurella Multocida, Salmonella Cholerasuis Bacterin, _____ Isolates.
4. Pasteurella Hemolytica-Multocida Bacterin, _____Isolates.
5. Escherichia Coli, Pasteurella Multocida, Salmonella Typhimurium Antiserum, _____ Isolates and Origin.
6. Corynebacterium Pyogenes, Pasteurella Multocida Antiserum-Concentrate,_____ Isolates and Origin.
7. Pasteurella Hemolytica-Multocida Antiserum-Globulin Concentrate, _____ Isolates and Origin.

Effective date. This notice takes effect December 6, 1974.

Done at Washington, D.C., this 31st day of October 1974.

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

[FR Doc.74-25868 Filed 11-5-74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

CHEMEKETA COMMUNITY COLLEGE ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before November 25, 1974.

Amended regulations issued under cited Act, as published in the February 24, 1972 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75–00104–65–57300. Applicant: Chemeketa Community College, 4389 Satter Drive, PO. Box 1007, Salem, Oregon 97398. Article: Standard PFI Mill. Manufacturer: Norwegian Pulp & Paper Research Institute, Norway. Intended use of article: The article is intended to be used in studying pulp characteristics of different species in the Pacific Northwest to determine the effects of fiber treatments in the adjustable fibrillation-cutting equipment. Experiments will be conducted to investigate paper and paperboard formation characteristics and physical properties. The article will also be used in the courses, Pulp and Paper Technology, 4.281; Industrial Quality Control, 6.287; and Plywood, Composite and Laminated Wood Products, 6.285 to introduce and familiarize students with most recent fiber treatment techniques that they will be exposed to in industry. Application received by Commissioner of Customs: September 16, 1974.

Docket Number: 75–00106–99–03400. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: MkII Binaural Sensory Aids for the Blind. Manufacturer: Wormald-Vigilant Ltd.,

New Zealand. Intended use of article: The devices comprising the article are intended to be used for evaluation to assess their relevance to rehabilitation of the blind. Before evaluation in the field the article will be used in postgraduate courses on electronic devices for the Blind at Boston College and Western Michigan University. Application received by Commissioner of Customs: September 16, 1974.

Docket Number: 75-00107-33-46500. Applicant: University of Cincinnati, Department of Anatomy, College of Medicine, Bethesda Avenue, Cincinnati, Ohio 45627. Article: Ultramicrotome, Model Om U3. Manufacturer: C. Reichert Optische Werke AG, Austria. Intended use of article: The article is intended to be used for sectioning of biological materials in preparation for observation by light and electron microscopy. Specific research projects include: (a) Morphological and histochemical observations on the fore stomach of the mouse, (b) morphologic changes in testicular interstitial tissue of the rat after cryptorchidism or x-irradiation, and (c) ultrastructural studies on embryonic chick connective tissues. Application received by Commissioner of Customs: September 16, 1974.

Docket Number: 75-00138-85-43000. Applicant: Lamont-Doherty Geological Observatory of Columbia University, Palisades, New York 10964. Article: Magnetometer System. Manufacturer: Digico, United Kingdom. Intended use of article: The article intended to be used for the measurement of weakly magnetized rocks for paleomagnetic studies of general type in limestones, deep-sea sediments and lavas, and terrestrial rocks. Application received by Commissioner of Customs: September 30, 1974.

Docket Number: 75-00139-33-46040. Applicant: University of Southern California of Medicine, Dept. of Medicine and Anatomy, Keith Administration Bldg., Rm. 100, 2025 Zonal Avenue, Los Angeles, California 90033. Article: Electron Microscope, Model Corinth 500. Manufacturer: AEI Scientific Apparatus Ltd., United Kingdom. Intended use of article: The article is intended to be used in investigation aimed at understanding the normal maturation process of human bone marrow cells and aberrations of this process which occur in neoplastic diseases. Experiments to be conducted involve: (1) A description of the architecture and cellular components of normal human blood and bone marrow on a morphological and histochemical basis; (2) a description of the same material obtained from untreated patients with leukemia (acute and chronic), lymphoma, and multiple myeloma; (3) assessment of the effects of chemotherapy on these disease processes by following individual patients through therapy and (4) use of tissue culture methods to alter behavior of cells in a leukemic process to a normal pattern of maturation. The article will also be used to train physicians in techniques for electron microscopy. Application received by Commissioner of Customs: September 30, 1974.

Docket Number: 75-00140-91-81595. Applicant: Boyce Thompson Institute for Plant Research Inc., 1086 North Broadway, Yonkers, New York 10701. Article: Dust Feed Mechanism and Accessories. Manufacturer: L. Adams Ltd., United Kingdom. Intended use of article: The article is intended to be used in the study of "Effects of particulate matter on Plants." The article will supply a small controlled amount of dust into an air stream which in turn will be passed over a plant canopy. The resulting exposure may or may not cause a phytotoxic effect. Application received by Commissioner of Customs: September 30, 1974.

Docket Number: 75-00141-01-57000. Applicant: Duke University Marine Laboratory, Pivers Island, Beaufort, N.C. 28516. Article: Oxygen Diffusion Chamber, Manufacturer: L. Eschweiler & Co., West Germany. Intended use of article: The article is intended to be used for studies of blood and hemoglobin solutions with respect to their oxygen binding properties. The degree of cooperativity and pH dependence of these blood samples will be investigated. The article will also be used in the course Biochemistry 220, Adaptations of Organisms to the Marine Environment, to introduce students to the concepts and ideas of how organisms adapt in a biochemical way to a changing environment. Application received by Commissioner of Customs: September 30, 1974.

Docket Number: 75-00142-33-90000. Applicant: The University of Kansas Medical Center, Department of Diagnostic Radiology, 39th & Rainbow, Kansas City, Kansas 66103. Article: EMI Scanner and Magnetic Tape System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used to improve the care of patients suffering from diseases of the nervous system. The article enables the physician to accurately determine the nature and extent of the various diseases involving the brain and surrounding structures such as tumors, strokes, blood clots, brain atrophy, etc. Application received by Commissioner of Customs: October 1, 1974.

Docket Number: 75-00143-56-17500. Applicant: Lamont-Doherty Geological Observatory of Columbia University, Palisades, New York 10964. Article: Recording Current Meters Model 4. Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The articles will be used to measure the flow of water near the ocean bottom at a point near the Continental Shelf break in the Ross Sea, Antarctica. Application received by Commissioner of Customs: October 1, 1974.

Docket Number: 75-00144-01-07500. Applicant: Yale University, 20 Ashmun Street, New Haven, Connecticut 06520. Article: Differential Scanning Microcalorimeter, Model DACM-1. Manufacturer: V/O "Mashpriborintorg", U.S.S.R. Intended to be used in studying the energetics of a wide variety of thermally-induced processes in substances of biological interest. Included in these processes will be conformational changes, such as the thermal unfolding of transfer ribonucleic acids and proteins; the endothermic association of tubulin to form microtubules; and phase transitions of phospolipids and other components of biological membranes. The general aim of these experiments will be to improve our understanding of the nature of the forces at play in stabilizing important biological structures. Application received by Commissioner of Customs: October 1, 1974.

Docket Number: 75-00145-33-90000. Applicant: Scott and White Clinic, Division of Radiology, 2501 South 31st Street, Temple, Texas 76501. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used in the following research projects:

(1) A cooperative study to determine whether the addition of procarbozine to CCNU and Radiation Therapy adds to the response rate and duration of response as compared to CCNU and Radiation Therapy alone in the treatment of malignant cerebral gliomas.

(2) Extent of cerebral infarction resulting from the intracranial arterial spasm that frequently follows subarachnoid hemorrhage from intracranial aneurysms.

(3) Study the development and spontaneous regression or persistence of hydrocephalus in patients with blood in the intracranial subarachnoid spaces following head injury, craniotomy, or spontaneous subarachnoid hemorrhage.

(4) Evaluation of the treatment of cystic craniopharyngiomas by injection of radioactive material or transphenoidal marsupialization.

(5) Assessment of the effects of steroid therapy and hyperosmolar therapy in the treatment of closed head injuries with cerebral contusions and edema.

(6) Studies of patients with CSF shunts by serial scan to systematically evaluate the actual functioning of the shunts.

(7) Assessment of the extent of hydrocephalus in dogs before and after treatment with serial EMI scans.

(8) Development of a technique that will allow the computer to recognize abnormal densities in the various anatomical slices and further, predict possible diagnoses based on location and abnormal density.

(9) Investigate alternate means of data reduction to provide better quality information display for diagnosis.

The article will also be used extensively for educational purposes. Application received by Commissioner of Customs: October 1, 1974.

Docket Number: 75-00146-33-43780. Applicant: National Academy of Sciences, Prosthetics Research and Development, 2101 Constitution Avenue, NW., Washington, D.C. 20201. Article: Ljubljana Functional Electronic Peroneal Orthesis, Type PO 12. Manufacturer: Slovenijales, Yugoslavia. Intended use of article: The articles are intended to be used to stimulate paralzyed muscle to provide useful function. Application received by Commissioner of Customs: October 1, 1974.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.74-25873 Filed 11-5-74;8:45 am]

UNIVERSITY OF HOUSTON ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before November 25, 1974.

Amended regulations issued under cited Act, as published in the February 24, 1972 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00147-00-11000. Applicant: University of Houston, Biophysical Sciences & Chemistry, 3001 Cullen Blvd., Houston, Texas 77004. Article: Altema Model 4 Multiple Ion Detector. Manufacturer: Altema AB, Sweden. Intended use of article: The article is an accessory to an existing gas chromatograph-mass spectrometer computer system being used for research involving pyrolysis of lunar samples, analysis of volatile compounds in cancerous mice urine, analysis of prebiotic synthesies products and environmental monitoring. Application received by Commissioner of Customs: October 2, 1974.

Docket Number: 75-00148-56-17500. Applicant: University of Washington, Department of Oceanography WB-10, Seattle, WA 98195. Article: Three (3) Recording Current Meters, Model No. 4. Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The article is intended to be used to determine water structure and circulation on the Washington Continental Shelf. The article will also be used in Ocean. 360, Method and Instruments in Oceanography and similar courses, familiarizing students with method of measuring environmental parameters, the scope and limitations of different instruments and deployment. Application received by Commissioner of Customs: October 4, 1974.

Docket Number: 75-00149-33-43780. Applicant: Veterans Administration Hospital, Rehabilitation Medicine Services, 150 Muir Road, Martinez, California 94553. Article: Kromayer Lamp, Model 10. Manufacturer: Hanovia Lamps Ltd., United Kingdom. Intended use of article: The article is intended to be used for patient care and experimenting on effects of light and wound healing. It aids healing by erythemal action—bactericidal and astringent effect—and will be used as a physical modality in the Rehabilitation Medicine Service for patient care. Application received by Commissioner of Customs: October 4, 1974.

Docket Number: 75-00150-50-44630. Applicant: University of Washington, Department of Oceanography WB-10, Seattle, WA 98195. Article: Two (2) Automatic Weather Stations. Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The articles will be used in conjunction with recording current meters to obtain in situ wind measurement together with current measurements to enable development of predictive models. Application received by Commissioner of Customs: October 4, 1974.

Docket Number: 75-00151-00-61800. Applicant: Triton College, 2000 5th Avenue, River Grove, Illinois 60171. Article: Two (2) Mirror Zoom Projectors, Model 2003-10 with Optional Polarizers. Manufacturer: D. A. Hoplock & Company, Canada. Intended use of article: The article is an accessory to a planetarium designed to enlarge or decrease the size of the projected image and to move the image around the planetarium dome. The planetarium is to be used to provide an observational experience related to the course or grade level being served. With the accessory the following types of phenomena can be illustrated: (a) Approach or recession of objects such as space craft or planets, (b) space craft docking, (c) expanding Universe, and (d) animation of graphs and diagrams. Application received by Commissioner of Customs: October 7, 1974.

Docket Number: 75-00152-56-17500. Applicant: University of Washington, Dept. of Oceanography, Seattle, WA 98195. Article: Six (6) Recording Current Meters, Model No. 5. Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The article is intended to be used to study time-dependent velocity and temperature fields in the deep North Pacific. Experiments will involve the continuous detailed monitoring of currents and thermal structure in abyssal Pacific. Application received by Commissioner of Customs: October 7, 1974.

Docket Number: 75-00153-33-46040. Applicant: Medical University of South Carolina, 80 Barre Street, Charleston, S.C. 29401. Article: Electron Microscope, Model EM 301. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for routine transmission electron microscopy in a vast number of studies which will include the following:

(1) Repair of bacterial DNA, (2) quantitation of virus, (3) Study of viral infected cells, (4) bacterial sporulation and the effects of anti-fungal drugs on various fungi, (5) Cytochemical studies on enzyme changes during bacterial sporulation and during the differentiation of fungi,

(6) Membrane studies on virus infected cells, especially enveloped viruses that change the cellular membranes during viral replication, (7) Studies on the relationship of one cell to another, especially in regard to neoplastic cells, (8) Development of X-ray analysis in the biological or medical field. In addition, the article will be used in a course titled "Advanced Electron Microscopy," concentrating on all of the advanced techniques not available in other electron microscopy courses currently being taught at the University. Application received by Commissioner of Customs: October 7, 1974.

Docket number: 75-00154-33-90000. Applicant: Community Memorial Hospital of San Buenaventura, Loma Vista Road at Brent Street, Ventura, California 93003. Article: EMISCAN 80 Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used in the education of radiologists, neurosurgeons, and neurologists. Application received by Commissioner of Customs: October 7, 1974.

Docket Number: 75-00155-33-46040. Applicant: University of Pennsylvania, Department of Microbiology, School of Medicine G2, Philadelphia, Pa. 19174. Article: Electron Microscope, Model Elmiskop 101. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used for the following research projects:

(1) Studies of the effects of oncogenic Rous Sarcoma virus on the development process in myogenic chick embryo cells.

(2) Investigation of the junction of various subcellular structures during phagocytosis by rabbit peritoneal polymorphonuclear leukocytes.

(3) Examination of the outer membrane and surface of various strains of *Escherichia coli.* which have alterations in the chemistry of the liposaccharide in some strains, alterations in the proportion of outer membrane proteins.

(4) Studies of the reversible development of abnormal membrane structures in *Escherichia coli* B.

(5) Isolation and characterization of extrachromosomal plasmid DNA from various bacterial species.

(6) Study of genetic transformation of Hemophilus influenzae. The article is also intended to be used as a teaching device in the course, "Biology and Chemistry of microbial and mammalian cells." Application received by Commissioner of Customs: October 8, 1974.

Docket Number: 75-00156-33-46040. Applicant: University Hospital of Jacksonville, 655 West Eight Street, Jacksonville, Florida 32209. Article: Electron Microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for clinical studies in the diagnosis of tumors and renal diseases. The article will also be used in any experiment where basic morphological alterations must be studied at the ultrastructural level.

Additionally, the article will be used in the course *Basic Electron Microscopy* to

introduce the graduate students and the resident physician into the basic principles of electron microscopy. Application received by Commissioner of Customs: October 8, 1974.

Docket Number: 75-00157-56-17500. Applicant: University of Washington, Department of Oceanography WB-10, Seattle, Washington 98195. Article: Four (4) Recording Current Meters, Model No. 4. Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The article is intended to be used in studies of circulation and hydrographic structure in experiments involving the continuous year-long monitoring of currents and gross thermal and salinity structure of waters entering the Arctic Ocean through Bering Strait. Application received by Commissioner of Customs: October 9, 1974.

Docket Number: 75-00158-33-46500. Applicant: East Tennessee State University, Health Sciences, Johnson City, Tennessee 37601. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of biological specimens including viruses, microorganisms and mammalian tissues from experimental animals exhibiting normal and pathological conditions. Experiments are to be conducted on tumor cells grown in tissue culture investigating the membrane structures and the presence of C-type particles. The article will also be used in a course entitled Electron Microscopy 5060 to introduce the student to a variety of biological specimen preparation techniques for the electron microscope, to operate the electron microscope and to obtain satisfactory photomicrographs of their specimens. Application received by Commissioner of Customs: October 9, 1974.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.74-25872 Filed 11-5-74:45 am]

Maritime Administration

[Docket No. S-428]

PACIFIC FAR EAST LINES, INC.

Notice of Application

Notice is hereby given that Pacific Far East Lines, Inc., a Delaware Corporation, (the Operator) has filed an application with the Maritime Subsidy Board pursuant to Title VI (46 U.S.C. 1171-1183) of the Merchant Marine Act, 1936, as amended, (the Act) for operating-differential subsidy in the operation of two C4 containerships on its Trade Route No. 27 (U.S. Pacific Coast/Australia-New Zealand) freight ship service. The Operator is presently the holder of an operating-differential subsidy agreement Contract No. FMB-81, covering operation of three LASH vessels on Trade Route No. 27, for a maximum of 24 sailings per annum.

In addition, the Operator is requesting an increase in its maximum sailing requirement on Trade Route No. 27 from 24 sailings to 32 sailings per annum, over the full range of Trade Route No. 27 ports.

Any person, firm or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Act, (46 U.S.C. 1175), should by the close of business on November 15, 1974, notify the Secretary, Maritime Subsidy Board, in writing, in triplicate, and file petition for leave to intervene in accordance with the rules of practice and procedure of the Maritime Subsidy Board.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that the petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11,504 Operating-Differential Subsidies (ODS))

Dated: November 1, 1974.

By order of the Maritime Subsidy Board/Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.74-25984 Filed 11-5-74;8:45 am]

National Oceanic and Atmospheric Administration

COMMERCIAL FISHING OPERATIONS

Hearing Procedures

On October 18, 1974, notice was given by the National Marine Fisheries Service by publication in the FEDERAL REGISTER (39 FR 37230) that an informal public hearing would be held commencing on November 21, 1974, in Washington, D.C. The purpose of the hearing is to obtain the comments and views of interested parties with respect to possible amendments to the terms and conditions of existing regulations established pursuant to the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) governing "Encircling gear: yellowfin tuna purse seining" (50 CFR 216.24(d)(2)), which may be desirable as a consequence of information contained in and developed in conjunction with a draft report of the National Marine Fisheries Service, Southwest Fisheries Center dealing with Eastern Tropical Pacific porpoise populations and National Marine Fisheries Service fishing gear and technology research. In addition, those portions of the draft report or comments thereon which are relevant to possible changes in said existing regulations will be considered. Amendments of the existing regulations, if adopted, will have the effect of modifying the general permit(s) for "Encircling gear: yellowfin tuna purse seining" and each certificate of inclusion issued pursuant thereto.

Notice is hereby given that the following procedures are established for the conduct of that hearing:

Conduct of Hearing. (a) The presiding official shall, at the opening of the hearing prior to any presentation, have noted as part of the record the regulations 50 CFR 216.24(d)(2), the notice of hearing as filed with the Office of the FEDERAL REGISTER, the draft report and the comments thereon, and this notice and shall announce the order in which presentations will be made. The presiding official may commence the hearing with an opening statement.

(b) The presiding official shall have authority to:

(1) Change the time and place of the hearing, extend the hearing, or adjourn the hearing;

(2) Question participants;

(3) Do all acts, take all measures and adopt such further procedures not inconsistent with these procedures as he deems desirable for the maintenance of order and the efficient conduct of the proceeding. In particular he may: (i) exclude all irrelevant, immaterial or unduly repetitious matters; or (ii) limit the number of times, and the length of time, any person may speak, and may limit repetitious questioning of participants and the length of time a participant may be questioned.

(c) All interested persons may participate in the hearing and present their comments and views in the manner set forth in paragraph (d) of this notice and pose questions for other persons who participate in the hearing;

(d) At the hearing, any interested person shall be given an opportunity to appear, either in person or through his authorized counsel or representative, and to be heard with respect to matters relevant and material to the proceeding. Any interested person who desires to be heard (in person) shall sign up on the list provided at the hearing room at the commencement of the hearing. Persons shall be allowed to speak in the order of listing, subject to the discretion of the presiding official to arrange a more efficient order of presentations. A person shall, before proceeding to speak, state his name, address, and occupation. If any such person is appearing through counsel or representative, such counsel or representative shall, before proceeding to speak or otherwise to participate in the hearing, state for the record on whose behalf he or she is speaking or otherwise participating, and the names and addresses and occupations of such person and such counsel or representative. Any such person or such counsel or representative shall give such other information respecting his appearance as the presiding official may request.

(e) Certification of Transcript. As soon as possible after the hearing, the presiding official shall transmit to the Director, NMFS, an original and two copies of the transcript of the hearing. He shall attach to the original transcript of the hearing his certificate stating that to the best of his knowledge and belief, the transcript is a true transcript of the hearing except in such particulars as he shall specify; and that the documents transmitted are all the documents as introduced and accepted at the hearing with such exceptions as he shall specify. A copy of such certificate shall be attached to each copy of the transcript of the hearing.

(f) Examination of the transcript. During the period in which the record remains open, a copy of the transcript and documents shall be kept on file in the office of the Director where it shall be available for examination during official hours of business.

ROBERT W. SCHONING,
Director.

OCTOBER 31, 1974.

[FR Doc.74-25841 Filed 11-5-74;8:45 am]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for licensing in accordance with the licensing policy of each Agency-sponsor.

Copies of patents are available from the Commissioner of Patents, Washington, D.C. 20231, at $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications, either paper copy (PC) or microfiche (MF), can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161, at the prices cited. Requests for copies of patent applications must include the PAT-APPL-number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent Office. Claims and other technical data can usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information should be directed to the address cited below for each agency.

DOUGLAS J. CAMPION,
Patent Program Coordinator,
National Technical Information Service.

U.S. ATOMIC ENERGY COMMISSION, ASSISTANT GENERAL COUNSEL FOR PATENTS, WASHINGTON, D.C. 20545

PAT APPL 450 521 Compact Fast Analyzer of Rotary Curvette Type. Filed Mar 12, 74, PC$4.00/MF$2.25

PAT APPL 459 737 Electrolytic Dissolver. Filed Apr 10, 74, PC$4.00/MF$2.25

PAT APPL 464 427 Device for Measuring Biaxial Strain. Filed Apr 26, 74, PC$4.00/MF$2.25

PATENT 3 769 545 Device for Preparing Elemental Carbon Enriched in Carbon-13. Filed Feb 23, 72, patented March 12, 74, Not available NTIS

PATENT 3 776 284 Article Removal Device for Glovebox. Filed Jan 20, 72, patented Dec 4, 73, Not available NTIS

PATENT 3 778 217 Extrusion Die. Filed Oct 31, 63, patented Dec 11, 73, Not available NTIS

PATENT 3 782 924 Fine-Grained Zirconium-Base Material. Filed Nov 26, 62, patented Jan 1, 74, Not available NTIS

PATENT 3 783 014 Electroless Coating of Molybdenum on Stainless Steels. Filed Jan 18, 72, patented Jan 1, 74, Not available NTIS

PATENT 3 785 120 Recovery of Purified Helium or Hydrogen from Gas Mixtures. Filed Oct 15, 71, patented Jan 15, 74, Not available NTIS

PATENT 3 786 270 Proportional Counter Radiation Camera. Filed Feb 1, 73, patented Jan 15, 74, Not available NTIS

PATENT 3 787 746 Quenching Gas for Detectors of Charged Particles. Filed May 11, 73, patented Jan 22, 74, Not available NTIS

PATENT 3 787 764 Solid Dielectric Capacitance Guage for Measuring Fluid Pressure Having Temperature Compensation and Guard Electrode. Filed Dec 3, 71, patented Jan 22, 74, Not available NTIS

PATENT 3 789 227 Environmental Dosimeter of the Thermo Luminescent Type. Filed May 18, 73, patented Jan 29, 74, Not available NTIS

PATENT 3 789 319 Hydrogen Rotation-Vibration Oscillator. Filed May 8, 72, patented Jan 29, 74, Not available NTIS

PATENT 3 789 321 Electron Beam-Pumped Gas Laser System. Filed Sep 14, 72, patented Jan 29, 74, Not available NTIS

PATENT 3 790 492 Method for Production of Uniform Microspheres. Filed Mar 11, 74, patented Feb 5, 74, Not available NTIS

PATENT 3 791 945 Method of Production of Alkali Metals and Their Alloys. Filed Feb 22, 73, patented Feb 12, 74, Not available NTIS

PATENT 3 791 953 Self-Sealing Electrochemical Oxygen Meter. Filed Oct 31, 72, patented Feb 12, 74, Not available NTIS

PATENT 3 792 136 Method for Preparing Hollow Metal Oxide Microsphere. Filed Nov 2, 71, patented Feb 12, 74, Not available NTIS

PATENT 3 792 154 Removal of Iodine from Nitric Acid Solutions. Filed Mar 6, 72, patented Feb 12, 74, Not available NTIS

PATENT 3 792 155 Method for Increasing the Carbon Yield of Indene-Derived Carbon Precursors. Filed Apr 27, 72, patented Feb 12, 74, Not available NTIS

PATENT 3 792 156 Dual Pressure-Dual Temperature Isotope Exchange Process. Filed Jun 21, 72, patented Feb 12, 74, Not available NTIS

PATENT 3 792 423 Isometric Imaging System. Filed May 24, 72, patented Feb 12, 74, Not available NTIS

PATENT 3 793 435 Separation of Hydrogen from Other Gases. Filed May 10, 72, patented Feb 19, 74, Not available NTIS

PATENT 3 794 116 Situ Coal Bed Gasification. Filed May 30, 72, patented Feb 26, 74, Not available NTIS

PATENT 3 794 470 Continuous Plutonium Dissolution Apparatus. Filed Jun 6, 72, patented Feb 26, 74, Not available NTIS

PATENT 3 794 527 Thermoelectric Converter. Filed Jan 15, 70, patented Feb 26, 74, Not available NTIS

PATENT 3 794 532 Spherodization of Grain Boundary Precipitates. Filed Mar 14, 72, patented Feb 26, 74, Not available NTIS

PATENT 3 794 814 Continuous Dynamic Error Monitoring Device for Numerically Controlled Machines. Filed Feb 15, 73, patented Feb 26, 74, Not available NTIS

PATENT 3 794 927 System for Producing High Energy Positively Charged Particles. Filed Jan 20, 70, patented Feb 26, 74, Not available NTIS

PATENT 3 794 929 Compact Laser Amplifier System. Filed Oct 13, 72, patented Feb 26, 74, Not available NTIS

PATENT 3 795 874 Apparatus for Pumping a High Pressure Laser System. Filed Nov 3, 72, patented Mar 5, 74, Not available NTIS

PATENT 3 797 299 Method of Measuring the Tritium Concentration in a High-Temperature Environment. Filed Apr 23, 73, patented Mar 19, 74, Not available NTIS

PATENT 3 798 124 Fuel Subassembly for Nuclear Reactor. Filed May 27, 69, patented Mar 19, 74, Not available NTIS

PATENT 3 798 569 High Energy Optical Laser. Filed Mar 15, 73, patented Mar 19, 74, Not available NTIS

PATENT 3799029 Precision Trimmer for an Encapsulated Specimen. Filed Dec 19, 72, patented Mar 26, 74, Not available NTIS.

PATENT 3800023 Loading a Cation Exchange Resin with Uranyl Ions. Filed May 16, 72, patented Mar. 26, 74, Not available NTIS.

PATENT 3800161 Portable Dynamic Mutistation Photometer-Fluorometer. Filed Dec 19, 72, patented Mar 26, 74, Not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Chief, Research Agreements and Patent Mgmt. Branch, Hyattsville, Maryland 20782.

PAT APPL 431762 Method for Reducing Heating and Brightness Loss in Pulp Chips with Aqueous Solutions of Sodium N-Methyldithiocarbamate. Filed Jan 8, 74, PC $4.00/MF $2.25

PAT APPL 478284 Combination Sheathing Support-Member Building Product. Filed Jun 11, 74, PC $4.00/MF $2.25

U.S. DEPARTMENT OF TRANSPORTATION, Patent Counsel, Washington, D.C. 20590

PAT APPL 494098 Dynamic Railroad Freight Car Monitoring System. Filed Aug 2, 74, PC $4.00/MF $2.25

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Bethesda, Maryland 20014.

PAT APPL 467506 Apparatus for Evaluating and Testing the Sharpness of Points. May 6, 74, PC $4.00/MF $2.25

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, Washington, D.C. 20546.

PAT APPL 420424 Fluid Control Apparatus and Method Filed Nov 30, 73, PC $4.00/MF $1.45

PAT APPL 440916 Electrolytic Cell Design. Filed Feb 8, 74, PC $4.00/MF $1.45

PAT APPL 482105 Ceramic Coating for Silica Insulation. Filed Jun 24, 74, PC $4.00/MF $1.45

PAT APPL 489008 Ether-Linked Aryl Tetracarboxylic Dianhydrides. Filed Jul 16, 74, PC $4.00/MF $1.45

PAT APPL 491418 Integrated Structure Vacuum Tube. Filed Jul 24, 74, PC $4.00/MF $1.45

PAT APPL 491419 Horn Antenna Having V-Shaped Corrugated Slots. Filed Jul 24, 74, PC $4.00/MF $1.45

PAT APPL 493359 An Improved System for Imposing Directional Stability on a Rocket-Propelled Vehicle. Filed Jul 31, 74, PC $4.00/MF $1.45

PAT APPL 493363 Trielectrode Capacitive Pressure Transducer. Filed Jul 31, 74, PC $4.25/MF $1.45

PATENT 3814645 Method of Repairing Discontinuity in Fiberglass Structures. Patented Jun 4, 74, Not available NTIS

PATENT 3817622 Measurement of Plasma Temperature and Density Using Radiation Absorption. Patented Jun 18, 74, Not available NTIS

PATENT 3826964 Digital Servo Controller. Patented Jul 30, 74, Not available NTIS

[FR Doc.74-25744 Filed 11-5-74;8:45 am]

Office of the Secretary

CTAB PANEL ON PROJECT INDEPENDENCE BLUEPRINT

Notice of Meetings

The Panel on Project Independence Blueprint was formed under the U.S. Department of Commerce Technical Advisory Board (CTAB) to provide the Secretary an assessment of the feasibility of the actions and policies resulting from the Project Independence Blueprint. Previous notices of Panel meetings have been published in the FEDERAL REGISTER, 39 FR 22445, June 24, 1974; 39 FR 25374, July 10, 1974; 39 FR 28551, August 8, 1974; 39 FR 34314, September 24, 1974; and 39 FR 36364, October 9, 1974. This notice provides the schedule of Panel meetings to be held during December, 1974.

Date	Time	Purpose	Meeting place
Dec. 3 [1]	8:30 am to 5:00 pm	Panel preview of report to CTAB on energy plans.	1522 K St. NW., Room 210, Washington, D.C.
Dec. 4, 5 [1]	do	Panel report to CTAB on energy plans.	Room 6802, Main Commerce Bldg.
Dec. 10, 11	do	Meetings as required to review final report.	1522 K St. NW., Room 210, Washington, D.C.

[1] Previously announced in FEDERAL REGISTER, vol. 39, No. 197, Oct. 9, 1974. (39 FR 36364).

A limited number of seats will be available to the press and to the public. Written statements or inquiries may be filed with the Chairman before or after any of these meetings.

Persons desiring further information on the Panel or on individual meetings should contact Mr. Frank Castellon, Executive Secretary, 1522 K Street NW., Room 210, Washington, D.C. 20005.

Dated: November 1, 1974.

BETSY ANCKER-JOHNSON,
Assistant Secretary of Commerce for Science & Technology.

[FR Doc.74-25988 Filed 11-5-74;8:45 am]

[Dept. Administrative Order 205-12]

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Public Information Services [2]

Appendix B to Department Administrative Order 205-12 of July 16, 1973 is hereby revised.

Attached hereto is the revised Appendix B, "Public Information Services of the Domestic and International Business Administration," dated September 10, 1974. It supersedes Appendix B of July 16, 1973.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

Effective date: October 16, 1974.

APPENDIX B

PUBLIC INFORMATION SERVICES OF THE DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

SEPTEMBER 10, 1974.

A. *Purpose.* The purpose of this appendix is to describe, in general, the public information services of the Domestic and International Business Administration (DIBA); to describe the places at which, and the methods whereby, the public may obtain information; to inform the public as to the availability of its statistical reports, data files, unpublished materials, special tabulations, rules, regulations, procedures, instructions, forms, or other requirements established by DIBA which affect the public and otherwise to comply with the requirements of 5 U.S.C. 552 (Pub. L. 90-23, 81 Stat. 54).

B. *Public Information Services.* .01 DIBA collects, analyzes, and disseminates to business and industry a wide range of information on domestic and international business, industry and trade, domestic and foreign markets, business opportunities and imports; administers various statutory programs delegated to DIBA: and develops and operates programs to promote international trade and investment and to promote progressive business policies and growth. Included is inforamtion on:

INTERNATIONAL ECONOMIC POLICY AND RESEARCH (IEPR)

International economic and commercial programs and policy issues on trade, finance, investment and competitive assessment.

Trade and commercial policy issues on all individual countries.

International trade negotiations.

Consultations with U.S. industry in support of multilateral trade negotiations.

International trade policy issues.

Publication of foreign trade data of U.S. and other countries.

Publication of information on factors influencing U.S. and world trade.

Problems relating to the trade of the United States arising from negotiations under General Agreement on Tariffs and Trade (GATT) and the Organization for Economic Cooperation and Development (OECD).

International monetary issues.

Transportation systems.

Insurance activities.

Insurance against commercial and political risks abroad.

Statistical Analyses.

Economic and econometric studies with regard to U.S. trade and international economic relations.

Documentation and shipping requirements for U.S. exports.

Ocean freight rates.

U.S. trade and tariff legislation.

U.S. and foreign tax measures.

U.S. foreign direct investment.

Patent, trademark, and copyright laws of foreign countries. Government export financing facilities.

Domestic and International Sales Corporations (DISC's).

Analyses on the competitive position of the U.S.

THE BUREAU OF INTERNATIONAL COMMERCE (BIC)

For all countries except Union of Soviet Socialist Republics (U.S.S.R.), East European Countries, and People's Republic of China (PRC).[1]

Economic and commercial intelligence on foreign markets including trends and potentials.

Analyses of foreign economic and commercial measures affecting U.S. business abroad.

Country market research reports.

Product market research reports.

Overseas Business Reports.

Tariffs, taxes, quotas, customs regulations, and other laws of foreign countries.

Selected international organizations.

Counseling to U.S. exporters and prospective exporters.

Computerized informational services on individual foreign firms.

Foreign government procurement in the U.S.

Foreign trade, investment and licensing opportunities.

Procedures for participation of U.S. industries in export promotion events abroad.

Rules and regulations for corporations organized under the China Trade Act of 1922, as amended.

DIBA participation in domestic trade fairs and international expositions held in the U.S. and its territories.

Participation in Commerce-sponsored overseas events (i.e., trade center exhibitions, commercial fairs) and major foreign fairs.

THE BUREAU OF DOMESTIC COMMERCE (BDC)

Market analyses and trends.

Industry reports.

Analyses of data on production, sales, employment, profits and distribution.

Industrial outlook reports.

THE BUREAU OF RESOURCES AND TRADE ASSISTANCE (BRTA)

International trade in primary commodities.

International trade in industrial products.

Fiber, textile and apparel data.

Foreign-Trade Zones and Foreign-Trade Zones Board activity.

Procedures concerning the importation of scientific, educational and cultural material (Florence Agreement);

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[2] This revised appendix, effective October 16, 1974, further amends the material appearing at 32 FR 9734 of July 4, 1967; 35 FR 6601 of April 24, 1970; 36 FR 19096 of September 28, 1971; and 37 FR 9679 of May 16, 1972. In addition, it supersedes the material appearing at 39 FR 11213 of March 26, 1974.

[1] See the Bureau of East-West Trade (BEWT) for information on these excepted countries.

the Foreign Excess Property Program and the Watch Quota Program.

Textile market and textile import analyses guidelines.

Trade adjustment assistance provisions for firms under the Trade Adjustment Assistance Act of 1962.

Energy programs.

THE BUREAU OF EAST-WEST TRADE (BEWT)

For Albania, Bulgaria, Czechoslovakia, East Germany, Estonia, Hungary, Latvia, Lithuania, Outer Mongolia, People's Republic of China and Union of Soviet Socialist Republics.[2]

Foreign trade statistics.

Economic trends and conditions.

Foreign market potentials and opportunities and export market surveys.

Market data and product information.

Tariffs, quotas, laws, regulations, and administrative and procedural provisions governing trade and doing business.

Texts, summaries and supporting documents pertaining to bilateral agreements between the U.S. and state-controlled economy countries.

Activities of the Joint Commercial Commissions.

Patents, trademarks and copyright laws.

Insurance activities including insurance of U.S. business against commercial and political risks.

Commercial arbitration.

Accreditation and business representation.

Business facilities.

Taxation and fees.

Export financing facilities.

Conditions of and opportunities for joint ventures, including U.S. foreign investments.

Documentation and shipping requirements for U.S. exports.

Procedures for the participation of U.S. industries in export promotion events abroad.

For all countries:

Rules and regulations under the Export Administration Act of 1969, as amended, governing administration of exports.

.02 Publications of DIBA are listed in the "Annual Supplement to U.S. Department of Commerce Publications" and the weekly Business Services Checklist" which are available from the District Offices of the Domestic and International Business Administration (DIBA), of the Department of Commerce.

.03 The Bureau of International Commerce publishes the "Checklist of International Business Publications" which can be obtained through the District Offices and from the U.S. Department of Commerce.

04. The Office of Field Operations publishes the "Commerce Business Daily" through which it disseminates all proposed U.S. Government procurement actions over $10,000 in value for defense and over $5,000 for civilian purposes. The purpose is to advise all interested U.S. firms of such procurement opportunities and thereby reduce procurement costs through expanded competitive bidding. The publication also contains a listing of government contract awards including subcontracting leads, government surplus property sales and foreign business opportunities. "Commerce Business Daily" is published daily except Saturdays, Sundays and Government holidays. Subscriptions are available through DIBA District Offices or the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402 at an annual subscription rate of $63.50. Airmail service is an additional $56.80 annually.

C. *Guide to published rules and regulations.* .01 *Defense Production Act.* Public Orders and Regulations issued in implementation of Title I (priorities and allocation powers) under the Defense Production Act of 1950, as amended, (50 U.S.C. App. 2061 et seq.) are found in Title 32A, Code of Federal Regulations, Chapter VI, including appeals procedures under these orders and regulations.

.02 *National Defense Executive Reserve.* DIBA responsibilities for the National Defense Executive Reserve are exercised by the Bureau of Domestic Commerce and the Bureau of East-West Trade. Applications for participation in the NDER must be made on Form CD-174, which is available from the Director, Office of Industrial Mobilization, Bureau of Domestic Commerce, DIBA, U.S. Department of Commerce, Washington, D.C. 20230 or from the Director, Office of Export Administration, Bureau of East-West Trade, DIBA, U.S. Department of Commerce, Washington, D.C. 20230.

.03 *Automotive Products Trade.* Rules, procedures and criteria for determination of bona fide motor vehicle manufacturers under the Automotive Products Trade Act of 1965 (19 U.S.C. 2031 et seq.) are found in 15 CFR Part 615.

.04 *Export Promotion Programs.* Applications, procedures, selection criteria, and other rules and regulations pertaining to trade and industrial exhibits, Trade Centers, trade development centers, catalog fairs, Joint Export Establishment Promotions (JEEPs) and trade missions abroad which are directed toward stimulation of the domestic community to export may be obtained from the Office of International Marketing, BIC, DIBA, Department of Commerce, Washington, D.C. 20230 with regard to countries within the cognizance of the Bureau of International Commerce's export promotion activities, and from the Office of East-West Trade Development, Bureau of East-West Trade, DIBA, U.S. Department of Commerce, Washington, D.C. 20230, with regard to countries within the cognizance of Bureau of East-West Trade's export promotion activities. (See Page 4 for listings of countries.)

.05 *China Trade Act.* Rules and regulations for corporations organized under the China Trade Act (15 U.S.C. 141-62) are found in 15 CFR Part 363.

.06 *Export Administration.* Rules and regulations issued under the Export Administration Act of 1969, as amended, (50 U.S.C. App. 2401, et seq.) are contained in "Export Administration Regulations", which may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, or from the Office of Export Administration, Bureau of East-West Trade, DIBA, Room 1605, U.S. Department of Commerce, Washington, D.C. 20230.

Additionally, lists of parties subject to restrictions in exporting or dealing in U.S.-origin commodities or technical data, are included in the Export Administration Regulations. Amendments to the current rules and regulations are published in the FEDERAL REGISTER and in Export Administration Bulletins which may be obtained from the above sources or District Offices of DIBA.

.07 *Foreign Excess Property.* Rules, procedures, and criteria for importation of Foreign Excess Property are found in 15 CFR Part 302. Information on the activity and application forms may be obtained from the Office of Import Programs, Bureau of Resources and Trade Assistance, DIBA, U.S. Department of Commerce, Washington, D.C. 20230.

.08 *Florence Agreement—Importation of Scientific Instruments or Apparatus by Nonprofit Educational and Research Institutions.* Rules, regulations and procedures concerning the processing by the Departments of Commerce and Treasury of applications for duty-free entry of scientific instruments or apparatus are published in 15 CFR Part 701. They are issued pursuant to the Educational, Scientific and Cultural Importation Act of 1966 (19 U.S.C. 1202). The public may secure information and copies of the Regulations and application forms relating to the program from the Director, Office of Import Programs, Bureau of Resources and Trade Assistance, DIBA, U.S. Department of Commerce, Washington, D.C. 20230. However, applications for duty-free entry of scientific instruments should be filed as prescribed in the Act and the above referred Regulations with the U.S. Customs Service, Attention: Classification and Value Division, Washington, D.C. 20229.

.09 *Allocation of Quotas for the Duty-Free Importation into the United States of watches and watch movements among producers located in the Virgin Islands, Guam and American Samoa* (19 U.S.C. 1202) added by Pub. L. 89-805 November 10, 1966. Requests for information concerning this activity may be obtained from the Director, Office of Import Programs, Bureau of Resources and Trade Assistance, DIBA, U.S. Department of Commerce, Washington, D.C. 20230.

.10 *Foreign Trade Zones* are authorized by the Foreign Trade Zones Board under its authority given in the FTZ Act 1934, as amended (19 U.S.C. 81a-81u). The Board's rules and regulations are found at 15 CFR Part 400. U.S. Customs

[2] See the Bureau of International Commerce (BIC) for information on other countries.

Service regulations on zones are at 19 CFR Part 146. Information on zone operations and activities are published in the Board's annual report to Congress.

D. *Submission of requests and applications.* .01 The public may make submittals, applications, or requests concerning matters discussed in Section C of this Appendix as provided in the respective rules and regulations which are cited.

.02 DIBA's information address and telephone are: Domestic and International Business Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Phone: (202) 967–3808. Information may also be obtained from DIBA District Offices located in principal cities throughout the country.

.03 Forms affecting the public in export administration matters are identified in the Code of Federal Regulations and facsimiles of these forms are reproduced as a supplement to the Export Administration Regulations. Actual forms may be obtained from the Office of Export Administration or as otherwise provided in the Regulations. The Regulations also describe procedures to be followed in submitting forms and documents.

E. *Delegations of authority.* .01 The officials and employees of DIBA to whom there has been delegated or redelegated the authority to take final actions, or make final decisions, with respect to requirements, submissions or other matters arising under published rules and regulations are identified in the following materials:

a. Department Organization Order 10–3 (39 FR 27484, July 29, 1974) which is the basic delegation of authority from the Secretary of Commerce to the Assistant Secretary for Domestic and International Business; and

b. DIBA Organization and Function Orders in the DIBA Manual of Administrative Instructions which set forth all redelegations of authority to officials and employees of DIBA and which are available for public inspection and copying in the Office of Management and Systems, Directorate of Administrative Management, DIBA, U.S. Department of Commerce, Room 3100, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 (Telephone: Area Code 202–967–5436) or in the Central Reference and Records Inspection Facility of the Department of Commerce, Room 7043.

.02 DIBA Deputy Assistant Sercetaries and their deputies are authorized to make initial decisions with respect to public requests for records under their jurisdiction. The Office of the Assistant General Counsel for Domestic and International Business shall be consulted with respect to each request for records, (a) when it presents a novel or difficult question or (b) before an initial denial of a request for records is issued. All previous delegations of authority in this area are hereby revoked.

F. *Inspection and copying of opinions and orders.* All final opinions and orders made in the adjudication of cases, statements of policy and interpretations not published in the FEDERAL REGISTER, administrative staff manuals and instructions to staff that affect a member of the public; and any other materials required to be made available for public inspection and copying under section 552(a)(2), Title 5, U.S. Code, are made available for such purposes in the Central Reference and Records Inspection Facility of the Department of Commerce, Room 7043, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Rules concerning the use of this facility are contained in Part 4, Subtitle A, Title 15, Code of Federal Regulations, or may be obtained from the Facility.

G. *Inspection of records.* Rules for persons desiring, pursuant to section 552(a)(3), Title 5, U.S. Code, to inspect records not available to the public as a part of the regular public information services of the Domestic and International Business Administration are contained in Part 4, Subtitle A, Title 15, Code of Federal Regulations.

Dated: September 10, 1974.

TILTON H. DOBBIN,
Assistant Secretary for Domestic and International Business.

[FR Doc.74–25989 Filed 11–5–74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

ADVISORY COMMITTEE

Establishment of Committee

The Director, National Institutes of Health, announces the establishment on October 7, 1974 of the advisory committee indicated below by the Secretary of Health, Education, and Welfare under the authority of section 222 of the Public Health Service Act (42 U.S.C. 217a). Such advisory committee shall be governed by the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) setting forth standards governing the establishment and use of advisory committees.

Name: Recombinant DNA Molecule Program Advisory Committee.

Purpose: In accordance with Section 301 of the Public Health Service Act (42 U.S.C. 241), the Secretary of Health, Education, and Welfare is directed to conduct research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control and prevention of physical diseases and impairments of man. In carrying out this mandate, exploration of the genetics of microbial agents and of animal cells by use of the technology of study of DNA (deoxyribonucleic acid) recombinants offers tremendous promise of uncovering basic aspects of health and disease, and is appropriate for support by the National Institutes of Health.

However, the use of this technology has various possible hazards because new types of organisms, some potentially pathogenic, can be introduced into the environment if there are no effective controls.

The technology is also capable of producing microbial organisms which can be useful or harmful to agriculture or industry, and thus secondarily affect human health. The goal of the Committee is to investigate the current state of knowledge and technology regarding DNA recombinants, their survival in nature, and transferability to other organisms; to recommend programs of research to assess the possibility of spread of specific DNA recombinants and the possible hazards to public health and to the environment; and to recommend guidelines on the basis of the research results. This Committee is a technical committee, established to look at a specific problem.

Dated: November 1, 1974.

ROBERT S. STONE, M.D.,
Director, NIH.

[FR Doc.74–25950 Filed 11–5–74;8:45 am]

BOARD OF REGENTS

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on December 5–6, 1974, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, and the meeting of the Extramural Programs Subcommittee of the Board of Regents of the National Library of Medicine on the preceding day, December 4, 1974, from 2 to 5 pm, in the Board Room of the Library.

The meeting of the Board will be open to the public all day on December 5 and from 9 to 9:30 am on December 6 for administrative reports and program and operation discussions. Attendance by the public will be limited to space available. In accordance with provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the entire meeting of the Subcommittee on December 4 will be closed to the public, and the regular Board meeting on December 6 will be closed from 9:30 to adjournment, for the review, discussion and evaluation of grant applications. The applications contain information of a proprietary nature—including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information about individuals associated with the applications in the field of biomedical communications.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20014, Telephone Number: 301–496–6308, will furnish summaries of the meeting, rosters of Board members, and substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.348, 13.349, 13.351, 13.352—National Institutes of Health.)

Dated: October 30, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc.74–25953 Filed 11–5–74;8:45 am]

COMMITTEE ON CANCER IMMUNOBIOLOGY

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Committee on Cancer Immunobiology, National Cancer Institute, December 23, 1974, National Institutes of Health, Building 10, Room 4B14.

This meeting will be open to the public on December 23, 1974, from 2 pm to 2:30 pm to discuss general business and plans for future meetings. 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 Pub. L. 92–463, the meeting will be closed to the public on December 23, 1974 from 2:30 pm to adjournment for the review, discussion and evalution 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, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of meetings and rosters of committee members.

Dr. Barbara H. Sanford, Executive Secretary, Building 10, Room 4B17, National Institutes of Health, Bethesda, Maryland 20014 (301/496–1791) will furnish substantive program information.

Catalog of Federal Domestic Assistance Program No. 13.825, National Institutes of Health.

Dated: October 30, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc.74–25951 Filed 11–5–74;8:45 am]

DIAGNOSTIC RESEARCH ADVISORY GROUP

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Diagnostic Research Advisory Group, National Cancer Institute, December 12, 1974, Building 31, Conference Room 7, National Institutes of Health.

This meeting will be open to the public on December 12, 1974, from 8:30 am to 9 am to approve the minutes of the previous meeting. 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 Pub. L. 92–463, the meeting will be closed to the public on December 12, 1974, from 9 a.m. to 5 p.m. 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 30, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc.74–25952 Filed 11–5–74;8:45 am]

PROGRAM DIRECTORS OF THE ASTHMA AND ALLERGIC DISEASE CENTER

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Program Directors of the Asthma and Allergic Disease Centers, National Institute of Allergy and Infectious Diseases, National Institutes of Health, December 5 and 6, 1974, in Conference Room 10, C Wing, Building 31, Bethesda, Maryland.

The entire meeting will be open to the public from 9 a.m. on December 5 until adjournment on December 6 to exchange scientific ideas and discuss progress on Center research activities. The scientific agenda at this workshop will be limited to topics on: immunodermatologic disorders, biochemical and physiological responses of the atopic individual, and action of pharmacologic agents of possible therapeutic efficacy. Attendance by the public will be limited to space available.

Mr. Robert S. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Building 31, Room 7A34, telephone (301) 496–5717, will provide summaries of meetings and rosters of committee members.

Dr. Luz A. Froehlich, Assistant Associate Director for Extramural Programs, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Westwood Building, Room 703, telephone (301) 496–7131, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health)

Dated: October 31, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc.74–25954 Filed 11–5–74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

MICROWAVE LANDING SYSTEM ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of Pub. L. 92–463, notice is hereby given that the Microwave Landing System (MLS) Advisory Committee will hold a meeting on November 14 and 15, 1974, beginning at 8:30 a.m. in Conference Room 3201, Trans Point Building, 2100 2nd Street, SW., Washington, D.C.

The meeting will be a second progress report on the MLS Technique Selection Process with major emphasis on candidate scanning beam and doppler signal formats.

The short time available after the October 15, 1974 meeting for assessing results and the need for scheduling this meeting at a date consistent with the Technique Selection Process schedule have precluded earlier publication of this notice.

Anyone desiring further information on the meeting should contact Mr. Jules I. Kanter, Executive Director, Microwave Landing System Advisory Committee, Federal Aviation Administration, 2100 2nd Street, SW., Washington, D.C. 20591, Telephone 202–426–3406. The meeting will be open to the public.

Issued in Washington, D.C. on October 30, 1974.

JULES I. KANTER,
Executive Director, Microwave Landing System Advisory Committee.

[FR Doc.74–25853 Filed 11–5–74;8:45 am]

[FRA Waiver Petition No. HS–74–12]

Federal Railroad Administration

ALMANOR RAILROAD CO.

Petition for Exemption From Hours of Service Act

The Almanor Railroad Company, has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. secs. 61, 62, 63 and 64.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS–74–12, Room 5101, 400 Seventh

Street, SW., Washington, D.C. 20590. Communications received before December 15, 1974, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C. on November 1, 1974.

DONALD W. BENNETT,
Chief Counsel,
Federal Railroad Administration.

[FR Doc.74-25844 Filed 11-5-74;8:45 am]

[FRA Waiver Petition No. HS-74-13]

SANDERSVILLE RAILROAD CO.

Petition for Exemption from Hours of Service Act

The Sandersville Railroad Company, has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. secs. 61, 62, 63 and 64.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS-74-13, Room 5101, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before December 15, 1974, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C. on November 1, 1974.

DONALD W. BENNETT,
Chief Counsel,
Federal Railroad Administration.

[FR Doc.74-25845 Filed 11-5-74;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS' SUBCOMMITTEE ON ALLENS CREEK NUCLEAR GENERATING STATION, UNITS 1 & 2

Notice of Meeting

OCTOBER 31, 1974.

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards' Subcommittee on Allens Creek Nuclear Generating Station, Units 1 and 2 will hold a meeting on November 23, 1974 in room 1046, 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 of the Houston Lighting and Power Co. for a permit to construct this nuclear powerplant. The facility will be located in Southern Austin County, Tex., immediately west of the Brazos River and approximately 45 miles west of Houston, Tex.

The following constitutes that portion of the subcommittee's agenda for the above meeting which will be open to the public:

Saturday, November 23, 1974—9 a.m. until the conclusion of business.—The subcommittee will hear presentations by representatives of the Regulatory Staff and Houston Lighting and Power Co. and will hold discussions with these groups pertinent to its review of the application of Houston Lighting and Power Co. for a permit to construct the Allens Creek Nuclear Generating Station, Units 1 and 2.

In connection with the above agenda item, the subcommittee will hold Executive Sessions, not open to the public, at 8:30 a.m. and at the end of the day to consider matters relating to the above application. 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 closed sessions with representatives of the Regulatory Staff and Applicant for the purpose of discussing privileged information concerning plant physical security and other matters related to plant design, construction, and operation, 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 a closed session 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 16, 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 the Preliminary Safety Analysis Report for this facility and related 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 Sealy Public Library, 415 Main Street, Sealy, Tex. 77474.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the subcommittee. To the extent that the time available for the meeting permits, the subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 1:30 p.m. and 3:30 p.m. on November 23, 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 22, 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., e.s.t.

(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 25, 1974 at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and within approximately 9 days at the Sealy Public Library, 415 Main

Street, Sealy, Tex. 77474. 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 24, 1975. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74–25859 Filed 11–5–74;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON PERRY NUCLEAR POWER PLANT, UNITS 1 & 2

Notice of Meeting

OCTOBER 31, 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 Perry Nuclear Power Plant, Units 1 & 2 will hold a meeting on November 23, 1974 in Room 1146, 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 of the Cleveland Electric Illuminating Company for a permit to construct this nuclear power plant. The facility will be located on Lake Erie in Lake County, Ohio. The plant site is approximately 35 miles northeast of Cleveland and 21 miles southwest of Ashtabula, Ohio.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

Saturday, November 23, 1974—10:30 a.m. until the conclusion of business. The Subcommittee will hear presentations by representatives of the Regulatory Staff and Cleveland Electric Illuminating Company and will hold discussions with these groups pertinent to its review of the application of Cleveland Electric Illuminating Company for a permit to construct the Perry Nuclear Power Plant, Units 1 & 2.

In connection with the above agenda item, the Subcommittee will hold Executive Sessions, not open to the public, at 10:00 a.m. and at the end of the day to consider matters relating to the above application. 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 closed sessions with representatives of the Regulatory Staff and Applicant for the purpose of discussing privileged information concerning plant physical security and other matters related to plant design, construction, and operation, 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 a closed session 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 portion 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 16, 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 the Preliminary Safety Analysis Report for this facility and related 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 Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 1:30 p.m. and 3:30 p.m. on November 23, 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 22, 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., e.t.

(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 25, 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 Perry Public Library, 3753 Main Street, Perry, Ohio 44081. 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 24, 1975. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74–25860 Filed 11–5–74;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP ON THE REACTOR SAFETY STUDY (WASH–1400)

Notice of Meeting

OCTOBER 31, 1974.

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards' Working Group on the Reactor Safety Study (WASH–1400) will hold a

meeting on November 22, 1974 in Room 1046, 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 draft report on the "Reactor Safety Study (WASH-1400), An Assessment of Accident Risks in U.S. Commercial Nuclear Power Plants."

The following constitutes that portion of the Working Group's agenda for the above meeting which will be open to the public:

Friday, November 22, 1974, 9:00 a.m. until the conclusion of business. The Working Group will hear presentations by representatives of the AEC Regulatory Staff and will hold discussions with this group pertinent to its review of matters related to the draft report on the Reactor Safety Study (WASH-1400).

In connection with the above agenda item, the Working Group 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 Working Group Members and internal deliberations for the purpose of formulating recommendations to the ACRS.

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). Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views and avoid undue interference with agency or Working Group operation.

Practical considerations may dictate alteration in the above agenda or schedule.

The Chairman of the Working Group 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 15, 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 AEC's field information offices in Albuquerque; Chicago; King of Prussia, Pennsylvania; Idaho Falls, Idaho; Las Vegas, Nevada; Grand Junction, Colorado; Oak Ridge, Tennessee; Richland, Washington; San Francisco; Aiken, South Carolina; Atlanta, and Denver.

(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 Working Group. To the extent that the time available for the meeting permits, the Working Group will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Working Group, between the hours of 10:30 a.m. and 12:30 p.m. on November 22, 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 canceled 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 20, 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., e.s.t.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) A copy of the transcript of the open portion of the meeting will be available for inspection on or after November 26, 1974 at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545 and within approximately nine days at various local public document rooms throughout the country. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street, NE., Washington, D.C. 20002 (telephone 202-547-6222) upon payment of appropriate charges.

(i) On request, copies of the Minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545 after February 22, 1975. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-25858 Filed 11-5-74;8:45 am]

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Amendment to Facility License

Notice is hereby given that the U.S. Atomic Energy Commission (the Commission) has issued Amendment No. 6 to Facility Operating License No. DPR-46 issued to Nebraska Public Power District which revised Technical Specifications for operation of the Cooper Nuclear Station, located in Nemaha County, Nebraska. The amendment is effective as of its date of issuance.

The amendment permits operation with an 8 percent increase in maximum average planar linear heat generation rate for average planar exposures up to 6000 MWD/T.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

For further details with respect to this action, see (1) the application for amendment dated May 28, 1974, (2) Amendment No. 6 to License No. DPR-46, with Change No. 9, and (3) the Commission's concurrently issued Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Auburn Public Library, 1118-15th Street, Auburn, Nebraska 68305. A copy of items (2) and (3) may be obtained upon request addressed to the United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Bethesda, Maryland, this 25th day of October, 1974.

For the Atomic Energy Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch #2, Directorate of Licensing.

[FR Doc.74-25864 Filed 11-5-74;8:45 am]

[Docket No. 50-410]

NIAGARA MOHAWK POWER CORP.

Oral Argument

OCTOBER 31, 1974.

Oral argument on the exceptions filed to the June 14, 1974 initial decision of the Licensing Board in this construction permit proceeding will be heard at 10

a.m. on Wednesday, December 4, 1974, in the Main Courtroom (second floor), The U.S. District Court and Post Office Building, Erie Boulevard and Genessee Street, Syracuse, New York 13201. Counsel should arrange to be present in the courtroom no later than 9:45 a.m.

The intervenors (Suzanne Weber and Ecology Action) are allotted one and one-half hours for their argument; the applicant, the State of New York Atomic Energy Council, and the AEC regulatory staff are allotted a total of one and one-half hours for their arguments, to be divided among them as they deem appropriate. Of course, a party need not use all of the time allotted. The Secretary to this Board should be advised by letter, no later than November 22, 1974, of the name(s) of counsel who will present argument on behalf of each of the respective parties, and on the allocation of time agreed upon.

While, in accordance with its established practice, the Board will review the entire initial decision and the full record underlying it, the oral argument will be confined to the issues which have been raised by the exceptions and the briefs filed in support or in opposition thereto, unless advised otherwise by later Board order. Counsel should be totally familiar with the portions of the record which bear upon those issues. In their preparation and presentation of oral argument, counsel may assume that the Board will have carefully examined all briefs on file with it and will therefore be familiar with the positions of the respective parties.

It is so ordered.

For the Atomic Safety and Licensing Appeal Board.

ROMAYNE M. SKRUTSKI,
Secretary to the Appeal Board.

[FR Doc.74-25862 Filed 11-5-74;8:45 am]

[Docket Nos. 50-277, 50-278]

PHILADELPHIA ELECTRIC CO. ET AL.

Prescheduled Argument

OCTOBER 31, 1974.

Our order of October 21, 1974,[1] in postponing the previously calendared date for oral argument in this proceeding, stated that the argument would be recalendared for a date in early December, 1974. The argument is re-calendared for 10 a.m. on Wednesday, December 11, 1974, in the Appeal Panel Hearing Room, 5th floor, East West Towers Building, 4350 East-West Highway, Bethesda, Maryland. Counsel should arrange to be present in the hearing room no later than 9:45 a.m.

All other provisions of our oral argument order of October 7, 1974 remain in effect. In the absence of a change, there is no need to resubmit the name(s) of counsel who will present argument on behalf of each of the respective parties. The Secretary to the Board should be advised by letter, no later than December 3, 1974, in the event of a change in counsel.

It is so ordered.

For the Atomic Safety and Licensing Appeal Board.

ROMAYNE M. SKRUTSKI,
Secretary to the Appeal Board.

[FR Doc. 74-25863 Filed 11-5-74;8:45 am]

[1] ALAB-236, RAI-74-10.

[Docket Nos. 50-277 and 50-278]

PHILADELPHIA ELECTRIC CO.

Proposed Issuance of Amendments to Facility Operating Licenses

The Atomic Energy Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR-44 and DPR-56 issued to Philadelphia Electric Company for the operation of the Peach Bottom Atomic Power Station, Units 2 and 3, located in Peach Bottom, York County, Pennsylvania.

The amendments would delete the provisions in the Technical Specifications which require that the maximum worth of any operable control rod be less than 1.25 percent when reactor power is above 30 percent, in accordance with the licensee's application for amendment, dated August 29, 1974.

The notice provides that within 30 days after publication of notice in the FEDERAL REGISTER on November 6, 1974, any member of the public whose interest may be affected by the proceeding may file a request for a public hearing in the form of a petition for leave to intervene with respect to whether the amendments to the facility operating licenses should be issued.

Petitions for leave to intervene must be filed under oath or affirmation and in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of the FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C., 20545, Attention: Docketing and Service Section by December 6, 1974. A copy of the petition and/or request for hearing should be sent to the Chief Hearing Counsel, Office of the General Counsel, Regulation, U.S. Atomic Energy Commission, Washington, D.C., 20545 and to Edward J. Bauser, Jr., Esquire, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101, attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or designated licensing board or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine any cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated August 29, 1974, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Martin Memorial Library, 159 E. Market Street, York, Pennsylvania. As it becomes available, the Commission's related Safety Evaluation will be available at the above locations. A copy of the proposed license amendments and attachments and the Safety Evaluation, when available, may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

For the Atomic Energy Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Directorate of Licensing.

[FR Doc.74-25788 Filed 11-5-74;8:45 am]

[Docket Nos. 50-354 and 50-355]

PUBLIC SERVICE ELECTRIC AND GAS CO.

Reconstruction of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR § 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for these proceedings to consist of the following members:

William C. Parler, Chairman
Dr. Lawrence R. Quarles, Member
Richard S. Salzman, Member

Dated: October 30, 1974.

ROMAYNE M. SKRUTSKI,
Secretary to the Appeal Board.

[FR Doc. 74-25861 Filed 11-5-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 25513, Agreement C.A.B. 24596, R–1 through R–6; Docket 25280, Agreement C.A.B. 24597, R–1 through R–8; Docket 26494, Agreement C.A.B. 24684, R–1 and R–2, Order 74–10–88]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Increased Fuel Costs

Correction

In FR Doc. 74–34707, appearing in the issue of Thursday, October 24, 1974, at page 37799, the following changes should be made:

1. The following paragraph should be inserted above the first paragraph of the document:

"Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of October, 1974."

2. In the second table on page 37801, the first line under Agreement C.A.B. 24597 beginning "R–2 * * *", should be moved up under the first line in Agreement C.A.B. 24596 beginning "R–1 * * *".

[Docket No. 23161; Order 74–11–10]

OVERSEAS NATIONAL AIRWAYS, INC.

Order of Tentative Approval

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of November 1974.

Overseas National Airways, Inc. (ONA) has applied for exemption from section 408(a) of the Federal Aviation Act of 1958, as amended (the Act) or for approval without hearing pursuant to section 408(b) thereof with respect to the control relationship between it and Logistical Services, Inc. (LSI), a wholly owned subsidiary of ONA.

ONA formed LSI on August 5, 1969 as a Delaware Corporation; LSI is managed by ONA without a board of directors. LSI has been used to bidding on government contracts to load munitions on shipboard and to provide terminal services in connection with ONA's contract operations.[2]

ONA has now decided to activate LSI to provide a variety of terminal services, cargo handling, and related services to ONA as well as to other carriers and shippers of air cargo. The company will also provide consulting and marketing advice for freight forwarders, shippers and other similar interests, and may seek government contracts to load, unload and otherwise service all types of transport vehicles.[3] Thus LSI will be a person engaged in a phase of aeronautics within the meaning of section 408 of the Act, and its relationship with ONA is subject to Board approval pursuant to subsection (a)(6) thereof.[4]

In support of its request, ONA submits LSI will not operate aircraft or be the sole source of any of the services it provides, and thus no significant public policy or regulatory problems will arise as a result of approval of the application. ONA contends that the Board has approved the establishment by air carriers of similar arrangements.[4]

The Flying Tiger Line Inc. (Flying Tiger) filed an answer in opposition to ONA's application to the extent that it would permit ONA to engage indirectly (a) in the sale or servicing of individually waybilled freight and (b) in the sale or servicing of freight either being assembled for various shippers for a charter flight, or distributed to various consignees thereafter. Flying Tiger contends that the application raises broad issues which can be determined only through the hearing process and that none of the cases cited by ONA are even remotely in point. In Flying Tiger's view the primary question raised is whether it is in the public interest to permit ONA, as a supplemental carrier limited to charter transportation, to become broadly involved in the servicing and marketing of individually waybilled freight. Flying Tiger believes that a supplemental carrier's peripheral activities should be confined to the same business areas as its major activities. Otherwise, it is asserted, violations and enforcement problems could arise and LSI could become a competitive vehicle to obtain traffic now moving on other carriers. Flying Tiger concludes that, if the Board decides to approve the proposal, LSI should be limited to the performance of ground handling and terminal services in connection with charter transportation for organizations which do not sell, solicit or use individually waybilled air freight.

ONA has replied that it is not asking the Board for permission to engage in any activities not previously authorized for other air carriers, including Flying Tiger,[5] and that it is well aware of the prohibitions of its certificate with respect to carrying individually air waybilled freight. ONA contends that FTL's suggested conditions are vague and unworkable, and should be rejected.

ONA has submitted a list of its officers and directors who will be officers of LSI[6] and submits that the exemption from section 409 of the Act contained in Part 287 of the Board's Economic Regulations will apply if the control relationship is approved or exempted by the Board.[7]

No other comments have been received.

ONA is an air carrier, LSI is a person which will be engaged in a phase of aeronautics, and the control of LSI by ONA is therefore subject to section 408(a)(6) of the Act. It has been tentatively determined the acquisition of LSI by ONA does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly, and does not tend to restrain competition. For the reasons set forth below, we have further tentatively concluded that the application should be approved, subject to conditions.

LSI will act as a vehicle by which ONA can better utilize ground handling equipment not fully needed to support ONA. The information here available indicates that this expansion into related activities should strengthen ONA's health and further the development of air transportation.

However, the operational possibilities in the relationship raise problems too broad to warrant unqualified approval.

As an initial matter, regulatory problems would arise in the event that LSI, in providing consulting and terminal services for indirect air carriers, first acted as a clearing house for shipments available for joint loading, then provided terminal services in physically arranging a joint load, and finally acted as agent for the master loader to procure chartered transportation via ONA. We believe, as partially noted by Flying Tiger, that such activities might involve ONA too intricately in the transportation of individually waybilled freight. At minimum, an expanded proceeding would be required to examine the possibilities inherent in such an arrangement. However, applicants have expressed no intention to engage in coordinated operations of this nature and, for purposes of approving the application without hearing, a condition will be imposed to insure that such operations—or any operations promoting consolidated shipment by ONA of the freight of multiple

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[1] The only function of LSI at present is to provide loading and offloading services with respect to commercial cargo carried on ONA's aircraft.

[2] By way of describing more specifically the services to be provided, applicants have submitted the following. First, LSI will load and unload cargo on and off of the aircraft of air carriers and provide storage space for such cargo. In performing the activity which is contemplated in this connection it will be necessary for LSI to receive or deliver freight from surface transportation companies at the storage facilities. Secondly, LSI will contract with shippers to provide the shippers consulting advice with respect to the warehousing and transportation of freight. In this connection the company would do such things as advise shippers how to prepare computer programs or LSI might itself prepare the computer program for the purpose of controlling or improving the flow of a shipper's inventory. Finally, it is contemplated that LSI might do engineering design work with respect to the creation or improvement of cargo handling equipment used in connection with handling, loading and off-loading of air freight. The application states that ONA does not presently intend for LSI to purchase or lease aircraft, and that LSI will not engage in contact or common carriage.

[3] See Emery Air Freight Corp. Control of Cargo Facilities, Inc., Order 70–12–15, December 3, 1970.

[4] *E.g.*, Interlocking Relationships, Patterson, et al., 3 CAB 711, 712, 715 (1942) (subsidiary performing consulting services concerning long-range air cargo programs); Barnett International Forwarders, Inc., et al., Interlocking Relationships, 25 CAB 54, 56 (1957) (subsidiary provided cargo packing service for customers of its indirect air carrier parent).

[5] Order E–24030 authorized the establishment of Flying Tiger Air Services, Inc., which, inter alia, proposed to provide ground handling and other related services for FTL and other carriers at overseas points.

[6] LSI has no Board of Directors.

[7] These officers are G. F. S. Hinckley, J. W. Bailey, Martin Train, Robert Wagenfeld, Karl Wernett and Richard Winfield.

purchasers of direct air transportation—do not occur without prior Board consideration and approval.

Further, in this light, to insure that ONA is not enabled to do through LSI what it cannot do in its own right, we will condition final approval to prohibit LSI from engaging in any activity closed to ONA by virtue of its certificate obligations, and specifically from engaging in the direct or indirect solicitation or handling of individually waybilled freight having prior or subsequent movement on ONA.

However, Flying Tiger's proposed condition in this regard is unacceptable. We see nothing per se adverse to the public interest in the provision of services by LSI which increase the efficiency of the air freight operations of other air carriers, direct or indirect. Similarly, if by virtue of these services, the business of an individual air shipper increases sufficiently to justify charter operations, and that shipper chooses to ship via ONA, without incentive of rebates or unfair competitive devices, no regulatory problem is raised. Competition by other air carriers would in no way be diminished or endangered; ONA would not have improperly extended its activities into transportation of individually waybilled freight; and ONA would have engaged in no unfair competitive practices. To the extent Flying Tiger's proposed condition would preclude provision of services by LSI to air freight forwarders, or other individual shippers, it is overly restrictive.

There are other adverse possibilities inherent in the arrangement, beyond the impact on scheduled carriers addressed by Flying Tiger. Theoretically, ONA could utilize LSI to the detriment of other charter operators. To the extent LSI provided services to ONA customers, services which are integrally and sequentially related to the total air transportation package of which ONA is a principal part, an avenue would exist for ONA to provide through LSI free or below-cost services, thereby effectively circumventing its published tariffs and enhancing its competitive flexibility unfairly. In this connection, LSI will be prohibited from providing any service to an ONA customer except at prices equal to or above the reasonable cost (including profit) of such services to LSI. LSI will also be required to maintain various records and accounts respecting such sales, to which the Board will retain an ongoing right to inspect.

A related problem arises insofar as ONA, through LSI, would be able to enter into joint arrangements with other air carriers, involving pooling of equipment or facilities, or other cooperative working arrangements, without filing an agreement with the Board pursuant to section 412 of the Act. Here, unqualified approval would effectively transfer a phase of ONA's regulated activities to an unmonitored affiliate. Accordingly, we will condition our approval so as to require that LSI and ONA promptly file with the Board a report describing each agreement that LSI enters into with any air carrier, foreign air carrier or other carrier. ONA and LSI should be prepared to terminate any such agreement should the Board so order (or to provide for the divestiture of LSI by ONA).[8]

On the basis of the foregoing, it is tentatively found that the control relationship between ONA and LSI is not contrary to the public interest or that the conditions of section 408 will be otherwise unfulfilled. Upon approval of the acquisition of control by ONA of LSI, all interlocking relationships arising thereby would come within the exemption from section 409 of the Act afforded by Part 287 of the Board's Economic Regulations.

The Board tentatively concludes that it should approve the acquisition of control by ONA of LSI without hearing under the third proviso of section 408 (b) of the Act.[9] In accordance therewith this order, constituting notice of the Board's tentative findings, will be published in the FEDERAL REGISTER, and interested parties will be afforded an opportunity to file comments or request a hearing on the Board's tentative decision. Approval will be subject to the following conditions:

1. LSI and ONA shall file with the Board's Docket Section (in Docket 23161) within fifteen days after execution of any agreement between LSI and any air carrier, foreign air carrier, or other carrier, a report setting forth the nature of the agreement and the parties involved;

2. LSI shall provide no service to any customer[10] of ONA, except at prices equal to, or in excess of, the reasonable cost of such services to LSI;

3. LSI shall maintain for a period of at least 3 years full and complete records of all operations conducted, including (a) copies of all contracts entered into, and all billing and service documents, (b) documents describing the nature of services: *Provided*, The identity of purchasers, the location at which services were rendered, and itemized billing charges, and (c) all records and accounts prepared by or for its management relating to its payroll, equipment and other overhead expenditures, and its general financial status;

4. The Board shall have the same access to all lands, buildings, and equipment, and to all accounts and records of LSI as it has to the records and facilities of ONA itself;

5. LSI shall engage in no activity closed to ONA by virtue of ONA's certificate obligations, and specifically, in no direct or indirect solicitation or handling of individually waybilled freight having prior or subsequent movement on ONA;[11]

6. ONA and LSI shall file with the Board in this docket, within 15 days after the close of each calendar quarter, a report setting forth a detailed description of the business activities conducted by LSI during the quarter; and the report shall describe each service performed and list the names of persons for whom service was provided;

7. Jurisdiction shall be retained for the purpose of taking such further action, with or without hearing, as may be in the public interest.

Accordingly, it is ordered, That:

1. ONA's acquisition of control of LSI within the meaning of section 408(a)(6) of the Act be and it hereby is tentatively approved;

2. Except to the extent granted herein all outstanding requests be and they hereby are denied;

3. Interested persons are hereby afforded a period of thirty days from the date thereof within which to file comments or request a hearing with respect to the Board's proposed action;[12] and

4. The Attorney General of the United States be furnished a copy of this order within one day of its publication.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-25963 Filed 11-5-74;8:45 am]

[8] See Orders 74-5-99 and 74-10-63.

[9] While Flying Tiger has requested a hearing, it appears that the conditions we have tentatively determined to impose obviate Flying Tiger's concerns, and no other party is seeking a hearing.

[10] For purposes of this condition, an ONA customer should be regarded as any person utilizing ONA's services within a year prior to its engagement of LSI's services, and any person who ONA, or its officers, have reason to believe may in the future be an ONA customer.

[11] This includes the direct or indirect solicitation of individual waybilled shipments which are subsequently consolidated by an indirect air carrier for shipment.

[12] Comments to be filed shall conform to the Board's rules of practice (14 CFR Part 302).

CIVIL SERVICE COMMISSION

DEPARTMENT OF AGRICULTURE

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Assistant General Counsel for Rural Development and Conservation, Office of the General Counsel.

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

[FR Doc.74-25973 Filed 11-5-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, FR Doc. 67-13608, the Civil Service Commission authorized the departments and

agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from Deputy General Counsel, Office of the General Counsel to Deputy General Counsel, International Affairs and Commodity Programs.

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

[FR Doc.74-25971 Filed 11-5-74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Assistant to the Secretary for Energy Affairs, Office for Energy Affairs, Office of the Secretary.

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

[FR Doc.74-25966 Filed 11-5-74;8:45 am]

TITLE CHANGE IN NONCAREER EXECUTIVE ASSIGNMENT

Department of Housing & Urban Development

By notice of July 12, 1973, FR Doc. 73-14253 the Civil Service Commission authorized the Department of Housing & Urban Development to fill by noncareer executive assignment the position of Deputy Assistant to the Secretary for Public Affairs, Office of Public Affairs, Office of the Secretary. This is notice that the title of this position is now being changed to Deputy Assistant Secretary for Public Affairs, Office of Public Affairs, Office of the Secretary.

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

[FR Doc.74-25967 Filed 11-5-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy Commissioner of Indian Affairs, Bureau of Indian Affairs.

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

[FR Doc.74-25969 Filed 11-5-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Assistant to the Secretary for Indian Affairs, Office of the Secretary.

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

[FR Doc.74-25968 Filed 11-5-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Associate Solicitor (Conservation and Wildlife), Office of the Secretary.

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

[FR Doc.74-25972 Filed 11-5-74;8:45 am]

DEPARTMENT OF LABOR

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Labor to fill by noncareer assignment in the excepted service the position of Deputy Assistant Secretary for Employment Standards, Employment Standards Administration.

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

[FR Doc.74-25965 Filed 11-5-74;8:45 am]

FEDERAL ENERGY ADMINISTRATION

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Federal Energy Administration to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Administrator for Resource Development, Office of Assistant Administrator for Resource Development.

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

[FR Doc.74-25970 Filed 11-5-74;8:45 am]

FEDERAL EMPLOYEES PAY COUNCIL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the Federal Employees Pay Council will meet at 2 p.m. on Wednesday, November 20, 1974 in room 5323 of the U.S. Civil Service Commission building, 1900 E Street, NW.

This meeting will be open to the public and will consist of a continuation of discussions on the fiscal year 1976 comparability adjustment for the statutory pay systems of the Federal Government. Any member of the public who wishes to file a written statement with the committee may do so by furnishing it to the undersigned in room 3H30 of the Civil Service Commission building at any time prior to the meeting. Any member of the public who wishes to speak at this meeting should so indicate in such a written statement, so that this request may be considered in the context of the constraints imposed by the agenda schedule for the year.

Further information about this meeting may be obtained by contacting the undersigned at 632-5595.

For the President's agent:

RICHARD H. HALL,
Advisory Committee Management, Officer for the President's Agent.

[FR Doc.74-25843 Filed 11-5-74;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

BICYCLE REGULATION

Notice of Meeting

The Consumer Product Safety Commission gives notice that a meeting on bicycle safety requirements will be held Wednesday, November 20, 1974, at 10 a.m. in room 801, Westwood Towers Building, 5401 Westbard Avenue, Bethesda, Maryland. The purpose of this meeting is to allow representatives of the Bicycle Division of the Japan Vehicle Inspection Association, 1221 Avenue of the Americas, New York, New York, 10020, a Japanese trade association, to discuss generally the July 16, 1974, Bicycle Regulation with the Commission's operations staff.

On July 16, 1974, (39 FR 26100) the Commission promulgated a Bicycle Regulation under the Federal Hazardous

Substances Act establishing safety requirements for bicycles. The regulation has an effective date of January 1, 1975. The Commission plans to propose a May 1, 1975 effective date.

On September 9 and 10, the Commission held public discussions with consumers, bicycle manufacturers, suppliers and retailers on the July 16, 1974, Bicycle Regulation. At these discussions certain objections to the Bicycle Regulation were expressed.

The meeting on November 20, 1974, will be attended by members of the Commission staff from the Bureau of Engineering Sciences, Bureau of Compliance, Bureau of Economic Analysis, Office of Standards Coordination and Appraisal, and Office of the General Counsel. The representatives from the Japan Vehicle Inspection Association will be Mr. Shigeo Anegawa, Mr. K. Himoto, and Mr. T. Takasaki.

Any other parties who wish to attend this meeting should notify Don Early, Office of Standards Coordination and Appraisal, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 496-7197.

Dated: October 31, 1974.

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

[FR Doc.74-25955 Filed 11-5-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 290-7; OPP-50009]

NEBRASKA

Issuance of Experimental Use Permit for Predator Control (Coyotes)

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 983), the Nebraska Department of Agriculture applied to the Environmental Protection Agency (EPA) for an experimental use permit. This permit (No. 33253-EXP-2G) is hereby issued in accordance with 40 CFR Part 162.19 as promulgated in the FEDERAL REGISTER on January 31, 1974 (39 FR 3939) and allows the shipment and use of sodium cyanide in the sodium cyanide spring-loaded ejector mechanism (SCSLEM) for control of predation by coyotes. The SCSLEM is to be used only in an experimental program approved by the EPA in 28 approved counties in the State of Nebraska only, under the supervision and control of approved SCSLEM applicators as designated by the Nebraska Department of Agriculture.

This program began on October 1, 1974, and will expire September 30, 1975. However, it may be revoked at any time for violation of the terms thereof, or to avoid deleterious effects on the environment.

EPA invites interested persons to submit written comments with reference to this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Room E-421, Washington, DC 20460. Three copies of the comments must be submitted to facilitate the work of EPA and others interested in inspecting them. The comments must be received on or before December 6, 1974, and should bear the notation OPP-50009. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 to 4 p.m., Monday through Friday.

The application, the premit issued and the label and directions for use of sodium cyanide in the SCSLEM are available for public inspection at the Environmental Protection Agency, Room EB-37, East Tower, 401 M Street SW., Washington, DC 20460.

PROGRAM FOR EXPERIMENTAL USE OF SODIUM CYANIDE SPRING-LOADED EJECTOR MECHANISM (SCSLEM) FOR PREDATOR CONTROL IN STATE OF NEBRASKA

I. *Purpose.* Sodium cyanide will be used in the spring-loaded ejector mechanism (SCSLEM) in an experimental program. This experimental program is designed to measure the usefulness of this tool as a method of reducing domestic livestock and poultry losses due to predation by coyotes. This program will also evaluate the effect of the method on nontarget species.

II. *Objectives.* A. Determine the effects of the SCSLEM's on livestock and poultry losses by coyotes where the SCSLEM's are used as compared to livestock and poultry losses where the SCSLEM's are not used.

B. Determine the effects of the use of the SCSLEM's on the non-target species in the SCSLEM use areas.

C. Determine the cost of controlling coyotes with the SCSLEM's as compared to trapping, snaring, shooting, denning or the other methods used to control coyotes in Nebraska.

D. Determine the selectivity of the SCSLEM's when used to control coyotes.

E. Determine the effects of the use of the mechanism in coyote control with regard to human safety.

F. Determine the effectiveness of the use of other coyote control methods relative to the effectiveness of the SCSLEM.

G. Determine the economic benefits derived from the use of the SCSLEM's and other methods of controlling coyotes in Nebraska.

H. Determine the amount of coyote control that can be achieved through the use of the SCSLEM's without causing unreasonable adverse effects on the environment.

I. Determine most effective placement location of SCSLEM for taking coyotes.

III. *Control*—A. *State Coordinator.* The program will be directed by the Nebraska Department of Agriculture. The State Director of the program will be Glenn W. Kreuscher, Director, Nebraska Department of Agriculture. The State Coordinator of this program was to be named prior to October 1, 1974.

B. *District coordinators.* The District Coordinators will be those persons designated by the State Coordinator and will be responsible for: Maintaining records by name, address, and site location of each SCSLEM applicator and SCSLEM distributed; distribution of SCSLEM's and capsules; program monitoring; assistance with data reporting and collection; species identification; and assistance on special problems.

C. *Applicators.* Applicators of the SCSLEM's will be approved livestock and poultry producers who have successfully completed the SCSLEM training program.

IV. *Procedures for implementation*—A. *Applicators' qualifications.* Applicators of the SCSLEM will be ranchers or farmers holding land in the districts in the program and/or their designated agents. These applicators will be approved by the Nebraska Department of Agriculture upon successful completion of an approved training program conducted by the State Coordinator.

The training program will include information necessary for the approved SCSLEM applicator to understand the nature of the chemical and the mechanism, the techniques of selection of placement sites, selection of SCSLEM baits or scents, actual setting of the mechanism, visitation periods, record keeping and reporting, legal responsibility, identifying methods of tripping device other than pull, training to identify kill types, locating kills from device, proper storage of the chemical capsule and mechanism when not in use, and method for disposal of used or inoperative capsules. Special emphasis will be given to environmental and human safety precautions to be observed when using the SCSLEM.

B. *Distribution of chemical capsules and mechanisms.* Each district in the program will have one District Coordinator for distributing capsules and spring-loaded ejector mechanisms. Mechanisms and capsules will only be available to approved SCSLEM applicators. These approved applicators may purchase the capsules and mechanisms only from the District Coordinator. Capsules may be purchased by approved applicators for use in the spring-loaded ejector mechanisms already owned: *Provided,* The mechanism owners agree to abide by the conditions of the experimental use program and reporting system. No explosive devices will be permitted.

The antidote, amyl nitrite capsules, will be given to purchasers of the SCSLEM at each distribution point. Each purchaser must be advised of the antidote at the time of purchase of capsules and/or mechanisms.

C. *Record keeping.* A record of each applicator who obtains the chemical capsules and/or mechanisms will be kept. These records will include:

1. Name of approved applicator of the SCSLEM and name of one other person who will be knowledgeable of the site locations of the SCSLEM's or written direction from the ranch headquarters to the SCSLEM sites, with each site marked.

2. Location of ranch or farm headquarters, directions and mileage from nearest town.

3. The number of livestock and poultry and type of operation protected from depredation.

4. The number of capsules and mechanisms purchased.

5. A signed agreement to comply with the terms of the damage assessment reporting system and the conditions of the experimental program.

D. *Data reporting.* Each applicator must submit the following information to the District Coordinator at least once each month or when he purchases additional capsules and/or devices, whichever comes first.

1. Name of ranch or farm where SCSLEM's are placed, and name of owner.

2. Type of ranch or farm operation (cattle, horses, poultry, sheep or other, including the type of livestock or poultry production conducted, i.e., range (herded, fenced pastures), ewe, lamb, purebred, farm flock, feeder lambs (pasture, feedlot), etc.).

3. Name of applicator of SCSLEM.

4. Number of SCSLEM's in use each month.

5. Number of capsules used each month at each specific placement location, including number of capsules replaced at a given SCSLEM site.

6. Number of coyote and non-target species taken each month.

7. Number of discharges each month at each SCSLEM location which results in no animal recovery.

8. Number of livestock losses from October 1, 1973 to September 30, 1974 (need only be included in first monthly report) to:

a. Coyotes.

b. Other known causes (listed by name).

c. Unknown causes.

9. Number of livestock and poultry losses each month of SCSLEM use to:

a. Coyotes.

b. Other known causes (list by name).

c. Unknown causes.

10. Number and type of accidents causing injury to humans, domestic animals or livestock.

11. Other control measures used at the same time that SCSLEM's are in use and animals taken.

Permission must be granted in writing at time of purchase by the applicator to allow representatives or designated agents of the Nebraska Department of Agriculture and the Environmental Protection Agency to enter upon his property for the purpose of inspecting and monitoring all aspects of the experimental program. Any person found to be using the materials improperly or falsifying required data will have his classification as an approved applicator revoked and will be denied further use of the device and capsules. An approved applicator may be subject to the civil and criminal penalties under the Federal Insecticide, Fungicide, and Rodenticide Act as amended.

Furthermore, failure to adhere to the provisions of this program on the part of any District Coordinator, landowner, applicator, or other persons engaged in this program may result in suspension of the program within the district in question.

V. *Data summarization and analysis.* A. The Nebraska Department of Agriculture through the designated District Coordinators will be responsible for collecting required SCSLEM data report forms from approved applicators. These data report forms will be referred to the State Coordinator for summary and computation of data. Copies of these report forms shall be sent to the Hazardous Material Control Division (EPA Region 7), Kansas City, on a monthly basis. The Department of Agriculture will collect requested data from control areas where the SCSLEM is not used for summarization and comparison with data from SCSLEM use areas. The State Coordinator will send this information to the Regional office on a quarterly basis.

The data from control areas will consist of livestock and poultry losses due to coyote predation, losses due to other or unknown causes, and coyote kills due to other control methods, such as trapping, snaring, shooting, denning, and other methods.

A pre-census of livestock and poultry to be protected and an index of coyote populations both in the control areas and in those districts in the SCSLEM use program must be conducted prior to the introduction of SCSLEM use. This information will be provided as indicated in paragraph B of this section.

A post-census of livestock and poultry populations and the index of coyote populations will be conducted in both areas at the completion of the program.

B. Additional census and loss data will be supplied by the U.S. State-Federal Agricultural Statistical Service. This data will give the number of livetstock and poultry in each county and number lost to predators in 1973 (the only full year when the SCSLEM or similar devices were not in use) as compared to losses in 1974. This information is to be obtained by polling of producers by mail, phone, and personal contacts.

C. This program began October 1, 1974 and will end September 30, 1975 in order to coincide with the reporting Service's annual survey. No mechanisms or capsules may be distributed after September 15, 1975. All unused capsules must be returned to distribution points before October 15, 1975. Final data summaries and analyses must be submitted to the Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Washington, DC, by January 19, 1976, or earlier if possible.

D. Use of the SCSLEM will not be permitted where use of the mechanism will harm endangered or threatened species that may be attracted to the SCSLEM.

VI. *Experimental Program*—A. *Location of SCSLEM Sites.* This program will be conducted in 28 counties:

Antelope	Harlan
Boone	Holt
Box Butte	Howard
Buffalo	Knox
Cedar	Lincoln
Cherry	Madison
Custer	Nance
Dawes	Phelps
Dawson	Pierce
Dixon	Red Willow
Franklin	Scotts Bluff
Furnas	Sheridan
Gosper	Sherman
Greeley	Sioux

1. Areas will be selected in each approved county where the SCSLEM will be used by approved applicators to control predation.

2. The total number of devices and capsules for the entire program will not exceed 3,000 devices and 30,000 capsules.

3. All expenses incurred in purchasing and placement of the mechanisms and sodium cyanide capsules will be the responsibility of the approved applicators.

4. Control areas have been selected in districts which will be representative of areas where SCSLEM's are used. No SCSLEM's will be used in control areas. Other methods of controlling will be permitted, such as trapping, snaring, shooting and denning. Control areas have been selected in the following counties: Adams, Arthur, Banner, Blaine, Boyd, Brown, Burt, Butler, Cass, Chase, Cheyenne, Clay, Colfax, Cuming, Dakota, Deuel, Dodge, Douglas, Dundy, Fillmore, Frontier, Gage, Garden, Garfield, Grant, Hall, Hamilton, Hayes, Hitchcock, Hooker, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Lancaster, Logan, Loup, McPherson, Merrick, Morrill, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Platte, Polk, Richardson, Rock, Saline, Sarpy, Saunders, Seward, Stanton, Thayer, Thomas, Thurston, Valley, Washington, Wayne, Webster, Wheeler, and York.

B. *Work to be accomplished.* 1. Training of approved applicators.

2. Establishment of distribution points and methods for the distribution of the mechanisms and antidote to approved applicators.

3. Collection of program data from approved applicators.

4. Establishment of activities needed for monitoring and surveillance of all aspects of the experimental program by the Nebraska Department of Agriculture.

5. Establishment of a method to evaluate selectivity of the SCSLEM's.

6. Establishment of a method to evaluate the program as a mechanism for measuring efficiency of the SCSLEM's in order to meet the program objectives.

7. Coordination of the program work and objectives in order to use the data already being collected and generated by predator control of the Department of Interior's Bureau of Sport Fisheries and Wildlife and the State-Federal Agricultural Statistical Service's study on the economic aspects of the livestock and poultry industry and predator control.

8. Establishment of a method for an economic analysis of coyote control with the SCSLEM's.

9. Establishment of methods to census the livestock, poultry and coyote populations in the SCSLEM use areas and the areas where no SCSLEM's are used.

10. Collection of monthly program data from SCSLEM use areas and control areas where no SCSLEM's are used and monthly submission to Region VII, Environmental Protection Agency.

11. Submission of all data to the Nebraska Department of Agriculture for summarization, analysis and distribution to the Environmental Protection Agency.

Dated: October 30, 1974.

JAMES L. AGEE,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.74-25849 Filed 11-5-74;8:45 am]

FARM CREDIT ADMINISTRATION

[Farm Credit Administration Order No. 774]

DEPUTY GOVERNOR FOR BANK SERVICES ET AL.

Delegation of Authority of Officers to Act as Governor in Event that Governor is Absent or Not Able To Perform Duties of His Office for Any Other Reason

NOVEMBER 1, 1974.

1. In the event that the Governor of the Farm Credit Administration is absent or is not able to perform the duties of his office for any other reason, the officer of the Farm Credit Administration who is the highest on the following list and who is available to act is hereby authorized to exercise and perform all functions, powers, authority, and duties pertaining to the office of governor of the Farm Credit Administration:

(1) Deputy Governor for Bank Services;

(2) Acting Deputy Governor and Director, Operations and Finance Service;

(3) Acting Deputy Governor and Director, Credit Service;

(4) General Counsel;

(5) Chief Examiner;

(6) Any other officer of the Farm Credit Administration designated by the Governor.

2. This order shall be effective on the above written date, and supersedes Farm Credit Administration Order No. 772, dated June 24, 1974 (39 FR 24050).

W. M. HARDING,
Governor,
Farm Credit Administration.

[FR Doc.74-25992 Filed 11-5-74;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[H.C. 180]

ISC FINANCIAL CORP.

GOODLAND SAVINGS AND LOAN ASSOCIATION

Application for Permission To Acquire Control

OCTOBER 31, 1974.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from ISC Financial Corporation, Kansas City, Missouri, a unitary savings and loan holding company, for approval of acquisition of control of the Goodland Savings and Loan Association, Goodland, Kansas, an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regulations for Savings and Loan Holding Companies, said acquisition to be effected by a purchase for cash of stock of Goodland Savings and Loan Association. Following said acquisition it is proposed that Goodland Savings and Loan Association be merged into Anchor Savings Association, an insured subsidiary of the applicant. Comments on the proposed acquisition should be submitted to the Director, Holding Companies Section, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, on or before December 6, 1974.

[SEAL] GRENVILE L. MILLARD, Jr.,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc.74-25948 Filed 11-5-74;8:45 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to Part 542 of Title 46 CFR and section 311(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/operator and vessels*
01003---	Skibs A/S Excelsior: *Benoil.*
01251---	Aktieselskapet Havprins: *Havjarl.*
01253---	Aktieselskapet Havkong: *Havgast.*
01306---	Shaw Savill & Albion Company Limited: *Britis, Langstone.*
01317---	Sociedad Tropica de Carga S.A.: *Triton.*
01425---	Johnston Warren Lines Limited: *Tropic.*
01574---	Fearnley & Eger: *Fergulf.*
01619---	Meandros Shipping Co., Ltd.: *Meandros.*
01626---	Star Shipping Co., Ltd.: *Atlantic Star.*
01873---	Montreal Shipping Co., Inc.: *Vanguard.*
01893---	Silver Line Limited: *Silvereid.*
01936---	Interseas Shipping Company, S.A.: *Byzantine.*
01941---	Persian Gulf Tanker Co., Ltd.: *Persian Commander.*
02191---	Manhattan Oil Transportation Corp.: *Betty K, Ivor, Joan K, Manhunt, Manoleine, Mantank, Star Craft, Supercraft.*
02198---	Peninsular & Oriental Steam Navigation Company: *Spirit of London.*
02241---	Cape Continent Shipping Company: *Tabora.*
02501---	Standard Oil Co. of California: *H. D. Collier.*
02548---	Compania Maritima San Basilio S.A.: *Eurymachus.*
02551---	Ellerman Lines, Ltd.: *Mediterranean, Silvio, Sorrento.*
02583---	Pacific Inland Navigation Company, Inc.: *PAC 312-2, PAC 312-3.*
02622---	Ernst Russ on behalf of Partenreederei M.V. Reinhart Lorenz Russ: *Reinhart Lorenz Russ.*
02835---	Hongkong Shipowners & Managers Co., Ltd.: *Peggy Cummins.*
02977---	J. Ray McDermott & Co., Inc.: *JO-535, JO-536, JO-537, JO-538, JO-539.*
02982---	The Shipping Corporation of India Ltd.: *Gautama Buddha.*
03044---	Bouchard Transportation Company Inc.: *B. No. 50.*
03148---	Astromerito Cia, Naviera: *Leandros.*
03245---	Rederiaktieselskabet Dannebrog: *Weco Offshore I.*
03271---	Sea-Land Service, Inc.: *Detroit.*
03327---	M/V Kathleen K, Inc.: *John K.*
03501---	Osaka Shosen Mitsui Senpaku K.K.: *Ashby Maru, Chicago Maru, Manjusan Maru.*
03519---	Toko Shosen K.K.: *Amazon Maru, Amur Maru, Caucasus Maru, Choko Maru, Daiko Maru, Ginko Maru, Kenko Maru, Kikuko Maru, Nile Maru, Shuko Maru, Teiko Maru, Syuko Maru, Thames Maru, Woko Maru, Zenkoren Maru No. 6.*
03532---	Zuisei Kaiun K.K.: *Kaiko Maru, Kikuko Maru, Kinko Maru, Nile Maru, Rhein Maru, Ryokko Maru, Seine Maru, Wako Maru.*
03557---	Olsen Daughter A/S: *Guldregen.*
03568---	Rederiaktieselskapet Freikoll A/S Bralanta, A/S Bramora: *Bralinda.*
03636---	Smith-Rice Company: *Barge 22.*
03680---	Murphy Pacific Marine Salvage Co.: *Marine Boss.*
03698---	Weyerhaeuser Company: *SF-10.*
03766---	Petroleum Carriers Corp.: *Nicolas.*
03769---	Rainbow Shipping Corp.: *Alkman.*
03774---	Penn Tanker Company: *Penn Challenger, Penn Champion.*
03789---	Alrai Shipping Corporation, Monrovia: *Alrai.*
03843---	Victory Carriers, Inc.: *Longview Victory.*
03980---	Moran Towing & Transportation Co., Inc.: *Spindle Top.*
04007---	Egon Oldendorff: *Birte Oldendorff.*
04113---	Mon River Towing, Inc.: *MRBL-24, MRBL-88, MRT-110.*
04174---	West Memphis Towing Corp.: *Lady Mignon.*
04227---	Kahn Scheepvaart & Handelmaatschappij N. V.: *Daniella, Fairlift, Stellanova.*
04263---	Waywiser Navigation Corporation, Ltd.: *Cherry.*
04276---	Rivtow Straits Limited: *Rivtow Carrier.*
04289---	Dixie Carriers, Inc.: *DXE 1501.*
04358---	Holland Bulk Transport B.V.: *Amstelstad.*
04767---	Texaco Inc.: *Garrison, Rhodes, Texaco No. 319, Vermilion.*
04792---	Rederij J. & P. Holwerda: *Elisabeth Holwerda.*
04874---	Bana Navigation Company, Limited: *Banario.*
05032---	Talisay Corporation of Panama: *Talisay.*
05036---	Companhia Nacional de Navegacao: *Timor.*
05046---	Magnolia Marine Transport Co.: *MM 103, MM 104.*
05197---	Stravelakis Bros., Ltd.: *Amphitrite, Kronos, Lelaps, Milea, Pelias, Polyfimos, Tarsos.*

Certificate No.	Owner/operator and vessels
05520---	Union Carbide Corp.: *Ellis 2121, Ellis 2123, IOT 303.*
05530---	Consolidated Towing Company: *Cindy Sue.*
05619---	Paleocrassas Brothers & Partners: *Captayannis.*
05652---	Berg Boat Company: *Aromatic, Polly Esther.*
05713---	W.B. Enterprises, Inc.: *W-7, W-8.*
06344---	A/S Reefer Shipping: *Cool Girl.*
06423---	Horn Construction Co., Inc.: *Horn 27.*
06601---	Seacomber Shipping Company Limited: *Emma M.*
06706---	Miskal Shipping Company S.A.: *Attika Hope.*
06736---	Cybas Shipping Co., Ltd. & A.H. Basse & E.B.H. Moeller: *Daneriver.*
06755---	Tonin Shipping Corporation, Panama: *Tonin.*
06925---	Bibby Bulk Carriers Limited: *Tenbury.*
06953---	Mercury Steamship Co., Inc.: *Abiqua.*
07290---	Hollywood Marine, Inc.: *John T.*
07311---	T. & S. Towing Co., Inc.: *Barbara Ann.*
07518---	They & Co., Ltd.: *Seahawk.*
07551---	Drado Shipping Company Ltd., S.A.: *Silver Fern.*
07596---	Windward Navigation Co., Ltd.: *Forestal I.*
07883---	C & S Towing Co., Inc.: *Deanne.*
08097---	Vicalvaro Compania Naviera, S.A.: *Paros.*
08170---	Nanyo Senpaku Kabushiki Kaisha: *Tarakan Maru.*
08180---	Margala Shipping & Trading Corporation Monrovia: *Kero.*
08464---	Transreeder Schiffahrtsges. MBH. & Co.: *Ocean Trader.*
08686---	Assos Maritime Company Ltd.: *Assos.*
08709---	Bibby Freighters Limited: *Arya Bod.*
08743---	Silver City Shipping Company S.A. of Panama: *Silver City.*
09168---	Seafighter Shipping Co., Ltd.: *Elmela.*
09223---	Dana Shipping Corporation: *Dana.*
09407---	Interessentskapet Saga Spirit: *Saga Spirit.*
01306---	Shaw Savill & Albion Company Limited: *Captain Paddon.*
01425---	Johnston Warren Lines Ltd.: *Nova Scotia.*
01575---	Rederiaktieselskapet Mascot: *Britta.*
01888---	Knappton Towboat Company: *Shasta.*
01891---	Canal Barge Co. Inc.: *CBC 292, CBC 291, CBC 294, CBC 130, CBC 293.*
01904---	Waterman Steamship Corporation: *Sam Houston.*
02034---	The Australind Steam Shipping Company Ltd.: *Arrino.*
02198---	The Peninsular & Oriental Steam Navigation Co.: *Sun Princess.*
02551---	Ellerman Lines Ltd.: *City of Istanbul, City of Patras, City of Sparta.*
02902---	Alamo Chemical Transportation Co.: *Alamo 2103.*
02975---	Venture Shipping (Managers) Limited: *Richelieu Venture.*
02982---	The Shipping Corp. of India: *Parvati.*
03245---	Rederiaktieselskabet Dannebrog: *Weco Supplier II.*
03387---	Deutsche Shell Tanker-GMBH: *Liotina.*
03460---	Mibae Shosen K.K.: *Asama Maru.*
03501---	Osaka Shosen Mitsui Senpaku K.K.: *Ohminesan Maru, Mont Blanc Maru.*
03597---	Felicitas Rickmers-Linie KG & Co.: *Etha Rickmers.*
03640---	Pan Ocean Bulk Carriers, Ltd.: *Pan Star.*
03690---	The Harbor Tug & Barge Company: *223.*
03730---	Brown & Root, Inc.: *M-210, Bar-330.*
03841---	American Export Lines Inc.: *Export Defender, Export Diplomat, Export Democracy.*
03971---	Korea Shipping Corp., Ltd.: *Young Il.*
04007---	Egon Oldendorff: *Catharina Oldendorff.*
04037---	C. F. Bean Inc.: *OB 653.*
04087---	Merichem Co.: *Mer 5, Mer 6.*
04099---	Waterways Marine of Memphis, Inc.: *"Barge (Meat & Hdwe)", "Barge (Office)", "Barge (Groceries)", "Barge AO & RC 40".*
04113---	Mon River Towing, Inc.: *MRBL-24.*
04163---	Cenac Towing Co., Inc.: *CTCO 2501.*
04174---	West Memphis Towing Corp.: *Bernice.*
04184---	M/G Transport Services, Inc.: *GTC No. 8, GTC No. 9, AORS 223.*
04293---	General Marine Transport Corporation: *Rebecca K.*
04357---	Koninklijke Nedlloyd B. V.: *Amstelstad.*
04623---	Seaspan International Ltd.: *Seaspan 304.*
04625---	American Commercial Lines, Inc.: *Wally Roller.*
04641---	American Tug Boat Company: *ATB 95.*
05084---	Naviera Amozonica Peruana S.A.: *Yacu Pato, Yacu Taita.*
05537---	Empresa Navegacion Mambisa: *Star.*
05577---	Far Eastern Shipping Company: *Zinoviy Solovyev.*
05067---	Hannah Inland Waterways Corp.: *Taboga.*
05743---	Reederei Barthold Richters: *Petra.*
05848---	Navimex S.A. de C.V.: *Rio Bravo, Rio Balsas.*
06052---	Marukyo Suisan Kabushiki Kaisha: *Nadayoshi Maru No. 20.*
06129---	Azov Shipping Company: *Komsomolets Rossii.*
06225---	Stapp Towing Co., Inc.: *John, Greg.*
06478---	Korea Marine Industry Development Corp.: *Tae Yang No. 15.*
06906---	Directia Navigatiei Maritime Navrom: *Codlea.*
07237---	Southern Barge Inc.: *Hollywood 1501, Hollywood 2501, Hollywood 1502.*
07255---	Teh Tung Steamship Co. Ltd.: *Eleranta.*
07911---	Seahold Shipping Co. Ltd.: *Eurobulker.*
08258---	Goodmaris Corporation S.A.: *Eurologger.*
08413---	McLean Contracting Company: *Patapsco.*
08473---	Tokyo Marine Co., Ltd.: *Fujiharu Maru.*
08530---	Prompt Shipping Corp. Ltd.: *Tasman Career.*
08709---	Bibby Freighters Limited: *Warwickshire.*
08760---	Gulf Shipping Lines, Ltd.: *Confidence Express, Reliance Express.*
08833---	General Metals of Tacoma Inc.: *U.S.S. Watts.*
08864---	New Zealand Line Limited: *NZ Aorangi.*
08931---	American River Transportation Co.: *Inez Andreas, Ginny Stone.*
08948---	Veb Deutfracht Seereederi: *Thale, Groditz.*
09004---	Berman Enterprises Inc.: *W-7, Laurie B, Amy B, Sam Berman, Anne Louise, Alan Martin.*
09046---	Association MS E. R. Limburgia: *E. R. Limburgia.*
09080---	Surrey Shipping Company Limited: *Shackleford.*
09117---	Alianza Delmar Armadoro S.A.: *Kyra Christina.*
09164---	Aquanave, C. A.: *Aquanave II.*
09165---	Evans Cooperage Co., Inc.: *E-122, E-123, E-128, E-137, LTC-30, UBL-335.*
09172---	Vania Compania Naviera S.A., Panama: *Athen Glory.*
09191---	Liberian Ace Maritime Inc.: *Eastern Ace.*
09211---	Crowley Maritime Corporation: *408, 409, 411.*
09288---	Frio Shipping Co. Ltd.: *Cabo Frio.*
09303---	Partrederiet Junior V, Copenhagen: *Junior Lilo.*
09354---	Gulf Elevator & Transfer Co., Inc.: *Marquis Roen, UBL 340.*
09355---	Virnat Shipping Lines Pte. Ltd.: *Savannah.*
09375---	Eraclide S.P.A.: *Eraclide.*
09387---	A/S Salvator Marine Services: *Edda Salvator, Stella Salvator, Smola Salvator, Sula Salvator.*
09379---	Golden North Fisheries, Inc. and Togiak Fisheries, Inc.: *Quinhagak, Laney S.*
09393---	San Anton Navegation Co., Ltd., S.A.: *Mikami.*
09411---	Nang Pao Navigation Ltd.: *Southern Ruby.*
09421---	Morton-Norwich Products, Inc.: *MC-3, MC-4, MC-5.*
09423---	Teh-Hu Cargocean Management Co., Ltd.: *Ambitious.*
09432---	Denholm Line Steamers Ltd/Gallic Estates Limited: *Gallic Minch.*
09434---	Hokky Suisan K.K.: *Sumiyoshimaru No. 53.*
09435---	Matsuzawa Gyogyo K.K.: *Matsuei Maru No. 88.*
09436---	Daerim Fishery Co., Ltd.: *No. 6 Daejin, No. 7 Daejin.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-25996 Filed 11-5-74;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by Section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/operator and vessels
01059---	London & Overseas Freighters Ltd.: *London Enterprise.*
01150---	Chevron Transport Corporation: *Chevron Edinburgh.*
01303---	Prince Line Limited: *Cheviot Prince.*

Certificate No.	Owner/operator and vessels
09438	Demetrius Maritime Company Ltd.: *St. Panteleimon.*
09439	Candia Maritime Corporation: *Cretan Liberty.*
09441	Success Maritime Corporation, Inc.: *Unique Mariner.*
09442	Logan & Craig Charter Service, Inc.: *Margie Logan.*
09443	Trident Bay Shipping Company Limited: *European Indepenence.*
09444	Tarsen Shipping Company: *Tarpon Sentinel.*
09445	Marevia Corporation: *Regent.*
09446	Jacobson Brothers, Inc.: *Col. Basil O. Lenoir.*
09447	Fourth Chandris Shipping Corporation: *Margarita Chandris.*
09448	Garden Mars Shipping Ltd.: *Garden Mars.*
09449	Blue Pine Compania Naviera, S.A.: *Aegis Link.*
09450	Omiria Compania Naviera S.A.: *Aegis Doric.*
09451	Kimolos Shipping Company S.A. of Panama: *Nema.*
09452	Sea Spirit Navigation Co. Ltd.: *Captain Theo.*
09458	Nafta A.G.: *Bomin II.*
09459	Cargo Marine Transport Inc.: *Marietta.*
09460	I/S Permina 112: *Permina 112.*
09463	Seabulk Tankers Limited: *STL 3901, Seabulk Challenger.*
09464	Shintoku Kaiun K.K.: *Hotoku Maru.*
09466	B & S Enterprises, Inc.: *Barge No. 11.*
09467	Reederei Hans Beiken OHG: *Germanic.*
09471	Inca Compania Naviera, S.A.: *Archon.*
09475	Wayne, Inc.: *Avalon.*
09476	Assomatos Shipping Corporation: *Assomatos.*
09477	All Seas Chartering Corporation: *Sea Trader.*
09478	Compagnia Siciliana Transporti Mare "Co. Si. Mar." SPA: *Acrux.*
09483	Powell Oil Co., Inc.: *L.S.C. 302, L.C.T. No. 18, L.C.T. No. 19.*
09485	Clockwork Corporation, S.A.: *Tifoso.*
09486	Southeast Aegean Shipping Co. Ltd.: Meandros.
09487	Caspian Shipping Co. Ltd.: *Atlantic Star.*
09490	Boundary Bay Shipping Co. Limited: *Al Barat.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-25997 Filed 11-5-74;8:45 am]

UNITED STATES ATLANTIC & GULF SANTO DOMINGO CONFERENCE

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 26, 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 for approval by:

C. D. Marshall, Chairman
United States Atlantic & Gulf-Santo Domingo Conference
11 Broadway
New York, New York 10004

Agreement No. 6080-23, between the member lines of the United States Atlantic & Gulf-Santo Domingo Conference, modifies Article 10 of the approved conference agreement to provide for the establishment of a $2,500.00 Admission Fee. In the event that a member which has made such payment and is in good standing ceases to be a member, the Chairman may return $1,500.00 less outstanding obligations to the Conference.

Dated: November 1, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-25995 Filed 11-5-74;8:45 am]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

NOVEMBER 1, 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, Region 4, November 21, 1974, from 10:30 a.m. to 4 p.m., Room 5 B, 1776 Peachtree Street NW., Atlanta, Georgia. Because this meeting will be for the purpose of considering Architect-Engineering firms for Proposed Alterations to the U.S. Courthouse, Nashville, Tennessee, it has been determined that the meeting would fall within exemption (5) of 5 U.S.C. 552(b) and that it is essential to close the meeting to the public.

Meetings of the National Public Advisory Panel on Architectural and Engineering Services and meetings of Regional Public Advisory Panels on Architectural and Engineering Services are called for the purpose of evaluating and recommending a number of the best qualified architect-engineer firms for consideration in the selection of those with whom discussions will be held and negotiations initiated. The panels help to insure objectivity in the evaluation process. For the same reason that subsequent deliberations among agency officials are exempted by the above-quoted exceptions the proceedings of the panel must be exempted.

L. D. STROM,
Regional Administrator.

[FR Doc.74-26031 Filed 11-5-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RI75-47, etc.]

JURISDICTIONAL SALES OF NATURAL GAS

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

OCTOBER 25, 1974.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds. It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders. (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf*		Rate in effect subject to refund in docket No.
									Rate in effect	Proposed increased rate	
RI75-47...	Clinton Oil Co.	89	16	El Paso Natural Gas Co. (Blanco Mesa Verde Field, San Juan County, N. Mex.) (San Juan Basin Sub Area) (Rocky Mountain Area).	$215,705	9-30-74		3-31-75	[1] 24.4807	[1] 43.8612	
RI75-48...	Phillips Petroleum Co.	305	17	El Paso Natural Gas Co. (Aneth Field, San Juan County, Utah) (Aneth Field) (Sub Area) (Rocky Mountain Area).	1,006	10-1-74		4-19-75	[1] [2] 24.0	[1] [2] 25.0	
RI75-49...	Clinton Oil Co.	88	14	El Paso Natural Gas Co. (Blanco Mesa Verde Field, San Juan County, N. Mex.) (SanJ uan Basin Sub Area) (Rocky Mountain Area).	299,570	9-27-74		3-28-75	[1] 24.4807	[1] 43.8612	

* Unless otherwise stated, the pressure base is 15.025 lb/in²a.
[1] Base rate—Subject to adjustment for tax and Btu if applicable.
[2] The pressure base is 14.73 lb/in²a.
[3] Applies only to sales under the basic contracts and supplemental agreements dated prior to Apr. 3, 1961. Favored-nation increases are impermissible under sec. 154.93 of the Commission's regulations for agreements dated subsequent to Apr. 3, 1961.

Clinton's favored nation increases apply only to gas sold under the basic contracts and supplemental agreements dated prior to April 3, 1961, inasmuch as such increases are impermissible under § 154.93 of the Commission's regulations for agreements dated subsequent to April 3, 1961. The proposed rate increases of Clinton Oil Company, to the extent permissible, are suspended for five months since they exceed the applicable area ceiling rate under Opinion No. 658.

Phillips' proposed rate increase is a periodic increase to a 25 cent base rate for a sale subject to Opinion No. 658, and since said rate exceeds the applicable area ceiling rate under Opinion No. 658, it, too, is suspended for five months.

In regard to any sale of natural gas for which the proposed increased rate is filed under the provisions of Opinion No. 699, issued June 21, 1974, in Docket No. R-389-B, no part of the proposed rate increase above the prior applicable areas ceiling rate may be made effective until the seller submits a statement in writing demonstrating that Opinion No. 699 is applicable to the particular increased rate filing, in whole or in part. The proposed increased rates for which such support shall have been satisfactorily demonstrated prior to September 23, 1974, will be made effective as of June 21, 1974.

[FR Doc.74-25626 Filed 11-5-74;8:45 am]

[Docket No. G-11821, etc.]

CERTIFICATES, ABANDONMENT OF SERVICE AND PETITIONS TO AMEND CERTIFICATES [1]

Applications

OCTOBER 30, 1974.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 22, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-11821 (G-8679) CF 10-11-74	Marathon Oil Co. (successor to Southern Natural Gas Co.), 539 South Main St., Findlay, Ohio 45840.	United Gas Pipe Line Co., Maxie Field, Forrest County, Miss.	21.00876	15.025
CI65-531 C 10-11-74	Monsanto Co., 1300 Post Oak Tower, 5051 Westheimer, Houston, Tex. 77027.	Natural Gas Pipeline Co. of America, Dagger Draw Area, Eddy County, N. Mex.	[1] 46.29	14.65
CI71-806 D 10-15-74	Mobil Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Texas Eastern Transmission Corp., Main Pass Block 90 Field, Federal offshore Louisiana.	Depleted	
CI74-319 (CI63-77) B 11-5-73 [3]	James M. Forgotson, Operator, 409 Beck Bldg., Shreveport, La. 71101.	Valley Gas Transmission, Inc., Southeast Alice Area, Jim Wells County, Tex.	(3)	
CI75-209 A 10-4-74	Texas Gas Exploration Corp., 1100 First City National Bank Bldg., Houston, Tex. 77052.	Transcontinental Gas Pipe Line Corp., North Vinton Field Area, Calcasieu Parish, La.	[1] [2] 44.0	14.7
CI75-219 A 10-11-74	Union Oil Co. of California, P.O. Box 7600, Los Angeles, Calif. 90051.	Texas Gas Transmission Corp., R. Parker No. 1, East Angelita Area, San Patricio County, Tex.	[1] [2] 75.676	14.73
CI75-220 A 10-11-74	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Panoma Council Grove Field, Stevens County, Kans.	[1] 42.76646	14.65
CI75-221 (CS74-336) F 10-7-74	Atlantic Richfield Co. (successor to Callery Properties, Inc.), P.O. Box 2819, Dallas, Tex. 75221.	Michigan Wisconsin Pipe Line Co., Loisel Field, Iberia Parish, La.	[4] 20.85	15.025

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI75-222 A 10-11-74	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Hovey South and Hugoton Fields, Texas County, Okla.	[1] 42.76646	14.65
CI75-223 (CS71-51) F 10-9-74	Sun Calvert Co. (successor to Calvert Exploration Co.), P.O. Box 2880, Dallas, Tex. 75221.	Michigan Wisconsin Pipe Line Co., Laverne Field, Harper County, Okla.	[1] 13.793	14.65
CI75-224 (G-10131) F 10-10-74	Robert F. White (successor to Exxon Corp.), 1014 Union Center, Wichita, Kans. 67202.	Colorado Interstate Gas Co., a Division of Colorado Interstate Corp., Greenwood Field, Morton County, Kans.	18.5	14.65
CI75-225 A 10-11-74	Burmah Oil & Gas Co., Golden Center I, 2800 North Loop West, P.O. Box 94193, Houston, Tex. 77018.	Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., Ship Shoal Block 149, offshore Louisiana.	[12] 60.0	15.025
CI75-226 A 10-15-74 [5]	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Michigan Wisconsin Pipe Line Co., Loisel Field, Iberia Parish, La.	[4] 20.85	15.025
CI75-227 A 10-15-74	Cities Service Oil Co.	Kansas-Nebraska Natural Gas Co., Inc., Bradshaw Field, Hamilton County, Kans.	[4] 12.76	14.65
CI75-228 (G-13592) B 10-15-74	do	Natural Gas Pipeline Co. of America, E. S. Adams Unit, Caledonia Field, Rusk County, Tex.	Contract terminated	
CI75-230 A 10-15-74	Barber Oil Exploration, Inc., 3000 1 Shell Plaza, Houston, Tex. 77002.	Florida Gas Transmission Co., North Montegut Field, Terrebonne Parish, La.	[8] 53.886	15.025
CI75-231 A 10-16-74	Perry R. Bass and Bass Enterprises Production Co., 3100 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.	Natural Gas Pipeline Co. of America, Dos Hermanos Area, Eddy County, N. Mex.	[1] 60.0	14.65
CI75-232 A 10-17-74	Pennzoil Producing Co., 900 Southwest Tower, Houston, Tex. 77002.	United Gas Pipe Line Co., Drew Field, Ouachita Parish, La.	[7] 65.64	15.025
CI75-233 A 10-17-74	Perry R. Bass and Bass Enterprises Production Co.	Natural Gas Pipeline Co. of America, Sun State No. 1 Area, Eddy County, N. Mex.	[1] 60.0	14.65
CI75-234 A 10-17-74	do	Natural Gas Pipeline Co. of America, Sand Dunes West Area, Eddy County N. Mex.	[1] 60.0	14.65
CI75-235 (CS71-51) F 10-15-74	Sun Calvert Co. (successor to Calvert Exploration Co.), P.O. Box 2880, Dallas, Tex. 75221.	Michigan Wisconsin Pipe Line Co., Woodward Area, Lenora Field, Dewey County, Okla.	[4] 25.021	14.65
CI75-236 (G-5354) F 10-15-74	Energy Production Co., (sucessor to Skelly Oil Co.), 2001 Bryan Tower, Suite 2663, Dallas, Tex. 75201.	El Paso Natural Gas Co., Jalmat Gas Field, Lea County, N. Mex.	17.6398	14.65
CI75-238 A 10-17-74	Perry R. Bass and Bass Enterprises Production Co.	Natural Gas Pipeline Co. of America, Los Medanos Area, Eddy County, N. Mex.	[1] 60.0	14.65

[1] Supra.
[2] By letter of October 2, 1974, Applicant requests that his application for permission and approval to abandon the sale of natural gas, due to non-production of reserves, continue to be processed because attempts at recompletion have been unsuccessful.
[3] Supra.
[4] Supra.
[5] Applicant proposes to cover its own interest in the sale of natural gas heretofore authorized to be made by Callery Properties, Inc. (Operator), now holder of a small producer certificate.
[6] Includes 3.026 cents per Mcf upward Btu adjustment.
[7] Includes 5.64 cents per Mcf upward Btu adjustment.
[8] Subject to upward Btu adjustment; estimated adjustment is 0.130 cents per Mcf.

[FR Doc.74-25702 Filed 11-5-74;8:45 am]

[Docket Nos. RI75-52 and RI75-53]

CHEVRON OIL CO. ET AL.

Hearing on and Suspension of Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

OCTOBER 30, 1974.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto [18 CFR, Chapter II, and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX "A"

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf*		Rate in effect subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
RI75-52	Chevron Oil Co	20	10	El Paso Natural Gas Co. (Puckett Field, Pecos County, Texas RR No. 8) (Permian Basin).	$205,759	10-7-74		6-1-75	25.0938	26.0975	RI74-171
RI75-53	Exxon Corp	138	13	El Paso Natural Gas Co. (Buckhorn Field, Schleicher County, Tex.) (Permian Basin).	2,839	10-11-74		6-1-75	[1] 24.96	26.0975	
		134	14	El Paso Natural Gas Co. (Vinegarone Field, Val Verde County, Tex.) (Permian Basin).	4,715	10-11-74		6-1-75	[2] 24.5919	[2] 25.5756	RI74-68

*Unless otherwise stated, the pressure base is 14.65 lb/in [2]a.
[1] Subject to quality adjustments pursuant to Opinion No. 662.
[2] Includes deduction of 0.5 cents per Mcf for 980 Btu gas.

The proposed rate increases exceed the applicable area ceiling rate set forth in Opinion No. 662 and are suspended for 5 months.

In regard to any sale of natural gas for which the proposed increased rate is filed under the provisions of Opinion No. 699, issued June 21, 1974, in Docket No. R-389-B, no part of the proposed rate increase above the prior applicable area ceiling rate may be made effective until the seller submits a statement in writing demonstrating that Opinion No. 699 is applicable to the particular increased rate filing, in whole or in part. The proposed increased rates for which such support shall have been satisfactorily demonstrated prior to September 23, 1974, will be made effective as of June 21, 1974.

[FR Doc.74-25827 Filed 11-5-74;8:45 am]

[Docket Nos. RI75-50 and RI75-51]

EXXON CORP. ET AL.

Hearing on and Suspension of Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

OCTOBER 30, 1974.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto [18 CFR, Chapter I], and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
RI75-50	Exxon Corp	226	6	Montana-Dakota Utilities Co. (Elk Basin Field, Park County, Wyo.) (Montana-Wyoming Sub Area) (Rocky Mountain Area).	$28,806	10-4-74	11-4-74	[4] Accepted	[1] 15.3	[1] [3] 24.48	
	do		7		64,347	10-4-74		4-4-75	[1] 24.48	[1] 43.8612	
RI75-51	Continental Oil Co	159	7	El Paso Natural Gas Co. (Aneth Area, San Juan County, Utah) (Aneth Field Sub Area) (Rocky Mountain Area).	578	10-4-74		4-18-75	[1] [3] 24.0	[1] [3] 25.0	RI74-80

*Unless otherwise stated, the pressure base is 15.025 lb/in [2]a.
[1] Base rate—subject to adjustment for tax and Btu if applicable.
[3] Favored-nation increase to the Opinion No. 658 area rate.
[3] The pressure base is 14.73 lb/in [2]a.
[4] Accepted as of the date set forth in the "Effective date unless suspended" column.

Exxon proposes in Supplement No. 7 to its FPC Gas Rate Schedule No. 226 an increase in rate to the ceiling under Opinion No. 699. Since the subject contract has not expired the gas does not qualify under Opinion No. 699, and the proposed rate is suspended for 5 months because it exceeds the applicable area ceiling rate under Opinion No. 658.

Continental's proposed rate increase exceeds the applicable area ceiling rate under Opinion No. 658, and, it, too, is suspended for 5 months.

In regard to any sale of natural gas for which the proposed increased rate is filed under the provisions of Opinion No. 699, issued June 21, 1974, in Docket No. R-389-B, no part of the proposed rate increase above the prior applicable area ceiling rate may be made effective until the seller submits a statement in writing demonstrating that Opinion No. 699 is applicable to the particular increased rate filing, in whole or in part. The proposed increased rates for which such support shall have been satisfactorily demonstrated prior to September 23, 1974, will be made effective as of June 21, 1974.

[FR Doc.74-25828 Filed 11-5-74;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 74-70]

ESTABLISHMENT OF ADVISORY SUBCOMMITTEE

Notice of Determination

Pursuant to section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Administrator of NASA has determined that the establishment of an ad hoc advisory Subcommittee to review proposals for Participation in The Scientific Definition of Space Shuttle Missions for Solar Physics Spacelab Payloads is in the public interest in connection with the performance of duties imposed upon NASA by law. The Space Science and Applications Steering Committee, under which the Subcommittee will operate, is a NASA internal committee, composed wholly of Government employees.

The function of this Subcommittee will be to obtain the advice of the scientific community on proposals in the specialized areas identified by the name of the Subcommittee.

Dated: October 31, 1974.

BOYD C. MYERS, II,
Assistant Associate Administrator for Organization and Management.

[FR Doc.74-25960 Filed 11-5-74;8:45 am]

[Notice 74-69]

NASA APPLICATIONS COMMITTEE

Meeting

The NASA Applications Committee will meet on November 20-21, 1974, at the Headquarters of the National Aeronautics and Space Administration. The meeting will be held in room 226 of Federal Office Building 10B, 600 Independence Avenue, SW., Washington, D.C. 20546. Members of the public will be admitted to the meeting beginning at 9 a.m., on a first come first served basis up to the seating capacity of the room, which can accommodate about 35 persons. The approved agenda for the meeting is noted below.

The NASA Applications Committee serves in an advisory capacity only. It is concerned with the total range of applications of space-derived, space-related technology including communications, meteorology, earth resources survey (includes agriculture/forestry, cartography, geography, geology/hydrology, oceanography), earth and ocean physics, solar energy conversion, space processing, and other technology applications. Currently, the Committee comprises 11 members, and a recording secretary, Louis B. C. Fong, who can be contacted for further information at (202) 755-8620.

The following is the approved agenda and schedule for the November 20-21, 1974, meeting of the SPAC Applications Committee:

Time	*Topic*
9:00 a.m.	*Chairman's Remarks*
9:15 a.m.	*NASA's Energy Program* Dr. Harrison H. Schmitt, Assistant Administrator of the recently established Office of Energy Programs, will describe the functions of the office, its organization and its program.
10:30 a.m.	*The Applications Program* NASA personnel will address concerns, questions and issues in each of the subject areas listed below. Based upon their background expertise and their familiarity with NASA's Space Applications Program, each Committee member will comment and make recommendations to NASA in appropriate discipline areas. 1. The Transition Problem from R&D to Operations. 2. Cost-Benefit Studies. 3. Information Processing and Management. 4. Satellite Communications and Maritime Uses. 5. Weather, Climate and Environmental Quality. 6. Ocean Physics.
5:15 p.m.	*Adjourn*
	Thursday, November 21, 1974
8:30 a.m.	*The Space Applications Program* Continuation of discussions: 1. Agriculture, Forest, Range and Water Resources. 2. Land Use Planning and Extractable Resources. 3. Materials Processing in Space. 4. Future Applications. 5. Technology.
2:30 p.m.	*Report by the NAS Committee on Remote Sensing Programs in Earth Resources Survey* (CORSPERS) Committee members who have reviewed this report will comment and offer recommendations.
3:00 p.m.	*Summary & Recommendations by the Chairman*
4:00 p.m.	*Adjourn*

Dated: November 1, 1974.

BOYD C. MYERS, II,
Assistant Associate Administrator for Organization and Management, National Aeronautics and Space Administration.

[FR Doc.74-25959 Filed 11-5-74;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL COUNCIL ON THE ARTS

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the National Council on the Arts will be held at 9:00 a.m. on November 22, 23, and 24, 1974 in the Shoreham Building, 1st floor conference room, 806 15th Street NW., Washington, D.C.

A portion of this meeting will be open to the public on November 23 from 9:00 a.m. to 12:30 p.m. on a space available basis. Accommodations are limited. During the open session there will be discussion of Endowment-supported films; Dance and Expansion Arts policy; and Public Media, Theatre, and other Guidelines.

The remaining sessions of this meeting, November 22 from 9:00 a.m. to 4:00 p.m., November 23 from 1:30 p.m. to 4:30 p.m., and November 24 from 9:00 a.m. to 12:30 p.m., are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)(4), and (5)), will not be open to the public.

Further information with reference to this meeting 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.74-25961 Filed 11-5-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests [1]

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 November 1, 1974 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of the Census:
- Letter of Inquiry, Form DP 614, Occasional, Caywood (395-3443), Applicants seeking employment with CB Jeffersonville, Ind. & Pittsburg, Ka.
- Employment Availability Questionnaire, Form DP 437, Occasional, Caywood (395-3443), Applicants seeking employment with CB, Jeffersonville, Ind. & Pittsburg, Ka.

National Bureau of Standards: Opinion Survey: Portable Circular Saws, Table Radial Arm Saws, Form NBS 1004 and 1005, Single time, Weiner (395-4890), Tech. reps. of power saw mfgrs.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration: Payments Made to Individuals by State/Local Agencies Pending Adjudication, Form SSA 8962, Single time, Caywood (395-3443), State welfare Orga. that admin. state Welfare Programs.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration: Modification of Medicare Cost Reporting Forms to Provide for Sec. 2991 of the 1972 Amendments to the SS Act, Form SSA 2781A, Annual, Caywood (395-3443), Providers of service certified under Title XVIII of SS Act.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management: Cadastral Survey Questionnaire, Form ASO 9100-3, Occasional, Caywood (395-3443), Private surveying and/or engineering firms.

DEPARTMENT OF LABOR

Employment Standards Administration: Complaint of Discrimination in Employment under Government Contracts, Form CC-1, CC-1a, Occasional, Lowry (395-3772), Women and minority workers.

REVISIONS

DEPARTMENT OF COMMERCE

Bureau of the Census: Selected Electronic and Associated Products (including Telephone and Telegraph Apparatus), Form MA 36N, Annual, Peterson (395-5631), Manufacturing establishments.

Bureau of East-West Trade: Report by Fertilizer Exporter—Fertilizer Export Contracts, Shipments and Prices, Form DIB 661P, Monthly, Evinger (395-3648), Lowry (395-3772), Fertilizer producers and exporters.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control: Infant Deaths Secondary to Hemolytic Disease of the Newborn, Form CDC 4.457, Annual, Hall (395-4697), State health depts. and D.C.

Health Resources Administration: Hospital Discharge Survey, Form HRANCHS 1022, Annual, Hall (395-4697), Hospitals.

National Institutes of Health: Multiple Risk Factor Intervention Trial Forms, Form OS NIH HL 9, Occasional, Reese (395-5630), Industrial employees general population.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Policy Development and Research:
- Public Housing Survey—Board of Commissioners, Form____, Annual, HRD (395-3532), Sunderhauf (395-4911), Officials of public housing authorities.
- Public Housing Survey—Housing Authority Staff, Form____, Annual, HRD (395-3532), Sunderhauf (395-4911), Employees of public housing authorities.
- Public Housing Survey—Executive Director, Form____, Annual, HRD (395-3532), Sunderhauf (395-4911), Employees of public housing authorities.
- Public Housing Survey—Project Staff, Form ____, Annual, HRD (395-3532), Sunderhauf (395-4911), Employees of public housing authorities.
- Public Housing Survey—Household, Form ____, Annual, HRD (395-3532), Sunderhauf (395-4911), Households in public housing authorities.

EXTENSIONS

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Economic Opportunity:
- Grantee Refunding Certificate, Form OEO 395, Occasional, Evinger (x) (395-3648).
- Summary of Work Programs and Budget, Form OEO 419, Occasional, Evinger (x) (395-3648).
- Statement of OEO Grant, Form OEO 314, Occasional, Evinger (x) (395-3648).
- Administrative Costs Report, Form OEO 315D Occasional, Evinger (x) (395-3648).
- Grantee Quarterly Financial Report, Support Data Sheet, Form 315A, Occ Quarterly, Evinger (x) (395-3648).
- Grantee Quarterly Financial Report, Form 315, Quarterly, Evinger (x) (395-3648).
- Grantee Program Progress Report, Form 440, Semiannual, Evinger (x) (395-3648).

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74-26081 Filed 11-5-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5568]

ALABAMA POWER CO.

Proposed Transaction Related to Financing of Pollution Control Facilities

Notice is hereby given that Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, an electric utility subsidiary company of The Southern Company, a registered holding company, has filed an application and an amendment thereto with this Commission designating section 9(a) of the Public Utility Holding Company Act of 1935 ("Act") as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Alabama states that in order to comply with prescribed air and water quality control standards of the State of Alabama it has been and will be necessary to construct certain pollution control facilities. The filing relates to Alabama's proposal for its disposition and acquisition and the financing of pollution control facilities for use in connection with its Barry and Chickasaw steam plants located in Mobile County, Alabama ("Plants"). It is intended that The Industrial Development Board of the City of Mobile, Alabama ("Board") will issue its pollution control revenue bonds ("Revenue Bonds") for the purpose of paying the cost of the construction and equipping of the pollution control facilities at said plants ("Project").

Alabama proposes to enter into an Installment Sale Agreement ("Agreement") with the Board which will provide for the acquisition and completion of the Project by the Board and the issuance by the Board of its Revenue Bonds in a principal amount estimated not to exceed $29,735,000, the amount presently estimated to be sufficient to cover the Cost of Construction of the Project. The proceeds of the sale of the Revenue Bonds will be deposited by the Board with the trustee ("Revenue Trustee") under an indenture to be entered into between the Board and such Trustee pursuant to which the Revenue Bonds are to be issued and secured. Such proceeds will be applied to payment of the Cost of Construction of the Project. The Agreement also will provide for the sale of the Project to Alabama, the payment by Alabama of the purchase price for the Project in semiannual installments over a term of years, and the assignment to the Revenue Trustee of the Board's interest in, and of the moneys receivable by the Board under, the Agreement. The Agreement will provide that the purchase price for the Project, including interest thereon, payable by Alabama will be such amount as shall be sufficient (together with other moneys held by the Revenue Trustee for that purpose) to pay the principal of and premium (if any) and interest on the Revenue Bonds as the same becomes due and payable. The Agreement will also obligate Alabama to pay the fees and charges of the Revenue Trustee. To secure its obligations under grant to the Board a security interest in the Project subordinate to the lien of the Indenture dated as of January 1, 1942, the Agreement, Alabama proposes to between Alabama and Chemical Bank, as Trustee, as supplemented and amended, such subordinated security interest to be assigned by the Board of the

Revenue Trustee along with the assignment by the Board of its other interests under the Agreement.

The Agreement will provide that Alabama may at any time prepay the purchase price for the Project, including interest thereon, in whole or in part (at the option of Alabama), such payment to be sufficient to redeem or purchase the outstanding Revenue Bonds in the manner and to the extent provided in the Revenue Indenture, including applicable premiums which will be 3 percent of the principal amount in the eleventh year and which will reduce by ½ of 1 percent thereafter. The Agreement will also provide that Alabama may prepay the purchase price for the Project, including interest thereon, in whole at the option of Alabama in certain cases of undue burdens or excessive liabilities imposed with respect to the Project, its destruction or damage beyond practicable or desirable repairability, and condemnation or taking by eminent domain, or if operation of the Plants is enjoined and Alabama determines to discontinue operation thereof, such redemptions to be at the principal amount plus accrued interest, but without premium. The Revenue Bonds will mature not later than 30 years from the first day of the month in which they are initially issued and will include serial maturities and/or the benefit of a mandatory redemption sinking fund, the effect of either to be calculated to retire not less than 25 percent of the aggregate principal amount of the issue prior to maturity.

In order to comply with the applicable laws of the State of Alabama it will be necessary for Alabama to convey to the Board such portions of the Project as are now owned by Alabama ("Existing Facilities") subject to said Indenture between Alabama and Chemical Bank. Under the Agreement, Alabama will receive, out of the proceeds of the Revenue Bonds, an amount equal to Alabama's original cost for the Existing Facilities, including amounts advanced by Alabama to the Board on account of any cost of Construction. The Existing Facilities will thereupon become a part of the Project which is to be completed by the Board and which Alabama proposes to purchase as provided in the Agreement.

It is contemplated that the Revenue Bonds will be sold by the Board pursuant to arrangements with a group of underwriters represented by Goldman, Sachs & Co. In accordance with the law of the State of Alabama, the interest rate to be borne by the Revenue Bonds will be fixed by the Board. Alabama will not be party to the underwriting agreement for the Revenue Bonds. Bond counsel will issue an opinion that interest on the Revenue Bonds presently is exempt from Federal income taxation. Alabama has been advised that the annual interest rates on obligations, the interest on which is tax exempt, historically have been and can be expected at the time of issue of the Revenue Bonds, to be 1½ percent to 2½% lower than the rates of obligations of like tenor and comparable quality interest on which is fully subject to Federal income taxation.

It is stated that the fees, commissions, and expenses to be paid or incurred, directly or indirectly, in connection with the proposed disposition of the Existing Facilities and the acquisition of the Project (as distinguished from and excluding fees, commissions, and expenses incurred or to be incurred in connection with obtaining the ruling of the Internal Revenue Service and the sale of the Revenue Bonds by the Board payable out of the proceeds of such sale) will be filed by amendment. It is further stated that the incurring of the obligations under the Agreement by Alabama will have been authorized by the Alabama Public Service Commission and that no other 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 19, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(e) 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.74-25871 Filed 11-5-74;8:45 am]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Non-disapproval 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 Rule 8.7(b)(i) concerning the obligation of market-makers and Rule 4.17 restricting trading in certain deep-out-of-the-money options. These amendments are interim measures pending studies of the trading patterns that emerge as a result of their implementation.

Rule 8.7(b)(i) was originally published at 39 FR 36399 on October 9, 1974. This proposed amendment would supplement the quotation requirements of Rule 8.7(b)(i) in cases where the last preceding transaction price of an option contract was $.50 or less. At present, the rule requires a market-maker to maintain a difference between his bid and offer of no more than ½ of $1 when the last preceding transaction price for an option contract was $10 or less. The proposed amendment would alter that provision by requiring a market-maker to maintain a difference between his bid and offer of no more than ¼ of $1 when the last preceding transaction price was $.50 or less. The ½ point difference would still apply to option contracts when the last preceding transaction price was greater than $.50 but did not exceed $10. The remaining obligations of Rule 8.7(b)(i) would not be changed.

This change in the rule's expression of the requirement for narrow quotations will not affect market-maker performance to any appreciable extent. Under current floor practices, the quotations for option contracts trading at a price of $.50 or less are already much narrower than the ½ point spread required by the present version of the rule. The amendment is intended to be responsive to questions raised by the SEC in connection with the development of a market-maker exemption from the Exchange's deep-out-of-the-money restrictions. With the change, the rule will reflect what market-makers on the floor have already learned, namely, that a quotation with a ½ point spread is inappropriate for option contracts trading at a price of $.50 or less.

Rule 4.17, originally published at 39 FR 32583 on September 9, 1974, would prohibit members from entering orders for opening purchase transactions (subject to several exceptions) in any series of options as to which, as of the last previous trading day's close, (i) the market price of the underlying stock was more than 5 points below the exercise price and (ii) the option premium was less than one-half point.

Under the proposal there would be automatic imposition and removal of restrictions at the commencement of each trading day depending on whether the stated conditions were met as of the previous close, without the need for any action or notice by the Exchange.

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, available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street, NW., Washington, D.C.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

OCTOBER 25, 1974.

[FR Doc.74–25869 Filed 11–5–74;8:45 am]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Non-disapproval of Amendments to Option Plan

Notice is hereby given that on October 24, 1974, the Commission considered and did not disapprove a proposed amendment 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 to amend Rule 13.2 concerning the exemption of certain of its members from its net capital requirements. This proposed change was originally published at 39 FR 35417 on October 1, 1974.

In its present form Rule 13.2 exempts a member from the requirements of CBOE's net capital rule if the member is subject to the capital rules of another national securities exchange and if the member deducts from its net capital an amount that is not less than the deduction required by CBOE's net capital rule for uncovered short positions. In view of CBOE's modification of its Rule 13.3(b)(iii)(D), effective September 3, 1974, as well as the application by other exchanges of a minimum margin requirement for uncovered short options positions, the latter condition is no longer deemed necessary, and the proposed amendment is designed to delete this condition.

All interested persons are invited to submit their views and comments on the proposed amendment to CBOE's plan either before or after it has become effective. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file number 10–54. The proposed amendment is, and all such comments will be, available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street, NW., Washington, D.C.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

OCTOBER 25, 1974

[FR Doc.74–25870 Filed 11–5–74;8:45 am]

SELECTIVE SERVICE SYSTEM

REGISTRANTS PROCESSING MANUAL

Early Release From Alternate Service

The Registrants Processing Manual is an internal manual of the Selective Service System. The following portions of that Manual are considered to be of sufficient interest to warrant publication in the FEDERAL REGISTER:

Temporary Instruction No. 600–13 deals with early release of registrants performing alternate service in lieu of induction.

Temporary Instruction Appendix 1–6 terminates certain reporting requirements within the System.

BYRON V. PEPITONE, *Director.*

OCTOBER 31, 1974.

[Temporary Instruction No. 660–13]

EARLY RELEASE FROM ALTERNATE SERVICE

1. A Department of the Army Directive dated October 9, 1974, provides for the early release, during the period November 13–22, 1974, of certain inductees serving on active duty. To assure comparable treatment to persons performing alternate service in lieu of induction, an early release program is established herewith.

2. Conscientious objectors performing alternate service under the provisions of section 660.6 of the Registrants Processing Manual who were satisfactorily participating in the alternate service program on October 17, 1974 shall be released from the program as of November 22, 1974. Registrants released under this directive shall be placed in Class 4–W, regardless of the length of time served, and issued a Certificate of Release from Alternate Service (SSS Form 154).

3. Registrants in the following categories will not be released under this program:

a. Those registrants reported to this Headquarters or a United States Attorney as violators.

b. Those who were not particiapting satisfactorily on an approved alternate service program on October 17, 1974, except as provided in paragraph 4 of this directive.

4. The files of 1–W registrants who were not satisfactorily participating in the alternate service program on October 17, 1974, and which have not yet been referred to this Headquarters in accordance with paragraph 3 of section 642.2 of the Registrants Processing Manual, will be so referred if a thorough review by the State Director indicates that referral is warranted.

5. Registrants who are satisfactorily participating in the alternate service program shall be promptly advised of this early release program and requested to furnish the State Director sufficient current information to expedite their early release. A sample letter, with attachment, is enclosed for use of the State Director to contact each 1–W registrant who is currently under his jurisdiction.

6. A registrant may voluntarily remain on his current job; however, his participation in the alternate service program, and the System's responsibility to maintain supervision over him will terminate on November 22, 1974.

7. The provisions of paragraphs 3 and 4 of section 660.12 and paragraph 10 of section 660.9 of the Registrants Processing Manual will be followed in the processing of registrants covered by this directive. A sample letter to alternate service employers is attached.

This Temporary Instruction will terminate on December 30, 1974.

Issued: October 17, 1974.

BYRON V. PEPITONE.

SAMPLE LETTER OF NOTIFICATION TO CLASS 1–W REGISTRANT REGARDING EARLY RELEASE PROGRAM

(State Headquarters Address)

Date of Mailing:

TO:

ADDRESS:

Dear Mr. ————————,

The Director of Selective Service has determined to release from alternate service on November 22, 1974, all conscientious objectors who were, on October 17, 1974, satisfactorily performing their Selective Service obligation in alternate service.

In accordance with the records maintained at this Headquarters, you will have completed —— months and —— days of your obligation on November 22 and are eligible for early release. You will be placed in Class 4–W (Completed Alternate Service) regardless of the time you have served and a Certificate of Release from Alternate Service (SSS Form 154) will be issued to you.

You may volunteer to remain with your employer; however, Selective Service supervision in connection with this employment will terminate on November 22, 1974 and your alternate service obligation will be considered to have been satisfied.

If unforeseen circumstances arise during your release processing, and you feel it necessary to call the staff officer responsible for the administration of the program, contact ———— at telephone number ————.

Please complete the attached form and mail it in the enclosed envelope.

An early return of the form will insure your release from your alternate service obligation in a timely manner.

Sincerely,

State Director.

(Date)

MEMORANDUM TO THE STATE DIRECTOR

SUBJECT: EARLY RELEASE FROM ALTERNATE SERVICE

To expedite administrative processing in connection with an early release from my alternate service assignment, I submit the following:

My current mailing address is:

(Full Name)

(Address)

(City) (State) (ZIP)

I can be reached by telephone during working hours from ——— to ——— on week days at telephone number———.

(Area Code) (Number)

After working hours and on weekends at ———.

(Area Code) (Number)

I (do) (do not) request reimbursement for travel to return to the area of the local board having jurisdiction over the residence from which I originally traveled when I was issued orders to report for my alternate service assignment. I understand that I may be reimbursed for travel to another location but not to exceed the amount which would be due to me if I had traveled to the original location.

(Signature of Registrant)

Additional Comments:

SAMPLE LETTER TO EMPLOYER REGARDING EARLY RELEASE PROCESSING

(State Headquarters Address)

Date of Mailing:

TO:

ADDRESS:

Dear Mr. _____,

The Director of Selective Service has determined to release from alternate service on November 22, 1974, all conscientious objectors who were, on October 17, 1974, satisfactorily performing their Selective Service obligation in alternate service.

According to the records maintained at this Headquarters, Mr. _____, who is in your employ, is eligible for early release. He is being notified that his alternate service assignment will terminate on November 22, 1974. You may wish to continue him as an employee, by mutual agreement; however, his participation in the alternate service program, and Selective Service supervision in connection with his employment, will terminate on November 22, 1974.

Your participation in the alternate service program is appreciated. You and other cooperating employers have made it possible for the young men involved to make a contribution to the national health, safety, or interest which is compatible with their beliefs.

State Director

[Temporary Instruction Appendix 1–11]

RECISSION OF TEMPORARY INSTRUCTION APPENDIX 1–6

Temporary Instruction Appendix 1–6, Subject: Inductions and Medical Determinations (SSS Form 205) Report of Manpower Inventory (SSS Form 116), dated July 23, 1973, is rescinded and shall be removed from the RPM.

Guidance concerning retention and/or disposal of use-suspended forms, procedural directives and facsimiles is contained in the Current Forms Check List and Index.

This Temporary Instruction will terminate upon implementation.

Issued: October 18, 1974.

JOHN D. DEWHURST,
Deputy Director.

[FR Doc.74–25846 Filed 11–5–74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 624]

ASSIGNMENT OF HEARINGS

NOVEMBER 1, 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 135833 Sub 13, B & C Specialized Carriers, Inc., now assigned December 6, 1974 at Chicago, Ill., is cancelled and transferred to modified procedure.

MC 114211 Sub 225, Warren Transport, Inc., now assigned November 5, 1974 at Chicago, Ill., is cancelled and the application dismissed.

MC 59728 Sub 26, Morrison Motor Freight, Inc., now assigned November 14, 1974 at Columbus, Ohio, is cancelled and the application dismissed.

MC 135874 Sub 31, LTL Perishables, Inc., now assigned November 13, 1974, at Kansas City, Mo., is postponed to December 3, 1974 (4 days), in Room 609 Federal Office Bldg., 911 Walnut St., Kansas City, Mo.

MC 61592 Sub 319, Jenkins Truck Line, Inc., now being assigned December 9, 1974 (2 days), at Los Angeles, Calif., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74–25999 Filed 11–5–74;8:45 am]

[No. MC–C–3437 (Sub-No. 6)]

MOTOR CARRIER TEMPORARY AUTHORITIES

OCTOBER 31, 1974.

At the request of Thomas M. Knebel, representative of Philadelphia Regional Committee of the Air Freight Motor Carrier Conference, the time for filing representations in this proceeding has been extended from November 11, 1974, to December 11, 1974.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74–26001 Filed 11–5–74;8:45 am]

[Notice 89]

MOTOR CARRIER APPLICATIONS AND OTHER PROCEEDINGS

NOVEMBER 1, 1974.

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by the new Special Rule 1100.247 of the Commission's Rules of Practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

Special notice: The publications hereinafter set forth reflect the scope of the applications *as filed* by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 125952 (Sub-No. 14) (Notice of filing of petition to modify permit), filed October 17, 1974. Petitioner: INTERSTATE DISTRIBUTOR CO., a a Corporation, 8311 Durango St. SW., Tacoma, Wash. 98499. Petitioner's representative: George R. LaBissoniere, 130 Andover Park East, Seattle, Wash. 98188. Petitioner holds a motor *contract carrier* permit in No. MC–125952 (Sub-No. 14) issued August 4, 1972, authorizing transportation, over irregular routes, of *Industrial chemicals,* in containers, from Reno, Calado, Gabbs, and Luning, Nev., and points in California, to points in Washington, with no transportation for compensation on return except as otherwise authorized, under a continuing contract, or contracts, with Van Waters and Rogers, Seattle, Wash. By the instant petition, petitioner seeks to modify the permit to read: *"Industrial chemicals,* in containers from Reno, Calado, Gabbs, and Luning, Nev. and points in California, to points in Oregon and Washington, under a continuing contract or contracts with Van Waters & Rogers of Seattle, Wash." Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before November 6, 1974.

No. MC 134454 (Sub-No. 4) (NOTICE OF FILING OF PETITION FOR MODIFICATION OF PERMIT), filed October 14, 1974. Petitioner: PRICE DELIVERY SERVICE, INC., 367 West Second St., P.O. Box 825, Dayton, Ohio 45401. Petitioner's representative: Paul F. Beery, Ninth Floor, 8 East Broad Street, Columbus, Ohio 43215. Petitioner holds a motor *contract carrier* permit in No. MC–134454 (Sub-No. 4) issued June 8, 1972, authorizing transportation, over irregular routes, of *Concrete products* (except commodities in bulk), *pipe fittings,* and *materials and supplies* incidental to the manufacture of concrete products (except commodities in bulk), between the plantsite of Price Brothers Company in Duchess County, N.Y., on the one hand, and, on the other, points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, Virginia, Ohio, and the District of Columbia, under a continuing contract, or contracts with Price Brothers Company, of Dayton, Ohio. By the instant petition, petitioner seeks to modify the permit by the addition of twenty-three states and also requests correction as to the misspelling of the origin as it presently appears in the permit. Petitioner requests that its permit be modified to authorize the following service: *"Concrete products* (except commodities in bulk), *pipe fittings,* and *materials and supplies* incidental to the manufacture of concrete products (except commodities in bulk), between the plantsite of Price Brothers Company in Duchess County, N.Y., on the one hand, and, on the other, points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, Virginia, Ohio, Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska,

New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Wisconsin, and the District of Columbia, under a continuing contract, or contracts with Price Brothers Company, of Dayton, Ohio." Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before December 6, 1974.

No. MC 135687 (Sub-No. 1) (NOTICE OF FILING OF PETITION TO ADD DESTINATION POINTS), filed October 4, 1974. Petitioner: WEAVER TRANSPORTATION COMPANY, a Corporation, 5452 Oakdale Rd., Smyrna, Ga. 30080. Petitioner's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, Ga. 30349. Petitioner holds a motor *contract carrier* permit in No. MC-135687 (Sub-No. 1) issued June 16, 1972, authorizing transportation, as pertinent, over irregular routes, of *Brick, tile, and concrete block*, between the plantsites of Bickerstaff Clay Products, Co., Inc., located in Cobb County, Ga., Russell and Jefferson Counties, Ala., and Escambia County, Fla., on the one hand, and, on the other, points in Alabama, Georgia, Mississippi, and Tennessee, and points in that part of Florida in and west of Hamilton, Suwanee, Lafayette, and Dixie Counties, Fla., under a continuing contract, or contracts, with Bickerstaff Clay products, Inc. By the instant petition, petitioner seeks to add North Carolina and South Carolina as destination points to the authority described above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before December 6, 1974.

No. MC 136733 (NOTICE OF FILING PETITION FOR MODIFICATION OF CERTIFICATE), filed October 14, 1974. Petitioner: WEISS TRANSPORTATION CO., INC., 5000 Beaufait, Detroit, Mich. 48211. Petitioner's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Petitioner holds a motor *common carrier* certificate in No. MC 136733, issued September 20, 1973, authorizing transportation, over irregular routes, of *New furniture*, from Detroit, Mich., to points in that part of the Lower Peninsula (of Michigan) on and east of U.S. Highway 27 and on and south of Michigan Highway 46, with no transportation for compensation on return except as otherwise authorized. By the instant petition, petitioner seeks modification of the territorial description of the certificate so that it would read as follows: "*New furniture*, from Detroit, Mich., to points in that part of the Lower Peninsula of Michigan located on or south of Michigan Highway 55". Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before December 6, 1974.

No. MC 138059 (Sub-No. 3) (Notice of Filing of Petition To Modify Permit), filed September 23, 1974. Petitioner: NORTHWEST TRANSPORT, 223 North Erie Street, Pomona, Calif. 91766. Petitioner's representative: Jerry Solomon Berger, 9454 Wilshire Blvd., Penthouse, Beverly Hills, Calif. 90212. Petitioner holds a motor *contract carrier* permit in No. MC-138059 (Sub-No. 3) issued May 1, 1974, authorizing transportation, over irregular routes, of *Paper and paper products*, from Pomona, Calif., to points in the Los Angeles Harbor, Calif., Commercial Zone, as defined by the Commission, with no transportation for compensation on return except as otherwise authorized, under a continuing contract, or contracts, with Potlatch Forests, Inc., Pomona, Calif. By the instant petition, petitioner seeks to modify its permit to read: "(1) *Paper and paper products and related supplies* and (2) *related advertising matter, premiums and display materials*, from points in Orange and Los Angeles Counties, Calif., to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Texas, Utah, and Washington, and (3) *materials and supplies* on return (other than bulk) used in the manufacture and distribution of paper and paper products, from points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Texas, Utah, and Washington, to points in Orange and Los Angeles Counties, Calif., under a continuing contract, or contracts, with the Potlatch Corporation." Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition on or before December 6, 1974.

Applications Under Section 5 and 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under Sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 C.F.R. 1.240).

Motor Carriers of Property

Application for Certificates or Permits Which are To Be Processed Concurrently With Applications Under Section 5 Governed by Special Rule 240 to the Extent Applicable

No. MC 4491 (Sub-No. 14), filed October 7, 1974. Applicant: GREAT COASTAL EXPRESS, INC., 501 South 14th Street, Richmond, Va. 23219. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. 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), between points in Connecticut.

NOTE.—Authority will be joined with applicant's authority to serve points in Fairfield County and all points will then be served in Connecticut. Common control may be involved. Applicant seeks to purchase a portion of Shippers Express, Inc. in MC-57726. This is a matter directly related to the Section 5 proceeding in MC-F-12332 published in the FEDERAL REGISTER issue of October 17, 1974. If a hearing is deemed necessary, the applicant requests it be held at Richmond, Va. or Washington, D.C.

No. MC 60066 (Sub-No. 10) (CORRECTION), filed September 6, 1974, published in the FR issue of October 10, 1974, and republished as corrected this issue. Applicant: BEE-LINE MOTOR FREIGHT, INC., 1804 Paul Street, Omaha, Nebr. 68102. Applicant's representative: Donald L. Stern, Suite 530, Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods as defined by the Commission requiring special equipment, and except those requiring special equipment), (a) between Ord, Nebr. and points within 50 miles thereof; (b) between Ord, Nebr. and points within 50 miles thereof, on the one hand, and, on the other, all points in Nebraska; (c) between Omaha and Grand Island, Nebr., on the one hand, and, on the other, all points in Nebraska; and (d) between all points in Nebraska, restricted against the transportation of meat and meat products between Ord, Nebr., and points within 50 miles thereof, on the one hand, and, on the other, Omaha, Nebr.

NOTE.—Applicant intends to tack his regular route authority in the lead certificate at any of its presently authorized regular route service points to provide service to or from points in Nebraska as well as Julesburg, Colo. The purpose of this application is to convert the certificate of Registration issued to Service Oil Co., Inc. in MC-99667 to a Certificate of Public Convenience and Necessity. This is a matter directly related to the Section 5 proceeding in MC-F-12307, published in the FR issue of October 10, 1974. The purpose of this republication is to correct the tacking statement which was previously published in error. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 76065 (Sub-No. 24), filed October 7, 1974. Applicant: EHRLICH-NEWMARK TRUCKING CO., INC., 505 West 37th Street, New York, N.Y. 10018. Applicant's representative: Martin Werner, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, on hangers and in containers and *materials, supplies and equipment* used in the manufacture of wearing apparel (except commodities in bulk), between points in Nassau and Suffolk Counties, N.Y., on the one hand, and, on the other, the District of Columbia, points in New Jersey, Delaware, and Virginia and those in those portions of Pennsylvania, Maryland, and West Virginia on and east of U.S. Highway 11.

NOTE.—This is a matter directly related to the Section 5 proceeding in MC-F-12333 published in the FR issue of October 23, 1974.

If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 125433 (Sub-No. 50) (AMENDMENT), filed April 11, 1974, published in the FR issue of June 5, 1974, and republished as corrected this issue. Applicant: F–B TRUCK LINE COMPANY, a Corporation, 1891 West 2100 South, Salt Lake City, Utah 84119. Applicant's representative: Earl H. Scudder, Jr., P.O. Box 82028, 605 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicles over regular routes, transporting: (a) *Construction, mining and logging machinery, equipment, materials and supplies;* and (b) *Commodities* which by reason of size, weight or bulk require special equipment or handling, and *materials, parts or supplies* that are appurtenant to or a necessary part of such commodities, between all points and places on and within 25 miles laterally of the following highways: (1) U.S. Highway 101 and 101 By-Pass between the California-Oregon boundary and San Luis Obispo, inclusive; (2) State Highway 1 between Leggett Valley and San Luis Obispo, inclusive; (3) U.S. Highway 199 between the California-Oregon boundary and Crescent City, inclusive; (4) State Highway 96 between U.S. Highway 99, near Yreka, and Willow Creek, inclusive; (5) U.S. Highway 299 between U.S. Highway 101, near Arcata, and Alturas, inclusive; (6) Unnumbered highway between State Highway 96, near Hamburg, and U.S. Highway 299, near French Gulch, via Etna and Trinity Center; (7) U.S. Highways 99, 99–W and 99–E between the California-Oregon boundary and Bakersfield, inclusive; (8) U.S. Highway 97 between the California-Oregon boundary and Weed, inclusive; (9) State Highway 139 between the California-Oregon boundary and Canby, inclusive; (10) Unnumbered highway between U.S. Highway 97, near Weed, and State Highway 139, via Tennant; (11) State Highway 89 between U.S. Highway 99, near Mt. Shasta, and U.S. Highway 395, near Coleville; (12) State Highway 36 between Alton and Johnstonville, inclusive; (13) U.S. Highway 395 between the California-Oregon boundary and the California-Nevada Boundary; (14) Unnumbered highway between Adia and Susanville, inclusive, via Midway House; (15) Unnumbered highway between Laytonville and Red Bluff, inclusive, via Covelo; (16) State Highway 32 between Orland and State Highway 36, near Childs Meadows, inclusive; (17) Unnumbered highway between unnumbered highway, near Paskenta, and State Highway 20, near Wilbur Springs, via Stonyford.

(18) State Highway 20 between U.S. Highway 101, near Ukiah, and U.S. Highway 40, near Cisco; (19) State Highways 29 and 53 between Vallejo and State Highway 20, near Lower Lake, inclusive; (20) U.S. Highway 40 and 40–A between San Francisco and the California-Nevada boundary, inclusive; (21) State Highway 49 between State Highway 89, near Sattley, and Mariposa, inclusive; (22) U.S. Highway 50 between San Francisco and the California-Nevada boundary, inclusive; (23) State Highway 24 between Oakland and Sacramento, inclusive; (24) State Highway 4 between U.S. Highway 40, near Pinole, and State Highway 89, near Markleeville; (25) State Highway 88 between Stockton and the California-Nevada boundary, inclusive; (26) State Highway 108 between Sonora and U.S. Highway 395 near Fales Springs, inclusive; (27) State Highway 120 between U.S. Highway 50, near Lathrop, and U.S. Highway 395, near Leevining; (28) U.S. Highway 395 between the California-Nevada boundary and U.S. Highway 466, near Four Corners; (29) State Highways 9 and 17 between Oakland and Santa Cruz, inclusive; (30) State Highway 33 between U.S. Highway 50, near Tracy, and Maricopa, inclusive; (31) State Highway 152 between Watsonville and Calif., inclusive; (32) State Highway 25 between Gilroy and State Highway 198, near Priest Valley, inclusive; (33) State Highway 140 between Gustine and Yosemite, inclusive; (34) State Highway 41 between Paso Robles and Yosemite, inclusive; (35) State Highway 168 between Fresno and Florence Lake, inclusive; (36) State Highway 180 between Mendota and Cedar Grove, inclusive; (37) State Highway 198 between San Lucas and General Grant Grove, inclusive; (38) U.S. Highway 466 between Paso Robles and U.S. Highway 395 at Four Corners, inclusive; (39) State Highway 65 between U.S. Highway 99, near Bakersfield, and General Grant Grove, inclusive; (40) State Highway 190 between Porterville and Camp Nelson, inclusive; (41) State Highway 178 between Bakersfield and U.S. Highway 6, near Inyokern, inclusive.

(42) Unnumbered highway between Isabelle and Johnsondale, inclusive; (43) U.S. Highway 6 between California-Nevada boundary and Mojave, inclusive; Except as otherwise provided below, through routes and rates may be established between all points and places specified in subparagraphs 1 through 43. *Restrictions:* (1) Applicant shall perform no service between Redding and points within 10 miles thereof, on the one hand, and, on the other hand, points on and laterally within 25 miles of: (a) U.S. Highway 299 between Weaverville and Burney, inclusive; (b) U.S. Highway 99 between Red Bluff and the California-Oregon boundary, inclusive; or (c) U.S. Highway 97 between Weed and the California-Oregon boundary, inclusive. (2) Applicant shall not transport shipments of less than 10,000 pounds from, to or between the following: (a) Points on State Highway 89 between U.S. Highways 40 and 50; (b) Points on U.S. Highways 6 and 395 between U.S. Highway 466 and the California-Nevada boundary; (c) Points on U.S. Highway 466 between Edison and U.S. Highway 395 at Four Corners.

NOTE.—Common control may be involved. The purpose of the amendment is to broaden the requested authority of the application. Applicant seeks to purchase the operating rights held by Dalzell Corporation in Docket MC–121075. This is a matter directly related to the Section 5 purchase proceeding in MC–F–12194 published in the FR issue of April 24, 1974. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC–F–12334. (Correction) (TREDWAYS EXPRESS, INC.—PURCHASE (PORTION)—EMPIRE CARRIERS CORPORATION (Alfred A. Rosenberg, Trustee)), published in the October 23, 1974, issue of the FEDERAL REGISTER on page 37703. Prior publication should be modified to read as follows: *General commodities*, with exceptions, as a *common carrier* over irregular routes, between New York City, on the one hand, and, on the other all points in Dutchess, Orange, Ulster and Westchester Counties, N.Y., and from New York City, to Putnam and Rockland Counties, N.Y.

No. MC–F–12346. Authority sought for purchase by COOK MOTOR LINES, INC., P.O. Box 1391, Akron, OH 44309, of a portion of DAYTON TRANSPORT CORPORATION, P.O. Box 338, Dayton, VA 22821, and for acquisition by H. L. COOK, also of Akron, OH 44309, of control of such rights through the purchase. Applicants' attorneys: John P. McMahon, and David B. Harwood, both of 100 E. Broad St., Columbus, OH 43215. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between Harrisonburg, Va., and Franklin, W. Va., serving all intermediate points; *general commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, over irregular routes, between Harrisonburg, Va., on the one hand, and, on the other, points in Pendleton County, W. Va., with restriction. Vendee is authorized to operate as a *common carrier* in North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia. Application has not been filed for temporary authority under section 210a(b).

Under the proposed transaction vendee proposes to tack or join its authority in Pendleton County, W. Va., with the authority being purchased herein to provide a through service to and from Harrisonburg, Va.

After the authority sought herein is authorized and the transaction consummated, vendee herein intends to file an application to eliminate any existing gateways.

No. MC–F–12347. Authority sought for purchase by ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309, of a portion of the operating rights of RED LINE, INC., 2310 Orange Ave., P.O. Box 151, Roanoke, VA 24002, and for acquisition by GALEN J. ROUSH, also of Akron, OH 44309, of control of such rights through the purchase. Applicants' attorney and representative: William O. Turney, 2001 Massachusetts Ave. NW., Washington, D.C. 20036, and

Douglas W. Faris, P.O. Box 471, Akron, OH 44309. Operating rights sought to be transferred: *General commodities*, with exceptions, as a common carrier over regular routes, between Roanoke and Martinsville, Va.; general commodities, with exceptions, over irregular routes, between Roanoke, Va., on the one hand, and, on the other, points and places in Virginia within 150 miles of Roanoke. Vendee is authorized to operate as a common carrier in Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, South Carolina, Texas, Virginia, West Virginia, and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

Under the proposed transaction vendee proposes to tack or join the irregular route authority to its regular route authority at Roanoke, Va., performing a pick-up and distribution service within the irregular route territory to and from Roanoke.

After the authority herein is authorized and the transaction consummated, vendee herein intends to file an application to eliminate any existing gateways.

No. MC–F–12348. Authority sought for purchase by DRY BULK TRANSPORT, INC., R.D. No. 5, Marietta, OH 45750, of a portion of the operating rights of WILLS TRUCKING, INC., 615 Independence Tower, 5755 Granger Rd., Cleveland, OH 44131, and for acquisition by NICK LOEBER, also of Marietta, OH 45750, of control of such rights through the purchase. Applicants' attorney: Paul F. Beery, 8 E. Broad St., Ninth Floor, Columbus, OH 43215. Operating rights sought to be transferred: *Ferro alloys*, in bulk, in dump vehicles, as a *common carrier* over irregular routes, from the site of the plant of the Electro-Metallurgical Company (division of the Union Carbide and Carbon Corporation) near Marietta, Ohio, to points in Indiana, Illinois, Kentucky, Maryland, Michigan, Missouri, New York, Pennsylvania and West Virginia. Vendee is authorized to operate as a *common carrier* in Indiana, Illinois, Iowa, Kentucky, Maryland, Michigan, Missouri, New York, Ohio, Pennsylvania, West Virginia and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12349. Authority sought for purchase by SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977, of the operating rights of OSENGA's TRUCKING SERVICE, INC., 1421 Summer St., Hammond, IN 46320, and for acquisition by THOMAS R. SCHILLI, 303 E. Monroe, Delphi, IN 46923, of control of such rights through the purchase. Applicant's attorney and representative: Leonard R. Kofkin, 39 So. LaSalle St., Chicago, IL 60603, and Robert McMurtrey, Revenue Officer, Internal Revenue Service, P.O. Box 869, Gary, IN 46407. Operating rights sought to be transferred: *Prepared animal and poultry feeds, grain, fertilizer, tankage, meat scraps, and bone meal*, as a *common carrier* over irregular routes, from Chicago and Riverdale, Ill., to points in Indiana; *chipboard*, from Brownstown, Ind., to a described portion of Northeastern Illinois; *general commodities* (with exceptions), between points in the Chicago, Ill., Commercial Zone, as defined by the Commission, with restriction. Vendee is authorized to operate as a *common carrier* in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, Tennessee, Wisconsin, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12350. Authority sought for control by CHAMBERLAIN MOBILEHOME TRANSPORT, INC., 64 E. Main St., Thomaston, CT 06787, of MARTIN TRAILER SERVICE, INC., 124 Pond St., Billerica, MA 01821, and for acquisition by BURT G. CHAMBERLAIN, also of Thomaston, CT 06787, of control of MARTIN TRAILER SERVICE, INC., through the acquisition by CHAMBERLAIN MOBILEHOME TRANSPORT, INC. Applicants' attorney: Bernard J. Hasson, Jr., 927 15th St. NW., Suite 306, Washington, D.C. 20005. Operating rights sought to be controlled: *Household trailers* designed to be drawn by passenger automobiles, in secondary movements, as a *common carrier* over irregular routes, between points in that part of Massachusetts in and east of Middlesex, Norfolk, and Bristol Counties, Mass., on the one hand, and, on the other, points in New Hampton, Vermont, Rhode Island, Connecticut, and Maine. CHAMBERLAIN MOBILEHOME TRANSPORT, INC., is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC–F–12351. Authority sought for control by TRANS CORP. a non-carrier corporation, 2200 Woodsdale, Lincoln, NE 68502, of SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072, and for acquisition by DUANE W. ACKLIE, also of Lincoln, NE 68502, of control of SHAFFER TRUCKING, INC., through the acquisition by TRANS CORP. Applicants' attorney: William A. Chestnut, 1776 F St. NW., Washington, D.C. 20006. Operating rights sought to be controlled: *Numerous specified commodities*, as a *common carrier*, over regular and irregular routes, from, to and between all of the States in the United States (except Alaska and Hawaii), with certain restrictions, as more specifically described in Docket No. MC–114569 and Sub-numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof. TRANS CORP., holds no authority from this Commission. However it is affiliated with CRETE CARRIER CORPORATION, 1444 Main St., Crete, NE 68333, which is authorized to operate as a *contract carrier* in all of the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

NOTICE

PORT RAILROADS, INC., San Francisco Ferry Building, WILLIS B. KYLE, San Francisco Ferry Building, SAN FRANCISCO BELT RAILROAD, San Francisco Ferry Building, SAN FRANCISCO PORT COMMISSION, San Francisco Ferry Building, all of San Francisco, California 94111, represented by Mr. Leigh B. Morris, Esq., Loughran & Hegarty, 21st Floor, 100 Bush Street, San Francisco, California 94104, hereby give notice that on the 7th day of October, 1974, they filed an application with the Interstate Commerce Commission at Washington, D.C., under section 5(2) of the Interstate Commerce Act for approval of a Management Advisory Contract which will affect the operation of the San Francisco Belt Railroad, a short line railroad subject to the provisions of Part I of the Interstate Commerce Act operating over 55.76 miles of track within the Port of San Francisco. Approval of the transaction may result in indirect control of the San Francisco Belt Railroad by Mr. Willis B. Kyle. Mr. Kyle is authorized by this Commission to hold joint control of the Yreka Western Railroad Company and the Oregon Pacific and Eastern Railroad Company, a short line railroad operating in the Yreka, California, and Cottage Grove, Oregon, areas respectively.

In the applicant's opinion, granting the authority sought by this application, will not constitute a major Federal action having a significant effect upon the quality of the human environment. In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), *Implementation-Nat'l Environmental Policy Act of 1969*, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra Part (b) (1)–(5), 340 I.C.C. 431, 461. The proceeding F. D. 27758 will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission on or before December 6, 1974.

Port Railroads, Inc., Willis B. Kyle, San Francisco Belt Railroad, San Francisco Port Commission.

By the Commission.

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

[FR Doc.74–26002 Filed 11–5–74;8:45 am]

[Notice 35]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 1, 1974.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed by December 6, 1974.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 3379 (Deviation No. 15) (CORRECTION), filed October 2, 1974, published in the October 23, 1974 issue of the FEDERAL REGISTER, and republished, as corrected, this issue. SNYDER BROS. MOTOR FREIGHT, INC., 363 Stanton Ave., Akron, Ohio 44301. The purpose of this republication is to reflect the correct deviation number as Deviation No. 15 in lieu of Deviation No. 14 as previously published in the October 23, 1974 issue of the FEDERAL REGISTER. The rest of the notice remains the same as previously published.

No. MC 49387 (Deviation No. 9) (Correction), ORSCHELN BROS. TRUCK LINES, INC., Highway 24 East, P.O. Box 658, Moberly, Mo. 65270, filed July 31, 1974, published in the September 18, 1974 issue of the FEDERAL REGISTER, and republished, as corrected, this issue. Carrier's representative: Gregory M. Rebman, Suite 1230, Boatmen's Bank Building, St. Louis, Mo. 63102. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From St. Louis, Mo., over U.S. Highway 66 (Interstate Highway 44) to Springfield, Mo., and (2) From Jefferson City, Mo. over U.S. Highway 54 to junction Missouri Highway 73, thence over Missouri Highway 73 to junction U.S. Highway 65, thence over U.S. Highway 65 to Springfield, Mo., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From St. Louis, Mo., over U.S. Highway 40 to junction U.S. Highway 54, thence over U.S. Highway 54 to junction U.S. Highway 50 at Jefferson City, Mo., thence over U.S. Highway 50 to junction U.S. Highway 65, thence over U.S. Highway 65 to Springfield, Mo., and return over the same route.

Restriction: The operations authorized above are restricted against the transportation of traffic moving through Jefferson City, Mo., between points in Illinois on and north of U.S. Highway 24, on the one hand, and, on the other, points in Greene, Polk, and Dallas Counties, Missouri.

The purpose of this republication is to include the restriction on the service route which was inadvertently omitted in the previous publication.

No. MC 71459 (Deviation No. 7), O.N.C. FREIGHT SYSTEMS—OPERATOR OF—FRED L. WILLIAMS, DBA TAOS INTERSTATE EXPRESS, 2800 W. Bayshore Road, Palo Alto, Calif. 94303, filed October 22, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Alamosa, Colo., over U.S. Highway 285 to junction U.S. Highway 64, thence over U.S. Highway 64 to junction New Mexico Highway 3 and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Alamosa, Colo., over U.S. Highway 160 to Fort Garland, Colo., thence over Colorado Highway 159 to junction New Mexico Highway 3, thence over New Mexico Highway 3 to junction U.S. Highway 64, and return over the same route.

No. MC 80430 (Deviation No. 13), GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Drive, La Crosse, Wis. 54601, filed October 2, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Cincinnati, Ohio over Interstate Highway 71 to junction Interstate Highway 270 at Columbus, Ohio, thence south, east, and north over Interstate Highway 270 to junction Interstate Highway 70, thence over Interstate Highway 70 to junction Interstate Highway 79 near Washington, Pa., thence over Interstate Highway 79 to Pittsburgh, Pa., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Cincinnati, Ohio over Ohio Highway 4 to Middletown, Ohio, thence over Ohio Highway 73 to junction U.S. Highway 25, thence over U.S. Highway 25 to junction unnumbered highway, thence over unnumbered highway via Murlin Heights, Pleasant View, Vandalia, Ginghamsburg, Troy, and Piqua, Ohio to junction U.S. Highway 25, thence over U.S. Highway 25 to junction unnumbered highway, thence over unnumbered highway to Lima, Ohio, thence over U.S. Highway 30S to Mansfield, Ohio, thence over Ohio Highway 430 to junction U.S. Highway 30, thence over U.S. Highway 30 to Canton, Ohio, thence over U.S. Highway 62 to Youngstown, Ohio, thence over Ohio Highway 170 to the Ohio-Pennsylvania State line, thence over Pennsylvania Highway 351 to Koppel, Pa., thence over Pennsylvania Highway 65 to Pittsburgh, Pa., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-25998 Filed 11-5-74;8:45 am]

[Notice 21]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 1, 1974.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed by December 6, 1974.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 684) (Cancels Deviation No. 639), GREYHOUND LINES, INC. (Eastern Division) P.O. Box 6903, 1400 W. Third Street, Cleveland, Ohio 44101, filed October 22, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Richmond, Va., over Interstate Highway 64 to junction Virginia Highway 607, thence over Virginia Highway 607 to junction U.S. Highway 60, with the following access route: From junction Interstate Highway 64 and Virginia Highway 30 over Virginia Highway 30 to junction U.S. Highway 60 and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Richmond, Va., over U.S.

Highway 60 to Norge, Va., and return over the same route.

No. MC 13300 (Deviation No. 30), CAROLINA COACH COMPANY, 1201 South Blount Street, Raleigh, N.C. 27602, filed October 22, 1974. Carrier's representative: Lawrence E. Lindeman, Suite 1032 Pennsylvania Building, Pennsylvania Avenue & 13th Street NW., Washington, D.C. 20004. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Petersburg, Va., over Interstate Highway 85 to junction U.S. Highway 1 near Wise, N.C., thence over U.S. Highway 1 to Norlina, N.C., thence over U.S. Highway 401 to Warrenton, N.C., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Petersburg, Va., over U.S. Highway 301 to Pleasant Hill, N.C., thence over North Carolina Highway 48 to Roanoke Rapids, N.C., thence over U.S. Highway 158 to Macon, N.C., thence over Alternate U.S. Highway 158 to Warrenton, N.C., and return over the same route.

No. MC 60325 (Deviation No. 6), JEFFERSON LINES, INC., 503 6th Ave., N. Minneapolis, Minn. 55405, filed October 16, 1974. Carrier's representative: Elvin S. Douglas, Jr., P.O. Box 280, Professional Building, Harrisonville, Mo. 64701. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Nevada, Mo., over U.S. Highway 54 to junction Missouri Highway 43, thence over Missouri Highway 43 to Joplin, Mo., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Nevada, Mo., over U.S. Highway 71 to Joplon, Mo., and return over the same route.

By the Commission.

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

[FR Doc.74-26004 Filed 11-5-74;8:45 am]

MOTOR CARRIER INTRASTATE APPLICATIONS

NOVEMBER 1, 1974.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by special rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. 55248, filed October 16, 1974. Applicant: T. J. TRUCKING CO., 311 Barneveld Avenue, San Francisco, Calif. 94124. Applicant's representative: E. H. Griffiths, 1182 Market Street, San Francisco, Calif. 94102. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of General commodities, except as hereinafter provided: Between all points and places in the San Francisco Territory which is described as follows: San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue.

Northerly along College Avenue to Dwight Way; easterly along Dwight Way to Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue, northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Except that applicant shall not transport any shipments of: (1) Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A; (2) Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses, and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (3) Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stages, or swine.

(4) Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers, or a combination of such highway vehicles; (5) Commodities when transported in bulk in dump trucks or in hopper-type trucks; (6) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; (7) Cement; (8) Logs; (9) Commodities of unusual or extraordinary value; and (10) Fresh fruits and vegetables. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

California Docket No. 55249, filed October 15, 1974. Applicant: J. C. EXPRESS CO., INC., 10713 Pebble Place, Cupertino, Calif. 95014. Applicant's representative: Daniel W. Baker, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of General commodities, except the following: (a) Used household goods and personal effects not packed in accordance with the

crated property requirements; (b) Livestock; (c) Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment; (d) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles; (e) Commodities when transported in bulk in dump trucks or in hopper-type trucks; (f) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; (g) Logs; (h) Fresh fruits and vegetables; and (i) Automobiles, trucks and busses. Between all points and places in the San Francisco Territory, as described hereafter, and all points within ten miles of any point therein. In performing the service herein authorized, applicant may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service.

San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road.

Northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should *not* be directed to the Interstate Commerce Commission.

By the Commission.

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

[FR Doc.74-26003 Filed 11-5-74;8:45 am]

[No. MC-C-8506]

INTERCORPORATE PARENT-SUBSIDIARY TRANSPORTATION

Petition for Declaratory Order

Petitioner: PRIVATE CARRIER CONFERENCE, INC. OF THE AMERICAN TRUCKING ASSOCIATIONS, INC.

Petitioner's representatives: Joseph E. Keller, William H. Borghesani, Jr., Keller and Heckman, 1150 17th Street NW., Suite 1000, Washington, D.C. 20036.

Notice of filing of petition for a commission policy which will pierce the corporate veil so as to recognize as private carriage transportation, operations performed by one related corporate entity for another.

By petition filed October 11, 1974, Private Carrier Conference, Inc., of the American Trucking Associations, Inc. requests the Interstate Commerce Commission, in accordance with section 5(d) of the Administrative Procedure Act [5 U.S.C. 554(e) (1964)] and Rule 44 of the Commission's rules and regulations (49 CFR 1100.44), to formulate in light of the present energy crisis and the inflationary spiral affecting the economy of the United States, a general policy which will pierce the corporate veils among related or commonly-owned corporations so as to recognize as private carriage transportation, operations performed for compensation or direct benefit by one related corporate entity for another standing either in a parent-to-subsidiary or subsidiary-to-subsidiary relationship to one another.

Since the adoption of the Motor Carrier Act of 1935, the Commission has as an exercise of its administrative discretion and with rare exception declined to pierce the corporate veils between and among wholly-owned or commonly-owned multiple corporations so as to regard as lawful private carriage all compensated transportation conducted within the scope of and in furtherance of the non-transportation primary businesses of these related corporate entities. See Enterprise Trucking Corp., Contract Carrier Application, 27 M.C.C. 264 (1941), Lee Wilson & Co., Contract Carrier Application, 29 M.C.C. 525 (1941), Lukens Steel Co., Contract Carrier Application, 42 M.C.C. 672 (1943), and Schenley Distilleries Motor Division, Inc., Contr. Car. Ap., 44 M.C.C. 171 (1944), Aff'd 61 F. Supp. 981 (D. Del., 1945), Aff'd 326 U.S. 432 (1946). The latter of these decisions concerned the activities of Schenley Distilleries Motor Division, Inc., a subsidiary of the Schenley Distilleries Corporation. The Commission in this proceeding, in refusing to "pierce the corporate veils," held that commonly-owned corporations, as separate and distinct legal entities, may not transport for one another on a for-hire basis under a claim of private carriage when the transportation performed does not satisfy the "primary business test" as to the hauling corporation. For any transportation to be deemed legitimate private carriage, it had to be within the scope of and in furtherance of the carrier corporation's non-transportation primary business.

In similar fashion in *Lukens Steel Co., supra*, the Commission in response to Lukens' claim that the conduct of its transportation operation for its subsidiaries was private carriage and exempt from the certificate requirements of the Interstate Commerce Act, determined that the transportation activities on behalf of the subsidiaries could not be considered an integral portion of the business in which the parent corporation was primarily engaged. In this vein, the Commission noted at 42 M.C.C. 674:

> Although applicant claims that the two subsidiaries are merely "departments" of its business, they are in fact separate entities and, except to the extent that the three corporations have common employees and use joint facilities, each of the two subsidiaries maintains its own plant and conducts a business separate from that of the applicant. The fact that the corporations maintain joint facilities indicates nothing more than that they have found the use of joint facilities to be economical.

In *Status of Certain Church Transportation,* 112 M.C.C. 59 (1970), the Southern California Conference of Seventh Day Adventists, an unincorporated local conference, petitioned the Commission to enter a declaratory order determining that the Conference was a private carrier of property by motor vehicle under

section 203(a)(17) of the Act and consistent with the "primary business test" embodied in section 203(c). The Conference operated its own motor vehicles in serving its own transportation needs, and, for purposes of overall economy, offered transportation services to its affiliates, some of which were incorporated and one of which was a commercial corporation. Its carriage activities involved the transporting of church personnel, household goods, and religious articles and furniture. Additionally, the Seventh Day Adventist Church had an interest in the commercial manufacture, distribution, and sale of high protein food substances by virtue of its ownership of the Loma Linda Food Company. The Conference transported shipments of health foods from the Church-operated Loma Linda Food Company in California to that Company's warehouses in Denver, Colo., and New York. The Church was compensated by Loma Linda for this transportation. The Commission concluded on the basis of the common ownership that private carriage was being conducted, notwithstanding the existence of compensation for such transportation. The Commission determined that all such transportation, for compensation or not, was in furtherance of the non-transportation primary commercial business and charitable activities of the collectively "pierced entities." The Commission distinguished the instant case from the circumstances that existed in *Enterprise Trucking, Lee Wilson & Co., Lukens Steel Co.*, and *Schenley, supra*. The Commission maintained that the questioned activities in those cases involved commercial operations while those in the present decision were charitable and in direct furtherance of the Church's mission.

Petitioner contends that implicit in the Commission's decision in *Certain Church, supra*, the Commission recognized that it has the power or discretion to pierce or not pierce a corporate veil, depending entirely on its view of what is the most desired policy in a given situation. Petitioner further contends that the Commission should apply its reasoning in *Certain Church, supra*, to all carriage involving related corporations because a continuation of its present policy serves only to perpetuate diseconomies of utilization of private carriage fleets in an era of high fuel cost, precarious fuel availability, and most significantly, the economic dislocation attributable to inflation.

No oral hearing is contemplated at this time. Any interested person (including petitioner) desiring to participate in this proceeding may file with this Commission an original and fifteen (15) copies of his written representations, views, or arguments in support, or against, the relief sought in the petition (including any potential environmental effects thereof) on or before December 13, 1974. A copy of each such representation should be served upon petitioner's representative. Written material or suggestions submitted will be available for public inspection at the Offices of the Interstate Commerce Commission, 12th and Constitution, Washington, D.C., during regular business hours.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-26006 Filed 11-5-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Applications

NOVEMBER 1, 1974.

The following applications 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(d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of verified statements in opposition with the Interstate Commerce Commission within 30 days from the date of publication. (This procedure is outlined in the Commission's report and order in Gateway Elimination, 119 M.C.C. 530.) A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding, including a detailed statement of protestant's interest in the proposal.

No. MC 9644 (Sub-No. 3G), filed June 4, 1974. Applicant: B. T. L., INC., 621 Santa Fe, Kansas City, Mo. 64101. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, and commodities in bulk, commodities requiring special equipment), between points in Kansas City and North Kansas City, Mo., Kansas City, Kans., and those within 15 miles of the miles of the points named, and points in Kansas bounded by a line beginning at Kansas City, Mo., and extending in a westerly direction along U.S. 40 to Junction City, Kans., thence in a northerly direction along U.S. Highway 77 to the Kansas-Nebraska State line, thence in an easterly direction along the Kansas-Nebraska State line to the Missouri State line, thence in a southerly direction along the Kansas-Missouri State line to point of beginning. The purpose of this filing is to eliminate the gateway at the intersection of Missouri Highway 371 and 116 located near the southern border of Buchanan County, Missouri.

No. MC 40404 (Sub-No. 1G), filed June 5, 1974. Applicant: LESLIE C. MOORE JR., doing business as, CASWELL VAN LINES, 1489 Lehigh Station Road, Henrietta, N.Y. 14467. Applicant's representative: Carroll F. Genovese, Suite 522, Munsey Building, 1329 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, from Rochester, N.Y. and points within 20 miles thereof, to points in Pennsylvania. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 89697 (Sub-No. 27G), filed May 31, 1974. Applicant: KRAJACK TANK LINES, INC., 480 Westfield Avenue, Roselle Park, N.J. 07204. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Commercial solvents, paint, lacquer, and cleaning* solvents, ether, alcohol, and acetates in bulk, in tank vehicles, (1) between Philadelphia, Chester, Berks, Centre, and Delaware Counties, Pa., on the one hand, and, on the other, points in New Jersey (except Bergen, Essex, Hudson, Union and Middlesex Counties, and Bound Brook and South Brook, N.J.). The purpose of this filing is to eliminate the gateway of Carteret, N.J.

(2) Between Philadelphia, Pa., on the one hand, and, on the other, points in Broome, Cortland, and Monroe Counties, N.Y. The purpose of this filing is to eliminate the gateway of Carteret, N.J.

(3) Between points in Chenango County, N.Y., on the one hand, and, on the other, points in Fairfield County, Conn. and Warren County, N.J. The purpose of this filing is to eliminate the gateway of Carteret, N.J.

(4) Between points in Orange County, N.J., on the one hand, and, on the other, points in New Jersey (except points in Essex, Bergen, Hudson, Union, and Middlesex Counties and Bound Brook and South Bound Brook, N.J.). The purpose of this filing is to eliminate the gateway of Carteret, N.J.

(5) Between Middlesex, Hampden, and Norfolk Counties, Mass., on the one hand, and, on the other, points in Erie County, N.Y. and points in Fairfield and New Haven Counties, Conn. The purpose of this filing is to eliminate the gateway of Carteret, N.J.

(6) Between points in Erie County, N.Y., on the one hand, and, on the other, points in Hartford and New Haven Counties, Conn. The purpose of this filing is to eliminate the gateway of Carteret, N.J.

(7) Between Passaic and Sussex Counties, N.J., on the one hand, and,

on the other, points in New Haven County, Conn. and Broome County, N.Y. The purpose of this filing is to eliminate the gateway of Carteret, N.J.

(B) *Industrial alcohol and alcohol solvents,* in bulk, in tank vehicles, (8) from points in New Jersey and Niagara County, N.Y., to points in Maryland within 200 miles of Yonkers, N.Y. The purpose of this filing is to eliminate the gateways of Carteret, N.J. and Yonkers, N.Y.

(8a) From points in Delaware, to points in New Jersey (except Bergen, Essex, Hudson and Union Counties and Carteret and Bound Brook, N.J.). The purpose of this filing is to eliminate the gateways of Carteret, N.J., Yonkers, N.Y., and Ft. Lee, N.J.

(8b) From points in Passaic County, N.J., to points in Rockland County, N.Y. The purpose of this filing is to eliminate the gateway of Ft. Lee, N.J.

(8c) From Erie County, N.Y., to points in New Jersey. The purpose of this filing is to eliminate the gateway of Ft. Lee, N.J.

(C) *Alcohol, denatured,* and *solvents,* in bulk, in tank vehicles, (9) between Baltimore, Md., on the one hand, and, on the other, points in New Jersey. The purpose of this filing is to eliminate the gateway of Newark, N.J.

No. MC 52932 (Sub-No. 29G), filed June 5, 1974. Applicant: NORTH PENN TRANSFER, INC., Box 230, Lansdale, Pa. 19446. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in New Jersey, on the one hand, and, on the other, points in New Jersey, (except Phillipsburg, N.J., and points on U.S. Highway 1, points on U.S. Highway 202 between the New Jersey-Pennsylvania State Boundary line and intersection U.S. Highway 22 and points on U.S. Highway 22 between intersection U.S. Highway 202 and intersection U.S. Highway 1). The purpose of this filing is to eliminate the gateway of points within 10 miles of Lansdale, Pa., which is within the Philadelphia Commercial Zone, and to eliminate the gateway of the Philadelphia Commercial Zone.

No. MC 52932 (Sub-No. 30G), filed June 5, 1974. Applicant: NORTH PENN TRANSFER, Box 230, Lansdale, Pa. 19446. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Textiles, textile products, and copper articles,* from Lansdale, Pa. and points within 10 miles of Lansdale, Pa., Philadelphia, Pa. and points in New Jersey, to points in Delaware, New Jersey, and points in that part of Pennsylvania on and east of U.S. Highway 15. The purpose of this filing is to eliminate the gateway of Mt. Holly, N.J.

No. MC 107012 (Sub-No. 200G), filed June 4, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway and Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New furniture,* (1) from points in North Carolina, to points in Arizona, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Minnesota, Mississippi, Montana, Nevada, New Hampshire, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, and Wyoming. The purpose of this filing is to eliminate the gateways at Kentucky, Tennessee, Arkansas, and West Virginia. (2) From points in North Carolina, to points in Connecticut, Delaware, Georgia, Florida, Maryland, Massachusetts, Missouri, New Jersey, Pennsylvania, Rhode Island, South Carolina, Virginia, West Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateways at Kentucky, Tennessee, Arkansas, and West Virginia.

No. MC 107515 (Sub-No. 904G), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Rd. NE., Suite 375, Atlanta, Ga. 30050. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (A) *Citrus products,* not canned and not frozen, in vehicles equipped with mechanical refrigeration, (1) from points in Florida, to points in Virginia. The purpose of this filing is to eliminate the gateway at the plantsites of Family Foods, Inc., and Ambrosia Chocolate Co., Division of W. R. Grace and Company, located at or near Charlotte, N.C. (2) From points in Florida, to points in Virginia, West Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Massachusetts, Connecticut, and Rhode Island. The purpose of this filing is to eliminate the gateway at the plantsite of Food Specialties of Kentucky, Division Oscar Ewing, Inc., located in Jefferson County, Ky. (B) *Frozen citrus products,* from points in Florida, to points in Kansas. The purpose of this filing is to eliminate the gateway at Atlanta, Ga. (C) *Canned citrus products,* in mixed loads with citrus products, frozen, and/or *citrus products,* not canned and not frozen, from points in Florida, to points in Virginia, West Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Massachusetts, Connecticut, and Rhode Island. The purpose of this filing is to eliminate the gateway at Sylvester and Tifton, Ga., and the plantsite of Food Specialties of Kentucky, Division Oscar Ewing, Inc., located in Jefferson County, Ky.

No. MC 107515 (Sub-No. 906G), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road, NE., Suite No. 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fresh and cured meats,* from Baltimore, Md., to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway at Atlanta, Ga.

No. MC 107515 (Sub-No. 907G), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen potato products,* (1) from Greenville, Mich., to points in Kentucky. The purpose of this filing is to eliminate the gateways at Chicago, Ill. (2) From Greenville, Mich., to points in Louisiana. The purpose of this filing is to eliminate the gateways at Chicago, Ill.,; the plantsite of Food Specialties of Kentucky, Division of Oscar Ewing, Inc., in Jefferson County, Ky.; and Jackson or Columbus, Ohio.

No. MC 107515 (Sub-No. 917G), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Rd. NE., Suite No. 375, Atlanta, Ga. 30050. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs,* in vehicles equipped with mechanical refrigeration, from points in Cook, Du Page, Lake, and Will Counties, Ill. and Lake County, Ind., to points in Ohio, Indiana, Michigan, Virginia, West Virginia, and Memphis, Tenn. The purpose of this filing is to eliminate the gateway of Louisville, Ky.

No. MC 107515 (Sub-No. 920G), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Rd. NE., Suite 375 Atlanta, Ga. 30326. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen Foods,* in vehicles equipped with mechanical refrigeration, from points in Ohio, to points in Texas, Arkansas, Oklahoma, Louisiana, Mississippi, Tennessee, North Carolina, South Carolina, Georgia, Florida, and Alabama. The purpose of this filing is to eliminate the gateways at Detroit, Mich., and Jackson and Columbus, Ohio.

No. MC 107515 (Sub-No. 926–G), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite

No. 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Import meat*, from Charleston, S.C., to points in South Carolina. The purpose of this filing is to eliminate the gateways at Goldsboro, N.C., and points within the Atlanta, Ga. Commercial Zone within 10 miles of Atlanta, Ga.

No. MC 108207 (Sub-No. 392G), filed June 4, 1974. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products*, from Lena, Ill., to points in Kansas. The purpose of this filing is to eliminate the gateway of Chicago, Ill. (2) *Cheese and commodities* such as are dealt in by retail gift shops, when moving in mixed shipments with cheese, from Monroe, Wis., to points in Missouri. The purpose of this filing is to eliminate the gateway of Texas. (3) *Frozen foods, meats, meat products, meat byproducts, dairy products, salad dressing, yeast, and uncooked bakery goods*, (a) from points in Arkansas, Oklahoma, Louisiana, Mississippi, Missouri, and Memphis, Tenn., to points in Kansas, Indiana, Ohio, Minnesota, and Wisconsin, (b) from points in Oklahoma, Arkansas, Louisiana, Missouri, Mississippi, and Memphis, Tenn., to Louisville, Ky. The purpose of this filing is to eliminate the gateway of Texas. (4) *Meats, meat products, meat byproducts, and frozen foods*, (a) from points in Kansas, to points in Indiana, Ohio, Minnesota, Wisconsin, and Missouri, (b) from points in Mississippi, to points in Missouri, (c) from points in Kansas, to points in Illinois, Michigan, and Iowa, and (d) from points in Nebraska, to points in Indiana and Wisconsin. The purpose of this filing is to eliminate the gateway of Texas.

(5) *Fresh meats and frozen foods*, from points in Kansas, to Louisville, Ky. The purpose of this filing is to eliminate the gateway of Texas. (6a) *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses, dairy products, frozen foods, salad dressing, yeast, uncooked bakery goods, fish, and prepared salad* and (b) *foodstuffs* (except those described in (6a) above, and alcoholic beverages, and except canned goods from Paris, Tex.), when moving in mixed loads with one or more of the commodities described in (6a) above, from Minneapolis, Minn., to points in Kansas and Missouri. The purpose of this filing is to eliminate the gateway of Texas. (7) *Frozen foods, meats, meat products, meat byproducts, dairy products, salad dressing, yeast and uncooked bakery goods*, from points in Louisiana, to points in Mississippi. The purpose of this filing is to eliminate the gateway of Memphis, Tenn. (8) *Candy*, from Chicago, Ill., to points in Arkansas, Louisiana, Mississippi, and Memphis, Tenn. The purpose of this filing is to eliminate the gateways of Kansas City, Mo. and Dallas, Tex.

No. MC 109533 (Sub-No. 59G), filed June 4, 1974. Applicant: OVERNITE TRANSPORTATION COMPANY, a Corporation, 1100 Commerce Road, Richmond, Va. 23224. Applicant's representative: Eugene T. Liipfert, 1660 L Street NW., Suite 1100, Washington, D.C. 20036. 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, livestock, new household furniture, household goods as defined by the Commission, commodities in bulk, those requiring the use of special equipment, and those injurious or contaminating to other lading), between Bluefield, W. Va. on the one hand, and, on the other, Gallipolis, Ohio and points in West Virginia and Pennsylvania within the commercial zones of Charleston, Clarksburg, Morgantown, Parkersburg, Wheeling, and Weirton, W. Va. and Pittsburgh and Washington, Pa. The purpose of this filing is to eliminate the gateways of points in Wayne County within 75 miles of Bluefield, W. Va.

No. MC 113362 (Sub-No. 276G), filed June 3, 1974. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Milton D. Adams, 1105½ 8th Ave. NE., Box 562, Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities*, as are dealt in by wholesale, retail, and chain grocery stores, from Chicago, Ill., to points in Iowa on and west of U.S. Highway 69 and points in Minnesota. The purpose of this filing is to eliminate the gateway of Lakota, Iowa. (2) *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between Albert Lea and Austin, Minn., and points in Martin and Faribault Counties, Minn., on the one hand, and, on the other, points in Iowa. The purpose of this filing is to eliminate the gateway of Elmore, Minn. and points within 15 miles of Elmore, Minn.

No. MC 116763 (Sub-No. 283G), filed June 3, 1974. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Woodpulp dishes, plates, and trays*, from the plantsite of the Keyes Fibre Company at Waterville, Maine and from its warehouse at Portland, Maine, to points in Florida, Georgia and that part of Oklahoma on and east of Interstate Highway 35. The purpose of this filing is to eliminate the gateway at Natchez, Miss. (2) (a) *clay tile*, from Lakeland, Fla., to points in Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York east of I–81, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateway at Lawrenceburg, Ky. (2) (b) *clay tile, and commodities* used in the manufacturing, distribution, and/or installation of clay tile (except in bulk), from points in Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York east of I–81, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia, to Lakeland, Fla. The purpose of this filing is to eliminate the gateway at Lawrenceburg, Ky. (3) *such commodities* as are used, distributed, or dealt in by automotive, vehicular, or engine supply outlets, manufacturers, or distributors, (a) from points in Arizona, Arkansas, California, Idaho, points in that part of Illinois north of U.S. Highway 24 (except Chicago, Aurora, Joliet, and Deerfield and points in their commercial zones as defined by the Commission), Indiana (except Indianapolis, Kokomo, South Bend, and Terre Haute, and points in their commercial zones as defined by the Commission), Kentucky (except Louisville and points in its commercial zone as defined by the Commission), Louisiana, Maine, Missouri (except St. Louis and points in its commercial zone as defined by the Commission), Montana, Nevada, New Hampshire, New Mexico, that part of New York west of New York Highway 14, North Dakota, Oregon, that part of Pennsylvania on and north of a line beginning at the Pennsylvania-Ohio State line and extending along the Pennsylvania Turnpike to Junction U.S. Highway 15.

Thence along U.S. Highway 15 to the Pennsylvania-New York State line, including Harrisburg, Pa., that part of Texas on and east of a line beginning at the Oklahoma-Texas State line at Interstate Highway 35 and extending along Interstate Highway 35 to Denton, Tex., thence along 35E near Hillsboro, Tex., thence along Interstate Highway 35 to San Antonio, Tex., thence along U.S. Highway 181 to Corpus Christi, Tex., Utah, Vermont, Washington, that part of West Virginia on and west of Interstate Highway 77, and Wyoming, to Versailles, Ohio, restricted against the transportation of (1) commodities, the transportation of which because of size or weight requires the use of special equipment, (2) automobiles, trucks, and buses as described in the report in *Descriptions in Motor Carriers Certificates*, 61 M.C.C. 209 and 766, (3) commodities in bulk, (4) paper and paper products, and (5) passenger or property carrying golf buggies or commercial adaptations thereof. (3) (b) from points in Colorado, Iowa, Kansas, Minnesota, Nebraska, Oklahoma, and South Dakota, to Versailles, Ohio, restricted against the transportation of (1) commodities, the transportation of which because of size or weight requires the use of special equipment, (2) automobiles, trucks, and buses as described in the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (3) tractors and farm machinery,

(4) commodities in bulk, (5) paper and paper products, and (6) passenger or property carrying golf buggies or commercial adaptations thereof. The purpose of this filing is to eliminate the gateway at a point in Florida.

No. MC 119656 (Sub-No. 31G), filed June 4, 1974. Applicant: NORTH EXPRESS, INC., 219 E. Main Street, Winamac, Ind. 46996. Applicant's representative: Donald W. Smith, Suite 2465 One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal tubing*, from Chicago, Ill., to points in Michigan on and south of Michigan Highway 55. The purpose of this filing is to eliminate the gateway of Winamac, Ind.

No. MC 119774 (Sub-No. 78–G) (Amendment), filed June 5, 1974, published in the FEDERAL REGISTER issue of September 30, 1974, and republished as amended, this issue. Applicant: EAGLE TRUCKING COMPANY, A Corporation, 301 E. Main St., P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, (1) between points in Utah on the one hand, and, on the other, points in Kansas and New Mexico, (2) between points in Kansas, on the one hand, and, on the other, points in Georgia, Illinois, Indiana, Kentucky, and Tennessee, (3) between points in Indiana, on the one hand, and, on the other, points in Georgia, Colorado, and Wyoming, (4) between points in Kentucky, on the one hand, and, on the other, points in Georgia, (5) between points in Illinois, on the one hand, and, on the other, points in Colorado and Wyoming, (6) between points in Montana, on the one hand, and, on the other, points in Illinois, Indiana, Kansas, Kentucky, New Mexico, and Tennessee; (2) *Pipe, pipe fittings, pipe connections, and pipe couplings*, from Lone Star, Tex., to points in Illinois, Indiana, Kentucky, Missouri, North Carolina, South Carolina, and Tennessee; (3) *Plastic pipe, plastic tubing, plastic conduit, valves, fittings, compounds, joint sealer, bonding cement, primer, coating, thinner, and accessories* used in the installation of such products, from Oklahoma City, Okla., to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Texas. The purpose of this filing is to eliminate the gateways of Texas, Arkansas, Oklahoma, Alabama, and Van Buren, Ark.

NOTE.—The purposes of this republication are: (A) To amend the commodity description in (1) above; and (B) to add the territorial description in (6) above.

No. MC 123685 (Sub-No. 20G), filed June 5, 1974. Applicant: PEOPLES CARTAGE, INC., 8045 Navarre Road SW., Massillon, Ohio 44646. Applicant's representative: James W. Muldoon, 50 West Broad Street, Columbus, Ohio 43215. 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, commodities requiring special equipment, and those injurious or contaminating to other lading), (1) between Columbus, Ohio on the one hand, and, on the other, points in West Virginia on and west of U.S. Highway 21, and (2) between points in Washington, Athens, and Meigs Counties, Ohio on the one hand, and, on the other, points in West Virginia on and west of U.S. Highway 21. The purpose of this filing is to eliminate the gateways of Washington County, Ohio and Parkersburg, W. Va.

No. MC 125294 (Sub-No. 6G), filed June 4, 1974. Applicant: HILLDRUP TRANSFER & STORAGE CO., INC., 300 Central Road, Fredericksburg, Va. 22401. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between Fredericksburg, Va. and points in Virginia within 100 miles of Fredericksburg, on the one hand, and, on the other, points in Pennsylvania, New York, Delaware, New Jersey, Rhode Island, Georgia, and North Carolina, and (2) between points in Maryland, on the one hand, and, on the other, points in Pennsylvania, New York, Virginia, Delaware, New Jersey, Rhode Island, Georgia, and North Carolina. The purpose of this filing is to eliminate the gateway of Washington, D.C.

No. 126372 (Sub-No. 14G), filed June 4, 1974. Applicant: SUREFINE TRANSPORTATION COMPANY, a Corporation, 1925 East Vernon Avenue, Los Angeles, Calif. 90058. Applicant's representative: Arthur J. Piken, Esq., One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, uncrated, and (2) *new store and office fixtures*, uncrated, from points in Washington and Oregon, to points in Colorado and Wyoming. The purpose of this filing is to eliminate the gateways at California and Utah.

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 18, 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 1745 (Sub-No. E1), filed June 4, 1974. Applicant: INTERSTATE VAN LINES, INC., 5801 Rolling Road, Springfield, Va. 22152. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, N.Y. 10019. 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 Alabama, Georgia, Tennessee, North Carolina, South Carolina, Virginia, Florida, Louisiana, Mississippi, Arkansas, Kentucky, Ohio, Michigan, West Virginia, the District of Columbia, Maryland, Pennsylvania, Delaware, Illinois, Indiana, and Massachusetts, on the one hand, and, on the other, points in New Hampshire, Rhode Island, Vermont, and Maine; and (2) between points in Connecticut and New Jersey, on the one hand, and, on the other, points in Vermont, New Hampshire, and Maine. The purpose of this filing is to eliminate the gateway of points in Massachusetts.

No. MC 2860 (Sub-No. E56), filed May 17, 1974. Applicant: NATIONAL FREIGHT, INC., 57 Westpark Ave., Vineland, N.J. 08360. Applicant's representative: Jacob P. Billig, 1126 16th St., NW., Suite 300, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Providence and Westerly, R.I., Boston, Mass., and points in Massachusetts within 25 miles thereof and points in Connecticut, on the one hand, and, on the other, points in Cape May County, N.J. (New York, N.Y.)*; and (b) between Providence and Westerly, R.I., Boston, Mass., and points in Massachusetts within 25 miles thereof, and points in that part of Connecticut east of a line beginning at Block Island Sound, thence along the Connecticut River to junction Connecticut Highway 9, thence along Connecticut Highway 9 to junction Interstate Highway 91, thence along Interstate Highway 91 to the Connecticut-Massachusetts State line, on the one hand, and, on the other, points in Burlington County, N.J. [(1) Somerville, N.J.; and (2) the junction of the Pennsylvania Turnpike and U.S. Highway 11*.

The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 2860 (Sub-No. E57), filed May 17, 1974. Applicant: NATIONAL FREIGHT INC., 57 Westpark Avenue, Vineland, N.J. 08360. Applicant's representative: Jacob P. Billig, 1126 16th St. NW., Suite 300, Washington, D.C. 20036. 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), between points in that part of Pennsylvania on and west of a line beginning at the Maryland-Pennsylvania State line, thence along U.S. Highway 222 to Lancaster, thence along U.S. Highway 30 to Bedford, thence along U.S. Highway 220 to Altoona, thence along Pennsylvania Highway 36 to junction U.S. Highway 219, thence along U.S. Highway 219 to Ridgway, thence along Pennsylvania Highway 948 to Sheffield, thence along U.S. Highway 6 to Warren, thence along U.S. Highway 62 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Fairfield County, Conn. The purpose of this filing is to eliminate the gateway of Somerville, N.J.

No. MC 2860 (Sub-No. E58), filed May 17, 1974. Applicant: NATIONAL FREIGHT INC., 57 Westpark Ave., Vineland, N.J. 08360. Applicant's representative: Jacob P. Billig, 1126 16th St. NW., Washington, D.C. 20036. 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), between points in that part of Pennsylvania on and west of a line beginning at the New Jersey-Pennsylvania State line, thence along Interstate Highway 276 to junction U.S. Highway 422, thence along U.S. Highway 422 to Harrisburg, thence along U.S. Highway 322 to Potters Mills, thence along Pennsylvania Highway 144 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 219, thence along U.S. Highway 219 to Ridgway, thence along Pennsylvania Highway 948 to Sheffield, thence along U.S. Highway 6 to Warren, thence along U.S. Highway 62 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Middlesex, New London, and New Haven Counties, Conn. The purpose of this filing is to eliminate the gateway of Somerville, N.J.

No. MC 2860 (Sub-No. E59), filed May 17, 1974. Applicant: NATIONAL FREIGHT INC., 57 Westpark Avenue, Vineland, N.J. 08360. Applicant's representative: Jacob P. Billig, 1126 16th Street NW., Washington, D.C. 20036. 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), (a) between points in that part of Pennsylvania on and south of a line beginning at the Maryland-Pennsylvania State line, thence along the Susquehanna River to junction U.S. Highway 322, thence along U.S. Highway 322 to junction U.S. Highway 62 to the Pennsylvania-Ohio State line, on the one hand, and, on the other, Providence and Westerly, R.I., Boston, Mass., and points in Massachusetts within 25 miles thereof, and points in Connecticut (except Fairfield, New Haven, Middlesex, and New London Counties), (Somerville, N.J.)*; and between points in Rhode Island (except Providence and Westerly), and that part of Massachusetts on and east of U.S. Highway 5 (except Boston and points within 25 miles thereof), on the one hand, and, on the other, points in that part of Pennsylvania on and west of State Highway 51 [(1) Camden, N.J., and (2) Somerville, N.J.].* The purpose of this filing is to eliminate the gateways of the points indicated by the asterisks above.

No. MC 3468 (Sub-No. E1), filed May 16, 1974. Applicant: F. J. BOUTELL DRIVEAWAY CO., INC., P.O. Box 308, Flint, Mich. 48501. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New automobiles*, in secondary movements, in truckaway service, from points in that part of Michigan; (1) located in the Upper Peninsula of Michigan and on and east of Michigan Highway 24; (2) located on U.S. Highway 23 or within 10 miles thereof, and between Bay City and Alpena; or (3) on, east, and north of a line beginning at Bay City, thence along U.S. Highway 10 to junction Michigan Highway 59, thence along Michigan Highway 59 to Selfridge Air Force Base, points in Massachusetts, Niagara Falls, Lewiston, and Selkirk, N.Y., and points in that part of New York on, north, and east of a line beginning at the Massachusetts-New York State line, thence along U.S. Highway 20 to Auburn, thence along New York Highway 38 to North Victory, thence along New York Highway 104 to Oswego, to points in Indiana. The purpose of this filing is to eliminate the gateway of Flint, Mich.

No. MC 3468 (Sub-No. E3), filed May 16, 1974. Applicant: F. J. BOUTELL DRIVEAWAY CO., INC., P.O. Box 308, Flint, Mich. 48501. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New automobiles*, in secondary movements, in truckaway service, from Buffalo, N.Y., to points in that part of Indiana on, north, and west of a line beginning at Richmond, thence along U.S. Highway 27 to Liberty, thence along Indiana Highway 101 to Brookville, thence along U.S. Highway 52 to junction Indiana Highway 229, thence along Indiana Highway 229 to Napoleon, thence along U.S. Highway 421 to junction Indiana Highway 62, thence along Indiana Highway 62 to Jeffersonville. The purpose of this filing is to eliminate the gateway of Flint, Mich.

No. MC 3468 (Sub-No. E4), filed May 16, 1974. Applicant: F. J. BOUTELL DRIVEWAY CO., INC., P.O. Box 308, Flint, Mich. 48501. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New automobiles*, in secondary movements, in truckaway service, from points in that part of New York on and north of U.S. Highway 20 and on and west of New York Highway 38 (except Buffalo, Lewiston, and Niagara Falls), to points in that part of Indiana on and west of a line beginning at the Ohio-Indiana State line, thence along Indiana Highway 38 to junction Indiana Highway 1, thence along Indiana Highway 121 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Indiana Highway 229, thence along Indiana Highway 229 to junction Indiana Highway 48, thence along Indiana Highway 48 to junction U.S. Highway 421, thence along U.S. Highway 421 to Madison. The purpose of this filing is to eliminate the gateway of Flint, Mich.

No. MC 3468 (Sub-No. E6), filed May 16, 1974. Applicant: F. J. BOUTELL DRIVEWAY CO., INC., P.O. Box 308, Flint, Mich. 48501. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New automobiles*, in secondary movements, in truckaway service, from points in that part of Michigan on and east of a line beginning at Mackinaw City, thence along Interstate Highway 75 to junction Michigan Highway 55, thence along Michigan Highway 55 to junction Michigan Highway 76, thence along Michigan Highway 76 to junction U.S. Highway 23, thence along U.S. Highway 23 to Bay City, to points in that part of Indiana on, east, and south of a line beginning at the Illinois-Indiana State line, thence along Indiana Highway 10 to junction Indiana Highway 39, thence along Indiana Highway 39 to the Indiana-Michigan State line. The purpose of this filing is to eliminate the gateway of Flint, Mich.

No. MC 3468 (Sub-No. E13), filed May 16, 1974. Applicant: F. J. BOUTELL DRIVEAWAY CO., INC., P.O. Box 308, Flint, Mich. 48501. Applicant's representative: Wilmer B. Hill, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New automobiles*, in secondary movements, in driveaway service, during the season of open navigation on the Great Lakes, from Chicago, Ill., and points in that part of Indiana on and north of U.S. Highway 6, to points in those parts of Virginia and

North Carolina on and east of U.S. Highway 21, and that part of South Carolina on and east of a line beginning at the North Carolina-South Carolina State line, thence along U.S. Highway 21 to junction U.S. Highway 17, thence along U.S. Highway 17 to the South Carolina-Georgia State line. The purpose of this filing is to eliminate the gateway of Cleveland, Ohio.

No. MC 3468 (Sub-No. E11), filed May 16, 1974. Applicant: F. J. BAUTELL DRIVEAWAY CO., INC., P.O. Box 308, Flint, Mich. 48501. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New automobiles*, in secondary movements, in truckaway and driveaway service, during the season of open navigation on the Great Lakes, from points in Michigan and that part of Ohio on, north, and west of a line beginning at the Michigan-Ohio State line, thence along U.S. Highway 23 to junction U.S. Highway 224, thence along U.S. Highway 224 to junction Ohio Highway 91, thence along Ohio Highway 91 to Lake Erie. The purpose of this filing is to eliminate the gateway of Cleveland, Ohio.

No. MC 4963 (Sub-No. E1), filed May 22, 1974. Applicant: JONES MOTOR, Bridge Street and Schuylkill Rd., Spring City, Pa. 19475. Applicant's representative: W. H. Peiffer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastics, heavy machinery, electrical appliances, supplies, and equipment* (except commodities in bulk and those requiring special equipment), from Boston, Mass., and points in Massachusetts within 30 miles of Boston, to points in Delaware, Maryland, New York (except Long Island), Ohio, Pennsylvania, Virginia, and points in that part of New Jersey on and south of a line beginning at the Atlantic Ocean near Cedar Run, thence along New Jersey Highway 72 to junction New Jersey Highway 70, thence along New Jersey Highway 70 to Camden. The purpose of this filing is to eliminate the gateway of Pittsfield, Mass.

No. MC 7640 (Sub-No. E9), filed June 4, 1974. Applicant: BARNES TRUCK LINES, INC., P.O. Box 2006, High Point, N.C. 27261. Applicant's representative: John T. Coon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from Richmond, Virginia, to points in South Carolina and that part of North Carolina on and south of a line beginning at the Atlantic Ocean, thence along North Carolina Highway 24 to Jacksonville, thence along U.S. Highway 258 to Kingston, thence along U.S. Highway 70 to Raleigh, thence along U.S. Highway 64 to Asheboro, thence along North Carolina Highway 49 to Charlotte, thence along Interstate Highway 85 to the North Carolina-South Carolina State line. The purpose of this filing is to eliminate the gateway of Smithfield, North Carolina.

No. MC 7640 (Sub-No. E10), filed June 4, 1974. Applicant: BARNES TRUCK LINES, INC., P.O. Box 2006, High Point, N.C. 27261. Applicant's representative: John T. Coon (same as above). 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 commodities in bulk, commodities requiring special equipment, and those injurious of contaminating to other lading), between Baltimore, Md., on the one hand, and, on the other, points in South Carolina and that part of North Carolina on, south, and west of a line beginning at Albemarle Sound, thence along U.S. Highway 17 to Windsor, thence along North Carolina Highway 308 to junction U.S. Highway 258, thence along U.S. Highway 258 to Jackson, thence along U.S. Highway 158 to Garysburg thence along North Carolina Highway 46 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateway of Wilson Scotland, of Halifax, N.C.

No. MC 22296 (Sub-No. E5), (Correction), filed June 4, 1974, published in the FEDERAL REGISTER on October 22, 1974. Applicant: HERITAGE VAN LINES, INC., P.O. Box 2103, Huntington, W. Va. 25721. 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, (1) between points in Indiana, on the one hand, and, on the other, points in North Carolina and South Carolina; (2) between points in Florida, on the one hand, and, on the other, points in that part of Indiana on and north of U.S. Highway 30; and (3) between points in Indiana, on the one hand, and, on the other, points in that part of Florida on and south of Florida Highway 50. The purpose of this filing is to eliminate the gateways of points in Cabell, Mason, and Wayne Counties, W. Va., Lawrence and Sciota Counties, Ohio, or Boyd, Greenup, Lawrence, and Pike Counties, Ky. The purpose of this correction is to include additional gateways to be eliminated by this filing.

No. MC 30237 (Sub-No. E4), filed May 14, 1974. Applicant: YEATTS TRANSFER COMPANY, P.O. Box 666, Altavista, Va. 24517. Applicant's representative: J. Johnson Ellen, Jr., P.O. Box 551, Altavista, Va. 24517. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture*, as defined in Appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, restricted against the transportation of new furniture, uncrated, from Bridgewater, Va., to points in that part of Ohio in and north of Warren, Clinton, Clermont, Muskingum, Guernsey, Fayette, Pickaway, Fairfield, Perry, and Belmont Counties. The purpose of this filing is to eliminate the gateway of Winchester, Va.

No. MC 30237 (Sub-No. E5) (Correction), filed May 14, 1974, published in the FEDERAL REGISTER August 5, 1974. Applicant: YEATTS TRANSFER COMPANY, P.O. Box 666, Altavista, Va. 24517. Applicant's representative: J. Johnson Eller, Jr., P.O. Box 551, Altavista, Va. 24517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, as defined in appendix II of the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from Saddlebrook, N.J., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Missouri, South Carolina, Tennessee, that part of Kentucky in and west of Trimble, Henry, Franklin, Scott, Bourbon, Nicholas, Fleming, Lewis, and Greenup Counties, that part of Indiana in and south of Gibson, Pike, Dubois, Orange, Washington, Scott, and Jefferson Counties, and that part of Illinois in and south of Adams, Brown, Scott, Morgan, Macoupin, Madison, Bond, Clinton, Marion, Wayne, Edwards, and Wabash Counties. The purpose of this filing is to eliminate the gateway of Altavista or Rocky Mount, Va. The purpose of this correction is to reflect the correct origin territory.

No. MC 30237 (Sub-No. E6), filed May 14, 1974. Applicant: YEATTS TRANSFER COMPANY, P.O. Box 666, Altavista, Va. 24517. Applicant's representative: J. Johnson Allen Jr., P.O. Box 551, Altavista, Va. 24517. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture* as defined in appendix II of the report *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, restricted against the transportation of New Furniture, uncrated, from Saddlebrook, N.J., to points in that part of Ohio in and south of Cuyahoga, Summit, Stark, Carroll, and Jefferson Counties. The purpose of this filing is to eliminate the gateway of Winchester, Va.

No. MC 30237 (Sub-No. E7) (Correction), filed May 14, 1974, published in the FEDERAL REGISTER August 9, 1974. Applicant: YEATTS TRANSFER COMPANY, P.O. Box 666, Altavista, Va. 24517. Applicant's representative: J. Johnson Eller, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, as defined in appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from Culpeper, Va., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Missouri, South Carolina, that part of Tennessee in and west of Campbell, Union, Knox, and Blount Counties, that part of Wisconsin in and north of Pierce, Pepin, Eau Claire, Clark, Marathon, Waupaca, Outagamie,

Brown, and Kewaunee Counties, that part of Illinois in and south of Rock Island, Henry, Stark, Marshall, Woodford, McLean, De Witt, Piatt, Moultrie, Shelby, Effingham, Jasper, Richland, and Lawrence Counties, that part of Kentucky in and west of Hancock, Daviess, McLean, Muhlenberg, and Christian Counties, and Posey, Vanderburgh, Warrick, Spencer, Perry, Dubois, Pike, and Gibson Counties, Ind. The purpose of this filing is to eliminate the gateway of Altavista or Rocky Mount, Va. The purpose of this correction is to correct typographical errors.

No. MC 30237 (Sub-No. E8) (Correction), filed May 14, 1974, published in the FEDERAL REGISTER August 9, 1974. Applicant: YEATTS TRANSFER COMPANY, P.O. Box 666, Altavista, Va. 24517. Applicant's representative: J. Johnson Eller, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, as defined in appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from Winchester, Va., to points in Maine, New Hampshire, Rhode Island, Vermont, that part of Massachusetts in and east of Franklin and Worcester Counties, and Washington, Saratoga, Hamilton, Warren, Essex, St. Lawrence, Franklin, and Clinton Counties, N.Y. The purpose of this filing is to eliminate the gateway of Culpeper, Va. The purpose of this correction is to correct the gateway.

No. MC 30237 (Sub-No. E9), (correction), filed May 14, 1974, published in the FEDERAL REGISTER August 9, 1974. Applicant: YEATTS TRANSFER COMPANY, P.O. Box 666, Altavista, Va. 24517. Applicant's representative: J. Johnson Eller, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, crated or uncrated, from Winchester, Va., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, South Carolina, that part of Illinois in and south of Randolph, Perry, Jefferson, Wayne, Edwards, and Wabash Counties, that part of Kentucky in and west of Hancock, Daviess, McLean, Muhlenberg, and Christian Counties, that part of Missouri in and south of Holt, Andrew, De Kalb, Caldwell, Ray, Lafayette, Johnson, Pettis, Morgan, Miller, Maries, Phelps, Crawford, Washington, St. Francois, and Perry Counties, that part of Tennessee in and west of Washington and Unicoi Counties, and Posey, Vanderburgh, Warrick, Spencer, Perry, Dubois, Pike, and Gibson Counties, Ind. The purpose of this filing is to eliminate the gateway of Altavista or Rocky Mount, Va. The purpose of this correction is to reflect the correct destination territories.

No. MC 30237 (Sub-No. E12), filed May 14, 1974. Applicant: YEATTS TRANSFER COMPANY, P.O. Box 666, Altavista, Va. 24517. Applicant's representative: J. Johnson Eller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture*, as defined in Appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from Chautauqua and Cattaraugus Counties, N.Y. and Warren, McKean, and Erie Counties, Pa., to points in Alabama, Florida, Georgia, South Carolina, Louisiana, that part of Mississippi in and south of Washington, Sunflower, Tallahatchie, Yalobusha, Lafayette, Union, Prentiss, and Tishomingo Counties, that part of Tennessee in and south of Sullivan, Johnson, Washington, Carter, and Unicoi Counties, and that part of Arkansas in and south of Little River, Hempstead, Nevada, Ouachita, Calhoun, Bradley, Drew, and Chicot Counties. The purpose of this filing is to eliminate the gateways of Altavista or Rocky Mount, Va.

No. MC 30237 (Sub-No. E17) (correction), filed May 14, 1974, published in the FEDERAL REGISTER August 6, 1974. Applicant: YEATTS TRANSFER COMPANY, P.O. Box 666, Altavista, Va. 24517. Applicant's representative: J. Johnson Eller, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, as defined in Appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 from Corydon, Ind., to points in that part of North Carolina in and east of Rockingham, Guilford, Randolph, Moore, and Scotland Counties. The purpose of this filing is to eliminate the gateway of Altavista or Rocky Mount, Va. The purpose of this correction is to reflect the correct destination territories.

No. MC 30237 (Sub-No. E23), filed June 4, 1974. Applicant: YEATTS TRANSFER COMPANY, P.O. Box 666, Altavista, Va. 24517. Applicant's representative: J. Johnson Eller, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *New furniture* as defined in Appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from plant site of Mersman Brothers at Celina, Ohio, to Philadelphia, Pa. (Bridgewater, Va.)*, and (B) *New furniture*, as defined in Appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from Luzerne County, Pa., to points in North Carolina (Winchester, Va.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 51004 (Sub-No. E1), filed June 3, 1974. Applicant: PAUL H. LISKEY, RFD 1, Kearneysville, W.Va. 25430. Applicant's representative: Daniel B. Johnson, 7608 Honesty Way, Bethesda, Md. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime marl*, from points in West Virginia, Virginia, Maryland, and Pennsylvania, to points in Clarke, Frederick, and Loudoun Counties, Va., and Frederick and Washington Counties, Md. The purpose of this filing is to eliminate the gateway of points in Jefferson County, W. Va.

No. MC 59150 (Sub-No. E45), filed October 29, 1974. Applicant: PLOOF TRANSFER CO., INC., P.O. Box 47, Jacksonville, Fla. 32206. Applicant's representative: Hampton M. Mills (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from the plant site of the Celotex Corporation at Birmingham, Ala., to points in Maryland, District of Columbia, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine. The purpose of this filing is to eliminate the gateway of facilities of Temple Industrias, Inc. at or near Thomson, Ga.

Applicant: CHIEFTAIN VAN LINES, INC., 7201 Main Street, Ralston, Nebr. 68127. Applicant's representative: Marvin D. Dudley (same as above). 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 Iowa on, west, and north of a line beginning at the Iowa-Nebraska State line, thence along Interstate Highway 80 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Minnesota-Iowa State line, on the one hand, and, on the other, points in Kansas (Council Bluffs, Iowa*); (2) between points in that part of Iowa on and east of a line beginning at the Iowa-Nebraska State line, thence along U.S. Highway 30 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Iowa-Minnesota State line, on the one hand, and, on the other, points in that part of Wyoming on and south of U.S. Highway 30 (Council Bluffs, Iowa, and points in Morrill, Scotts Bluff, and Banner Counties, Nebraska*); (3) between Council Bluffs, Iowa, on the one hand, and, on the other, points in Wyoming (points in Morrill, Scotts Bluff, and Banner Counties, Nebraska*); Interstate Highway 80, on the one hand, and, on the other, points in Wyoming (except points in Campbell, Weston, and Cook Counties) (Council Bluffs, Iowa, and points in Morrill, Scotts Bluff, and Banner Counties, Nebraska*); and (5) between points in Virginia, on the one hand, and, on the other, points in Iowa on and west of a line beginning at the Nebraska-Iowa State line, thence along U.S. Highway 20 to junction U.S. Highway 59, thence along U.S. Highway 59 to the Missouri-Iowa State line (Council Bluffs, Iowa, points in Greene, Lawrence, Monroe, and Orange Counties, Ind., and points in Illinois*). The purpose of this filing is to eliminate the gateways designated by asterisks above.

No. MC 74169 (Sub-No. E24), filed June 4, 1974. Applicant: CHIEFTAIN

VAN LINES, INC., 7201 Main St., Ralston, Nebr. 68127. Applicant's representative: Marvin D. Dudley (same as above). 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 Virginia, on the one hand, and, on the other, points in Wyoming (Council Bluffs, Iowa, points in Greene, Lawrence, Monroe, and Orange Counties, Ind., points in Morrill, Scotts Bluff, and Banner Counties, Nebr., and points in Illinois)*, (2) between points in Virginia, on the one hand, and, on the other, points in that part of the Upper Peninsula of Michigan on and west of U.S. Highway 41 (points in Greene, Lawrence, Monroe, and Orange Counties, Ind.)*, (3) between points in Virginia, on the one hand, and, on the other, points in that part of South Dakota on and west of a line beginning at the Nebraska-South Dakota State line, thence along U.S. Highway 385 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction U.S. Highway 14, thence along U.S. Highway 14 to the Wyoming-South Dakota State line (Council Bluffs, Iowa, points in Greene, Lawrence, Monroe, and Orange Counties, Ind., points in Morrill, Scotts Bluff, and Banner Counties, Nebr., and points in Illinois)*, (4) between points in Maryland, on the one hand, and, on the other, points in that part of South Dakota on and west of a line beginning at the Nebraska-South Dakota State line, thence along U.S. Highway 385 to junction South Dakota Highway 79, thence along South Dakota Highway 79 to junction U.S. Highway 85, thence along U.S. Highway 85 to the North Dakota-South Dakota State line Council Bluffs, Iowa, points in Greene, Lawrence, Monroe, and Orange Counties, Ind., points in Morrill, Scotts Bluffs, and Banner Counties, Nebr., and points in Illinois, and (5) between points in Maryland, on the one hand, and, on the other, points in that part of Kentucky on and west of Interstate Highway 65 (points in Greene, Lawrence, Monroe, and Orange Counties, Ind.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 74169 (Sub-No. E25), filed June 4, 1974. Applicant: CHIEFTAN VAN LINES, INC., 7201 Main St., Ralston, Nebr. 68127. Applicant's representative: Marvin D. Dudley (same as above). 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 Maryland, on the one hand, and, on the other, points in that part of the Upper Peninsula of Michigan on and west of U.S. Highway 41 (points in Greene, Lawrence, Monroe, and Orange Counties, Ind)*; (2) between points in that part of Maryland on and east of Interstate Highway 81, on the one hand, and, on the other, points in that part of Kentucky on and west of U.S. Highway 41 (points in Greene, Lawrence, Monroe, and Orange Counties, Ind.)*; (3) between points in Maryland, on the one hand, and, on the other, points in Wyoming (Council Bluffs, Iowa, to points in Greene, Lawrence, Monroe, and Orange Counties, Ind., points in Morrill, Scotts Bluff, and Banner Counties, Nebr., and points in Illinois)*; (4) between points in Maryland, on the the one hand, and, on the other, points in that part of Iowa on and west of a line beginning at the Nebraska-Iowa State line, thence along U.S. Highway 20 to junction U.S. Highway 59, thence along U.S. Highway 59 to the Missouri-Iowa State line (Council Bluffs, Iowa, points in Greene, Lawrence, Monroe, and Orange Counties, Ind., and points in Illinois)*; and (5) between points in that part of New York on and east of a line beginning at the United States-Canada International Boundary line, thence along Interstate Highway 87 to junction U.S. Highway 209, thence along U.S. Highway 209 to the Pennsylvania-New York State line, on the one hand, and, on the other, points in that part of South Dakota on and west of a line beginning at the Nebraska-South Dakota State line, thence along U.S. Highway 385 to junction South Dakota Highway 79, thence along South Dakota Highway 79 to junction U.S. Highway 14, thence along U.S. Highway 14 to the Wyoming-South Dakota State line (Council Bluffs, Iowa, points in Greene, Lawrence, Monroe, and Orange Counties, Ind. points in Morrill, Scotts Bluff, and Banner Counties, Nebr., and points in Illinois). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 74169 (Sub-No. E26), filed June 4, 1974. Applicant: CHIEFTAIN VAN LINES, INC., 7201 Main St., Ralston, Nebr. 68127. Applicant's representative: Marvin D. Dudley (same as above). 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 New York, on the one hand, and, on the other, points in that part of Kentucky on and west of Interstate Highway 65 (points in Greene, Lawrence, Monroe, and Orange Counties, Ind.)*; (2) between points in New York, on the one hand, and, on the other, points in Wyoming (except points in Crook, Campbell, and Weston Counties) (Council Bluffs, Iowa, points in Greene, Lawrence, Monroe, and Orange Counties, Ind., points in Morrill, Scotts Bluff, and Banner Counties, Nebr.)*; (3) between points in that part of Wyoming on and north of U.S. Highway 26, on the one hand, and, on the other, points in that part of Kansas on and east of Kansas Highway 99 (Council Bluffs, Iowa, and points in Morrill, Scotts Bluff, and Banner Counties, Nebr.)*; (4) between Cheyenne, Wyo., on the one hand, and, on the other, points in that part of Minnesota on and east of a line beginning at the Iowa-Minnesota State line, thence along Minnesota Highway 15 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 71, thence along U.S. Highway 71 to the United States-Canada International Boundary line (Council Bluffs, Iowa, and points in Morrill, Scotts Bluff, and Banner Counties, Nebr.)*; and (5) between points in that part of Pennsylvania on and south of a line beginning at the West Virginia-Pennsylvania State line, thence along Interstate Highway 70 to junction Interstate Highway 76, thence along Interstate Highway 76 to the New Jersey-Pennsylvania State line, on the one hand, and, on the other, points in that part of South Dakota on and west of a line beginning at the South Dakota-Nebraska State line, thence along U.S. Highway 385 to junction South Dakota Highway 79, thence along South Dakota Highway 79 to junction U.S. Highway 14, thence along U.S. Highway 14 to the Wyoming-South Dakota State line (Council Bluffs, Iowa, points in Greene, Lawrence, Monroe, and Orange Counties, Ind., points in Illinois, and points in Morrill, Scotts Bluff, and Banner Counties, Nebr)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 74169 (Sub-No. E27), filed June 4, 1974. Applicant: CHIEFTAIN VAN LINES, INC., 7201 Main Street, Ralston, Nebr. 68127. Applicant's representative: Marvin D. Dudley (Same as above). 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 Pennsylvania, on the one hand, and, on the other, points in Wyoming (except points in Crook, Campbell, and Weston Counties) (Council Bluffs, Iowa, points in Greene, Lawrence, Monroe, and Orange Counties, Ind., points in Illinois, points in Morrill, Scotts Bluff, and Banner Counties*); (2) between points in Pennsylvania, on the one hand, and, on the other, points in that part of Kentucky on and west of U.S. Highway 41 (points in Greene, Lawrence, Monroe, and Orange Counties, Ind.*); (3) between points in West Virginia, on the one hand, and, on the other, points in Wyoming (Council Bluffs, Iowa, points in Greene, Lawrence, Monroe, and Orange Counties, Ind., points in Illinois, and points in Morrill, Scotts Bluff, and Banner Counties, Neb.*); (4) between points in that part of West Virginia on and south of U.S. Highway 50, on the one hand, and, on the other, points in that part of South Dakota on and west of a line beginning at the South Dakota-Nebraska State line, thence along U.S. Highway 385 to junction South Dakota Highway 79, thence along South Dakota Highway 79 to junction U.S. Highway 85, thence along U.S. Highway 85 to the North Dakota-South Dakota State line, (Council Bluffs, Iowa, points in Greene, Lawrence, Monroe, and Orange Counties, Ind., points in Morrill, Scotts Bluff, and Banner Counties, Neb., and points in Illinois*); (5) between points in that part of West Virginia on and north of U.S. Highway 50, on the one hand, and, on the other, points in that part of Kentucky on and west of U.S. Highway 41 (points in Greene, Lawrence, Monroe, and Orange Counties, Ind.*); and (6) between points in that part of Missouri

on, west, and south of a line beginning at the Kansas-Missouri State line, thence along Interstate Highway 70 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Missouri-Arkansas State line, on the one hand, and, on the other, points in that part of Iowa on and west of a line beginning at the Nebraska-Iowa State line, thence along Interstate Highway 80 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Minnesota-Iowa State line, (Council Bluffs, Iowa*). The purpose of this filing is to eliminate the gateways designated by the asterisks above.

No. MC 74169 (Sub-No. E28), filed June 4, 1974. Applicant: CHIEFTAIN VAN LINES, INC., 7201 Main St., Ralston, Nebr. 68127. Applicant's representative: Marvin D. Dudley (same as above). 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 Kentucky on and east of a line beginning at the Indiana-Kentucky State line, thence along Interstate Highway 65 to junction Kentucky Highway 61, thence along Kentucky Highway 61 to junction U.S. Highway 31E, thence along U.S. Highway 31E to junction Kentucky Highway 90, thence along Kentucky Highway 90 to junction Kentucky Highway 163, thence along Kentucky Highway 163 to the Tennessee-Kentucky State line, on the one hand, and, on the other, points in South Dakota and Wyoming (Council Bluffs, Iowa, points in Greene, Lawrence, Monroe, and Orange Counties, Ind., points in Illinois, and points in Morrill, Scotts Bluff, and Banner Counties, Nebr.)*; (2) between points in that part of Kentucky on and east of U.S. Highway 41 and on and west of Interstate Highway 65, on the one hand, and, on the other, points in Wisconsin (points in Greene, Lawrence, Monroe, and Orange Counties, Ind.)*; (3) between points in Bullitt, Jefferson, Oldham, Nelson, Spencer, Washington, and Marion Counties, Ky., on the one hand, and, on the other, points in that part of Minnesota on and west of U.S. Highway 59 (Council Bluffs, Iowa, points in Greene, Lawrence, Monroe, and Orange Counties, Ind., and points in Illinois)*; (4) between points in South Dakota, on the one hand, and, on the other, Cheyenne, Wyo. (points in Morrill, Scotts Bluff, and Banner Counties, Nebr.)*; (5) between Cincinnati, Ohio, on the one hand, and, on the other, points in that part of South Dakota on and south of U.S. Highway 14 (Council Bluffs, Iowa points in Illinois, and points in Greene, Lawrence, Monroe, and Orange Counties, Ind.)*; (6) between points in that part of Ohio on and south of a line beginning at the Ohio-Indiana State line, thence along Ohio Highway 502 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction Ohio Highway 49, thence along Ohio Highway 49 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Ohio-West Virginia State line, on the one hand, and, on the other, points in Wyoming (Council Bluffs, Iowa, points in Greene, Lawrence, Monroe, and Orange Counties, Ind., points in Illinois, and points in Morrill, Scotts Bluff, and Banner Counties, Nebr.)*; and (7) between points in Frederick, Clarke, Loudoun, Warren, Fairfax, Prince William, Fauquier, and Warren Counties, Va., on the one hand, and, on the other, points in that part of Kentucky on and west of U.S. Highway 31 (points in Greene, Lawrence, Monroe, and Orange Counties, Ind.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 105813 (Sub-No. E24), filed October 8, 1974. Applicant: BELFORD TRUCKING CO., INC., 154 M.I.A. Station, Miami, Fla. 33148. Applicant's representative: Arnold L. Burke, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, from Naugatuck, Conn., to points in Florida. The purpose of this filing is to eliminate the gateway of Jacksonville, Fla.

No. MC 106407 (Sub-No. E2), filed June 4, 1974. Applicant: T. E. MERCER TRUCKING CO., 920 North Main St., P.O. Box 1809, Fort Worth, Tex. 76101. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Louisiana, Georgia, Alabama, Florida, and Arkansas, on the one hand, and, on the other, points in Utah, Wyoming, Idaho, Colorado, and Montana. The purpose of this filing is to eliminate the gateways of points in Texas, Oklahoma, or Kansas.

No. MC 106485 (Sub-No. E2), filed June 3, 1974. Applicant: LEWIS TRUCK LINES, INC., Rt. 6, Box 65–A, Conway, S.C. 29526. Applicant's representative: Jim Martin (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, veneer, and forest products*, from Savannah, Ga., to the District of Columbia, and points in Maryland, Delaware, New Jersey, Pennsylvania, and that part of Virginia east of U.S. Highway 220. The purpose of this filing is to eliminate the gateways of points in Horry County, S.C.

No. MC 107403 (Sub-No. E601) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER October 24, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, as defined in *The Maxwell Co., Extension-Addyston*, 63 M.C.C. 677 (except petroleum products and coal tar products), in bulk, in tank vehicles, from those points in Delaware, Maryland, and Pennsylvania which are within 100 miles of Philadelphia, Pa., to points in Kansas. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., Natrium, W. Va., and the plant site of Stephan Chemical Company, at or near Millsdale, Ill. The purpose of this correction is to reflect the correct E number previously published as E600.

No. MC 108449 (Sub-No. E1), filed May 14, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road, C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except petroleum chemicals but including naphtha), as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Chicago, Ill., to points in South Dakota. The purpose of this filing is to eliminate the gateways of La Crosse, Wis., the site of the pipeline terminal of American Oil Company at or near Spring Valley, Minn., and the Williams Brothers Pipe Line Company Terminal located at or near Spencer or Spirit Lake, Iowa.

No. MC 108449 (Sub-No. E2), filed May 14, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road, C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except petroleum chemicals, asphalt, road oil, and tar, but including naphtha), as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Chicago, Ill., to points in the Upper Peninsula of Michigan. The purpose of this filing is to eliminate the gateway of Milwaukee, Wis.

No. MC 108449 (Sub-No. E3), filed May 14, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road, C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except petroleum chemicals but including naphtha), as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Chicago, Ill., to points in North Dakota. The purpose of this filing is to eliminate the gateways of La Crosse, Wis., and St. Paul, Minn.

No. MC 108449 (Sub-No. E4), filed May 14, 1974. Applicant: INDIANHEAD

TRUCK LINE, INC., 1947 West County Road, C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except petroleum chemicals, including naphtha), as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Chicago, Ill., to points in Montana. The purpose of this filing is to eliminate the gateways of La Crosse, Wis., St. Paul, Minn., and the terminal facilities of the Kaneb Pipe Line Company located at or near Aberdeen, South Dakota.

No. MC 108449 (Sub-No. E199), filed June 2, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). 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, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in that part of Illinois on and north of U.S. Highway 6 (except Chicago, and points in the Chicago, Ill., Commercial Zone, as defined by the Commission), to points in Douglas, Burnett, Washburn, Polk, Barron, St. Croix and Pierce Counties, Wisconsin. The purpose of this filing is to eliminate the gateway of St. Paul, Minnesota.

No. MC 108449 (Sub-No. E200), filed June 2, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs*, from points in Iowa on and east of a line starting at the Minnesota-Iowa State line and extending along U.S. Highway 169 to its junction with U.S. Highway 20, thence along U.S. Highway 20 to its junction with Iowa Highway 4, thence along Iowa Highway 4 to its junction with Iowa Highway 175, thence along Iowa Highway 175 to its junction with U.S. Highway 71, thence along U.S. Highway 71 to the Iowa-Missouri State line to Fargo, North Dakota. The purpose of this filing is to eliminate the gateway of Minneapolis, Minnesota.

No. MC 110098 (Sub-No. E75) (correction), filed May 19, 1974, published in the FEDERAL REGISTER October 21, 1974. Applicant: ZERO REFRIGERATED LINES, INC., P.O. Box 20380, San Antonio, Tex. 78220. Applicant's representative: T. W. Cothren (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 272, 273, and 766, and frozen foods, all in vehicles equipped with mechanical refrigeration, from points in Otero County, N. Mex., to points in California, Oregon, Washington, Nevada, Montana, Wyoming, that part of Arizona on and south of a line beginning at the New Mexico-State line, thence along U.S. Highway 70 to junction U.S. Highway 60, thence along U.S. Highway 60 to U.S. Highway 93, thence along U.S. Highway 93 to the Arizona-Nevada State line and that part of Colorado on, north, and east of a line beginning at the Kansas-Colorado State line, thence along U.S. Highway 285 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 287, thence along U.S. Highway 287 to the Colorado-Wyoming State line. The purpose of this filing is to eliminate the gateway of El Paso or Dalhart, Tex. The purpose of this correction is to reflect the correct MC number previously published in No. MC–110098.

No. MC 110420 (Sub-No. E122), 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: *Vegetable oils*, in bulk, in tank vehicles, from points in Minnesota (1) to Portland, Maine, and points in Ohio (Cudahy, Wis.)*; (2) to points in Illinois (except points west of U.S. Highway 51 and north of Interstate Highway 80), Indiana, Ohio, and the Lower Peninsula of Michigan (Cudahy, Wis.)*; (3) to Lititz, Pa., and Charlotte, N.C. (Cudahy, Wis., and Chicago, Ill.)*; (4) to points in Indiana, Kentucky, Ohio, and the Lower Peninsula of Michigan (Cudahy, Wis., and Chicago, Ill.)*; (5) to Chicago, Ill. (Cudahy, Wis.)*; (6) to points in Tennessee (Cudahy, Wis., and Chicago, Ill.)*; (7) to points in New Jersey, Delaware, Maryland, the District of Columbia, and Westchester, New York, and Nassau Counties, N.Y. (Cudahy, Wis., and Louisville, Ky.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110420 (Sub-No. E123), 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: *Vegetable oils*, in bulk, in tank vehicles, from Newark, N.J., to (1) points in Iowa, Minnesota, and that part of Illinois on and north of Interstate Highway 80, and (2) points in Arkansas, South Dakota, that part of Kentucky on and west of U.S. Highway 79, and that part of Tennessee on and west of U.S. Highway 79. The purpose of this filing is to eliminate the gateway of Cudahy, Wis.

No. MC 110420 (Sub-No. E124), 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: *Vegetable oils*, in bulk, in tank vehicles, from Newark, N.J.; (1) to points in Wisconsin, Illinois, Iowa, Nebraska, Minnesota, Missouri, Berrien County, Mich., and the Upper Peninsula of Michigan and Gary, Ind. (Chicago, Ill)*; (2) to points in Arkansas, South Dakota, that part of Tennessee on and west of U.S. Highway 79, and that part of Kentucky on and west of U.S. Highway 79 (Chicago, Ill.)*; (3) to points in North Dakota (Chicago, Ill., and Clinton, Iowa)*; and (4) to Irving, Tex. (Chicago, Ill., and Louisville, Ky.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E624), 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 points in Rhode Island to points in Virginia. The purpose of this filing is to eliminate the gateways of Newark, N.J., and Morrisville, Pa.

No. MC 110525 (Sub-No. E910), 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*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (except medicinal petroleum products, lubricating oils, liquid wax, and commodities requiring attached heater equipment), in bulk, in tank vehicles, from points in New Jersey (except Paulsboro and Pettys Island), (1) to points in North Carolina (Delaware City, Del., and Williamsburg, Va.)*, and (2) to the District of Columbia (Philadelphia and Lima, Pa.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub–No. E905), 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 petrochemicals*, in bulk, in tank vehicles, from Titusville, Pa., to points in Maine (except points in Aroostook County), New Hampshire, and that part of Vermont on and east of U.S. Highway 7 and on and south of Vermont Highway 11. The purpose of this filing is to eliminate the gateways of New York, N.Y., and Springfield, Mass.

No. MC 110525 (Sub-No. E962), filed May 20, 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: *Animal, vegetable, mineral, and fish oils, chemicals, soap* and *soap products*, and *glycerin*, in bulk, in tank vehicles, from points in Massachusetts to the District of Columbia and points in Delaware and Maryland. The purpose of this filing is to eliminate the gateways of Newark, New Jersey, and Philadelphia and Lima, Penn.

No. MC 110525 (Sub-No. E964), filed May 20, 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: *Animal, vegetable, mineral, and fish oils, chemicals, soap* and *soap products*, and *glycerin*, in bulk, in tank vehicles, from points in Rhode Island to the District of Columbia and points in Delaware and Maryland. The purpose of this filing is to eliminate the gateways of Newark, N.J., and Lima and Philadelphia, Penn.

No. MC 110525 (Sub-No. E985), 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*, in bulk, in tank vehicles, from Providence, R.I., (1) to points in Alabama, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin, and the District of Columbia (Springfield, Mass.)*, (2) to points in Florida, Louisiana, and Mississippi (Springfield, Mass., and Greensboro, N.C.)*, and (3) to points in Texas (Springfield, Mass., and Atlanta, Ga.)*, restricted in (2) and (3) above against the transportation of derivatives of petroleum and bituminous materials, and further restricted in (3) above against the transportation of hydrofluosilic acid, such naval stores as are chemicals, crude tall oil, sulphate, and black liquor skimmings. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E1015), 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: *Animal, vegetable, mineral, and fish oil, chemicals, soap and soap products, and glycerin* (except classes A and B explosives), in bulk, in tank vehicles, from points in Nassau, Suffolk, and Westchester Counties, N.Y., to the District of Columbia and points in Delaware and Maryland. The purpose of this filing is to eliminate the gateways of Newark, N.J., and Philadelphia and Lima, Pa.

No. MC 110525 (Sub-No. E1064), 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 points in Jefferson and Brazoria Counties, Tex., (1) to points in North Carolina, South Carolina, and that part of Florida east of the Apalachicola and Chattahoochee Rivers (Vicksburg, Miss.)*, (2) to points in Delaware, Maryland, New Jersey, and New York (Vicksburg, Miss., and Greensboro, N.C.)*, (3) to points in Pennsylvania Vicksburg, Miss., points in North Carolina, and Institute, W. Va.)*, (4) to points in Connecticut, Massachusetts, and Rhode Island (Vicksburg, Miss., Greensboro, N.C., and Newark, N.J.)*, (5) to points in Maine, New Hampshire, and Vermont (Vicksburg, Miss., Greensboro, N.C., and Syracuse, N.Y.)*, (6) to points in Virginia, West Virginia, and that part of Tennessee on and east of U.S. Highway 27 (Vicksburg, Miss., and points in North Carolina)*, and (7) to points in Michigan and that part of Indiana on and north of U.S. Highway 50 restricted in (5) above against the transportation of liquid oxygen, liquid nitrogen, and liquid hydrogen to points in Vermont, and restricted in (7) above against the transportation of chemicals derived from petroleum, fertilizer, and fertilizer ingredients. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 111302 (Sub-No. E6), (correction), filed May 23, 1974, published in the FEDERAL REGISTER October 21, 1974. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, Tenn. 37919. Applicant's representative: Clyde W. Carver (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except phosphatic food supplements), in bulk, in tank vehicles from Tampa, Fla., to points in those parts of Arkansas (1) on, north, and east of a line beginning at the Tennessee-Arkansas State line, thence along Arkansas Highway 137 to junction Arkansas Highway 18, thence along Arkansas Highway 18 to junction Arkansas Highway 119, thence along Arkansas Highway 119 to the Arkansas-Missouri State line, and (2) on and north of a line beginning at the Arkansas-Missouri State line, thence along Arkansas Highway 90 to junction Arkansas Highway 135, thence along Arkansas Highway 135 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Arkansas Highway 68, thence along Arkansas Highway 68 to Fayetteville, thence along U.S. Highway 71 to junction U.S. Highway 64, thence along U.S. Highway 64 to Fort Smith. The purpose of this filing is to eliminate the gateway of Knoxville, Tenn. The purpose of this correction is to reflect the correct MC number previously published as No. MC 11302.

No. MC 110420 (Sub-No. E121), 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: *Vegetable oils*, in bulk, in tank vehicles; (1) from points in Illinois, to Portland, Maine (Cudahy, Wis.)*; (2) from points in Illinois (except points on, south and east of a line beginning at the Indiana-Illinois State line, thence along Interstate Highway 70 to junction Interstate Highway 57, thence along Interstate Highway 57 to Cairo, Ill.), to points in Ohio (except points on, north, and west of a line beginning at the Indiana-Ohio State line, thence along U.S. Highway 30 to junction U.S. Highway 30N, thence along U.S. Highway 30N to junction Interstate Highway 75, thence along Interstate Highway 75 to junction Interstate Highway 475, thence along Interstate Highway 475 to Toledo) (Cudahy, Wis.)*; (3) from points in that part of Illinois on and north of U.S. Highway 24 to Lititz, Pa., and Charlotte, N.C. (Cudahy, Wis., and Chicago, Ill.)*; (4) from Jo Daviess, Stephenson, Carroll, and Whiteside Counties, Ill., to points in that part of Kentucky on and east of U.S. Highway 31E, points in Michigan on and south of U.S. Highway 10 and on and east of Interstate Highway 75, and points in that part of Ohio on and east of Interstate Highway 71 (Cudahy, Wis., and Chicago, Ill.)*; (5) from points in that part of Illinois on and east of U.S. Highway 45 to points in North Dakota (Cudahy, Wis., to Clinton, Iowa)*; (6) from points in that part of Illinois on and south of U.S. Highway 136 and on and west of U.S. Highway 51 to points in North Dakota on and west of North Dakota Highway 8 (Cudahy, Wis., and Clinton, Iowa)*; (7) from points in Illinois (except points on and north of U.S. Highway 30 and on and west of U.S. Highway 51), to points in North Dakota (Cudahy, Wis., and Red Wing, Minn.)*; (8) from points in that part of Illinois on and south of U.S. Highway 136 and on and west of U.S. Highway 51 to points in that part of South Dakota on and north of U.S. Highway 212 (Cudahy, Wis., and Red Wing, Minn.)*; and (9) from points in that part of Illinois on and east of U.S. Highway 45 to points in South Dakota (except points in, east, and south of Bon Homme, Hutchinson, Hanson, McCook, and Minnehaha Counties) (Cudahy, Wis., and Red Wing, Minn.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 112822 (Sub-No. E123), filed May 22, 1974. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, Cush-

ing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients*, dry, in bulk, from the plant and storage facilities of Arkla Chemical Corporation, in Phillips County, Ark., to points in Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming, restricted to the transportation of shipments originating at the plant and storage facilities of Arkla Chemical Corporation, in Phillips County, Ark. The purpose of this filing is to eliminate the gateway of Tulsa, Okla.

No. MC 114211 (Sub-No. E8), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment* (except commodities which because of size or weight require the use of special equipment and commodities described in *Mercer Extension-Oil Field Commodities*, 74 M.C.C. 459), from points in that part of Iowa on and west of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 169 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 69, thence along U.S. Highway 69 to the Iowa-Missouri State line, to points in Louisiana and that part of Mississippi on, south, and west of a line beginning at the Louisiana-Mississippi State line, thence along U.S. Highway 80 to junction U.S. Highway 49, thence along U.S. Highway 49 to junction U.S. Highway 98, thence along U.S. Highway 98 to the Mississippi-Alabama State line. The purpose of this filing is to eliminate the gateways of Independence, Kansas, and Claremore, Oklahoma.

No. MC 114211 (Sub-No. E9), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Self-propelled vehicles* (except motor vehicles as defined in section 203(a)(13) of the Interstate Commerce Act and commodities moving in driveaway service), (b) equipment designed for use in conjunction with self-propelled vehicles (except tank semitrailers), and (c) *parts and attachments* for the commodities in (a) and (b) above, from points in that part of Iowa on and east of a line beginning at the Minnesota-Iowa State line, thence along Iowa Highway 150 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Iowa Highway 38, thence along Iowa Highway 38 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Iowa Highway 38, thence along Iowa Highway 38 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction U.S. Highway 67, thence along U.S. Highway 67 to the Iowa-Illinois State line, to points in North Dakota, Montana, Idaho, Oregon, and Washington, restricted to the transportation of such above-specified commodities as are tractors, road-making machinery, or contractors' equipment and supplies. The purpose of this filing is to eliminate the gateway of Minneapolis, Minnesota.

No. MC 114211 (Sub-No. E10), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. BOX 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Self-propelled vehicles* (except motor vehicles as defined in section 203 (a) (13) of the Interstate Commerce Act and commodities moving in driveaway service), (b) *equipment* designed for use in conjunction with self-propelled vehicles (except tank semitrailers), and (c) *parts and attachments* for the commodities in (a) and (b) above, from points in that part of Iowa on and east of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 218 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 137, thence along Iowa Highway 137 to junction Iowa Highway 5, thence along Iowa Highway 5 to the Iowa-Missouri State line, to points in North Dakota, Montana, Washington, that part of Oregon on, north, and west of a line beginning at the Idaho-Oregon State line, thence along Oregon Highway 201 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 395, thence along U.S. Highway 395 to junction Oregon Highway 31, thence along Oregon Highway 31 to junction Oregon Highway 138, thence along Oregon Highway 138 to junction U.S. Highway 97, thence along Oregon Highway 97 to the Oregon-California State line, and that part of Idaho on and north of a line beginning at the ———

No. MC 114211 (Sub-No. E11), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, from points in that part of Iowa on and west of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 169 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Iowa Highway 4 thence along Iowa Highway 4 to junction Iowa Highway 175, thence along Iowa Highway 175 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Iowa-Nebraska State line, to points in Indiana. The purpose of this filing is to eliminate the gateway of Fort Dodge, Iowa.

No. MC 114211 (Sub-No. E12), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grading, paving, and finishing machinery, equipment, parts, accessories, and attachments*, between points in South Dakota, on the one hand, and, on the other, points in Missouri, Arkansas, Louisiana, Indiana, Ohio, Kentucky, Tennessee, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, West Virginia, Pennsylvania, New York, Vermont, New Hampshire, Maine, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, and Maryland. The purpose of this filing is to eliminate the gateway of Canton, S. Dak.

No. MC 114211 (Sub-No. E13), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa, 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Self-propelled vehicles* (except motor vehicles as defined in section 203(a)(13) of the Interstate Commerce Act and commodities moving in driveaway services), (b) *equipment* designed for use in conjunction with self-propelled vehicles (except tank semitrailers), and (c) *parts and attachments* for the commodities in (a) and (b) above, from Schofield, Wis., to points in Washington, Oregon, California, Montana, Colorado, Utah, Arizona, New Mexico, Idaho, Nevada, that part of Texas on and west of a line beginning at the Texas-Oklahoma State line, thence along U.S. Highway 271 to junction Texas Highway 49, thence along Texas Highway 49 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 96, thence along U.S. Highway 96 to junction Port Arthur, and that part of North Dakota on and west of a line beginning at the International Boundary line between the United States and Canada, thence along North Dakota Highway 8 to junction North Dakota Highway 23, thence along North Dakota Highway 23 to junction U.S. Highway 85, thence along U.S. Highway 85 to the North Dakota-South Dakota State line, restricted to the transportation of such above-specified commodities as are tractors, road making machinery, or contractors' equipment and supplies. The purpose of this filing is to eliminate the gateways of Lansing, Iowa, and Minneapolis, Minn.

No. MC 114211 (Sub-No. E14), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Farm machinery and parts thereof*, from points in that part of Iowa on and east of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 69 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 137, thence along Iowa Highway 137 to

junction Iowa Highway 5, thence along Iowa Highway 5 to the Iowa-Missouri State line, to points in that part of Nebraska on and north of a line beginning at the Iowa-Nebraska State line, thence along U.S. Highway 20 to junction Nebraska Highway 35, thence along Nebraska Highway 35 to junction U.S. Highway 275, thence along U.S. Highway 275 to junction Nebraska Highway 70, thence along Nebraska Highway 70 to junction Nebraska Highway 91, thence along Nebraska Highway 91 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to junction U.S. Highway 385, thence along U.S. Highway 385 to junction U.S. Highway 26, thence along U.S. Highway 26 to the Nebraska-Wyoming State line. The purpose of this filing is to eliminate the gateway of Fort Dodge, Iowa.

No. MC 114457 (Sub-No. E2), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Preserved foodstuffs* (except commodities in bulk), from Shakopee, Minn., to points in Illinois, Kansas, Missouri, Montana, and Nebraska. The purpose of this filing is to eliminate the gateway of Chanhassen, Minn.

No. MC 114457 (Sub-No. E41), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the plantsites and warehouse facilities of Turri's Italian Foods, Inc., at Detroit, Mich., to points in North Dakota, South Dakota, and that part of Iowa in, west, and north of Woodbury, Plymouth, O'Brien, Clay, and Emmet Counties, restricted to the transportation of traffic originating at the plantsites and warehouse facilities of Chef-Pierre, Inc., at Traverse City, Mich., or the above-named origin point. The purpose of this filing is to eliminate the gateway of Shakopee, Minn.

No. MC 114457 (Sub-No. E44), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the plantsites and warehouse facilities of Chef-Pierre, Inc., at Traverse City, Mich., to points in North Dakota, South Dakota, and that part of Iowa in, west, and north of Woodbury, Ida, Sac, Calhoun, Webster, Wright, Franklin, Floyd, and Mitchell Counties, restricted to the transportation of shipments originating at the plantsites and warehouse facilities of Turri's Italian Foods, Inc., at Detroit, Mich., or the above-named origin point. The purpose of this filing is to eliminate the gateway of Shakopee, Minn.

No. MC 114457 (Sub-No. E45), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned meat, pizza mix, and tomato paste* (except in bulk, in tank vehicles), from the plantsite of Armour Grocery Products Company, located in Aurora Township, Kane County, Ill., to points in North Dakota and South Dakota. The purpose of this filing is to eliminate the gateway of Hillsboro, Wis.

No. MC 114457 (Sub-No. E61), filed May 15, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, container ends, and materials and supplies* used in the manufacture and distribution of metal containers (except commodities in bulk or those which because of size or weight require special equipment), from the plantsite or warehouse facilities of Continental Can Company, Inc., at St. Joseph, Mo., to points in Illinois, restricted to the transportation of shipments originating at the plantsite or warehouse facilities of the above-named shipper at Mankato, Minn., St. Joseph, Mo., Omaha, Nebr., La Crosse, Wis., Peoria, or Danville, Ill., Elwood, Ind., or St. Joseph, Mo. The purpose of this filing is to eliminate the gateway of Kankakee, Ill.

No. MC 114457 (Sub-No. E62), filed May 15, 1974. Applicant: DART TRANSIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, container ends, and materials and supplies* used in the manufacture and distribution of metal containers (except commodities in bulk or those which because of size or weight require special equipment), from the plantsite or warehouse facilities of Continental Can Company, Inc., at Mankato, Minn., to points in Ohio, restricted to the transportation of shipment originating at the plantsite or warehouse facilities of the above-named shipper at Mankato, Minn., St. Joseph, Mo., Omaha, Nebr., La Crosse, Wisc., Peoria or Danville, Ill., Elwood, Ind., or St. Joseph, Mo. The purpose of this filing is to eliminate the gateway of Kankakee, Ill.

No. MC 114457 (Sub-No. E63), filed May 15, 1974. Applicant: DART TRANSIT CO., 780 North Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, container ends, and materials and supplies* used in the manufacture and distribution of metal containers (except commodities in bulk or those which because of size or weight require special equipment), from the plantsite or warehouse facilities of Continental Can Company, Inc., at Omaha, Nebr., to points in that part of Tennessee in and east of Stewart, Houston, Dickson, Hickman, Lewis, and Lawrence Counties, restricted to the transportation of shipments originating at the plantsite or warehouse facilities of the above-named shipper at Mankato, Minn., St. Joseph, Mo., Omaha, Nebr., La Crosse, Wis., Peoria or Danville, Ill., Elwood, Ind., or St. Joseph, Mo. The purpose of this filing is to eliminate the gateway of Kankakee, Ill.

No. MC 114457 (Sub-No. E64), filed May 15, 1974, Applicant: DART TRANSIT COMPANY, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, container ends, and materials and supplies* used in the manufacture and distribution of metal containers (except commodities in bulk or those which because of size or weight require special equipment), from the plant site or warehouse facilities of Continental Can Company at Omaha, Nebr., to points in Kentucky (except Hickman, Fulton, Carlisle, Ballard, McCracken, Livingston, and Crittenden Counties), restricted to the transportation of shipments originating at the plant site or warehouse facilities of the above-named shipper at Mankato, Minn., St. Joseph, Mo., Omaha, Nebr., La Crosse, Wis., Peoria or Danville, Ill., Elwood, Ind., or St. Joseph, Mich. The purpose of this filing is to eliminate the gateway of Kankakee, Ill.

No. MC 114457 (Sub-No. E66), filed May 15, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, container ends, and materials and supplies* used in the manufacture and distribution of metal containers (except commodities in bulk or those which because of size or weight require special equipment) from the plant site or warehouse facilities of Continental Can Company, Inc., at Omaha, Nebr., to points in Ohio, restricted to the transportation of shipments originating at the plant site or warehouse facilities of the above-named shipper at Mankato, Minn., St. Joseph, Mo., Omaha, Nebr., La Crosse, Wis., Peoria or Danville, Ill., Elwood, Ind., or St. Joseph, Mich. The purpose of this filing is to eliminate the gateway of Kankakee, Ill.

No. MC 114457 (Sub-No. E67), filed May 15, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over

irregular routes, transporting: *Metal containers, container ends, and materials and supplies* used in the manufacture of metal containers (except commodities in bulk or those which because of size or weight require special equipment), from the plant site or warehouse facilities of Continental Can Company, Inc., at LaCrosse, Wisc., to points in Tennessee, restricted to the transportation of shipments originating at the plant site or warehouse facilities of the above-named shipper at Mankato, Minn., St. Joseph, Mo., Omaha, Nebr., LaCrosse, Wisc., Peoria or Danville, Ill., Elwood, Ind., or St. Joseph, Mich. The purpose of this filing is to eliminate the gateway of Kankakee, Ill.

No. MC 114457 (Sub-No. E70), filed May 15, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, container ends, and materials and supplies* used in the manufacture of metal containers (except commodities in bulk or those which because of size or weight require special equipment), from the plant site or warehouse facilities of Continental Can Company, Inc., at Mankato, Minn., to points in Tennessee, restricted to the transportation of shipments originating at the plant site or warehouse facilities of the above-named shipper at Mo., Omaha, Nebr., LaCrosse, Wisc., Peoria or Danville, Ill., Elwood, Ind., or St. Joseph, Mich. The purpose of this filing is to eliminate the gateway of Kankakee, Ill.

No. MC 118831 (Sub-No. E33), filed May 27, 1974. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5044, High Point, N.C. 27262. Applicant's representative: Richard E. Shaw (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except fertilizer and vegetable oils), in bulk, in tank or hopper-type vehicles, from the plant site of Howerton-Gowen Company, Incorporated at Chesapeake, Va., to points in Mississippi. The purpose of this filing is to eliminate the gateway of Charlotte, N.C.

No. MC 118831 (Sub-No. E34), filed May 27, 1974. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5044, High Point, N.C. 27262. Applicant's representative: Richard E. Shaw (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petrochemicals, anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, in tank or hopper-type vehicles from the plant site of Howerton-Gowen Company, Incorporated, at Chesapeake, Va., to points in South Carolina and to points in that part of Virginia on and west of a line beginning at the North Carolina-Virginia State line, thence along U.S. Highway 301 to Emporia, Va., thence over U.S. Highway 58 to Lawrenceville, thence over Virginia Highway 46 to Blackstone, thence over U.S. Highway 460 to Farmville, thence over U.S. Highway 15 to a point two miles north of Sprouses Corner, thence over Virginia Highway No. 20 to Charlottesville, thence over U.S. Highway 29 to Culpepper, thence over U.S. Highway 522 to Winchester, thence over U.S. Highway 11 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateways of points in North Carolina.

No. MC 118831 (Sub-No. E35), filed May 27, 1974. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5044, High Point, N.C. 27262. Applicant's representative: Richard E. Shaw (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petrochemicals and hydrous ammonia, fertilizer and fertilizer materials), in bulk, in tank or hopper-type vehicles, from the plant site of Howerton-Gowen Company, Incorporated at or near Chesapeake, Va., to points in South Carolina. The purpose of this filing is to eliminate the gateway of points in that part of North Carolina east of U.S. Highway 21 and north of U.S. Highway 74.

No. MC 118831 (Sub-No. E36), filed May 27, 1974. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5044, High Point, N.C. 27262. Applicant's representative: Richard E. Shaw (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank or hopper-type vehicles, from the plant site of Howerton-Gowen Company, Incorporated, at or near Chesapeake, Va., to points in Alabama, Florida, and Georgia. The purpose of this filing is to eliminate the gateway of Charlotte, N.C.

No. MC 119689 (Sub-No. E9) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER October 21, 1974. Applicant: PEERLESS TRANSPORT CORP., 275 Smallman Street, Pittsburgh, Pa. 15222. 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: *Processed cheese, raw cheese, pimentoes, chemicals, and paper cartons*, between points in New York on, south and east of a line beginning at the New York-Vermont State line and extending along New York Highway 7 to junction New York Highway 17 near Binghamton, thence along New York Highway 17 to the New York-Pennsylvania State line near Waverly, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Michigan, Minnesota, Ohio, Wisconsin, and those in West Virginia on and west of a line beginning at the West Virginia-Pennsylvania State line extending along U.S. Highway 119 to junction U.S. Highway 19, thence along U.S. Highway 19 to the West Virginia State line at Bluefield. The purpose of this filing is to eliminate the gateway of Curwensville, Pa. The purpose of this correction is to reflect the correct destination of territory.

No. MC 128371 (Sub-No. E1), filed June 4, 1974. Applicant: BELLEVUE AGGREGATE HAULERS, INC., P.O. Box 296, Holland, Ohio 43528. Applicant's representative: James W. Muldoon, 50 West Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, earth, building blocks, crushed stone and roadbuilding materials* (except cement), from points in Lenawee and Monroe Counties, Mich., to points in that part of Indiana on, east, and north of a line beginning at the Ohio-Indiana State line, thence along U.S. Highway 36 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Indiana Highway 15, thence along Indiana Highway 15 to the Indiana-Michigan State line. The purpose of this filing is to eliminate the gateway of points in Fulton County, Ohio.

No. MC 128741 (Sub-No. E198), 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 St., 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 Montana south of U.S. Highway 12 and within 150 miles of Spearfish, S. Dak., on the one hand, and, on the other, points in South Carolina, North Carolina, Virginia, West Virginia, Ohio, Pennsylvania, and New York. The purpose of this filing is to eliminate the gateways of Spearfish, S. Dak., and points within 16 miles thereof, Arnold, Nebr., and points within 40 miles thereof, and points in Indiana south of U.S. Highway 40.

No. MC 128741 (Sub-No. E199) 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 Massachusetts, Pennsylvania, New Jersey, Maryland, West Virginia, Virginia, North Carolina, and South Carolina. 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. E200), 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 Texas on and west of a line from the Oklahoma-Texas State line along U.S. Highway 75 to the junction of Interstate Highway 35–E, thence along Interstate Highway 35–E to the junction of U.S. Highway 87, thence along U.S. Highway 87 to Port Lavaca. The purpose of this filing is to eliminate the gateways of points in Indiana south of U.S. Highway 40, points in Jasper County, Mo., on and north of U.S. Highway 66 and points in Canadian County, Okla.

No. MC 128741 (Sub-No. E201), 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 Texas on and west of a line from the Oklahoma-Texas State line along U.S. Highway 75 to the junction of Interstate Highway 35–E, thence along Interstate Highway 35–E to the junction of Interstate Highway 35, thence along Interstate Highway 35 to Laredo. The purpose of this filing is to eliminate the gateways of points in Indiana south of U.S. Highway 40, points in Jasper County, Mo., on and north of U.S. Highway 66 and points in Canadian County, Okla.

No. MC 128741 (Sub-No. E202), 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 the District of Columbia, on the one hand, and, on the other, points in Texas on, west and north of a line from the Oklahoma-Texas State line along U.S. Highway 75 to the junction of Interstate Highway 20, thence along Interstate Highway 20 to the junction of Interstate Highway 10, thence along Interstate Highway 10 to El Paso. The purpose of this filing is to eliminate the gateways of points in Indiana south of U.S. Highway 40, points in Jasper County, Mo., on and north of U.S. Highway 40 and points in Canadian County, Okla.

No. MC 128741 (Sub-No. E203), 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 the District of Columbia, on the one hand, and, on the other, points in Texas on and west of U.S. Highway 83. The purpose of this filing is to eliminate the gateways of points in Indiana south of U.S. Highway 40, points in Jasper County, Mo., on and north of U.S. Highway 66 and points in Canadian County, Okla.

No. MC 128741 (Sub-No. E204), 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 North Carolina, on the one hand, and, on the other, points in Michigan on, north, and west of a line from the Ohio-Michigan State line along U.S. Highway 27 to the junction Michigan Highway 20, thence along Michigan Highway 20 to the junction of U.S. Highway 10, thence along U.S. Highway 10 to the junction of Michigan Highway 25, thence along Michigan Highway 25 to the Wiscoggin River, thence along the Wiscoggin River to Saginaw Bay. 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. E205), 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 Florida on and east of a line from the Georgia-Florida State line along U.S. Highway 319 to the Ochlockonee River, thence along the Ochlockonee River to the Gulf of Mexico, on the one hand, and, on the other, points in Colorado on and north of a line from the Nebraska-Colorado State line along Interstate Highway 80 to the junction 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 Colorado Highway 82, thence along Colorado Highway 82 to the junction of U.S. Highway 6, thence along U.S. Highway 6 to the Utah-Colorado State line. The purpose of this filing is to eliminate 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. E206), 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 St., 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 Montana south of U.S. Highway 12 within 150 miles of Spearfish, S. Dak. The purpose of this filing is to eliminate the gateways of points in Indiana south of U.S. Highway 40, Arnold, Nebr., and points within 40 miles thereof and Spearfish, S. Dak., and points within 16 miles thereof.

No. MC 127841 (Sub-No. E207), 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 St., 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, points in Montana south of U.S. Highway 12 within 150 miles of Spearfish, S. Dak. The purpose of this filing is to eliminate the gateways of points in Indiana south of U.S. Highway 40, Arnold, Nebr., and points within 40 miles thereof and Spearfish, S. Dak., and points within 16 miles thereof.

No. MC 128741 (Sub-No. E211), 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 St., 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 Montana south of U.S. Highway 12, within 150 miles of Spearfish, S. Dak. The purpose of this filing is to eliminate the gateway of Arnold, Nebr., and points within 40 miles thereof and Spearfish, S. Dak., and points within 16 miles thereof.

No. MC 128741 (Sub-No. E212), 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 St., 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 Iowa on and south of U.S. Highway 20, on the one hand, and, on the other, points in Montana south of U.S. Highway 12 within 150 miles of Spearfish, S. Dak. The purpose of this filing is to eliminate the gateways of Arnold, Nebr., and points within 40 miles thereof and Spearfish, S. Dak., and points within 16 miles thereof.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-26005 Filed 11-5-74;8:45 am]

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PART II

FEDERAL COMMUNICATIONS COMMISSION

■

CHILDREN'S TELEVISION PROGRAMS

Report and Policy Statement

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19142; FCC 74-1174]

CHILDREN'S TELEVISION PROGRAMS

Report and Policy Statement

In the matter of petition of action for children's television (ACT) for rulemaking looking toward the elimination of sponsorship and commercial content in children's programming and the establishment of a weekly 14 hour quota of children's television programs, Docket No. 19142.

I. *Introduction.* 1. By notice issued January 26, 1971 (Docket 19142, 28 FCC 2d 368, 36 FR 14219) we instituted a wide-ranging inquiry into children's programming and advertising practices.

2. This inquiry was instituted at the request of Action for Children's Television (ACT) and our notice specifically called for comment on ACT's proposal that the Commission adopt certain guidelines for television programming for children. These guidelines are as follows:

(a) There shall be no sponsorship and no commercials on children's television.

(b) No performer shall be permitted to use or mention products, services or stores by brand names during children's programs, nor shall such names be included in any way during children's programs.

(c) Each station shall provide daily programming for children and in no case shall this be less than 14 hours a week, as part of its public service requirement. Provision shall be made for programming in each of the age groups specified below, and during the time periods specified: (i) Pre-school: Ages 2–5 7 a.m.–6 p.m. daily, 7 a.m.–6 p.m. weekends; (ii) Primary: Ages 6–9 4 p.m.–8 p.m. daily, 8 a.m.–8 p.m. weekends; (iii) Elementary: Ages 10–12 5 p.m.–9 p.m. daily, 9 a.m.–9 p.m. weekends.

3. In addition to comments on the specific ACT proposal, the Commission requested interested parties to submit their views on such issues as the proper definition of what constitutes "children's programming", the appropriate hours for broadcasting children's programs, the desirability of providing programs designed for different age groups, commercial time limitations, separation of advertising from programming content, and other areas of concern. The Commission also requested all television licensees and networks to submit detailed information on their current children's programming practices, including a classification of programs as being either entertainment or educational. We gave notice that this information might be used as a basis for formulating rules concerning programming and advertising in children's television.[1]

4. The response to our notice was overwhelming. More than 100,000 citizens expressed their opinions in writing and the accumulated filings fill 63 docket volumes. This material falls into three main categories: formal pleadings, programming data from stations and networks, and informal expressions of opinion (letters and cards).[2]

5. To apprise itself further of the various issues involved in children's television, the Commission conducted panel discussions focusing on specific areas of interest on October 2, 3, and 4 of 1972.[3] Forty-four individuals took part in these discussions, including representatives of citizens groups, broadcasters, advertisers and performers. These panel discussions were followed by oral argument which was presented before the Commission on January 8, 9, and 10 of 1973.[4] Forty-one persons participated in the oral argument, representing public interest groups, advertisers, educators, licensees, producers and performers.

6. The record in this proceeding includes 1252 pages of transcript in addition to further comments and the previously mentioned 63 docket volumes.

II. *Children's Television Programming.* 7. We believe that proposals for a set amount of programming for children of various age groups should appropriately be considered in terms of our statutory authority and against the background of the Commission's traditional approach to program regulation.

A. *Scope of Commission authority concerning programming.* 8. Section 303 of the Communications Act, 47 U.S.C. 303, confers upon the Commission broad authority to regulate broadcasting as the "public convenience, interest, or necessity" requires. On the basis of this standard, the Commission is empowered by section 303(b), 47 U.S.C. §303(b), to "[p]rescribe the nature of the service to be rendered by each class of licensed stations and each station within any class." (emphasis supplied.) The Commission is further authorized to: [c]lassify radio stations"; provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest"; and "[m]ake such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of this Act." 47 U.S.C. 303 (a), (g) and (r).

9. The Supreme Court has made it clear that these provisions do not limit the Commission to the role of a "traffic officer, policing the wave lengths to prevent stations from interfering with each other." "National Broadcasting Co. v. United States," 319 U.S. 190, 215 (1943). "[T]he Act," the Court held, "does not restrict the Commission merely to supervision of the traffic." Id. at 215–16. The Commission neither exceeds its powers under the Act nor transgresses the First Amendment "in interesting itself in general program format and the kinds of programs broadcasts by licensees." "Red Lion Broadcasting Co. v. FCC," 395 U.S. 367, 390 (1969). But, while the Commission's statutory authority is indeed broad, it is certainly not unlimited. Broadcasting is plainly a medium which is entitled to First Amendment protection. "United States v. Paramount Pictures, Inc.", 334 U.S. 131, 166 (1948). Although the unique nature of the broadcasting medium may justify some differences in the First Amendment standard applied to it, it is clear that any regulation of programing must be reconciled with free speech considerations. In Section 326 of the Act, 47 U.S.C. 326, Congress has expressed its concern by expressly prohibiting "censorship" by the Commission. For these reasons, the Commission historically has exercised caution in approaching the regulation of programing:

> [I]n applying the public interest standard to programing, the Commission walks a tightrope between saying too much and saying too little. In most cases it has resolved this dilemma by imposing only general affirmative duties—e.g., to strike a balance between various interests of the community, or to provide a reasonable amount of time for the presentation of programs devoted to the discussion of public issues. The licensee has broad discretion in giving specific content to these duties * * *. Given its long-established authority to consider program content, this approach probably minimizes the dangers of censorship or pervasive supervision. Banzhaf v. FCC, 405 F. 2d 1082, 1095 (D.C. Cir 1968), cert. denied "subnom. Tobacco Institute v. FCC," 396 U.S. 842 (1969).

We believe that this traditional approach is, in most cases, an appropriate response to our obligation to assure programing service in the public interest and, at the same time, avoid excessive governmental interference with specific program decisions.

B. *History of general program categories.* 10. In 1929, the Federal Radio Commission adopted the position that licensees were expected to provide a balanced program schedule designed to serve all substantial groups in their communities. "Great Lakes Broadcasting Co.", 3 F.R.C. Ann. Rep. 32, 34 (1929), rev'd on other grounds 37 F. 2d 993, cert. dismissed 281 U.S. 706 (1930). At this time, the Commissioner set forth a number of general programming categories which it believed should be included in the broadcast service of each station:

> [T]he tastes, needs, and desires of all substantial groups among the listening public should be met, in some fair proportion, by a well-rounded program, in which entertainment, consisting of music of both classical and lighter grades, religion, education and instruction, important public events, discussions of public questions, weather, market reports, and news, and matters of interest to all members of the family find a place. Id.

In listing these programming categories, the Commission made it clear that it did not "propose to erect a rigid schedule specifying the hours or minutes that may be devoted to one kind of program or another." Id. Its purpose was only to emphasize the general character of programming to which licensees must con-

[1] The scope of the Commission's inquiry in this proceeding did not extend to the issues of violence and obscenity in television programming. The House and Senate Committees on Appropriations, however, have requested the Commission to submit a report by December 31, 1974, outlining the actions we plan to take in these areas. We will, therefore, address the problems of violence and obscenity at that time.

[2] A digest of comments appears in Appendix A.

[3] Participants in the panel discussions are listed in Appendix B.

[4] Oral argument participants are listed in Appendix C.

form in order to fulfill their public service responsibility. While the Commission's list did include "matters of interest to all members of the family", children's programs were not specifically recognized as a distinct category entitled to special consideration.

11. In 1946, the Federal Communications Commission reaffirmed the FRC's emphasis on a "well-balanced program structure", and noted that since at least 1928 license renewal applications had been required "to set forth the average amount of time, or percentage of time, devoted to entertainment programs, religious programs, educational programs, agricultural programs, fraternal programs, etc." FCC, "Report on Public Service Responsibility of Broadcast Licensees" 12–13 (1946) (hereinafter cited as The Blue Book). In line with the views of its predecessor, the FCC did not recognize programs for children as an independent category and no suggestion was made as the percentage of time that should be devoted to any category.

12. The Commission's first recognition of children's programs as a distinct category came in the 1960 statement of basic programming policy. "Report and Statement of Policy Re: Programming", 20 P&F R.R. 1901 (1960). In this report, "Programs for Children" was listed as one of fourteen "major elements usually necessary to meet the public interest, needs and desires of the community." Id. at 1913. The fourteen elements included such matters as educational programs, political broadcasts, public affairs programs, sports, entertainment and service to minority groups. No special emphasis was given to children's programming over and above these other categories, and again the Commission made it clear that its list was "neither all-embracing nor constant" and that it was not "intended as a rigid mold or fixed formula for station operation." Id. The ultimate decision as to the presentation of programs was left to the licensee, who was expected, however, to make a positive effort to provide a schedule designed to serve the varied needs and interests of the people in his community.

13. The Supreme Court, in its landmark decision in "Red Lion Broadcasting Co. v. FCC," 395 U.S. 367 (1969), gave considerable support to the principle that the FCC could properly interest itself in program categories. In this decision, the Court specifically affirmed the Commission's fairness doctrine and noted that the doctrine (in addition to requiring a balance of opposing views) obligates the broadcaster to devote a "reasonable percentage" of broadcast time to the discussion of controversial issues of public importance. The Court made it plain that "the Commission is not powerless to insist that they give adequate . . . attention to public issues." Id. at 393.

14. While the holding of the Red Lion case was limited to the fairness doctrine, the Court's opinion has a significance which reaches far beyond the category of programming dealing with public issues. The Court resolved the First Amendment issue in broadcasting by stating that "[i]t is the right of the viewers and listeners, not the right of the broadcasters, which is paramount." Id. at 390. It stated further, that "[i]t is the right of the public to receive suitable access to social, political, esthetic, moral, and other ideas and experiences which is crucial here. That right may not constitutionally be abridged either by the Congress or by the FCC." Id. This language, in our judgment, clearly points to a wide range of programming responsibilities on the part of the broadcaster.

C. *Programs designed for children.* 15. One of the questions to be decided here is whether broadcasters have a special obligation to serve children. We believe that they clearly do have such a responsibility.

16. As we have long recognized, broadcasters have a duty to serve all substantial and important groups in their communities, and children obviously represent such a group. Further, because of their immaturity and their special needs, children require programming designed specifically for them. Accordingly, we expect television broadcasters as trustees of a valuable public resource, to develop and present programs which will serve the unique needs of the child audience.

17. As noted above, the Federal Radio Commission and the Federal Communications Commission have consistently maintained the position that broadcasters have a responsibility to provide a wide range of different types of programs to serve their communities. Children, like adults, have a variety of different needs and interests. Most children, however, lack the experience and intellectual sophistication to enjoy or benefit from much of the non-entertainment material broadcast for the general public. We believe, therefore, that the broadcaster's public service obligation includes a responsibility to provide diversified programming designed to meet the varied needs and interests of the child audience.

18. In this regard, educational or informational programming for children is of particular importance. It seems to us that the use of television to further the educational and cultural development of America's children bears a direct relationship to the licensee's obligation under the Communications Act to operate in the "public interest." Once these children reach the age of eighteen years they are expected to participate fully in the nation's democratic process, and, as one commentator has stated:

> Education, in all its phases, is the attempt to so inform and cultivate the mind and will of a citizen that he shall have the wisdom, the independence, and, therefore, the dignity of a governing citizen. Freedom of education is, thus, as we all recognize, a basic postulate in the planning of a free society. A. Meiklejohn, The First Amendment is an Absolute, in 1961 Supreme Court Review 245, 257 (Kurland ed.); see generally Brennan, The Supreme Court and the Meiklejohn Interpretation of the First Amendment, 79 Harv. L. Rev. 1 (1965).[6]

[6] In the words of the Supreme Court, "[a] democratic society rests, for its continuance, upon the healthy, well-rounded growth of young people into full maturity as citizens, with all that implies." Prince v. Massachusetts, 321 U.S. 158, 168 (1943).

We believe that the medium of television can do much to contribute to this educational effort.

Amount of programming for children. 19. While we are convinced that television must provide programs for children, and that a reasonable part of this programming should be educational in nature, we do not believe that it is necessary for the Commission to prescribe by rule the number of hours per week to be carried in each category. As noted above, we are involved in a sensitive First Amendment area, and we feel that it is wise to avoid detailed governmental supervision of programming whenever possible. Furthermore, while the amount of time devoted to a certain category of program service is an important indicator, we believe that this question can be handled appropriately on an ad hoc basis.[8] Rules would, in all probability, have been necessary had we decided to adopt ACT's proposal to ban advertising from children's programs. As explained below, however, we have not adopted that proposal and it may be expected that the commercial marketplace will continue to provide an incentive to carry these programs.

20. Even though we are not adopting rules specifying a set number of hours to be presented, we wish to emphasize that we do expect stations to make a meaningful effort in this area. During the course of this inquiry, we have found that a few stations present no programs at all for children. We trust that this Report will make it clear that such performance will not be acceptable for commercial television stations which are expected to provide diversified program service to their communities.

Educational and informational programming for children. 21. Our studies have indicated that, over the years, there have been considerable fluctuations in amount of educational and informational programming carried by broadcasters—and that the level has sometimes been so low as to demonstrate a lack of serious commitment to the responsibilities which stations have in this area.[7] Even today, many stations are doing less than they should.

22. We believe that, in the future, stations' license renewal applications should reflect a reasonable amount of programming which is designed to educate and inform—and not simply to entertain. This does not mean that stations must run hours of dull "classroom" instruction. There are many imaginative and

[8] We are just beginning to receive complete information on the children's programming performance of stations through question 6 in section 4–B of the new renewal form. FCC Form 303. It may be that the question of rules will be revisited as we gain experience under the new form. The Commission's Notice of Inquiry requested licensees to provide it with complete information on their program service to children on a voluntary basis; unfortunately, too few responded to provide a valid sample.

[7] In 1968 and 1969, for example, none of the networks carried a single informational program in its Saturday morning line-up of children's shows, and only one network presented an educational program during the week.

exciting ways in which the medium can be used to further a child's understanding of a wide range of areas: History, science, literature, the environment, drama, music, fine arts, human relations, other cultures and languages, and basic skills such as reading and mathematics which are crucial to a child's development. Although children's entertainment programs may have some educational value (in a very broad sense of the term), we expect to see a reasonable amount of programming which is particularly designed with an educational goal in mind.[8]

23. We would like to make it clear, however, that we do not necessarily expect the broadcaster to have programs designed to cover every subject or field of interest. We simply expect the licensee to select the particular areas where he believes that he can make the best contribution to the educational and cultural development of the children in his community—and then to present programming designed to serve these needs. The Commission will, of course, defer to the reasonable, good faith judgments which licensees make in this area.[9]

Age-specific programming. 24. In its original petition, ACT requested the Commission to require broadcasters to present programming designed to meet the needs of three specific age groups: (1) Pre-school children, (2) primary school aged children, and (3) elementary school aged children. During the panel discussions before the Commission, however, ACT and several of the other parties agreed that the presentation of programming designed to meet the needs of just two groups, pre-school and school aged children, would be sufficient to meet the broadcaster's responsibilities to the child audience.

25. While we agree that a detailed breakdown of programming into three or more specific age groups is unnecessary, we do believe that some effort should be made for both pre-school and school aged children. Age-specificity is particularly important in the area of informational programming because pre-school children generally cannot read and otherwise differ markedly from older children in their level of intellectual development.[10] A recent schedule indicated that, although one network presented a commendable five hours a week for the pre-school audience, the others did not appear to present any programs for these younger children. In the future, however, we will expect all licensees to make a meaningful effort in this area.

Scheduling. 26. Evidence presented in this inquiry indicates that there is tendency on the part of many stations to confine all or most of their children's programming to Saturday and Sunday mornings. We recognize the fact that these are appropriate time periods for such shows, but are nevertheless concerned with the relative absence of children's programming on weekdays. It appears that this lack of weekday children's programs is a fairly recent development. In the early 1950's, the three networks broadcast twenty to thirty hours of children's programming during the week. During the late fifties and early sixties many popular shows such as "Howdy Doody", "Mickey Mouse Club" and "Kukla, Fran and Ollie" disappeared, and by the late sixties, "Captain Kangaroo" was the only weekday children's show regularly presented by a network. While some stations, particularly those not affiliated with networks, do provide weekday programming for children, there is nevertheless a great overall imbalance in scheduling.

27. It is clear that children do not limit their viewing in this manner. They form a substantial segment of the audience on weekday afternoons and early evenings as well as on weekends. In fact, the hours spent watching television on Saturday and Sunday constitute, on an average, only 10 percent of their total viewing time. (A.C. Nielsen Company, February, 1973). Accordingly, we do not believe that it is a reasonable scheduling practice to relegate all of the programming for this important audience to one or two days. Although we are not prepared to adopt a specific scheduling rule, we do expect to see considerable improvement in scheduling practices in the future.

III. *Advertising practices*—A. *Background.* 28. The second major area of concern in this inquiry has to do with advertising practices in programs designed for children. In its original petition, ACT requested that the Commission eliminate all commercials on programs designed for children and prohibit any other use or mention of any product by brand name. During the course of the proceeding various parties criticized the amount of commercial matter now directed toward children, the frequency of program interruptions and a variety of other specific advertising practices: these included the use of program talent to deliver commercials ("host selling") or comment on them ("lead-ins and/or outs"); the prominent display of brand name products on a show's set ("tie-ins"); the presentation of an unrealistic picture of the product being promoted; and the advertising generally of products which some parties consider harmful to children (e.g., snack foods, vitamins and drugs).

29. The Commission's statutory responsibilities include an obligation to insure that broadcasters do not engage in excessive or abusive advertising practices. The Federal Radio Commission warned in 1928 that "advertising must not be of a nature such as to destroy or harm the benefit to which the public is entitled from the proper use of broadcasting." 2 F.R.C. Ann. Rep. 20 (1928). In 1929 the FRC again considered the advertising problem in the context of the licensee's responsibility to broadcast in the public interest. Great Lakes Broadcasting Co., 3 F.R.C. Ann. Rep. 32 (1929). The Commission noted that broadcasters are licensed to serve the public and not the private or selfish interests of individuals or groups. It then stated that "[t]he only exception that can be made to this rule has to do with advertising; the exception, however, is only apparent because advertising furnishes the economic support for the service and thus makes it possible." *Id.* The FRC recognized "that, without advertising, broadcasting would not exist, and [that it] must confine itself to limiting this advertising in amount and in character so as to preserve the largest possible amount of service for the public." *Id.* at 35. The FCC, over the years, has maintained a similar position. See "The Blue Book," supra, 40–41; "Report and Statement of Policy Re: Programming," supra, at 1913.

30. Traditionally, however, the Commission has not attempted to exercise direct supervision over all types of advertising abuses. Since the Federal Trade Commission has far greater expertise in, and resources for, the regulation of false or deceptive advertising practices, the FCC has largely confined its role in this area to notifying stations that the broadcast of material found to be false or deceptive by the FTC will raise questions as to whether the station is operating in the public interest. See Public Notice entitled "Licensee Responsibility with Respect to the Broadcast of False, Misleading, and Deceptive Advertising, FCC 61–1316 (1961); "Consumers Association of District of Columbia," 32 FCC 2d 400 (1971). We do not believe that it would be appropriate to change this policy at the present time. The Federal Trade Commission is currently conducting inquiries into ad-

[8] As a general matter, programs of this type are logged as "Instructional" in accord with the provisions of Section 73.670 of the Commission's rules. The rule defines instructional programming so as to include "programs * * * involving the discussion of, or primarily designed to further an appreciation or understanding of, literature, music, fine arts, history, geography, and the natural and social sciences * * *" 47 CFR 73.760, Note 1(f). Typically, such programs as Captain Kangaroo, Multiplication Rock, and Wild Kingdom are logged as instructional.

[9] Another area of concern to many of the critics of children's programming in this proceeding was the emphasis on fantasy in the animated cartoons and in other "fanciful" programs which dominate the children's schedule. Such programming, it is argued, does not offer children the diversified view of the world of which television is capable. While the Commission recognizes that cartoons can do much to provide wholesome entertainment for young children, we note that the networks have broadened their schedules for this Fall to include more live-action shows and more representations of "real" people interacting with their families and the world around them. We commend the networks for being responsive to these concerns and for having made an effort to provide programming which meets the varied needs and interests of the child audience.

[10] With regard to entertainment programming, there is considerable evidence that pre-school children, unlike older children, cannot distinguish fantasy from reality. It does not follow, however, that because a program is not age-specific, it cannot provide wholesome entertainment for all ages. Therefore, while there may be some value in age-specific entertainment programming, we cannot say that this is necessary in every case.

vertising practics on children's programs (F.T.C. File No. 7375150) and food advertising (F.T.C. File No. 7323054) which cover many of the advertising practices objected to by the parties before the Commission. In light of the actions of the FTC, we have chosen not to address some of these specific promotional practices. On the basis of this proceeding, however, we are persuaded that an examination of the broadcaster's responsibility to children is warranted in the areas of the overall level of commercialization and the need for maintaining a clear separation between programming and advertising.

B. *Overcommercialization.* 31. While it is recognized that advertising is the sole economic foundation of the American commercial broadcasting system and that continued service to the public depends on broadcasters' ability to maintain adequate revenues with which to finance programming, the Commission has a responsibility to insure that the "public interest" does not become subordinate to financial and commercial interests. Although this proceeding marks the first instance in which the level of advertising on programs designed for children has been singled out as possibly abusive, the Federal Government has been concerned about the problem of overcommercialization in general since the beginning of broadcast regulation. In 1929, the Federal Radio Commission took the position that the "amount and character of advertising must be rigidly confined within the limits consistent with the public service expected of the station." "Great Lakes Broadcasting Co.," 3 F.R.C. Ann. Rep. at 35 (1929). The Federal Communications Commission has continued this policy. In 1946, for example, the Commission noted that, "[a]s the broadcasting system itself has insisted, the public interest clearly requires that the amount of time devoted to advertising shall bear a reasonable relation to the amount of time devoted to programs." "The Blue Book, supra." 56. In the definitive 1960 policy statement, licensees were admonished to "avoid abuses with respect to the total amount of time devoted to advertising continuity as well as the frequency with which regular programs are interrupted for advertising messages." "Report and Statement of Policy Re: Programming, supra," at 1912–1913.

32. Although some of the parties to this proceeding questioned the Commission's authority to limit the level of commercialization on children's programs, the Commission believes that it has ample authority to act in this area. This issue was raised in conjunction with the Commission's general inquiry into overcommercialization in 1963–1964, when the Commission concluded that it could adopt rules prescribing the maximum amount of time a licensee may devote to advertising:

> Numerous sections of the act refer to the public interest, one element of which clearly is the appropriate division as between program material and advertising * * *. We conceive that our authority to deal with overcommercialization, by whatever reasonable and appropriate means is well established. Amendment of Part 3 of the Commission's Rules and Regulations with Respect to Advertising on Standard, FM, and Television Broadcast Stations, 36 FCC 45, 46 (1964).

If a licensee devoted an excessive amount of his broadcast time to advertising, the Commission could certainly consider that factor in deciding whether a renewal of the license would serve the "public interest". See WMOZ, 36 FCC 201 (1964); Gordon County Broadcasting Co., 24 P&F R.R. 315 (1962); Mississippi Arkansas Broadcasting Co., 22 P&F R.R. 305 (1961). If a given policy is an appropriate consideration in individual cases, then, as the Supreme Court has suggested, "there is no reason why [the policy] may not be stated in advance by the Commission in interpretative regulations defining the prohibited conduct with greater clarity." "Federal Communications Commission v. American Broadcasting Company," 347 U.S. 284, 289–290, note 7 (1954).

33. A restriction on the amount of time a broadcaster may devote to advertising does not constitute censorship or an abridgement of freedom of speech. The courts have traditionally held that commercial speech has little First Amendment protection. "Valentine v. Christensen," 316 U.S. 52 (1942); "Breard v. City of Alexandria," 341 U.S. 622 (1951). A Congressional ban on cigarette advertising on television was held not to violate the First Amendment, in part, because broadcasters "[had] lost no right to speak—they [had] only lost an ability to collect revenue from others for broadcasting their commercial messages." "Capital Broadcasting Co. v. Mitchell," 333 F. Supp. 582, 584 (1971); aff'd 405 U.S. 1000 (1972).

34. If our policy against overcommercialization is an important one, and we believe that it is, it is particularly important in programs designed for children. Broadcasters have a special responsibility to children. Many of the parties testified, and we agree, that particular care should be taken to insure that they are not exposed to an excessive amount of advertising. It is a matter of common understanding that, because of their youth and inexperience, children are far more trusting of and vulnerable to commercial "pitches" than adults. There is, in addition, evidence that very young children cannot distinguish conceptually between programming and advertising; they do not understand that the purpose of a commercial is to sell a product. See Report to the Surgeon General, "Television and Growing Up: The Impact of Televised Violence," Vol. IV at 469, 474 (1970). Since children watch television long before they can read, television provides advertisers access to a younger and more impressionable age group than can be reached through any other medium. See "Capital Broadcasting Co., supra," at 585–6. For these reasons, special safeguards may be required to insure that the advertising privilege is not abused. As the Supreme Court stated, "[i]t is the interest of youth itself, and of the whole community that children be . . . safeguarded from abuses." "Prince v. Massachusetts," 321, U.S. 158, 165 (1943).

35. Despite these concerns, we have chosen not to adopt ACT's proposal to eliminate all sponsorship on programs designed for children. The Commission believes that the question of abolishing advertising must be resolved by balancing the competing interests in light of the public interest.[11] Banning the sponsorship of programs designed for children could have a very damaging effect on the amount and quality of such programming. Advertising is the basis for the commercial broadcasting system, and revenues from the sale of commercial time provide the financing for program production. Eliminating the economic base and incentive for children's programs would inevitably result in some curtailment of broadcasters' efforts in this area. Moreover, it seems unrealistic, on the one hand, to expect licensees to improve significantly their program service to children and, on the other hand, to withdraw a major source of funding for this task.

36. Some suggestions were made during the proceeding that institutional advertising or underwriting would replace product advertising if the latter were prohibited. Although we would encourage broadcasters to explore alternative methods of financing, at this time there is little evidence that the millions of dollars necessary to produce children's programs would, in fact, be forthcoming from these sources. Since eliminating product advertising could have a serious impact on program service to children, we do not believe that the public interest would be served by adopting ACT's proposal.

37. The present proceeding has indicated, however, that there is a serious basis for concern about overcommercialization on programs designed for children. Since children are less able to understand and withstand advertising appeals than adults, broadcasters should take the special characteristics of the child audience into consideration when determining the appropriate level of advertising in programs designed for them. Many broadcasters substantially exceed the level of advertising that represents the best standard followed generally in the industry. The Television Code of the National Association of Broadcasters, for

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[11] At one time the Commission maintained the position that "sustaining" programming (which was not commercially sponsored) played an important role in broadcasting. The Commission's 1949 policy statement placed considerable emphasis on sustaining programs to assure balanced programming and to serve minority tastes and interests. The Blue Book, supra, 12. In 1960, however, the Commission reversed its position on the grounds that "under modern conditions sponsorship fosters rather than diminishes the availability of important public affairs and 'cultural' broadcast programming." Report and Statement of Policy Re: Programming, supra, at 1914.

example, permits only nine minutes and thirty seconds of non-program material (including commercials) in "prime-time" programming (i.e., 7:00–11:00). In contrast, many stations specify as much as sixteen minutes of commercial matter an hour for those time periods in which most children's programs are broadcast.

38. Although advertising should be adequate to insure that the station will have sufficient revenues with which to produce programming which will serve the children of its community meaningfully, the public interest does not protect advertising which is substantially in excess of that amount. These revenues, moreover, need not be derived solely from programs designed for children.

39. On the basis of this proceeding, the Commission believes that in many cases the current levels of advertising in programs designed for children are in excess of what is necessary for the industry to provide programming which serves the public interest. Recently, following extensive discussions with the Commission's Chairman, the National Association of Broadcasters agreed to amend its code to limit non-program material on children's programs to nine minutes and thirty seconds per hour on weekends and twelve minutes during the week by 1976; the Association of Independent Television Stations (INTV) has agreed to reduce advertising voluntarily to the same level. By these actions the industry has indicated that these are advertising levels which can be maintained while continuing to improve service to children.

40. The Commission's own economic studies support this assumption. The economic data indicates that there is an "inelasticity of demand" for advertising on children's programs. It appears, therefore, that the level of advertising on children's program can be reduced substantially without significantly affecting revenues because the price for the remaining time tends to increase. In 1972, for example, the NAB reduced the permissible amount of non-program material on weekend children's programs from 16 to 12 minutes per hour; although the amount of network advertising was cut by 22 percent, the networks' gross revenues for children's programs fell by only 3 percent. The Commission anticipates similar results if advertising were further limited to nine minutes per hour: There should be minimal financial hardship on networks and affiliates, although the problem could be somewhat more significant for independent stations. Most independent stations, however, have already agreed to make reductions, and the fact that 12 minutes per hour will still be permitted on weekdays (when most of these stations program for children) should soften any adverse economic effect.

41. The issue remains, however, whether the Commission should adopt per se rules limiting the amount of advertising on programs designed for children or await the results of the industry's attempt to regulate itself. The decisions of the NAB and the INTV to restrict advertising voluntarily are recent developments which occurred during the course of this inquiry and after consultation with the Commission's Chairman and staff. The Commission commends the industry for showing a willingness to regulate itself. Broadcasting which serves the public interest results from actions such as these which reflect a responsive and responsible attitude on the part of broadcasters toward their public service obligations.

42. In light of these actions, the Commission has chosen not to adopt per se rules limiting commercial matter on programs designed for children at this time. The standards adopted by the two associations are comparable to the standards which we would have considered adopting by rule in the absence of industry reform.[12] We are willing to postpone direct Commission action, therefore, until we have an opportunity to assess the effectiveness of these self-regulatory measures. The Commission will expect all licensees, however, to review their commercial practices in programs designed for children in light of the policies outlined by the Commission and the standards now agreed upon by substantial segments of the industry, and to limit advertising to children to the lowest level consistent with their programming responsibilities. If it should appear that self-regulation is not effective in reducing the level of advertising, then per se rules may be required.

43. To insure that the Commission will have adequate information on broadcasters' advertising practices in programs designed for children, we will, in a separate order, amend the renewal form to elicit more detailed information in this area. All licensees will be asked to indicate how many minutes of commercial matter they broadcast within an hour in programs designed for children both on weekends and during the week. The data provided by this question will serve, in part, as a basis for determining whether self-regulation can be effective. In addition, since the Commission's own economic studies and the actions of the industry indicate that nine minutes and thirty seconds on weekend children's programs and twelve minutes during the week are levels which are economically feasible for most licensees to achieve over the next year and a half, the broadcast of more than the amount of advertising proposed by the NAB and the INTV after January 1, 1976,[13] may raise a question as to whether the licensee is subordinating the interests of the child audience to his own financial interests.

44. For the present, compliance with the advertising restrictions adopted by the industry and endorsed by the Commission will be sufficient to resolve in favor of the station any questions as to whether its commercial practices serve the public interest. Licensees who exceed these levels, however, should be prepared to justify their advertising policy. We recognize that there may be some independent VHF and UHF stations which cannot easily afford such a reduction in advertising; such stations should be prepared to make a substantial and well-documented showing of serious potential harm to support their advertising practices. However, we anticipate accepting very few other justifications for overcommercialization in programs designed for children.

45. We emphasize that we will closely examine commercial activities in programs designed for children on a case-by-case basis. Overcommercialization by licensees in programs designed for young children will raise a question as to the adequacy of a broadcaster's overall performance. The Commission will, in addition, continually review broadcasters' performance on an industry-wide basis.[14]

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[12] The actual proposals of the two industry groups are as follows: (1) Beginning in January, 1975, the NAB Code will permit broadcasters 10 minutes of non-program material per hour on Saturday and Sunday children's programs and 14 minutes during the week; beginning in January, 1976, these levels will be further restricted to 9 minutes and thirty seconds on weekends and 12 minutes during the week; (2) beginning in January, 1975, the Association of Independent Television Stations will reduce its advertising to 12 minutes per hour on Saturday and Sunday and 14 minutes during the week; beginning in January, 1976, advertising will be limited to 9 minutes and thirty seconds on the weekend and 12 during the week.

The Commission is willing to accept the phased-in reduction proposed by the industry. Although the Commission's economic studies indicate that affiliates probably would not suffer significant economic hardship from an immediate reduction, non-affiliated broadcasters could be affected. The Commission's own economic analysis suggested a gradual implementation of the proposed reduction. Since the NAB members include non-affiliated stations, we believe that both the NAB and INTV proposals are reasonable.

The Commission, in addition, finds the proposed differentials between weekend and weekday programming to be acceptable. Unlike Saturday and Sunday morning when there is no significant audience other than children, weekday mornings and afternoons are attractive periods to program for adults. The more substantial the differential between the permissible level of advertising on children's and adult programs during the week, the greater is the disincentive to program for children on weekdays. Since we are already concerned about the concentration of children's programming on the weekend, we are willing to accept the balance which the industry has struck on this issue.

[13] Broadcasters who are not members of either the NAB or the INTV are, of course, not bound by their proposed phased-in reductions. As noted in the conclusion to this Report, however, the Commission expects all licensees to make a good faith effort to bring their advertising practices into conformance with the policies established herein over the period preceding January 1, 1976.

[14] We wish to stress that self-regulation can only be acceptable in this area if it is effective generally throughout the industry. As the Chairman has stated: "it is important that certain standards apply industry wide and not solely to those broadcasters who voluntarily live up to the highest principles of public service responsibility." Address before the National Academy of Television Arts and Sciences, Atlanta Chapter, Atlanta, Georgia, May 23, 1974.

If self-regulation does not prove to be a successful device for regulating the industry as a whole, then further action may be required of the Commission to insure that licensees operate in a manner consistent with their public service obligations.

C. *Separation of program matter and commercial matter.* 46. The Commission is concerned, in addition, that many broadcasters do not presently maintain an adequate separation between programming and advertising on programs designed for children. The Commission has ample authority under the Communications Act to require broadcasters to maintain such a separation. Any practice which is unfair or deceptive when directed to children would clearly be inconsistent with a broadcaster's duty to operate in the "public interest" and may be prohibited by the Commission. Section 317 of the Communications Act, in addition, specifically requires that all advertisements indicate clearly that they are paid for and by whom. 47 U.S.C. 317. The rationale behind this provision is, in part, that an advertiser would have an unfair advantage over listeners if they could not differentiate between the program and the commercial message and were, therefore, unable to take its paid status into consideration in assessing the message. Hearings on H.R. 5589 before the "House Committee on the Merchant Marine and Fisheries," 69th Cong., 1st Sess., at p. 83 (1926). If inadequate separation contributes to an inability to differentiate programming from advertising, then Commission action designed to maintain a clear separation would further the policies of section 317.

47. On the basis of the information gathered in the course of the Commission's inquiry, it has become apparent that children, especially young children, have considerable difficulty distinguishing commercial matter from program matter. Many of the participants knowledgeable in the areas of child development and child psychology maintained that young children lack the necessary sophistication to appreciate the nature and purpose of advertising. Also, a study sponsored by the government concluded that children did not begin to understand that commercials were designed to sell products until starting grade school. Report to the Surgeon General, "Television and Growing Up: The Impact of Televised Violence," Vol: IV at 469 (1970). Kindergarteners, for example, did not understand the purpose of commercials; the only way they could distinguish programs from commercials was on the basis that commercials were shorter than programs. Id. at 469, 474. The Commission recognizes that, as many broadcasters noted, these findings are not conclusive; psychological and behavioral questions can seldom be resolved to the point of mathematical certainty. The evidence confirms, however, what our accumulated knowledge, experience and common sense tell us: That many children do not have the sophistication or experience needed to understand that advertising is not just another form of informational programming.

48. The Commission believes, therefore, that licensees, when assessing the adequacy of their commercial policies, must consider the fact that children—especially young children—have greater difficulty distinguishing programming from advertising than adults.[15] If advertisements are to be directed to children, then basic fairness requires that at least a clear separation be maintained between the program content and the commercial message so as to aid the child in developing an ability to distinguish between the two.

49. Special measures should, therefore, be taken by licensees to insure that an adequate separation is maintained on programs designed for children. One technique would be to broadcast an announcement to clarify when the program is being interrupted for commercial messages and when the program is resuming after the commercial "break." [16] Another would be to broadcast some form of visual segment before and after each commercial interruption which would contrast sufficiently with both the programing and advertising segments of the program so as to aid the young child in understanding that the commercials are different from the program. In this context, again following discussions with the Commission's Chairman and staff, the NAB Code Authority has recently amended its advertising rules to require a comparable separation device. We applaud this action by the industry to improve advertising practices directed to children.[17]

50. We recognize that this may be an incomplete solution to the problem. Indeed, in view of the lack of sophistication of the child audience, no complete solution may be possible. The broadcast of an announcement and/or a visual device can only aid children in identifying commercials. The Commission believes, however, that the licensee who directs advertising to children has a responsibility to take action to insure that it is presented n as fair a manner as possible.[18]

51. The Commission is also concerned that some broadcasters are now engaging in a commercial practice which takes unfair advantage of the difficulty children have distinguishing advertising from programming: the use of program characters to promote products ("host-selling"). In some programs designed for children, the program host actually delivers the commercial in his character role on the program set. In others, although the host does not actually deliver the commercial, he may comment on the advertisement in such a manner as to appear to endorse the product ("lead-in/lead-out").

52. The Commission does not believe that the use of a program host, or other program personality, to promote products in the program in which he appears is a practice which is consistent with licensees' obligation to operate in the public interest. One effect of "host-selling" is to interweave the program and the commercial, exacerbating the difficulty children have distinguishing between the two. In addition, the practice allows advertisers to take unfair advantage of the trust which children place in program characters. Even performers themselves recognize that, since a special relationship tends to develop between hosts and young children in the audience, commercial messages are likely to be viewed as advice from a friend.[19] The Commission believes that, in these situations, programming is being used to serve the financial interests of the station and the advertiser in a manner inconsistent with its primary function as a service to children. In this regard, it should be noted that many stations, in particular NAB Code member stations, have already eliminated host selling.[20]

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[15] Although the evidence indicates that this problem is most acute among pre-school children, they can be expected to make up a substantial portion of the audience of virtually all children's programming.

[16] The Commission notes in this context that similar practices are found in adult programs. Moderators on talk shows and announcers on sports programs often finish a program segment by announcing that the program will resume after the commercial break; sections of entertainment programs are sometimes entitled "Part I," "Part II," and so forth.

[17] The Commission notes in this context that while INTV does not have a code, it has established a committee to consider adopting general standards and guidelines on commercial practices in children's programs in addition to time limitations.

[18] In this connection, broadcasters may wish to consider a suggestion made by several of the parties that limiting the number of program interruptions by grouping commercials can contribute to maintaining a clear separation between programming and advertising. We do not believe that it is necessary at this time for the Commission to require "clustering" of commercials, although further consideration of this matter may be appropriate in the future. But, as we noted in the 1960 Programming Report, licensees should "avoid abuses with respect to . . . the frequency with which regular programs are interrupted for advertising messages." Report and Statement of Policy Re: Programming, supra, at 1912–1913. In this regard, particular care should be taken to avoid such abuses in programs designed for the pre-school audience.

[19] As a children's show hostess testified before the Commission: "I watched [a program host] sell Wonder bread for years. I bought Schwinn bicycles because I felt that they were a good thing and because I trusted him. The same thing applies to me in my neighborhood, in my town. I want the children to trust me. I want them to know that when I say something is good, to believe in me, the same way as if I suggested that they attend their school carnival or don't step off the curb when the bus is coming." Lorraine F. Lee-Benner, Transcript of the Panel Discussion, Vol. II, p. 339 (1972).

[20] Public interest questions may also be raised when program personalities or characters deliver commercial messages on programs other than the ones on which they appear. Although this practice would not have the effect of blurring the distinction between programming and advertising, some

53. Finally, the Commission wishes to caution licensees against engaging in practices in the body of the program itself which promote products in such a way that they may constitute advertising.[21] The inquiry revealed that some broadcasters weave the prominent display of the brand names of products into the program sets and activities. One program's set, for example, featured a large billboard announcing the "[Brand Name] Candy Corner" under which children were regularly given samples of the brand name candy as prizes. The hostess on another program, before serving a snack to the children on the show, concluded a prayer with the words, "Now you may have your [Brand Name] orange juice from the [XYZ] Dairy." The analysis of the same program showed, in addition, that the children had been given "[the title of the show]" brand toys with which to play; these were carefully displayed to the viewing audience and children were encouraged to purchase these toys so that they could play along at home. One of the clearest examples of incorporating promotional matter into a program was a cartoon series entitled "Hot Wheels" which was the trade name of a toy manufacturer's miniature racing cars; the manufacturer developed an additional line of cars modeled after those featured in the cartoon series. The Commission found that the program itself promoted the use of the product and required the licensee to log more of the program as commercial matter. See Topper Corporation, 21 FCC 2d 148 (1969); American Broadcasting Companies, 23 FCC 2d 132 (1970).

54. Licensees should exercise care to insure that such practices are in compliance with the sponsorship identification requirements of section 317 of the Communications Act and the Commission's rules on logging commercial matter. Not every mention of a brand name or prominent display thereof necessarily constitutes advertising. All such material, however, should be strictly scrutinized by the broadcaster to determine whether or not it should be treated as commercial matter. See 47 U.S.C. 317(a); FCC Public Notice 63-409, entitled "Applicability of Sponsorship Identification Rules" (1963); 47 CFR 73. 670(a)(2), Note 3.

55. Licensees who engage in program practices which involve the mention or prominent display of brand names in children's programs, moreover, should reexamine such programming in light of their public service responsibilities to children. We believe that most young children do not understand that there is a "commercial" incentive for the use of these products and that it is, in fact, a form of merchandising. Any material which constitutes advertising should be confined to identifiable commercial segments which are set off in some clear manner from the entertainment portion of the program. When providing programming designed for children, the conscientious broadcaster should hold himself to the highest standard of responsible practices.

56. The Commission, thus, wishes to stress that this policy statement does not cover every potential abuse in current advertising practices directed to children. Licensees will be expected to reduce the current level of commercialization on programs designed for children, maintain an appropriate separation between programming and advertising, and eliminate practices which take advantage of the immaturity of children. The failure by the Commission to comment on any particular practice, however, does not constitute an endorsement of that practice. Many of these matters are currently under investigation at the Federal Trade Commission. Licensees are again reminded that the broadcast of any material or the use of any practice found to be false or misleading by the Federal Trade Commission will raise serious questions as to whether the station is operating in the public interest. Broadcasters have, in addition, an independent obligation to take all reasonable measures to eliminate false or misleading material. See Public Notice entitled "License Responsibility with Respect to the Broadcast of False, Misleading and Deceptive Advertising," supra. We will expect licensees to exercise great care in evaluating advertising in programs designed for children and refrain from broadcasting any matter which, when directed to children, would be inconsistent with their public service responsibilities.

IV. *Conclusion.* 57 It is believed that this Report will help to clarify the responsibilities of broadcasters with respect to programming and advertising designed for the child audience. We believe that in these areas every opportunity should be accorded to the broadcast industry to reform itself because self-regulation preserves flexibility and an opportunity for adjustment which is not possible with per se rules. In this respect, we recognize that many broadcasters may not currently be in compliance with the policies herein announced. Since this Report constitutes the first detailed examination of broadcasters' responsibilities to children, we do not wish to penalize the media for past practices. The purpose of this Report is to set out what will be expected from stations in the future.

58. We also realize that it will necessarily take some period of time for broadcasters, program producers, advertisers and the networks to make the anticipated changes.[22] Stations, therefore, will not be expected to come into full compliance with our policies in the areas of either advertising or programming until January 1, 1976. In the interim period, however, broadcasters should take immediate action in the direction of bringing their advertising and programming practices into conformance with their public service responsibilities as outlined in this Report.

59. In the final analysis, the medium of television cannot live up to its potential in serving America's children unless individual broadcasters are genuinely committed to that task, and are willing—to a considerable extent—to put profit in second place and the children in first. While Government reports and regulations can correct some of the more apparent abuses, they cannot create a sense of commitment to children where it does not already exist.

60. In view of the fact that we plan to evaluate the improvements in children's programming and advertising which are now expected, the proceedings in Docket No. 19142 will not be terminated at this time.

Adopted: October 24, 1974.

Released: October 31, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[23]

[SEAL] VINCENT J. MULLINS, *Secretary.*

APPENDIX A

SUMMARY OF COMMENTS DOCKET NO. 19142 CHILDREN'S TELEVISION PROCEEDING

1. Because of the volume of material which was filed in this proceeding a digest

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advantage may be taken of the trust relationship which has been developed between the child and the performer. We recognize, however, that it may not be feasible, as a practical matter, for small stations with limited staffs to avoid using children's show personnel in commercial messages on other programs. While we are not prohibiting the use of selling by personalities on other programs, broadcasters should be cognizant of the special trust that a child may have for the performer and should exercise caution in the use of such selling techniques. This may be particularly important where the personality appears in a distinctive character costume or other efforts are made to emphasize his program role.

[21] ACT originally requested that we ban any mention of products by brand name during the body of a children's program. We are concerned, however, that such a ban would go so far as to prohibit even the critical mention of products and other comment for which no consideration is received. Such a rule would, we believe constitute a form of illegal censorship of programming. Cf., Capital Broadcasting Co. v. Michell, supra. Indeed, it would have a chilling effect on any effort to provide consumer education information for children.

[22] The Commission anticipates that the networks will take the lead in producing varied programming for children. The networks are responsible for the bulk of the programs now being broadcast: they provide most of the children's shows carried by network-owned or affiliated stations and originally produced most of the syndicated material presented by independent stations. Changes in network programming will, therefore, have both an immediat and a long-range impact as programs gradually become available on a syndicated basis. It is also clear that the networks have the financial resources to make a significant effort in this area. The Commission's economic studies indicate that network children's programming has been consistently profitable for many years.

[23] Commissioners Lee and Reid concurring in the result; Commissioner Hooks concurring and issuing a statement; Commissioner Washburn issuing additional views; Commissioner Robinson issuing a separate statement. Separate statements of Commissioners Hooks, Washburn and Robinson filed as part of the original document.

of the pleadings and the issues raised in them on a party-by-party basis would be repetitious and confusing. Since the same point or opinion may have been expressed by as many as 100 parties in almost as many pleadings, little purpose would be served by specific identification of the sources of a particular view. For this reason, the discussion which follows proceeds on an issue oriented basis. The discussion will indicate, for example, that a point was made by a number of licensees, by independent UHF stations, etc., Specific attribution will be reserved for those situations where the views follow an independent path.

RESPONSE TO GENERAL QUESTIONS

2. *Question: What types of children's programs not now available do parties believe commercial TV stations should present?* For the most part, the licensees who answered this question indicated that they believed that virtually all types of programing for children was already offered. A few licensees expressed the view that more programing of a morally or spiritually uplifting quality could be offered and a few others expressed a preference for more programing dealing with real-life situations in an informative or educational approach. ACT, NCCB, and others of the opposite persuasion contended that current offerings were disproportionately weighted toward violent and stereotyped entertainment programs with little in the way of enlightened, informative and educational programing fare being offered. Similar expressions came from members of the public who decried the absence or paucity of quality programing for children, with the often noted exception of Sesame Street. Many were quite specific in their objections to particular programs, commercials or the methods followed in the area of children's television programing. The networks pointed to specific new programs to be presented beginning in the fall of 1971 as filling any gaps or inadequacies in their previous children's schedule.[1] The answers to this question dealt not so much with the total absence of a particular type or category of program [2] as with relative weight given to the categories in the mix offered or to the approach taken in regard to the formulation of entertainment programing.

3. *Question: To what extent, generally and with respect to particular programs and type of programs, does "children's programing" have benefits to children beyond the fact that it holds their interest and attention and thus removes the need for other activity or parental attention?* In actuality, two questions were posed: What value and importance is attached to the attention-holding function or attribute of the programing? and what benefits are there to the programing beyond its ability to occupy children's attention? On the one hand, a number of licensees asserted that as children are occupied watching television they do not require parental attention to keep them out of mischief, and parents freed of their need to pay close attention to their children were said to thus be able to devote themselves to household or other activities. A number of licensees asserted that this ability to hold the attention of children becomes particularly important when, for example, poor weather precludes outside play.

4. Most licensees, however, did not stress the importance of the attention-holding aspect of the programs but instead put their emphasis on the manifold benefits they believed were provided by the programs which are offered. Many licensees, in fact, criticized the notion that television should be used as a baby-sitter, especially when it is used as a means of avoiding parental responsibility.[3] What did not seem to be in dispute was the idea that children's programs did tend to hold a child's attention. ACT and others contended that the means of doing so were far from worthy and were utilized because of the need to attract the attention of children in the entire 2–12 age range in order to maximize the audience for the program. No one, of course, advocated dull or uninteresting programing which would not hold attention. Rather, the dispute centered on the means which legitimately could be used to garner the attention of a child.

5. By far the majority of comments, formal as well as informal, were in agreement about the significant contributions which television and specifically children's television could offer.[4] What they did not agree on was the degree to which current programming made such contributions. This difference often was reflected even in the evaluation of a particular program. ACT pointed up this distinction in one of its pleadings in which it contrasted a network's description of a program with its own description. Thus, CBS described a network children's program as a program which "deals with recognizable young human beings in basic situations rather than the way-out world of the traditional animated cartoon". According to ACT, the episode it monitored dealt with the capture of a frozen caveman who later chases the main character's friends, each trying to capture the other until the caveman falls into a giant clam tank and is discovered to be a professor intent on stealing another scientist's inventions.

6. A similar pattern could be found in the difference expressed regarding the general quality of children's programing and the benefits to be derived from this programing. Opponents of the ACT view pointed to the highly informed level of children of today (much of which they attributed to television) and contended that all of television viewing is informative, bridges gaps between individuals and groups, and broadens an awareness of the world at large and the functioning of our society. ACT and others of a similar persuasion accepted television's capacity but contended that it has been little used or that it teaches lessons in violence as a solution to human problems, presents false role models and takes advantage of children through advertising. While ACT did find merit in some of the program offerings, its view was that far too few programs reach the level television is capable of reaching.

7. *Question: What, generally speaking, is a definition of "children's programing" which could serve for the Commission's use in this connection? To what extent do children, particularly in the higher age groups mentioned by ACT, view and benefit from general TV programing?* As to the first part of the question, the answers fell into three basic categories: those who agreed with the definition offered in the Notice, those who wanted a broader definition and those who found the concept of children's programing to be beyond definition. The supporters of Commission regulatory action and some licensees as well agreed that the only sensible definition was one based on the audience for whom the program was primarily intended (usually with the qualifier that it be presented when children are likely to watch). Others found this too restricted and wanted a broader definition to include programs of broad family appeal which had a large audience of children; some would include any program watched by large numbers of children.[5] A large number of broadcasters simply felt no workable definition could be found. As they saw it, there were too many disparate elements to be taken into account; and as to these elements they were troubled about using a definition based either on subjective intent of the program producer or on the vagaries of scheduling or of the viewing habits of the child audience.

8. There was general agreement among the parties that children, particularly older ones, spend a substantial portion of their viewing time watching programs other than those produced specifically for children. They did not always agree, however, or how worthwhile this was, although there were a number of programs which met with acceptance by all or virtually all of the commenting parties, particularly those programs of an informative nature.[6] As to the re-run situation comedies which were broadcast during hours when many children were watching, the criticism was not so much directed to the programs themselves [7] as to the failure to offer programing specifically designed for children for viewing in these time periods. From the critics' point of view, these "family" programs did not provide the same benefits to children as programs created particularly for them would have, and it was the lack of such programs, especially during the week, which they decried.

9. *Question: What restriction on commercials short of prohibition—e.g., on types of programs or services, what can be said, number, divorcement from program content, etc.—would be desirable? Comments should take into account in this connection the provisions of the NAB Television Code and its guidelines.* In fact, this question consists of a series of sub-questions, and the commenting parties took varying positions on them. On only one point was there general agreement, viz, that advertising for at least certain adult products or services was inappropriate in or adjacent to children's programing. While not all parties were in agreement about the specific commercials which would fit in this category, they accepted the notion that otherwise legitimate advertising matter migh be unsuitable for children, *e.g.*, excerpts from a movie to which children would not be admitted unless accompanied by an adult. One comment was directed to public service announcements and made the point that a number of them dealt with subject matter or used methods of presentation which could be frightening to children. They urged

[1] It should be pointed out that this information is in part dated.

[2] The only exception was the objection, voiced in a small portion of the letters, to the absence of religious programing devised for and specifically directed to children on any station in several of the markets.

[3] What is meant here is the possible misuses of television as a substitute for parental involvement and concern. This is separate from the dispute regarding the nature of licensee responsibility in the area of program selection and presentation as contrasted with parental responsibility to screen programs.

[4] There were differences in the stress put on television watching as distinguished from other child activities and greater or lesser concern expressed about a balance between passive, individual, activities like television watching as distinguished from other activities of an active, social nature.

[5] The tendency of children to watch family and adult shows starting at rather early ages was frequently mentioned in the comments. Some attributed this to viewing habits. Others to the desire of children to emulate adult viewing habits.

[6] Similar support was expressed for prime-time children-oriented specials.

[7] In point of fact, ACT and others directed their strongest criticism to the children's programs presented on Saturday morning finding them more objectionable, violent, stereotyped and ad-ridden than family programs by far.

greater care in screening not just the merit of the announcement's goals but the suitability of the approach as well. More generally, objections were made to the advertising for certain products on the basis that these commercials for these products encouraged children along paths detrimental to their health or well being.

10. Frequent concern was expressed about vitamins and snack-foods—both considered as food advertising by the industry. Dr. Mary C. McLaughlin, Commissioner of Health for New York City, decried the worsening eating habits of New York City (and American) children, manifested in their reduced consumption of fruits and vegetables and their increased consumption of high calorie snack foods having little nutritive value. According to Dr. McLaughlin, television advertising, especially to children, has fostered the emphasis on snack foods, a trend which results in poor nutrition and high incidence of obesity. She urged adoption of the code of foodstuff advertising developed by Dr. Choate which would require disclosure of a product's nutritive value and calorie content in all television advertising for the product.

11. A number of people were greatly concerned about vitamin advertising. They objected to the failure to provide warnings about the danger of possible overdoses, and to the suggestion they said was implicit in these advertisements, that vitamins were a substitute for proper attention to eating a well balanced diet. Many of those writing charged that vitamin and other such advertising was fostering if not creating a drug dependent generation. They particularly despised the notion that people should be encouraged to believe that they only have to take a pill to solve their problems. Action to restrict or ban such ads was urged by these critics. Those opposing restricting such advertising pointed to the legality of the products and insisted that many items in the home were unsafe in the hands of a child. Thus, the answer was said to be proper parental control of the situation and the exercise of proper precautions to keep these products away from children.

12. A large portion of the people who objected to all advertising to children said that, at a minimum, the Commission ought to act to require a reduction in the amount of commercial time and the number of interruptions of program continuity. There was another but much smaller group, that concentrated their fire on the intrusiveness of the commercials rather than on commercialization as such, and they echoed the often expressed desire to treat children's programing on Saturday morning the same way as adult prime time is treated in terms of limits on the amount of non-program material and the number of permissible interruptions. A number of licensees disagreed, finding nothing unfair to children or contrary to the public interest in the use of a standard which applied to all non-prime time programing whether for adults or children. None of the licensees thought this to be a suitable area for Commission action.

13. On the question of divorcement of commercials from program content, industry reaction was divided. Some contended that the various commercial approaches that blended program and commercial were entirely legitimate and did not take advantage of the child. In their view, delivery of a commercial by a program host or other program talent was a long used legitimate method of advertising, not something developed to take advantage of children. A few licensees took the position that switching back and forth between program and commercial could be disruptive to a child's viewing and thus there would be a benefit to a lead-in or lead-out provided by program talent or the delivery of a commercial by them. Opponents of this group of commercial practices argued that children cannot separate the commercials from the program under such circumstances and that this situation takes unfair advantage of the special trust children have in the characters (live or cartoon) on the programs. It does this, they charged, because children believe that the commercial advice given them, particularly by program hosts, is given on a disinterested basis to promote their welfare, and they do not know or cannot understand the nature of a situation in which the people are paid to deliver commercial copy. Various other, tie-in, practices came in for criticism, and some programs were attacked as being a showcase for tied-in products.

14. NAB Code supporters talked of its value in terms of self-regulation and the exercise of licensee responsibility and its ability to change to reflect changed circumstances or demonstrated need. Opponents questioned its capacity to deal effectively with these matters.

15. *Question: To what extent should any restriction on commercial messages in children's programs also apply to such messages adjacent to children's programs?* Most of the parties commenting agreed that commercials adjacent to a children's program should be treated on the same basis as are commercials actually within the program. Sometimes, however, material presented in adjacency positions did cause objections to be voiced, as when promos were presented for nighttime programs which were intended for a more mature audience or when non-children's movies were advertised. Most of these people did not object to the nature of the adult programs or movies as such or even necessarily to commercials on behalf of them. Rather, they objected to placing them in a time slot in which many children would have occasion to view material they considered inappropriate because it contained scenes of violence or had obvious sexual overtones.

CURRENT STATE OF CHILDREN'S PROGRAMMING

16. The three commercial television networks offer a large block of Saturday morning and early afternoon programing directed at children and a lesser amount of such programing is offered on Sunday. Currently, CBS is the only network that presents a weekly program for children, Captain Kangaroo, presented for an hour each day, Monday through Friday. ACT criticized the paucity of children's programing during weekdays and the total absence of network children's programing during weekday afternoons. Although there is no current network offering directed towards children that is presented by the three networks during these hours, such was not always the case. In fact, weekday programing used to constitute the major part of the children's schedule. According to ACT, children's programing offered by New York City network affiliates was as follows:

	Hours and minutes		
	Weekdays	Saturdays	Sundays
1948 to 1949	20:00	None	5:25
1951 to 1952	27:45	10:00	9:45
1954 to 1955	32:45	13:00	8:30
1957 to 1958	19:15	9:15	11:00
1960 to 1961	17:15	15:00	6:45
1963 to 1964	11:00	15:00	6:15
1966 to 1967	12:30	19:50	6:45
1969 to 1970	5:00	17:00	5:45

17. On weekdays, during the hours mentioned by ACT, independent stations, particularly UHF stations, do offer programing directed at children. Most of this programing appears to be from syndication rather than local sources and it includes a significant amount of material that had been presented by the networks previously.[8] Some of the material comes from other sources and movie cartoons and shorts are often a major part of local shows. Few shows are truly local in character. By far the most frequently encountered local show (although the format is not locally derived) is "Romper Room."

18. *Networks.* The majority of network programs were animated cartoons and entertainment continued as the principal focus. In describing their own programs, licensees used such terms as informative, enjoyable, fanciful, diverting and certainly harmless. The critics charged that these programs were vacuous, trite, mechanical, violent, stereotyped and harmful to the spirit of the child.

19. On weekdays, except for Captain Kangaroo, children must turn elsewhere than the networks for programs specifically designed for them, or they can and do watch programs not specifically designed for them.[9] The afternoon hours after school-age children have returned from school are ones which network affiliates fill with non-network programing, usually family shows or movies. The networks do offer a considerable number of hours of programing at other times during the day, mostly in two categories: game shows and soap opera. Throughout the day, independent stations are more likely to offer programs produced for children, usually obtained from syndication.

20. *Syndication.* Syndicators provide programing that forms the bulk of the schedule on most independent stations. To a lessor extent network affiliates rely on this source as well. Although some of this programing is specifically for children, more of it is family fare and some was thought not to be appropriate for a child audience at all. Although data submitted in this proceeding is not directed specifically to this point, it does appear that there are two major categories of programs produced for children. One is the motion picture material consisting of cartoons and such programs as "Little Rascals"; the other is off-network re-runs. There appears to be little in the way of domestic sources for original non-network programing specifically for children.

21. *Local originations.* The vast majority of programing directed to children does not originate locally. Even these local shows that are presented often include syndicated (usually cartoon) material and this often constitutes the bulk of the program material on the show. One notable exception is "Romper Room", which while it is locally produced, follows certain guidelines set by the show's originators.

22. Generally speaking, the parties commented on the high cost of locally produced programing and none of them made the presentation of local programing a must. The parties urging change argued in favor of more programs specifically designed for children—programs of high quality, informative and humane—but their concern was with what is presented rather than its source. Stations broadcasting them, however, spoke of them with particular pride.

THE NATURE AND PURPOSES OF CHILDREN'S PROGRAMING

23. *Defining children's programing.* One group, consisting of ACT and a number of licensees; defined children's programing as

[8] It has been alleged that the programs which the networks removed from their schedules because of a concern about their excessive violence are now frequently seen in syndication. No figures are available on this.

[9] This discussion is restricted to commercial television. Where available, children can also select public television programs like Sesame Street, Misteroger's Neighborhood, The Electric Company, and others.

programs designed for children presented at times when they can watch. A sizeable group (mostly broadcasters) either rejected the notion that a suitable definition is possible, in light of the varied viewing habits of children, or insisted on a definition that included programs other than those specifically intended for children. What they had in mind are family shows, typically situation comedies, that were thought to apepal to children. Many children do watch these programs and sometimes form a majority of the program's viewers.

24. Although ACT and the others acknowledged the fact that children watch many programs created for family audiences or for adults, they attributed much of this to the absence during many of the hours children are likely to be watching television of programing created especially for children. They did not deny the appeal that these programs have for children but they attributed much to the lack of choice of other, more suitable programing. The concern they expressed was two-fold: not enough child-oriented programing is being offered and the schedule of what is being offered is so weighted against weekday viewing that the child is left little or no choice but to watch a program which was not designed for him. Although they recognized that independent stations did offer children's programing during at least some of these hours, they strongly objected to these programs on the same basis as they did most of those in the weekend network schedule.

25. On the other side, licensee comments stressed the significant contributions they felt the stations were making in their programing for children and the persence of children's programs in the weekday schedule of many stations. They contended that family programs which are scheduled during weekday hours do have value for children. In their view, children as they grow older mature in their programing tastes and even in early years demonstrate a desire to imitate adult behavior, including their viewing habits. Thus, they concluded that these programs are responsive to children's needs and desires, which should not be so narrowly defined as to include only programs created specifically for children.

26. *Age specificity.* One of the principal objections raised by opponents of current programing practices was the lack of age specificity. They charged most stations with ignoring the notable differences between children of various ages. In their view, programs that appeal to a wide range of ages necessarily fall short in satisfying the needs of children. They insisted that this is the unavoidable product of the need to adopt an approach that will capture the entire age range of children from 2 to 12.[10] Programing of real substance, they asserted, cannot appeal to all ages, and since the stations are not willing to lose part of their audience, they seek the lowest common denominator in order to attract them all. In particular, they charged that this is done by the practice of exploiting activity and violence (in its many forms) to capture the interest of this diverse group.

27. So long, the critics continued, as the programing must collect a large audience that includes the entire range of ages from 2–12 in order to be attractive to advertisers and hence produce high revenues, programs will continue to be based on a lowest common demoninator approach. Only, they insisted, by ridding the programs of advertising pressures can improvements be made. In their view, it is the artificial constraint of seeking to capture all ages in order to meet the needs of advertisers rather than viewers that prevents the considerable programing talents in the field from being used humanely and effectively.

28. Broadcasters and others who took the opposite view held that stations could and did present entertaining and enjoyable programs for children. No purpose, they believed, would be served by a requirement that programs be age-specific with the inevitable result of excluding a large portion of the child audience. These licensees pointed to programs which they stated were selective in age level, but disputed the idea that those which are not could be faulted on that account. Overall, they insisted that legitimate criticisms have been met, programs have been improved, so that there is no need to follow the drastic approach urged by ACT. They labeled ACT's approach exclusionary and charged that it runs counter to the broad appeal that they believe has enabled American television to bring so much to so many. Moreover, they feared that the economic consequences of an exclusionary approach would be disastrous. Nor, financial questions aside, did they accept the notion that this approach would be feasible. Because children differ so markedly in so many respects, they insisted that there forever would be disputes about the proper categorization of programs. They foresaw the Commission as the arbiter of such disputes, placing it in the position (an unconstitutional one they insisted) of overseeing day-to-day programing decisions. These licensees asserted that whatever problems there might be in distinguishing children's television from non-children's would be multipled if such sub-categories were created. In their view, the entire concept and the premises on which it rests were faulty and unworkable.

29. *What types of programs, to what purpose.* Another important point of contention between the parties was the matter of the types of programs that should be offered and the extent to which they are in fact presented. The broadcasters contended that programs of wide range and approach, entertaining and informative, are presented; and while in an important area like this one, no one can be satisfied with the status quo, the industry could take real pride in its accomplishments and point with satisfaction to important recent improvement. Particularly in regard to recent improvements, the networks went on at great length about new programs that had been or shortly would be in their schedules.

30. Although broadcasters were unwilling to accept ACT's view that informative as distinguished from entertainment programing should predominate, they believed that a good portion of their current programing was, in fact, informative or even educational. As they saw matters, such a distinction was more apparent than real, for they considered virtually all television programing to be informative and horizon broadening. They pointed with pride to the informed child of today as a good measure a product of television contribution to the dissemination of information.

31. Children, too, broadcasters insisted, were entitled to a chance to escape the rigors of their lives—the stresses of school, the strictures of growing up—and should not be deprived of an opportunity to simply enjoy a program for its sheer entertainment value. Their comments took the view that children need time for fun, including watching entertainment programs. This, they pointed out, should not be to the exclusion of other more serious fare on television or of other, non-television, activity.

32. ACT and the other parties sharing its views, took an entirely different position regarding the entertainment and informational qualities of children's television. They accepted the idea that purely entertainment programing does have a place, but they strongly objected to what they saw as a serious imbalance in favor of the entertaining, to the detriment of the informative. While they agreed that all programs inform in the sense that they convey information, they were greatly distressed about what is conveyed. In their view, much of it they saw as fostering stereotypes, prejudices and questionable social standards. They saw no inherent reason why programs could not be informative as well as entertaining, but they found little in the way of current programing that creatively responds to these twin goals.

33. *Licensee and parental responsibilities.* Essentially all agreed that broadcasters were not absolved of responsibility for what is broadcast merely because parents are responsible for their children. The Code and other industry statements of positions have pointed to the responsibility of the broadcaster to the youthful segment of his audience and the need for special care and concern in this area of programing. Broadcasters asserted similar views in the various individual submissions.

34. Broadcasters did contend, however, that they could not warrant that every program is suitable for viewing by every child. They asserted that only parents are in a position to recognize the unique character, personality and needs of each individual child. Thus, programs of real merit (or which in any event lack objectionable qualities for the typical child) might not be appropriate for viewing by a particular child in a given situation. More generally, they charged parents with the responsibility for making sure children did not abuse television. As to the programs themselves, broadcasters spoke with pride about current offerings (in both amount and quality) and were particularly proud of recent improvements. They did not agree with the critics' charges regarding violence, frenetic pace, unreality, commercial exploitation, stereotyped presentations and the like. Instead they saw a balance, a giving of attention to the real world and to subjects of genuine concern to children's lives, as well as to fantasy and fun.

35. The critics view was a very different one. They insisted that if the broadcasters truly wanted to follow an approach based on a genuine concern for children, the present situation could not possibly exist. They called for basic changes and as a result did not attach the same importance as broadcasters did to recent changes in the field. Nor did they have much faith in self-regulation. According to their appraisal of the situation, when "the pressure is on" changes for the better will occur, but unless the Commission acts to adopt effective requirements, matters will return to where they had been before. These parties insist that this has been the past experience with self-regulation, and they see no basis for expecting a different result on this occasion.

36. While ACT and the others acknowledged the responsibility that parents have, they asked just how much supervision can legitimately be required or expected of parents. They acknowledged the fact that some parents are not sufficiently concerned with the needs of their children and agreed that this was reflected in a failure to adequately screen the programs to be watched by their children. Although concurring with the broadcasters' view that this situation should not exist, they insisted that, so long as it does, it must be recognized by broadcasters. However, this was not the principal basis for their insistence on more responsible action by the broadcaster to protect the child audi-

[10] This is the age group discussed in the ACT petition and implicitly followed in the Notice, and it roughly agrees with industry practice, particularly as to the cutoff age of 12.

ence. That insistence was premised on the view that parents, no matter how attentive, sincere or knowledgeable, are not in a position to really exercise effective control. The critics asserted that in order for parents to exercise this control, it would be necessary for them to be present at all times when the child is watching television and it would require them to make instant decisions on the acceptability of material. As ACT explained it, if they could agree that the problems which arise in this area pertain only to a few children or only to unusual circumstances, they would be more accepting of the arguments presented by the broadcasters. Their point, however, was that the problem is not limited to isolated presentations that may be troublesome to a few children. The essence of their objection was that the major part of children's programing is not only devoid of merit, it is actually harmful. Commercials, too, came in for heavy criticism, and here again, it is what they saw as the premise for such advertising—using children to sell products—that offended them, not a rare example of excess. In the view of those parents who have written to the Commission, there is no effective means open to the individual household to ameliorate the problem. The only possible answer they saw, namely turning off the television set entirely, raised separate problems and to them pointed to the great failure of American broadcasting to meet the needs of children. ACT and others likened the problem to that posed by an "attractive nuisance". Just as society holds a property owner having an attractive nuisance responsible for injuries to a trespassing child, so should it act in relation to current broadcasting fare. The core of the attractive nuisance doctrine is that, lacking mature judgment, children may be attracted to dangerous situations and protective measures therefore are necessary to avoid liability. They were no more persuaded about absolving broadcasters regarding their programing than the courts have been in absolving property owners. In both cases they wished the responsibility to be placed on the persons having effective control, in this case, the broadcaster. According to ACT, broadcasters appeal to children by use of unfair mechanisms and the resulting interest children show in television fare, however authentic, is no answer; in fact, it is part of the problem. Since, in the critics' view, children cannot be the judge of what is best for them and parental control cannot be effective when the problem is pervasive, the only answer they saw was a basic change in the nature of the programs that are presented.

37. Some suggested that one of the means for improving children's television is the utilization of experts in the field of childhood development. Few of the critical comments and fewer still of the comments from broadcasters dealt with this subject to any significant degree. Generally, those favoring such an approach believed that the two groups of experts involved—the broadcasters and those knowledgeable about children—should join forces so that each could contribute to the creation of more skillful, beneficial and constructive television fare for children. Some would have the Commission adopt rules to require all broadcasters to form a group of experts on which it could rely for guidance; others would merely encourage it. None of the parties expressing this view denied the expertise of the broadcaster in connection with adult programing. Nor did they challenge the workability of the current method of program selection for adults. Thus, while critics may bemoan the lack of a particular type of adult fare, they accepted the fact that adults are proper judges of what appeals to them and agree that current fare does have this appeal. With children, however, they argued that this test is faulty because children do not have the requisite maturity to make the necessary judgments on which such a process depends. Rather, they contended, children are open to exploitation by use of highly popular, but nonetheless objectionable attention gathering techniques. Thus, in effect, they argued that since children cannot make a judgment in the same way as an adult can, the popularity of a television program with children indicates nothing about its acceptability, much less its worth.

38. To remedy this situation several parties believed that childhood experts should be utilized to evaluate the impact of programing on the child audience. Not only did the proponents of this approach believe that it would avoid material of possible harm to children, but felt that it could lead to a fuller use of the great potential of television for reaching and informing children about themselves and the world in which they exist.

39. To some rather limited degree such experts are already being consulted by broadcasters. Although the broadcasters' comments did not deal extensively with this topic, it appeared that except possibly for the networks, matters have not developed to the point where there is a continuing dialogue and certainly not a partnership of effort.

COMMERCIALIZATION IN CHILDREN'S TELEVISION

40. *Generally.* As matters now stand, broadcasters depend on commercial advertising for support of children's television in much the same manner as they do for adult television. Broadcasters defended this approach as the only workable one, as subject to adequate safeguards and consistent with the profit motive implicit in the American system of broadcasting. The critics argued that this dependence on advertiser support forces children's programing to be directed to the lowest common denominator and charged that the commercials themselves exploit children by taking advantage of their immaturity. ACT would have the Commission bar commercials in children's television (or at least product commercials) and others (believing that complete abolition is not likely to occur) seek a reduction in the number of commercials and commercial interruptions and a restriction on what products can be advertised and what techniques can be employed. Broadcasters did not accept the idea that commercials exploit children or that any public benefit could possibly result from barring commercials. All they foresaw under such circumstances would be a decline in program quantity and quality. They rejected the argument that children are singled out for more commercialization, stating that all programing in non-prime time slots is governed by the same code standard regarding amount of commercialization.[11] Likewise they rejected the various charges regarding deleterious effects said to result from current commercials or current commercial practices.

41. *The relationship between programs and commercials.* Disagreeing with much that was advanced in the critical comments, the broadcasters concentrated on the economic consequences of a ban on advertising in children's programing. As they saw it, the consequences would be severe for all and catastrophic for some. They argued that children's programs, especially of the kind ACT favors, are expensive to produce; a requirement that they broadcast a minimum of 14 hours per week would increase their costs greatly, without providing an opportunity to even recoup these costs, much less make a profit. Even if they accepted the proposition that stations could absorb these costs (which they do not accept), they labeled such an approach unfair and contrary to the purposes of commercial broadcasting. In their view, ACT's proposal was based on incorrect allegations regarding high profits in the industry, when in fact, the statistics show that a sizeable number of stations operate at a loss or make only minimal profits. They asserted that for many stations the loss of revenue from children's programing could have very serious adverse consequences. In their view, the loss of these services would strike especially hard at independent UHF stations, whose success (or at least survival) is based on counter programing. This was the case, they asserted because these stations sought to serve segments of the audience rather than competing for mass appeal. They contended that children's programing is an important part of their counter programing, with a number offering more than 14 hours per week. Thus, they asserted, the losses would fall heaviest on stations doing the most and who would be least able to bear the burden. Moreover, they argued, these very stations make a great contribution to program diversity and the public would pay a great price for following the ACT approach since it could only lead to the virtually certain demise of many of these stations. Moreover, they charged that it would clearly be contrary to the Commission's policy to foster UHF growth and more importantly would be contrary to the overall public interest.

42. ACT, et al. disagreed. They insisted that the financial problems created by a loss of children's program advertising would have a serious effect on only a relatively few stations. In ACT's view, the proper way to deal with financial hardship is through the mechanism of granting exceptions or waivers. ACT asserted that this has been the usual Commission approach, as for example, when the Comimssion acted to curtail AM-FM duplication in the larger markets and many stations were able to obtain waivers. As to the majority of stations, ACT asserted that extraordinary profit levels do obtain in the industry and that their current revenues were not a fair guide because of the effects of the current economic downturn and the need to find substitutes for cigarette advertising. As the economy improved, they fully expected stations to return to their previous high profit position.

43. Moreover, according to ACT, alternative revenue sources would be available but would never be tapped so long as the existing situation was allowed to continue. First of all, they insisted that considerable revenue could be derived from institutional (non-product) advertising. This is not to say, they pointed out, that advertisers would necessarily prefer such an approach, only that they would follow it if that were the only method open to them. They also believed that underwriting represented another important source of funding, but they did not feel any real effort has yet been made to develop this either.

44. As to the latter point, underwriting, concern was expressed by educational broadcasters who feared that their funding from such sources could be seriously diluted, and by commercial broadcasters who doubted its workability and opposed it philosophically, as contrary to the American system of commercial broadcasting.

45. Broadcasters insisted that the advertiser-supported posture of children's television was a healthy and productive one that has enabled networks and individual stations to produce and present high quality programs to wide audiences throughout the

[11] Effective January 1, 1973, the NAB Code required reduced amounts of commercialization in week-end programs for children and barred use of program hosts or primary cartoon characters in commercials or in adjacent to children's programs.

country. Not only did they fear the direct consequences of the revenues which would be lost, but they also were concerned about an exodus of talented and creative people to what they contend would be more remunerative activities. In sum, they felt confident that the results could only be fewer children's programs, or ones of lesser quality, or both.

46. According to ACT, if advertising-oriented decisionmaking were changed to a child-oriented approach, stations would be able to produce programs of real worth as well as interest, gearing them to particular age groups. Without such age-specificity, they believe that a good part of the benefit which otherwise could come from programs tailored for their particular audiences would be lost. Broadcasters, on the other hand, attack age-specificity as unworkable and exclusionary. They do not believe that programs of such narrow appeal form a sensible basis for children's or any other programming. They also deny that sponsorship or the lack of it is a determining factor and contend that a number of programs have been presented even though advertising support was lacking. What they do not accept is the view that the commercialization as such is wrong or harmful; rather they see it and the profit motive as commendable and part of the important underpinnings of the creative force behind our broadcasting system's achievements.

47. *Commercials: their content, effect and implications.* Two very different views were expressed regarding the impact of the commercials themselves and the legitimacy of directing them to children. On the one hand, ACT, the other organizations and many critics, decried such advertising as unfair. This criticism focused on two aspects of the impact of commercials: first, the effect on the child viewer, and second, the effect on the family. The critics assert that commercials directed to children do not present a fair or realistic picture of the commercial product being advertised. Rather, they charged, the commercials employ skillful techniques to take advantage of a child's vulnerability, trust and lack of maturity.

48. Specifically, the critics charged that notwithstanding self-regulatory efforts, commercials rely on unfair methods, such as the specific directive (* * * get it * * * now!), that have a great effect on children of an age when they seek to follow directions that are given them. The critics cited other approaches geared to particular age groups, to which they also objected including the use of sexually-oriented themes in doll commercials and a reliance on the child's fears of social isolation. Toy advertising came in for criticism for presenting ads that used gimmicks to mislead the child about the item, thus leading to disappointment. These statements were echoed in thousands of the letters filed in this proceeding. Unlike adult advertising where such a result could lead to disaster for the company involved, the critics contended that children's immaturity and the succession of new toys each season meant that children will continue to be susceptible to these techniques until eventually their trust is turned into cynicism by these repeated disappointments. These parties feared that children will become cynical and distrustful of all in the society, and it was this they viewed as a real danger to society. Some of these people pointed to disruptive activities by some young people today as manifesting this very problem.

49. Broadcasters disputed these assertions and argued that special standards have been employed to insure basic honesty and fairness in toy as well as other advertising. While agreeing that the purpose of advertising is to persuade, they insisted that this does not constitute an abuse. They pointed to Code provisions established to avoid deception and gave examples of advertising that was rejected as not being supported by actual experience with the product. Rather than being deceptive or unfair, they saw advertising as informative. Through such advertising children were said to learn about the working of the free enterprise system and about products of interest to them.

50. It is just the matter of consumer decision making that comes in for much criticism from ACT et al. They questioned whether products should be advertised to non-consumers, especially when they lack the necessary maturity and judgment to make a decision and the parents lack the informational impute. Moreover, they charged that the demand created by these advertisements drives a wedge between parent and child, putting parents under unceasing pressure to buy the advertised products.

51. Broadcasters did not accept the idea that television commercials are responsible for creating this situation. They argued that if television commercials were ended, the child would continue to have commercial pressures from other sources and would continue to see items of interest and demand them of his parents. The problem that results they saw as a function of the unwillingness of parents to say no or at least their difficulty in saying no.

52. The parties gave considerable attention to the question of a child's ability to separate the program from the advertising material in it or adjacent to it. In addition to the general observations by the parties on this point, they offered specific comments on practices which some saw as having a particular effect on the child's ability to distinguish the two.

53. On the one hand, critics argued that the impact of advertising in children's programs is exaggerated by virtue of the fact that young children are unable to make a distinction between programs and the interspersed commercials. They contended that this situation in and of itself takes advantage of young children, particularly since at that age they are unable to grasp the concept of advertising or the purpose of commercials. Moreover, charged the critics, various techniques were employed to blur the distinction between program and commercial thus exacerbating this problem.

54. Broadcasters generally took the opposite view, namely that a child, even at an early age, can distinguish between the program and the sponsoring commercial, and that the various techniques mentioned by the critics do not preclude the drawing of the distinction. A few broadcasters took the view that it is harmful to draw a sharp line of demarcation. In fact, they insisted that switching from prgoram to commercial and back again can be disruptive to young children; they argued that it is more comfortable as well as enjoyable for them if the transition is blurred by the various techniques that can be used, particularly those involving use of the program host.[12]

55. The techniques of having program talent (real or cartoon characters) deliver commercials, the use of a lead-in/out by a program host and tie-ins were the major ones which have come in for scrutiny in the comments. Use of program talent was considered by the critics to have a telling effect in confusing the dividing line between program and commercial, with the result that the commercial obtains the unfair benefit of being reacted to by the child as if it were part of the program. Parents and critics alike also objected strongly to the pre-recorded tapes/films containing cartoon characters (e.g. the Flintstones on behalf of the vitamin bearing their name), especially when presented during breaks in the very program in which they appear. They reserved, however, their strongest attacks for the live program host who actually delivers the commercial on a children's program. Not only does this blur distinctions, they insisted, but more importantly in their view, it takes advantage of the special relationship that exists between the host and the child.

56. The filings in this proceeding did not provide complete data on the extent to which program talent was used or even the number of cases in which it occurs, and only a relatively small number of broadcasters directed themselves to a discussion of this point in their comments. Some viewed this method as inappropriate and indicated that they had or would discontinue the practice or never had engaged in it. Their comments indicated that they felt that the decision not to engage in this practice was the product of their own judgment as a licensee rather than being an absolute ethical requirement which all stations would be obliged to follow. Other licensees thought the use of program talent, including show hosts, was perfectly legitimate and did not have the negative implications ascribed to it. They defended their right to employ this method of presenting commercials and generally opposed any restriction of any commercial technique or presentation absent a finding of outright deception.[13]

57. As the comments indicate, program hosts, even when they do not deliver the commercial, were sometimes called upon to do a lead-in lead-out. In some programs the line separating the two techniques is hard to draw because the lead-in or out is extended. Generally, though, the prepared copy is brief (e.g., the lead-in "* * * and now a word from our friends at * * *" or what amounts to little more than a tag line at the end). Based on its study of the locally originated "Captain Billy" program broadcast in Albuquerque, New Mexico, ACT charged that talent involvement in the commercials reached a damagingly high level. According to this study, Captain Billy regularly commented at length on the commercial itself or its theme, with the result being a second but often veiled commercial appeal. Thus, in addition to their objection on grounds of unfairly using the special rapport between host and child for commercial purposes, ACT expressed a second concern, that of overcommercialization.

58. Broadcasters did not deal extensively with host selling and the like in their comments, but those that did comment defended it in terms of easing the transitions in the program and have attacked those who object for interfering with legitimate advertising methods utilized by the broadcaster. In their view, no purpose is served by insulating the child from the real world of business and advertising. While they did not necessarily argue in favor of a particular technique, they strenuously opposed regulatory intervention by the Commission or other forms of interference with what they saw as the broadcaster's freedom of choice in conducting his business.

59. The final technique mentioned in the comments is the tie-in. Those who supported this practice saw it as a perfectly sensible and legitimate act of cooperation be-

[12] This is not an industrywide view.

[13] In this regard, it should be noted that to the extent broadcasters agreed that government intervention in the realm of advertising was appropriate at all, they considered the Federal Trade Commission to be the appropriate agency to handle this function. Some licensees thought the FTC was overzealous; none of them considered it too timid or inadequate to the task.

tween advertiser and programer and considered it quite logical to develop products which would be named after or otherwise connected with a program. Others, citing the example of "Hot Wheels", charged that these programs can become long-run commercials rather than programs. Moreover, they contended that in these situations it is the advertising that becomes dominant and the programing secondary so that the latter is tailored to fit the needs of the former. If this is carried far enough, the program ceases to be a program and becomes one long commercial. The critics did not charge that this extreme is frequently encountered; but they argued that this practice, even when it exists to a lesser degree, is of concern because it warps the program decisionmaking process.

60. *Special product categories.* Some ads were also attacked as promoting activities or approaches to life that are or could be harmful to children. Along this line the critics criticized the spending of vast sums to encourage the eating of snack foods and low nutritional cereals and charged that this has had a significant impact in terms of helping to cause the poor nutritional habits that have led to serious dietary deficiencies prevailing among Amercans, both rich and poor. Broadcasters and advertisers disputed any casual connection between the two and insisted that these products were not intended to supplant other food items in a person's diet. Instead, they saw a failure on the part of parents to assume their important responsibility for insuring good nutrition.

61. Vitamin advertising was attacked as creating false impressions about what constitutes a balanced diet and as encouraging the taking of vitamins as a substitute for proper eating habits. Moreover, these critics charged such ads as being part of a pattern of advertising that is creating a dangerous trend toward drug dependence and contributing to the worsening of the drug abuse problem which already afflicts our society. Finally, they charged that the techniques employed in advertising vitamins to children inevitably creates the danger of accidental overdoses.[14]

62. Broadcasters and advertisers insisted that there is nothing in these commercials to encourage or exaggerate such a risk. Rather, as with snack foods and cereals, they believed that parents must exercise caution to keep children from the harm which could result from misuse of the product. These, they contended, are legitimate and beneficial products and interfering in the right to present vitamin commercials is unwarranted. They rejected the idea that advertising for over-the-counter, medicines generally or children's vitamins particularly, has anything whatever to do with encouraging drug abuse.

63. *Amount of Commercial Matter.* Unlike a number of points at issue in this proceeding, the subjects of clutter and/or excessive commercialization were not cast in terms of distinctions between adult and children's programing. They objected to allowing more commercials and a greater number of interruptions on children's programing than in adult prime time. Broadcasters defended their current practices[15] as consistent with other non-prime time programing, and point out that a children's program in prime time is subject to the lower limit applicable to that time period. On this basis they concluded that current practices are non-abusive and in fact are necessary to insure adequate finances with which to produce quality programing.

[14] The docket contains a report of such overdosing resulting, according to the child's mother, from the child's desire to emulate what he saw in the commercial.

[15] These comments were filed before the changes in the Code limit had been proposed and thus are responding to the old limit of 8 minutes of commercial time and four interruptions per half hour, or double these figures for an hour.

Appendix B

Participants in Public Panel Discussions on Children's Television

Eugene Accas, Leo Burnett Company, Inc., New York, New York (Panel II).

Richard C. Block, Vice-President and General Manager, Kaiser Center, Oakland, California (Panel I).

Stephen Bluestone, District of Columbia (Panel VI).

Fred Calvert, President, Fred Calvert Productions, California (Panel II).

Dr. Rene Cardenas, Bilingual Children's Television (Panel I).

Peggy Charren, Action for Children's Television, Boston, Massachusetts (Panel IV B).

Dr. Joseph G. Colmen, Education and Public Affairs, Washington, D.C. (Panel II).

Dr. John Condry, Department of Human Development, Cornell University, Ithaca, N.Y. (Panel III).

Mr. David Connell, Children's Television Workshop, Executive Producer, New York, New York (Panel I).

Mrs. Joan Ganz Cooney, President, Children's Television Workshop, New York, New York (Panel I).

Eliot Daley, Family Communications, Pittsburgh, Pennsylvania (Panel II).

Michael Eisner, Vice-President, Daytime Programming, ABC, New York, New York (Panel II).

Mr. Al Fields, Vice-President, Merchandising, Health Tex, Inc., New York, New York (Panel II).

Mr. Harry Francis, Director, Programming Services, Meredith Broadcasting, New York, New York (Panel I).

Dr. Frederick Greene, Office of Child Development, HEW, District of Columbia (Panel I).

Mrs. Ruth Handler, President, Mattel Toys, California (Panel VI).

Larry Harmon, Larry Harmon Pictures Corporation, New York, New York (Panel IV B).

Sherman K. Headley, General Manager, WCCO–TV, Minneapolis, Minnesota (Panel IV B).

Stockton Helffrich, Director, NAB Code Authority, New York, New York (Panel VI).

Ray Hubbard, WTOP–TV, Program Director, District of Columbia (Panel IV B).

Robert Keeshan, CBS, New York, New York (Panel IV B).

Arch Knowlton, Director, Media Services, General Foods Corporation, White Plains, New York (Panel III).

George Koehler, General Manager, Triangle Broadcasting, Philadelphia, Pennsylvania (Panel II).

Lorraine F. Lee-Benner, WCSC–TV, Charleston, South Carolina (Panel IV B).

Wanda Lesser, Charleston, South Carolina (Panel IV B).

Katherine Lustman, Early Childhood Education, Yale Child Study Center, New Haven, Connecticut (Panel IV B).

Donald McGannon, President and Chairman of the Board, Westinghouse Broadcasting, Inc., New York, New York (Panel VI).

E. Weeks McKinney-Smith, Owner, WDRX–TV, Kentucky (Panel III).

Dr. William Melody, Economist, University of Pennsylvania, Philadelphia, Pennsylvania (Panel IV B).

Appendix C

Participants in Oral Arguments on Children's Television

Peter W. Allport, On Behalf of Association of National Advertisers, Inc.

Ms. Lillian Ambrosino.

Dr. Juan Aragon, On Behalf of Bilingual Children's Television.

Rick Bacigalupo, On Behalf of Viewers Intent on Listing Violent Episodes on Nationwide Television.

Dr. Seymour Banks, On Behalf of American Association of Advertising Agencies.

Dr. Carolyn B. Block.

Stephen Bluestone.

Jerome S. Boros.

Warren Braren, On Behalf of National Citizens Committee for Broadcasting, Consumer Federation of America and Consumers Union of United States.

Richard Burdisk, On Behalf of Creative Services, Station WCBV–TV, Boston, Massachusetts.

Ms. Peggy Charren, On Behalf of Action for Children's Television.

Robert B. Choate, On Behalf of Council on Children, Media and Merchandising.

Philip C. Chin, Office of Asian American Affairs, HEW.

Ms. Katheryn M. Fong.

Mr. James Freeman.

Thomas N. Frohock, On Behalf of ABC, Inc.

Rosemary Galli, On Behalf of American Federation of State, County, and Municipal employees, AFL–CIO.

Michael J. Goldey, On Behalf of CBS, Inc.

Frederick C. Green, M.C., Associated Chief, Children's Bureau.

Anne Hanley, On Behalf of National Cable Television Association.

Mr. Larry Harmon.

Richard D. Heffner, On Behalf of Richard Heffner Associates, Inc.

Stockton Helfrich, On Behalf of National Association of Broadcasters.

Ms. Mary Ellen Hilliard.

Mrs. Carol K. Kimmel.

Mr. Manuel Larez.

Lorraine F. Lee-Benner.

Aaron Locker, On Behalf of Toy Manufacturers of America, Inc.

Richard Marks, On Behalf of Five Licensees.

Janis Marvin, On Behalf of American Women in Radio and Television, Inc.

Dr. William H. Melody, On Behalf of Annenberg School of Communications.

Howard Monderer, On Behalf of NBC.

Earle K. Moore, On Behalf of Action for Children's Television.

Paul J. Mundie, On Behalf of the Committee on Children's Television, Inc.

Robert E. O'Brien, On Behalf of O'Brien Communications.

Reverend Edward A. Powers, On Behalf of Division of Christian Education, United Church of Christ.

Ms. Evelyn Sarson, On Behalf of Action for Children's Television.

Sister Leo Vincent Short, On Behalf of National Catholic Educational Association.

Mr. Robert Jay Stein.

John B. Summers, On Behalf of National Association of Broadcasters.

Arthur Weinberg, On Behalf of Three Licensees.

F. Kent Mitchel, Vice-President, Corporate Marketing Services, General Foods Corporation, White Plains, New York (Panel IV B).

Neil Morse, Co-Chairman, Children's Committee on Television, California (Panel II).

Jeanette Neff, Director of Educational Product Coordination, Children's Television Workshop, New York, New York (Panel IV B).

Dr. Everett Parker, Office of Communications, United Church of Christ, New York, New York (Panel VI).

Mr. Fred Pierce, Vice-President, Corporate Planning, ABC, New York, New York (Panel V).

Mr. Ward L. Quaal, President, WGN–TV, Chicago, Illinois (Panel V).

Mr. Christopher Sarson, Producer, WGBH, Boston, Massachusetts (Panel I).

Ms. Evelyn Sarson, Action for Children's Television, Boston, Massachusetts (Panel III).

Mr. Fred Silverman, Vice-President, Network Programming, CBS, New York, New York (Panel I).

Mr. Edmund Smarden, Carson-Roberts, Inc. Advertising, California (Panel V).

Dr. Ithiel de Sola Pool, Center for International Studies, MIT, Cambridge, Massachusetts (Panel VI).

Les Towne, Vice-President, Helfgott and Partners, New York, New York (Panel III).

Mr. Robert Thurston, Vice-President, Corporate Planning, Quaker Oats, Chicago, Illinois (Panel I).

Herminio Traviesas, Vice-President, Department of Broadcast Standards, NBC, New York, New York (Panel VI).

Dr. Scott Ward, Harvard University, Boston, Massachusetts (Panel IV B).

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PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Scope, General Definitions, Application Procedures, and Allowable Educational Costs

Title 45—Public Welfare

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

PART 190—BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Scope, General Definitions, Application Procedures, and Allowable Educational Costs

A notice of proposed rulemaking was published in the FEDERAL REGISTER on July 13, 1973 (38 FR 1778 et seq.) covering the general definitions, procedures for applying for a determination of an expected family contribution, method of award calculation, and the allowable educational costs for the Basic Educational Opportunity Grant Program (Title IV–A–1 of the Higher Education Act of 1965 as amended (20 U.S.C. 1070a)). At the time of publication of the proposed regulations, the Office of Education distributed them directly to 5,000 institutions of postsecondary education for review and comment. The Office of Education also conducted a series of regional workshops throughout the country. Participants in these workshops included institutional financial aid officers, high school counselors, TRIO project directors and others interested in the program. Since many of those who would normally respond in writing had the opportunity to comment verbally on these proposed regulations during those regional meetings, only 30 written comments were received. The recommended changes in these regulations, however, reflect our consideration of both the verbal and written comments received.

The public comments received centered around four major issues: the allowable costs of attendance (§ 190.51); the definition of clock hour (§ 190.2(c)); definition of full-time student (§ 190.2 (f)); and the criteria under which a special recomputation of a student's expected family contribution due to extraordinary circumstances would be permitted (§ 190.16).

The largest group of comments expressed concern regarding the allowable costs of attendance for the program (§ 190.51). The area of greatest concern was the off-campus room and board allowance and the allowance for miscellaneous expenses. The overwhelming majority of comments received indicated that these allowances were too low to adequately reflect even minimal costs of the students. With regard to the costs proposed for the 1973–74 academic year, the allowable costs for the Basic Grants were as follows: (1) the amount charged to the student by the institution for tuition, fees, and room and board; (2) an off campus living allowance of either $950 or $750 depending on whether the student lived in his own quarters or with his parents; and (3) a miscellaneous expense allowance of $350 for each student to cover books, supplies, and miscellaneous expenses.

In the development of cost allowances for the academic year 1973–74 it was felt that a number of factors had to be considered. While the off-campus allowances might not reflect a higher cost of living in one area, they were substantially above the cost of living for other parts of the country. As such, the cost allowances were intended as reasonable average costs and the Basic Grant payment schedule was issued on this basis. Since these allowances were designed to apply to all Basic Grant recipients who lived off-campus and were designed to take into account the variety of living costs in all parts of the country, the allowances for the 1973–74 academic year were not changed.

However, in view of the significant increases in the cost of food and maintenance during the past year which is reflected in an 8.8 percent Consumer Price Index increase, the off-campus room and board cost allowance has been increased to $1,100 for the 1974–75 academic year. Also beginning with the 1974–75 academic year, no distinction will be made in the allowance for students living off-campus, whether or not they are living with their parents, because studies have indicated that the costs for these students are approximately equal. Although there may be significant differences among various areas of the country, studies made by the two major national need analysis services (College Scholarship Service and the American College Testing Program) indicate that the average student budget for off-campus living costs is about $1,100, regardless of whether such students are living with their parents or in own quarters.

In addition, the allowance for miscellaneous expenses covering such costs as books, supplies, laundry, and clothing expenses, etc. has been increased to $400. The increase of $50 is justified on the basis of the 8.8 percent rise in the Consumer Price Index. The new allowance of $400 would seem to be sufficient to recognize the need of students to pay for reasonable expenses without incurring the risk of having the program charged with allowing unnecessary luxuries.

Related to the changes affecting the allowable cost question is the inclusion of a provision that eligible students who are incarcerated be permitted as allowable costs of attendance only tuition and fees and an allowance of $150 for books and supplies. This amendment, we believe, extends Basic Grant funds to these students in proportion to their needs.

In view of the pressing need to incorporate these provisions into the Payment Schedule which is used by institutions of higher education participating in the Basic Educational Opportunity Grants Program in determining the amount of a students grant award, it has been determined that further resort to proposed rulemaking procedures with respect to these regulatory provisions would be impracticable and contrary to the public interest (5 U.S.C. 553(b)).

Another area of concern dealt with the definition of clock hour for purposes of determining full-time attendance (§ 190.2(c)). As originally proposed, 1 clock hour would require 3 hours of faculty supervised laboratory or shop training if such laboratory or shop training did not require outside preparation. Therefore, the proposed definition would require students enrolled in many vocational programs to be in shop or laboratory training 75 hours per week in order to quality as full-time students. The amended regulation provides that one hour of faculty supervised laboratory or shop training would count as 1 clock hour for the purpose of determining a full-time student. The revised definition of clock hour, we believe, provides a more equitable treatment of students enrolled in vocational training programs and treats students in traditional and non-traditional programs of higher education in a more consistent manner.

Another major concern was expressed with regard to the applicability of the proposed definition of full-time student to students enrolled in summer session programs, students enrolled in specially scheduled "block-time" programs, and students enrolled in institutions which measure academic progress in terms of both credit and clock hours (§ 190.2(f)).

The definition of a full-time student is based on two concepts; the amount of academic workload carried by the student, and the length of the student's enrollment. For example, a student who is enrolled in a school utilizing a quarter system would be classified as a full-time student if he carries a minimum of 12 quarter credits per academic term and expects to enroll for three quarters. In this context, a summer session student would not have been classified under the previous regulations as a full-time student even though he may carry the equivalent of a full-time workload over a period of two summer sessions. For this reason, the regulations have been amended to permit eligibility of summer session students provided that the course work undertaken or expected to be undertaken during two or more summer session terms would amount to the equivalent of at least 12 quarter or 12 semester hours upon completion. The definition of a full-time student has further been amended to apply to students enrolled in specially scheduled series of courses or seminars other than summer session programs. For a student enrolled in such a program to be considered a full-time student, he or she must complete the equivalent of at least 12 semester or 12 quarter hours during a period not exceeding 18 weeks.

In addition to these modifications, the regulations also provide for a method for determining full-time status for students enrolled in institutions which measure progress in terms of both credit and clock hours. Such students often do not qualify for full-time status if their workload is measured solely in terms of credit hours or in terms of clock hours. At the same time, their combined workload is equivalent to the academic endeavor of students enrolled in schools with more traditional academic calendars. For this reason, the regulations contain a provision which allows for the determination of full-time status based on the sum of the proportionate workload carried

in terms of credit hours and the proportionate workload carried in terms of clock hours.

Related to these additions to the definition of "full-time student," are modifications made in the definition of "academic year" and the addition of a new definition of "school year." It should be noted at the outset that these modifications do not, in any way, change the basic procedures for award calculation or proration of awards. Rather, they clarify and simplify what otherwise would appear to be very complex terminology and procedure. These changes are as follows:

1. The definition of academic year has been changed to specify that such a period is the period of time falling between July 1 of one year and June 30 of the subsequent year. This definition is to be utilized in conjunction with grant award calculation and disbursement. Thus, for purposes of the Basic Grant Program, the academic year is essentially equivalent to the Federal fiscal year.

2. The definition of "school year" was added in support of the definition of full-time student and provides a basis for determining the grant amount of which a student would be eligible during any particular academic year. As such, this definition describes the period of academic enrollment which is to be used as a base in calculating a student's award during a given academic year.

3. The modifications to the definition of academic year required several additional provisions to Subpart F dealing with the determination of Basic Grant awards. Consequently, procedures for calculating a student's grant were added to cover the following conditions: (a) a student who is enrolled in an eligible program of study which is less than a full school year in duration; (b) a student who is enrolled in a school year which is more than 12 months in duration; and (c) a student who is enrolled in a school year which spans 2 academic years.

Another group of comments received concerned the criteria under which a special recomputation of a student's expected family contribution due to extraordinary circumstances would be permitted (§ 190.16). The previously proposed criteria for recomputation of the expected family contribution were the death of a parent or spouse, the loss of employment of a parent or spouse, or the inability to pursue normal income-producing activities by reason of disability or natural disaster. As a result of experience gained, it has become evident that the financial circumstances of a family unit are severely affected as a result of the separation or divorce of the applicant's parents when the applicant is a dependent student, as well as separation or divorce of the applicant himself when the applicant is an independent student. For this reason, the regulations provide that, starting in the 1974–75 academic year, an applicant may submit a new application substituting the tax year subsequent to the original base year as the new base year if the applicant or his parents have become separated or divorced since the original application was submitted. A dependent student would include information which applies only to that parent who provides the greater amount of that student's support. Similarly, the independent applicant would include only his own income and asset information. (Cases in which the separation or divorce occurs prior to the student's filing an application are dealt with in Subpart C, § 190.31(a)(2) for dependent students and in Subpart D, § 190.42(a)(2) for independent students.)

Section 190.3 of the regulations provides that a student applying for the 1974–75 academic year will be eligible if he or she was not enrolled as a regular student at any institution of higher education prior to April 1, 1973, rather than July 1, 1973. This change is required by statute and will permit students who began their school year between April 1 and July 1, 1973 to receive Basic Grants in the 1974–75 academic year.

It should be noted that the official notification to the student of his expected family contribution, which has previously been called the "Family Contribution Analysis Report", is now named the "Student Eligibility Report." Consequently, all references to the "Family Contribution Analysis Report" in Subpart B, § 190.14 and § 190.15 and Subpart F, § 190.61 have been changed to read "Student Eligibility Report."

The proposed regulations, as published, also contained some technical inaccuracies and omissions. The inaccuracies and omissions have been corrected in this publication of the regulations. There has also been some rearrangement of text to give greater clarity. In addition, for purposes of clarity, § 190.72, § 190.82, and § 190.84 of Subpart G, which was previously published as a notice of proposed rule making in the FEDERAL REGISTER on March 15, 1974 (39 FR 9995), have been removed from Subpart G and incorporated in Subpart A as § 190.2(1), § 190.4, and § 190.5, respectively.

It is the intention of the Office of Education to issue necessary amendments to these regulations as additional experience is gained in the operation of the program. In this context, the Office of Education will be pleased to receive any suggestions for possible future amendments. It should be further noted that Subparts C and D of the regulations covering the procedures for determination of expected family contribution for dependent and independent students were previously published as final regulations in the FEDERAL REGISTER on July 2, 1974 (39 FR 24472). Subpart G which deals with the Administration of Grant Payments, previously published as a notice of proposed rulemaking in the FEDERAL REGISTER on March 15, 1974 (39 FR 9995), is expected to be published as final regulations in the near future.

In light of the foregoing, Part 190 of Title 45 of the Code of Federal Regulations is amended by the addition of Subparts A, B, E, and F of Part 190 as set forth below.

Effective date: Pursuant to section 431(d) of the General Education Provisions Act, as amended, (20 U.S.C. 1232(d)) these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment. A subsequent notice will be published in the FEDERAL REGISTER stating the specific date on which these regulations have become effective.

Dated: September 20, 1974.

T. H. BELL,
U.S. Commissioner of Education.

Approved: October 30, 1974.

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

(Catalog of Federal Domestic Assistance No. 13.539 Basic Educational Opportunity Grant Program.)

Part 190 of Title 45 of the Code of Federal Regulations is amended by adding Subparts A, B, E, and F to read as follows:

PART 190—BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Subpart A—Scope, Purpose and General Definitions

Sec.
190.1 Scope and purpose.
190.2 General definitions.
190.3 Eligible student.
190.4 Duration of student eligibility.
190.5 Concurrent receipt of multiple Basic Educational Opportunity Grant payments prohibited.

Subpart B—Application Procedures for Determining Expected Family Contribution

190.11 Application.
190.12 Certification of information.
190.13 Deadline for filing applications.
190.14 Notification of expected family contribution.
190.15 Request by applicant for recomputation of expected family contribution because of clerical or arithmetic error.
190.16 Extraordinary circumstances affecting the expected family contribution determination.

Subpart E—Costs of Attendance

190.51 Costs of attendance.

Subpart F—Determination of Basic Educational Opportunity Grant Awards

190.61 Submission of "Student Eligibility Report" for purposes of basic educational opportunity grant calculation.
190.62 Calculation of basic educational opportunity grant awards at full-funding.
190.63 Calculation of basic educational opportunity grant awards at less-than-full-funding
190.64 Calculation of basic educational opportunity grant awards for less than a full school year.
190.65 Calculation of basic educational opportunity grant awards for a school year which is longer than 12 months in length.

190.66 Calculation of basic educational opportunity grant awards for a school year which spans 2 academic years.

AUTHORITY: Sec. 411 of the Higher Education Act of 1965 as added by Sec. 131(b) of Pub. L. 92-318, 86 Stat. 247-251 (20 U.S.C. 1070a), unless otherwise noted.

Subpart A—Scope, Purpose and General Definitions

§ 190.1 Scope and purpose.

The purpose of the Basic Educational Opportunity Grant Program is to assist in making available the benefits of postsecondary education to eligible students by providing assistance in meeting the cost of such education.

(20 U.S.C. 1070a)

§ 190.2 General definitions.

For purposes of this part,

(a) "Academic year" means, for purposes of grant award calculation and disbursement, the period of time between July 1 of one year and June 30 of the subsequent year.

(20 U.S.C. 1088(c)(1))

(b) "Act" means Title IV-A-1 of the Higher Education Act of 1965, as amended.

(c) "Clock hour" means a period of time which is the equivalent of (1) a 50 to 60 minute class, lecture, or recitation, or (2) a 50 to 60 minute faculty supervised laboratory, shop training, or internship.

(d) "Commissioner" means the U.S. Commissioner of Education or his designee.

(e) "Eligible program" means a program of training at an institution of higher education which (1) leads to a degree or certificate, (2) is of at least six months duration, and (3) admits as regular students only those persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate.

(20 U.S.C. 1141(a)(1); 20 U.S.C. 1088(b)(3))

(f) "Full-time student" means a student who is carrying a full-time academic work load, other than by correspondence, measured in terms of (1) the tuition and fees customarily charged for full-time study by the institution and (2) the course work or other required activities as determined by the institution in which the student is enrolled; provided, however, that such course work and activities amount to a minimum of (i) 12 semester hours or 12 quarter hours per academic term for institutions utilizing semesters, trimesters, or quarter hour systems; (ii) 24 semester hours or 36 quarter hours per school year for institutions which measure progress in terms of such credit hours but which do not utilize semester, trimester, or quarter systems; or (iii) 24 clock hours per week for institutions which utilize clock hours to measure progress. For students enrolled in an institution which measures progress in terms of both credit and clock hours, a student shall be considered a full-time student at that institution if the sum of the fractions representing the number of credit hours taken by the student, when divided by 12, and the number of clock hours per week taken by the student, when divided by 24, is equal to or greater than one, and if such student is charged the tuition and fees customarily charged for full-time study by the institution. Furthermore, a student shall be considered a full-time student if he undertakes a series of courses or seminars, which extends over a period not exceeding 18 weeks and which, if completed, would amount to the equivalent of at least 12 semester or 12 quarter hours and if he is charged the tuition and fees customarily charged for full-time study by the institution.

(20 U.S.C. 1088(c)(2))

(g) "Good standing" means the eligibility of a student to continue in attendance in accordance with the standards and practices of the institution in which he is enrolled.

(h) "Half-time student" means a student who is carrying a half-time academic work load measured in terms of (1) the tuition and fees customarily charged for half-time study by the institution and (2) the course work or other required activities as determined by the institution in which the student is enrolled; provided, however, that such course work and activities amount to a minimum of (i) 6 semester hours or 6 quarter hours per academic term for institutions utilizing semesters, trimesters, or quarter hour systems; (ii) 12 semester hours or 18 quarter hours per school year for institutions which measure progress in terms of credit hours but which do not utilize semester, trimester, or quarter systems; or (iii) 12 clock hours per week for institutions which utilize clock hours to measure progress. For students enrolled in an institution which measures progress in terms of both credit and clock hours, a student shall be considered a half-time student at that institution if the sum of the fractions representing the number of credit hours taken by the student, when divided by 6, and the number of clock hours per week taken by the student when divided by 12, is equal to or greater than one, and if such student is charged the tuition and fees customarily charged for half-time study by the institution. Furthermore, a student shall be considered a half-time student if he undertakes a series of courses or seminars, which extends over a period not exceeding 18 weeks and which, if completed, would amount to the equivalent of at least 6 semester or 6 quarter hours and is charged the tuition and fees customarily charged for half-time study by the institution. All students engaged in a program of study by correspondence which is offered as requiring at least 12 hours of preparation a week shall be considered half-time students for purposes of this part.

(20 U.S.C. 1088(c)(2))

(i) "Institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, (i) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time or (ii) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (4), and (5) of this paragraph unless such institution is a public institution, in which case it may also be accredited by the State agency in that State which has been listed by the Commissioner as a reliable authority as to the quality of public postsecondary vocational education in that State, and any proprietary institution of higher education, as defined in paragraph (m) of this section, which has an agreement with the Commissioner containing such terms and conditions as the Commissioner determines to be necessary to insure that the availability of assistance to students at the school under this part has not resulted, and will not result, in an increase in the tuition, fees, or other charges to such students.

(20 U.S.C. 1141(a), 20 U.S.C. 1087-1(b))

(j) "Month" means any period of 30 consecutive days occurring within an academic year. If an institution enrolls a student for a period of time which consists of a given number of months and some remaining days, 16 or more of such remaining days may be considered a month; less than 16 days shall not be considered a month.

(k) "Nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(20 U.S.C. 1141(c))

(l) "Payment Schedule" means a table, effective for a given academic year, published by the Commissioner which indicates the amount of a student's Scheduled Basic Educational Opportunity Grant based on the Family Contribution Schedules effective for that academic year as described in Subparts C and D of this part, the cost of attendance at the institution in which the student is enrolled as defined in § 190.51, and the amount of funds available for making grants under this part for that academic year.

(m) "Proprietary institution of higher education" means a school which (1) provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (3) is legally authorized by the State in which it is located to provide a program of education beyond secondary education, (4) is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, (5) is not a public or other nonprofit institution, and (6) has been in existence for at least two years.

(20 U.S.C. 1088(b)(3))

(n) "Scheduled Basic Educational Opportunity Grant Award" means the amount of a Basic Educational Opportunity Grant which would be paid to a full-time student for a full school year.

(o) "School year" means a period of time, generally not less than 8 months, in which a full-time student would normally be expected to complete the equivalent of two semesters, two trimesters, three quarters, or 900 clock hours of instruction.

(p) "State" includes, in addition to the several States of the Union, American Samoa, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(20 U.S.C. 1141(b); 20 U.S.C. 1088(a))

(q) "Undergraduate course of study" means a regularly prescribed course of study for an undergraduate student at an institution of higher education.

(r) "Undergraduate student" means a student who (1) is in attendance at an institution of higher education and (2) has not earned his first baccalaureate or professional degree. A student who has not earned his first baccalaureate or professional degree and who is enrolled in a program of study at the postsecondary level which is designed to extend for more than four academic years shall not be considered as an undergraduate student in that portion of the program that involves study beyond the fourth academic year unless that program leads to a first degree and is designed to extend for a period of five academic years.

(20 U.S.C. 1070a unless otherwise noted)

§ 190.3 Eligible student.

(a) A student is eligible to receive a Basic Educational Opportunity Grant under this part if he:

(1) Was not enrolled as a regular student at any institution of higher education as defined in § 190.2(i) prior to April 1, 1973,

(2) Is accepted for enrollment or is enrolled in good standing as a full-time undergraduate student at an institution of higher education,

(3) Is enrolled in an eligible program as defined in § 190.2(e), and

(4) Is a citizen or national of the United States or is in the United States for other than a temporary purpose and is, or intends to become, a permanent resident thereof; or is a permanent resident of the Trust Territory of the Pacific Islands.

(b) For purposes of paragraph (a) of this section, a student shall be deemed not to have been enrolled as a regular student at any institution of higher education if such student was enrolled, whether or not for credit, in a remedial or preparatory program designed to enable the student to meet the requirements for enrollment at an institution of higher education or was enrolled on less than a full-time basis and was simultaneously enrolled in a secondary school.

(20 U.S.C. 1070a; 1088; Pub. L. 93-35; Pub. L. 93-192)

§ 190.4 Duration of student eligibility.

(a)(1) The period during which a student may receive a Basic Educational Opportunity Grant shall be the period required for the completion of the undergraduate course of study being pursued by the student except that such period may not exceed a total of four school years unless (i) the student is pursuing a course of study leading to a first degree in a program of study which is designed by the institution offering it to extend over five school years, or (ii) the student is, or will be, unable to complete a course of study within four school years because the student was required to enroll in a noncredit remedial course of study, in which case such period may be extended for not more than one additional school year.

(2) For purposes of paragraph (a)(1) of this section a school year means the period of time necessary for a student to complete not less than the equivalent of 24 semester hours, 36 quarter hours, or 900 clock hours of instruction.

(3) For purposes of paragraph (a)(1) of this section, a noncredit remedial course of study means a course of study for which no credit is given toward an academic degree, and which is designed to increase the ability of the student to engage in an undergraduate course of study leading to such a degree.

(b) Each period of enrollment, during which a student receives any payment of a Basic Educational Opportunity Grant under this part, shall be charged against the period of eligibility set forth in paragraph (a) of this section for that student. The length of such period to be charged against the period of eligibility shall bear the same ratio to a school year as the payment received bears to the Scheduled Basic Educational Opportunity Grant for the entire academic year.

(20 U.S.C. 1070a)

§ 190.5 Concurrent receipt of multiple Basic Educational Opportunity Grant payments prohibited.

A student shall not be entitled to receive Basic Educational Opportunity Grant payments concurrently from more than one institution or from the Commissioner and an institution during an academic year.

(20 U.S.C. 1070a)

Subpart B—Application Procedures for Determining Expected Family Contribution

§ 190.11 Application.

In order to have the expected family contribution calculated for any academic year, a person shall submit to the Commissioner a form, approved by the Commissioner for that purpose, containing such information as the Commissioner may from time to time prescribe, unless the Commissioner specifically provides an alternative method of receiving such information.

(20 U.S.C. 1070a(b)(2))

§ 190.12 Certification of information.

The applicant, and where relevant, the applicant's parents or spouse, shall provide, if requested, any documents, including a copy of their Federal Income Tax Return, necessary to verify information submitted on the application form.

(20 U.S.C. 1070a(b)(2))

§ 190.13 Deadline for filing applications.

The Commissioner will from time to time establish cut-off dates for filing of applications for determining expected family contributions for any academic year.

(20 U.S.C. 1070a(b)(1))

§ 190.14 Notification of expected family contribution.

The Commissioner will send to each eligible applicant therefor a "Student Eligibility Report" which states the amount of the applicant's expected family contribution for the academic year for which a Basic Educational Opportunity Grant is requested and certain basic information used in the computation of that amount.

(20 U.S.C. 1070a)

§ 190.15 Request by applicant for recomputation of expected family contribution because of clerical or arithmetic error.

An applicant may request a recomputation of his expected family contribution if he believes a clerical or arithmetic error has occurred. The applicant requesting such a recomputation must submit his request for recomputation to

the Commissioner no later than five (5) weeks after the processing date indicated on the "Student Eligibility Report". Such requests are to be made in such form as the Commissioner will specify.

(20 U.S.C. 1070a(b)(2))

§ 190.16 Extraordinary circumstances affecting the expected family contribution determination.

If:

(a) Either a parent or a spouse whose income was included in the calculation of expected family contribution as determined in § 190.33 or § 190.44 has died in the base year or the tax year subsequent to the base year,

(b) Either a parent or a spouse whose income was included in the calculation of the expected family contribution as determined in § 190.33 or § 190.44 has experienced loss of employment of at least ten (10) consecutive weeks commencing in the base year and extending into the tax year subsequent to the base year or of at least ten (10) weeks during the tax year subsequent to the base year, or

(c) Either an applicant, parent, or spouse whose income was included in the calculation of the expected family contribution as determined in § 190.33 or § 190.44 has been unable to pursue normal income-producing activities by reason of disability or natural disaster for a period of at least ten (10) consecutive weeks commencing in the base year and extending into the tax year subsequent to the base year or of at least ten (10) weeks during the tax year subsequent to the base year or

(d) The parents of a dependent student applicant have become separated or divorced since the time the student submitted his application, or

(e) An independent student applicant has become separated or divorced since the time the student submitted his application, the applicant may submit an application, or if an application has been previously submitted, a new application, which shall use, as the base year for this purpose, the tax year subsequent to the base year as established by the regulations in this part. Such an application shall include the annual adjusted family income received to the date of application or reapplication and an estimate of the annual adjusted family income for the remainder of that year.

(20 U.S.C. 1070a(a)(3)(B)(i)(V))

Subpart E—Costs of Attendance

§ 190.51 Costs of attendance.

For the purposes of this part only the following expenses (and allowances in lieu of expenses) shall be recognized as a student's cost of attendance.

(a) *Tuition and fees.* The amount charged the student for tuition and fees that is generally charged to all students or that is generally charged to a particular class of students of which the applicant student is a member. For the purpose of this section, tuition and fees may not include any amounts related to the cost of travel, except such travel within the United States, other than travel from the student's residence to the institution, as is required in connection with a particular course of study.

(b) *Room and board.* (1) The actual amount charged by the institution pursuant to a contract entered into with the student under which both room and board are provided by the institution; or,

(2) The actual amount charged by the institution pursuant to such a contract entered into for room but not board, plus an allowance of $625 for the academic year; or

(3) The actual amount charged by the institution pursuant to such a contract entered into for board but not room, plus an allowance of $475 for the academic year; or

(4) If no such contract is entered into for either room or board, an allowance of $1,100 for the academic year whether or not the student lives with a parent.

(5) If an institution enters into a contract with a student for room and/or board for less than 7 days per week, a daily rate shall be computed for those days covered by the contract and this rate shall be used for calculating the costs to the student for days not covered by the contract. This amount shall be added to the costs established under § 190.51(b)(1), (2), or (3), whichever is applicable.

(c) *Books, supplies, and miscellaneous expenses.* An allowance of $400 for the academic year.

(d) In the case of students engaged in a program of study by correspondence, only the costs of tuition and fees determined in accordance with paragraph (a) of this section shall be recognized as a student's cost of attendance for the purposes of the part.

(e) In the case of eligible students who are incarcerated, only the cost of tuition and fees determined in accordance with subparagraph (1) of paragraph (a) of this section, and an allowance of $150 for books and supplies shall be recognized as a student's cost of attendance for this subpart.

(20 U.S.C. 1070(a)(2)(B)(iv))

Subpart F—Determination of Basic Educational Opportunity Grant Awards

§ 190.61 Submission of Student Eligibility Report" for purposes of basic educational opportunity grant calculation.

An applicant shall submit a "Student Eligibility Report" for a Basic Grant under this part to the institution(s) of higher education he wishes to attend in order to have the amount of his Basic Grant award determined. The Commissioner will from time to time establish cut off dates for any academic year for the submission of "Student Eligibility Reports."

(20 U.S.C. 1070a(b)(2))

§ 190.62 Calculation of basic educational opportunity grant awards at full-funding.

When funds are available to satisfy such payments, the Commissioner will pay to each eligible applicant for any academic year a Basic Educational Opportunity Grant in an amount equal to $1400 minus his expected family contribution, except that no award will be made (a) which is in excess of 50 percent of the applicant's actual cost of attendance at the institution of higher education in which the applicant is enrolled, (b) which exceeds the difference between the expected family contribution of the applicant and his actual cost of attendance at the institution in which he is enrolled, or (c) which is less than $200.

(20 U.S.C. 1070a(2))

§ 190.63 Calculation of basic educational opportunity grant awards at less-than-full-funding.

When funds are not available to fully satisfy all Basic Educational Opportunity Grant awards, each grant awarded to an eligible applicant shall be reduced in accordance with the provisions of section 411(b)(3) of the Act. The amount to be reduced in accordance with section 411(b)(3) will be the remainder of $1400 less the applicant's expected family contribution. No award will be made if the amount of such award after the application of the provisions of section 411(b)(3) of the Act is less than $50, nor may an award be made under this Section to an applicant whose award was calculated to be less than $200 under § 190.62.

(20 U.S.C. 1070a(a)(2)(b)(iii))

§ 190.64 Calculation of basic educational opportunity grant awards for less than a full school year.

(a) In the event that an applicant is enrolled as a full-time student in an eligible program which is less than a full school year in duration, the amount of his grant shall be reduced in the same proportion as that period of time bears to eight months.

(b) In the event that an applicant is enrolled as a full-time student in an eligible program which meets the definition of "school year", but the student enrolls for a period of time which is less than the full school year, the amount of his grant shall be reduced in the same proportion as the period of his enrollment bears to the length of such school year.

(20 U.S.C. 1070a(a)(2))

§ 190.65 Calculation of basic educational opportunity grant awards for a school year which is longer than twelve months in length.

In the event that a student is enrolled as a full-time student for a school year which is longer than 12 months, the amount of his Basic Grant payable for an academic year shall be in the same proportion to his Scheduled Basic Educational Opportunity Grant as the number of months of the schol year occurring in the academic year for which payment is requested bears to twelve months.

(20 U.S.C. 1070a)

§ 190.66 Calculation of Basic Educational Opportunity Grant awards for a school year which spans two academic years.

Subject to the provision of § 190.64 and § 190.65, in the event that an applicant is enrolled as a fulltime student for a school year which spans two academic years, the amount of his grant payable during any one academic year, by reason of enrollment in such school year, shall be equal to an amount which bears the same proportion to his Scheduled Basic Educational Opportunity Grant award for that academic year as the number of months of such school year occurring within that academic year bears to the total number of months of that school year.

(20 U.S.C. 1070a)

APPENDIX

The following discussion is intended to provide additional information and explanation of the preceding regulations. The reference number which appears before each explanation corresponds to the number of the regulation.

SUBPART A

Section 190.2(a) *Academic year.* The definition of academic year provides for an academic year which corresponds to the current Federal fiscal year, July 1 to June 30 of the subsequent year.

The primary reason for defining an academic year the same as the Federal fiscal year is to assure that all student awards are determined based on the same Family Contribution Schedules and payment schedule which are in effect for a particular fiscal year. By adopting this type of definition of academic year, we have precluded the situation where two students from similar economic backgrounds who are attending the same institution simultaneously would have different awards calculated because they initiated their school year at different times.

Another reason for defining the academic year as the fiscal year is to provide a closing date for fiscal purposes. To determine the total expenditures from the fiscal year's appropriation, it is necessary to establish this cut-off date in order that final data on fiscal activity be easily and effectively processed.

Only one Basic Grant can be awarded a student during one academic year. Students enrolled in accelerated courses of study leading to a certificate or degree in less than the customary length of time required to obtain such a certificate or degree, often attend on a continuous basis. For purposes of the Basic Grant Program, these students will only receive *one* award for use in any academic year. For instance, if a student enrolled in September and completed one year of study in May, he would receive one Basic Grant for that period. If this student immediately initiated the second year of study, he could not receive a second award until after July 1.

Specific procedures for determination of Basic Grant awards for any particular academic year are described in Subpart F of this Appendix.

Section 190.2(c) *Clock hour.* While many institutions utilize such academic units as semesters, trimesters, and quarters, a large number of schools measure progress toward a certificate or degree in terms of clock hours. In order to accommodate these types of institutions, the definition of clock hour recognizes and establishes minimum standards upon which a student's progress can be measured and is consistent with generally accepted standards for full-time study at institutions which operate on a clock-hour basis.

Section 190.2(e) *Eligible program.* The definition of eligible program serves the purpose of establishing those types of educational courses of study within an eligible institution in which a student must be enrolled in order to receive a Basic Grant. The requirements for determining institutional eligibility are specified by law. The term eligible program for purposes of Basic Grants applies these statutory provisions to the programs of study within these eligible schools. In this way we seek to assure that students receiving Basic Grants are attending educational programs which meet certain minimum standards and which are postsecondary in nature. It should be noted that an eligible program is one that admits as regular students high school graduates or students with a recognized equivalent certificate. However, an otherwise eligible program does not lose its eligibility if its enrollment includes a small proportion of non-high school graduates admitted as special students. In such a case special students are also eligible for Basic Grants.

Section 190.2(f) *Full-time student.* In the first year of operation (1973–74), Basic Grant eligibility was restricted to full-time students who began their postsecondary education after July 1, 1973. For the second year of operation (1974–75), Basic Grant eligibility is restricted to full-time students who began their postsecondary education after April 1, 1973. Because of the entitlement nature of the Basic Grant Program, it is necessary to establish a definition of full-time student which can be applied to all applicants enrolled in various types of educational programs.

The definition is divided into several major categories in order to accommodate the variety of methods used by institutions in structuring their own academic terms and methods of measuring progress.

1. For those traditional types of institutions which divide their regular academic year into semester, trimester, or quarter terms and which measure academic progress in terms of semester or quarter hour credits, a student must be enrolled for 12 semester or quarter hours per academic term in order to be considered a full-time student. Generally, traditional types of institutions consider 15 credit hours to be a full-time academic work load. However, while many students average 15 credit hours per academic term, in practice, students often vary their work load between 12 and 18 credits per term. Therefore, 12 credit hours has been traditionally recognized as the minimum full-time schedule.

2. For those institutions which measure progress in terms of semester or quarter hours but which do not divide their school year into regular semester, trimester, or quarter hour terms, a student must enroll for 24 semester or 36 quarter hours per school year. This provision would apply to those institutions which utilize non-traditional academic terms as their school years as well as those traditional institutions which also offer special programs of study designed to enable students to meet normal academic progress requirements in irregularly structured school years.

In addition, students enrolled in a specially scheduled series of academic terms which are designed to provide the student with the minimum of 12 quarter or 12 semester hours during a period not exceeding 18 weeks would be considered full time.

One example of a specially scheduled series of academic terms would be summer school. For instance, a student may enroll in an institution for the summer session. He may be considered to be a full-time student if at the end of the summer session he would accumulate an additional 12 semester hours. This would hold true even if "summer school is divided into two six-week sessions. In themselves do not provide the minimum number of credits. In this example, it is assumed that the institution's summer school is divided into two six-week sessions. Each of these sessions provide six credit hours. If the student enrolls in the first session, the institution may assume that the student will also enroll in the second session and will, over the summer, carry 12 semester hours of work. In this case the student would be considered a full-time student and would be eligible to receive a Basic Grant. (Of course, the payment of his grant would be subject to other Basic Grant requirements regarding disbursement of funds for each academic term and calculation of awards in a school year which spans two academic years.)

On the other hand, if a student enrolled for only the second summer session, he would not be considered as a full-time student since he could not accumulate 12 semester hours during that summer session

3. For institutions which measure progress in terms of clock hours, a student must be enrolled for a minimum of 24 clock hours per week in order to be considered as a full-time student. This requirement is consistent with the current practices of these types of institutions and accommodates the various kinds of programs offered by the types of institutions which measure progress in terms of clock hours.

4. There are a number of institutions which offer programs of study which measure progress in terms of credit and clock hours. Students enrolled in such programs very often are not carrying sufficient credit hours per academic term to be considered full-time; nor are they enrolled for the minimum number of clock hours per week required of full-time students. However, these students are often involved in an academic endeavor which is the equivalent of full-time study at other types of institutions. Therefore, in order to determine the full-time status of a student's enrollment, the institution will make the following calculation:

1. Determine the number of clock hours the student is carrying per week and express this number as the numerator of a fraction with 24 as the denominator.

2. Determine the number of credit hours the student is carrying per semester, trimester, or quarter and express this number as the numerator of a fraction with 12 as the denominator.

3. Add these two fractions.

4. If the sum equals 1 or more, the student may be considered to be a full-time student.

In addition to meeting the work load criteria, a full-time student must also be charged the tuition and fees normally charged by the institution to a student who is taking a full-time course load. By establishing both of these eligibility criteria, it can be assured that only truly full-time students are receiving Basic Grants.

Section 190.2(h) *Half-time student.* Although half-time students have not yet become eligible to receive Basic Grants, a definition of half-time student is necessary for purposes of the multiple student adjustment in the determination of expected family contribution. The definition parallels that for full-time student. The definition further indicates that all students engaged in a program of study by correspondence at institutions of higher education will be considered to be half-time students or less depending on the number of required clock hours of

preparation per week. Such consideration is consistent with the existing regulations of the Federally Insured Student Loan Program.

Section 190.2(i) *Institution of higher education.* The definition of institution of higher education (including proprietary institutions of higher education) reflects the statutory requirements for institutional eligibility and is the standard definition used by many of the existing Federal student financial aid programs.

Inquiries and communications relating to institutional eligibility should be addressed to the Accreditation and Institutional Eligibility Staff, Bureau of Postsecondary Education, U.S. Office of Education, Washington, D.C. 20202.

Section 190.2(l) *Payment schedule.* The Payment Schedule is the annually developed schedule of the amount of each student's Basic Grant given his expected family contribution and cost of attendance. It is based on Office of Education estimates of the total demand for Basic Grants for an academic year and the appropriation for that academic year. The appropriation reduction language specified in the law (as a result of the amount of that appropriation) is already accounted for in the Payment Schedule. The award shown for each student is for a full academic year and will have to be adjusted if a student attends for less than a full academic year.

Section 190.2(o) *School year.* The definition of school year is consistent with the current practices at both traditional and non-traditional types of institutions. It provides both the minimum full school year for purposes of calculating the amount of grants as well as the mixiumum time for which a student may receive Basic Grant assistance in any academic year. For instance, a student who receives a Basic Grant which covers two semesters, may not receive any additional Basic Grant assistance during an academic year.

Section 190.2(r) *Undergraduate student.* The definition of undergraduate student generally reflects the criteria used by institutions of higher education in determining the status of an undergraduate student. For purposes of Basic Grants, however, any student who has already earned his first baccalaureate degree is not considered to be an undergraduate student even if he is enrolled in an undergraduate course of study. For example, a student who has earned an Associate of Arts degree and who is enrolled in a program of study leading to a baccalaureate degree, would be considered to be an undergraduate student. On the other hand, a student who has already earned any baccalaureate degree and who is enrolled in a program which is designed to lead to a second baccalaureate degree would *not* be considered to be an undergraduate student for purposes of Basic Grants.

Students who are enrolled in a program of study which is designed to lead to both a bachelor's degree and an advanced degree over a five-year or longer period, will be considered to be an undergraduate student for only the first four years of that program. Of course, students who are enrolled in a program of study leading to a *first* baccalaureate degree, designed by the institution to extend over 5 academic years, will be considered to be undergraduate students for the length of the program.

Section 190.3 *Eligible student.* In order to be eligible to receive a Basic Grant during the 1974–75 academic year, a student must have begun his postsecondary education after April 1, 1973, and be enrolled in an eligible program in an institution of higher education on a full-time basis.

However, a student who was enrolled prior to April 1, 1973 in an *ineligible* institution of higher education can apply for and receive a Basic Grant. In addition, for these purposes, enrollment consists of any class attendance. Therefore, students who registered but did not actually attend classes prior to April 1, 1973, are not considered to have been enrolled. On the other hand, students who actually registered and attended any classes (regardless of the length of that attendance) are considered to have been enrolled.

High School students who take college-level courses while still in secondary schools are not considered to have been enrolled as regular students. These students are then, therefore, eligible to receive Basic Grants.

Another group of students who are not considered to have been enrolled as regular students in institutions of higher education prior to April 1, 1973, are those persons who were enrolled in remedial or preparatory programs of study, whether or not for credit, before that date. These special programs must be designed specifically for the purposes of assisting students who require such remedial or preparatory study in order to successfully pursue postsecondary education.

This provision is to assure that students participating in Upward Bound, Student Special Services, and other special programs, sponsored by Federal, State, or private organizations will not be excluded from participation in the Basic Grant Program.

SUBPART B

Subpart B establishes the application procedures for Basic Grants.

Section 190.11 *The application for determination of expected family contribution.* Basic Grant application forms are widely distributed to students through student financial aid officers at institutions of higher education, high school guidance counselors, Talent Search Projects, Upward Bound Projects, and other organizations and agencies located in areas easily accessible to students.

Completed forms submitted to the Office of Education are transmitted to the American College Testing Program which has a contract with the Commissioner to calculate expected family contributions for the Basic Grant Program according to the appropriate Regulations issued by the Office of Education.

Section 190.12 *Certification of information.* The determination of expected family contribution is based on data supplied by the applicant relating to the financial strength of his family. Since several of the data items requested on the application form reflect information provided by the applicant (and where relevant his parents or spouse) for Federal Income Tax purposes, the student may be requested to submit to the Commissioner the IRS returns for the base year as well as other documentation necessary to verify the information provided.

Section 190.15 *Request by applicant for recomputation of expected family contribution because of clerical or arithmetic error.* Applicants will be notified of the amount of their expected family contributions (called eligibility index in 1974–75) by the Commissioner on a "Student Eligibility Report" (called "Family Contribution Analysis Report" in 1973–74). In addition to the amount of the expected family contribution, the notification will include certain key data items taken from the applicant's application which were used in calculating the contribution. The applicant should compare these data items with those submitted on his application form and, should there be any discrepancy, he may request a recomputation of his eligibility index. Such a request for recomputation must be made within five weeks of the processing date indicated on the "Student Eligibility Report".

Section 190.16. *Extraordinary circumstances affecting the expected family contribution determination.* For purposes of determining expected family contribution for the Basic Grant Program it was determined that the most accurate indicator of annual adjusted family income is the amount reported on the Federal Income Tax Return for the year preceding the year for which aid is requested. However, it was recognized that extraordinary circumstances could occur which would substantially affect the expected family contribution which was calculated on the basis of the preceding year's income. Therefore, this regulation establishes the conditions under which an applicant may request a determination of expected family contribution which uses the current tax year as the base year and reflects these extraordinary circumstances. These conditions are listed below.

In the event of the death of the applicant's parent(s) or spouse whose income was included in the determination of expected family contribution, the applicant may immediately request that his expected family contribution be calculated using the current tax year as the base year.

A different situation exists in those cases where the parent or the sponse of the applicant suffers a loss of employment. Unemployment may be for a brief period only, and reemployment may permit the family to enjoy the same level of income as that before the wage earner became unemployed.

A similar situation occurs when the applicant, and where relevant the applicant's parent or sponse whose income was included in the determination of expected family contribution, is unable to pursue normal income-producing activities due to disability or natural disaster.

For applicants who experience such situations as described above, there will be a requirement of a 10-week waiting period before the applicant can request a calculation of expected family contribution using the current tax year as the base year. This 10-week period must be either 10 consecutive weeks beginning in the base year and continuing into the tax year subsequent to the base year or 10 total weeks in the tax year subsequent to the base year.

In addition to the criteria listed above, a dependent applicant may request a determination of his expected family contribution using the current tax year as the base year if: (i) the parents of the applicant have become separated or divorced since the time the application was submitted, or (ii) the independent applicant has become separated or divorced since the time the application was submitted.

In all cases where a request is made to vary from the standard base year, the applicant will be required to submit the amount of income received to the date of the request and an estimate of the amount of income to be received for the remainder of that year as well as any other pertinent information the Commissioner may require.

SUBPART E

Subpart E establishes the allowances for the costs of attendance for students seeking Basic Grants. The legislation defines the "actual cost of attendance" as the actual per-student charges for tuition, fees, room and board (or expenses related to reasonable commuting), books and an additional allowance for other expenses that the Commissioner determines to be reasonable for students attending an institution of higher education. Certain costs, such as tuition, fees, and dormitory charges, can be precisely known at the time of enrollment. Other costs, such as those for off-campus living expenses,

books or miscellaneous expenses, can only be estimated at the time a student's Basic Grant is calculated. Therefore, it was determined that standard allowances would be established for this second group of costs.

No allowance is made for the cost of room and board, or books, supplies, and miscellaneous expenses of the student engaged in a program of study by correspondence. In the case of books and supplies, these expenses are generally part of the tuition of the correspondence student. The room and board costs and miscellaneous expenses which the student engaged in correspondence study incurs are seen as fixed costs that the student would assume whether or not he was enrolled in postsecondary education.

Subpart E of the regulations states which costs are accepted as they are charged the student, and those costs which require an allowance. The reference numbers which appear before each item refer to the numbers of the Regulations.

Section 190.51(a) *Tuition or fees.* Since such costs as tuition and fees are definite, the institution can determine the actual amount charged for tuition and fees for each student. For both tuition and fees, only those charged to all students within a certain class of study or those required of a certain class of students for educational purposes will be allowed.

For example, a parking fee, which is a discretionary item, would not be allowed since it is not required of all students or of all students within a certain curriculum. However, a laboratory fee charged to all chemistry students would be allowed since it is a fee required of all students taking such a course.

The "out of State" or "out of county" tuition or fees charged by State and county public educational institutions are allowable since they are charged an entire class of students. No travel costs, including the cost of travel for study outside the United States, are allowed since these costs are not authorized by the enabling legislation. However, the costs of travel within the United States, which are charged as a course fee or included in tuition charges by the institution of higher education, and are required of all students taking such course, are allowed.

Section 190.51(b) *Room and board.* For the 1973–74 academic year separate standard allowances were established for those students who did not contract for room and board with the institution, and for students who resided with their parents. These allowances were $950 for students who did not contract with the institution for room and board and who lived off-campus, but not with their parents, and $750 for students who lived with their parents.

For the 1974–75 academic year, the off-campus living allowance is $1100 for students who do not contract with their school for room and board regardless of whether they live with their parents. While it is true that in some areas of the country the off-campus living allowance is higher than the room and board charged by some institutions, for many schools the off-campus living allowance is less than the room and board actually charged by the school.

In addition, the College Scholarship Service and the American College Testing Program have developed projections of costs for the 1974–75 academic year which indicate that the $1100 allowance is a reasonable average level of costs for off-campus students.

Therefore, regardless of the room and board charges at any school, the $1100 allowance must be provided to all Basic Grant recipients who do not contract with the school for room and board.

Finally, for those institutions which provide board for their students for less than seven days a week, some provision must be made to recognize the costs of food for the days not covered by contract. In this event, the school will determine the per-day cost for board, multiply this rate by the number of days not covered by the contract, and add this amount to the amount of the contract. For instance, if the per-day rate is $2, and the student has a five-day board contract with the school, the school will multiply the per-day rate times the number of days not covered by the contract ($2 times 2 days=$4) and add that amount to the total per-week charge ($10 and $4=$14). This new per-week amount would then be multiplied times the number of weeks of the school year and added to the amount of the contract, in order to determine the student's total cost.

Section 190.51(c) *Books, supplies and miscellaneous expenses.* For the 1973–74 academic year $150 was used for other Federal financial aid programs as a reasonable standard allowance for books and supplies and it was anticipated that such an amount would therefore be reasonable for this program. An additional standard allowance for miscellaneous expenses of $200 was provided for expenses incurred by a student which are not covered in the room and board allowances. The total of $350 was, therefore, the allowance to be made for these purposes.

For the 1974–75 academic year, the allowance for books, supplies and miscellaneous expenses has been increased to $400. This increase of $50 is justified on the basis of the 8.8 percent rise in the Consumer Price Index and experience with the current year program.

Section 190.51(e) For eligible students who are incarcerated, only the cost of attendance covering tuition and fees, and $150 for books and supplies will be allowed. This allowance extends Basic Grant funds to these students in proportion to their needs.

SUBPART F

Subpart F establishes the procedures for the determination of Basic Grant awards. The section does not include procedures for the reduction of Basic Grant awards for less than full-time students since eligibility is limited to full-time students for both the 1973–74 academic year and the 1974–75 academic year.

Section 190.61 *Submission of "Student Eligibility Reports" for purposes of basic educational opportunity grant calculation.* Students attending institutions of higher education having an effective Terms of Agreement with the Commissioner will submit the "Student Eligibility Report" to the institution which will calculate the amount of the student's award based on the allowable cost criteria and payment schedule issued by the Office of Education for that academic year. The institution will also act as the Commissioner's agent in disbursing funds to students. In the event that the eligible institution the student wishes to attend does not choose to act as the Commissioner's agent, the student will submit the "Student Eligibility Report" directly to the Commissioner following the procedures contained in regulations which will be published subsequent to these regulations.

Section 190.63 *Calculation of basic educational opportunity grants at "less than full funding".* The Office of Education will make an estimate of the amount required to extend grants at the full-funding level to all eligible students during any fiscal year. When an appropriation is available for a fiscal year, the Office of Education will calculate whether the amount appropriated is sufficient to extend full-funding to all eligible students, or whether awards must be made on the basis of less than full-funding. If awards are to be at less than full funding, the Office will determine which of the various reduction provisions of section 411(b)(3) of the Act will be in effect. The Office will then issue a simple table of student award payments which will specify the amount of the Basic Grant for that academic year which will be made to a student with a given family contribution and cost of education.

Section 190.64 *Calculation of basic educational opportunity grant award for less than a full school year.* An eligible program must be at least 6 months in length. At the same time, a school year generally must be at least 8 months in length. In order for a student to receive the full amount of his grant he must be in attendance for a full school year, provided that school year falls within an academic year. (If the school year spans two academic years, Section 190.66 is used to calculate the amount of the grant.)

Those students who are enrolled in programs which are at least 6 months but less than 8 months in length will not receive a full grant. The amount of their grants will first be calculated as if they were in attendance for a school year, but will then be reduced in the same proportion as the length of the program bears to 8 months.

For instance, if a student is enrolled in an eligible program which is 6 months in length, his grant would be first calculated for the full school year. However, he would only be awarded six-eighths or three-quarters of that amount initially calculated.

Similarly, if a student is enrolled for a portion of a school year during an academic year, i.e., one semester, his Basic Grant will be calculated on the basis of his attendance for a full school year, but will be reduced in the same proportion as the length of time which he is enrolled in the academic year bears to the length of time of the school year.

Section 190.65 *Calculation of Basic Educational Opportunity Grant awards for a school year which is longer than twelve months in length.* All eligible programs of study which are longer than twelve months in length shall be considered to be twelve month programs for purposes of calculating awards.

In determining the amount of a student's award, the following process will be followed:

1. Calculate the full Basic Grant for which the student is eligible for the first academic year.

2. Determine how many months the student is enrolled between July 1 and the subsequent June 30. (For instance, a student enrolled in an eighteen-month course which begins in September would be enrolled nine months between July 1 and the subsequent June 30.)

3. Express that number of months as the numerator in a fraction with 12 as the denominator ($\frac{9}{12}$).

4. The student would then receive $\frac{9}{12}$'s or $\frac{3}{4}$'s of his total award for that academic year.

5. The process is then repeated for the subsequent academic year, using a newly calculated grant for the second academic year.

Section 190.66 Calculation of Basic Educational Opportunity Grant awards for a school year which spans two academic years. When the situation occurs where a student's school year spans two academic years, awards will be calculated in the following manner:

1. At the time that the student initiates his school year (i.e. April), his award is calculated on the basis of the Family Con-

tribution Schedules and payment schedules in effect for that academic year. The award would be calculated for a full academic year.

2. The student's award would be disbursed to him in installments in proportion to the number of months remaining in his school year until June 30. A student who enrolled in April would then receive a payment equal to 3 months of his total award.

3. In order to receive an award after July 1, the student would submit a Basic Grant application form for the subsequent academic year.

4. Upon receipt of the notification received as a result of this second application, the institution will calculate the student's award based on the payment schedule effective for that academic year.

5. The student's award will then be disbursed on the basis of the months remaining in the student's school year.

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PART IV

FEDERAL ENERGY ADMINISTRATION

■

CRUDE OIL

Ruling on Application of the Refiner's Cost Formula

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

[Ruling 1974–26]

APPLICATION OF THE REFINER'S COST FORMULA OF § 212.83(c) TO REFINERS REQUIRED TO SELL CRUDE OIL UNDER THE ALLOCATION PROGRAM

This ruling is issued to provide guidance to refiners, and particularly refiner-sellers under the Mandatory Crude Oil Allocation Program of Subpart C of Part 211, on the calculation of increased cost of crude oil under Part 212 of the FEA price regulations. To the extent that the principles set forth in this ruling have not been applied by refiners in the past, such refiners will be required to amend their previous Form FEO–96 filings to conform to the principles of this Ruling.

Facts. Firm A, a refiner, purchased or landed 10,000,000 barrels of crude oil during the month of October 1974 for refining and to meet its obligations under the Mandatory Crude Oil Allocation Program (the "buy-sell" program) of § 211.65. Six million barrels were domestic crude oil, purchased at the prices ranging from $5 to $10.50 per barrel, and the other 4,000,000 barrels were imported crude oil, landed at costs ranging from $10 to $14 per barrel, for a total cost of $84,000,000 for 10,000,000 barrels. Of the total amount purchased or landed, 2,000,000 barrels of domestic crude oil at a total cost of $12,00,000 and 2,000,000 barrels of imported crude oil at a total cost of $24,000,000, were delivered in District V; and 4,000,000 barrels of domestic crude oil at a total cost of $24,000,000 and 2,000,000 of imported crude oil at a total cost of $24,000,000 were delivered in Districts I–IV. Thus the weighted average cost of crude oil delivered in District V is $9 per barrel ($36,000,000 divided by 4,000,000 barrels) and in Districts I–IV is $8 per barrel ($48,000,000 divided by 6,000,000 barrels).

Also during the month of October 1974, Firm A made mandatory sales under the buy-sell program of 400,000 barrels of crude oil to a refiner-buyer in District V and 600,000 barrels of crude oil to a refiner-buyer in District II. The remaining 9,000,000 barrels of crude oil purchased or landed by Firm A were refined by Firm A during October or placed in various refinery inventories for refining or to meet buy-sell obligations in future months.

Firm A also made numerous other purchases and sales during October of crude oil which was not to be refined by Firm A or to be used to meet buy-sell obligations. For example, it purchased 1,000,000 barrels of crude oil which it resold to Firms B and C. The sale to Firm B was entirely voluntary; the sale to Firm C was made pursuant to § 211.63(a), which requires the continuance of supplier-purchaser relationships in effect under contracts for sales, purchases and exchanges of domestic crude oil on December 1, 1973.

During the month of May 1973 Firm A purchased or landed for refining 9,000,000 barrels of crude oil at a total cost of $27,000,000.

Issue No. 1. What is the amount of increased cost of crude oil purchased or landed in October which Firm A has available to include in the computation of its base prices for its refined products in the month of November 1974, pursuant to § 212.83?

Issue No. 2. Would the amount of increased cost of crude oil purchased or landed in October to be included in the computation of its base prices for refined products pursuant to § 212.83 have been any different if the same set of facts had arisen during the first buy-sell program in effect from February through May 1974?

ISSUE NO. 1

Ruling. Firm A's base prices in November 1974 for refined products may include $48,600,000 in increased cost of crude oil purchased or landed during October. The same result would be reached if the same set of facts had occurred during the first buy-sell program, except that the regulations at that time provided in § 212.88(d) for pass through on refined products of an additional 84 cents for each barrel of crude oil sold under the buy-sell program.

FEA price regulations provide two basic methods whereby refiners account for their cost of crude oil. The cost of crude oil purchased and refined is accounted for under Subpart E of Part 212, which permits the increased cost of crude oil purchased for refining to be passed through in the prices charged for the products refined from crude oil. The cost of crude oil purchased by a refiner and resold is accounted for under Subpart F of Part 212, which permits the increased cost of crude oil purchased for resale to be passed through in the prices charged for crude oil. In both instances increased cost of crude oil is measured against the cost of crude oil in May 1973, and the pass through of that increased cost of crude oil is achieved by permitting it to be applied to lawful selling prices for products that were in effect on May 15, 1973.

Under Subpart E, increased crude oil costs for products refined and sold by a refiner are defined in pertinent part in § 212.83(b) as "the difference between the total costs of crude petroleum during the month of measurement [i.e., the month preceding the current month for which prices are being determined] and the total cost of crude petroleum during the month of May 1973. . . ." The method of computing that difference is described in the refiner's cost formula contained in § 212.83(c), basically as follows:

$$A^t = Q^t\left(\frac{C^t}{Q^t} - \frac{C^o}{Q^o}\right)$$

Where:

A^t=The total increased cost of crude oil purchased or landed in the month of measurement and available for pass through in the subsequent month;

Q^t=The total quantity or volume of crude oil purchased or landed in the month of measurement;

Q^o=The total quantity or volume of crude oil purchased or landed in the month of May 1973;

C^o=The total cost of crude oil purchased or landed in the month of May 1973; and

C^t=The total cost of crude oil purchased or landed in the month of measurement.

Subpart F specifies the manner in which a refiner of crude oil is to determine its maximum lawful prices for sales of crude oil. With respect to resales (hereinafter "reseller sales") of crude oil generally, § 212.93(a) provides that the refiner can charge no more than its weighted average lawful selling price on May 15, 1973, to the same class of purchaser, plus an amount which reflects, on a dollar-for-dollar basis, its increased costs of crude oil. Such increased costs of crude oil are "the difference between the weighted average unit cost of [crude oil] in inventory and the weighted average unit cost of [crude oil] in inventory on May 15, 1973." (§ 212.92)

With respect to the special category of crude oil sales made by refiners under the buy-sell program (hereinafter 'buy-sell sales"), however, a refiner-seller is required to charge a per barrel price equal to:

"in Districts I–IV the weighted average price of all crude oil delivered to a refiner-seller in that month for those Districts, and in District V, the weighted average price of all crude oil delivered to a refiner-seller in that month for that District . . . ,"

subject to certain transportation and gravity adjustments, plus a "handling fee" (which is now 30 cents per barrel and formerly was 6 percent of the weighted average price (§ 212.94(b)).

It is an underlying principle of all of FEA pricing regulations that refiners, resellers, and retailers of crude oil and petroleum products be permitted to recover increases in their crude oil or product costs on a dollar-for-dollar basis in the prices permitted to be charged. Section 4(b)(2)(A) of the Emergency Petroleum Allocation Act of 1973 generally provides that recovery of increased product costs be permitted on a dollar-for-dollar basis, and FEA (and the Cost of Living Council before it) has generally adopted the policy that recoveries should not exceed that dollar-for-dollar pass-through.

Thus, for example, except for provisions that deal specifically with increased non-product costs, both Subpart E and Subpart F provide for maximum lawful prices which have two component parts—the May 15, 1973, lawful selling price (which includes an amount which represents the cost of the product being sold on May 15, 1973, and an amount which represents the seller's margin on that sale) and the increased product cost attributable to the product since May 15, 1973. And both Subpart E and Subpart F include provisions for insuring that the revenues actually received in sales made under those subparts do not result in more than a dollar-for-dollar recoupment of the increased product costs, as measured pursuant to those subparts.

Section 212.83(d) of Subpart E requires that if revenues are recouped which reflect more or less than "the entire amount of increased product costs," computed under Subpart E, appropriate adjustments must be made to base prices in the following month. Section 212.93(e) provides a similar requirement for Subpart F. Therefore, except in those instances which are clearly set forth in the regulations, it cannot be assumed that FEA's price rules are to be applied in such a manner as to obtain more than a dollar-for-dollar pass through of increased product costs.

Such dollar-for-dollar pass through is achieved in the foregoing hypothetical as follows:

Reseller Sales. With respect to the resales of crude oil which Firm A made to Firms B and C which were not required under the buy-sell program, the cost recoveries permitted under FEA regulations are tied directly to the weighted average unit cost of the crude oil inventories (as determined under § 212.92 by generally accepted inventory accounting procedures) from which the crude oil was resold. In other words, under the reseller rule of § 212.93, Firm A can pass through on such resales the cost of the barrels of crude oil resold plus its margin on resales of crude oil to the same classes of purchaser on May 15, 1973. Accordingly, since the cost of crude oil acquired for such resales is fully recovered on such resales themselves, such crude oil is outside the scope of Subpart E and should not be reflected in either the C^t or the Q^t factor of the refiner's cost formula for purposes of determining Firm A's allowable increased product cost recoveries on refined products under § 212.82(c). Moreover, it also should not be included in the amount of crude oil "delivered" to Firm A for purposes of determining its allowable cost recoveries on buy-sell sales under § 212.94(b).

Buy-Sell Sales. With respect to the mandatory sale of 400,000 barrels of crude oil in District V, Firm A is permitted by § 212.94(b) to recover its weighted average cost for all crude oil purchased or landed in District V (excluding crude oil purchased for resale under other than the buy-sell program). Since 4,000,000 barrels were delivered in District V at a total cost of $36,000,000, the weighted average cost is $9 per barrel, and Firm A's total allowable cost recovery on the 400,000 barrels sold under the buy-sell program in that District is $3,600,000. The weighted average cost of crude oil delivered to Firm A in Districts I–IV is $8 per barrel ($48,000,000 total cost divided by 6,000,000 barrels), which, on the 600,000 barrels sold under the buy-sell program in District II, allows a cost recovery on those sales of $4,300,000. Total cost recovery in both districts is $8,400,000. In addition, Firm A was entitled to collect from refiner-buyers the 30 cents per barrel handling fee and a transportation adjustment, as provided in § 212.94(b), which amounts do not constitute crude oil "cost recovery," but rather are intended to compensate Firm A for the nonproduct costs of handling and transportation. (Any adjustments made in the buy-sell price for a gravity differential would constitute adjustments in the crude oil cost recovery of Firm A in its buy-sell sales).

Refined Product Sales. Firm A is required to make buy-sell sales at a price which, as specified by § 212.94, is equal to the weighted average cost of the crude oil delivered to Firm A for refining purposes and to meet buy-sell commitments. Therefore, unlike the case with reseller sales made under § 212.93, § 212.94 does not allow for the actual cost of that particular crude oil to be passed through on a dollar-for-dollar basis. For example, if the incremental barrels of crude oil sold under the buy-sell program cost Firm A $12 per barrel, but could be resold at only $8 per barrel, Firm A would not achieve on buy-sell sales alone a full recovery of the actual cost of on those incremental barrels.

The dollar-for-dollar pass through principle therefore can be achieved only if Firm A is permitted initially to include, for purposes of the refiner rules of Subpart E, the cost of crude oil purchased to meet buy-sell obligations with the cost of crude oil purchased for refining, and then, to the extent that crude oil sales are actually made under the buy-sell program, to subtract from this total cost figure the cost recovery permitted on such sales by § 212.94. Since, as noted above, the cost to a refiner-seller of the particular crude oil actually delivered to a refiner-buyer under the buy-sell program will almost invariably differ from the cost recovery permitted on such sales, this procedure insures that any difference between the cost incurred and the cost recovered by Firm A with respect to the particular crude oil transferred in such sales (whether positive or negative) will be added to or subtracted from increased costs of crude oil available for recovery in sales of refined products. The refiner-seller therefore does not suffer any loss or enjoy any gain because of its buy-sell sales.

The foregoing principles are realized by giving the various factors of the refiner's formula of § 212.83(c) the following values:

The value which Firm A must give to the Q^o factor (quantity of crude oil purchased for refining during May 1973) is 9,000,000 barrels.

The value which Firm A must give to the C^o factor (total cost of crude oil purchased for refining during May 1973) is $27,000,000.

The value which Firm A must give to the Q^t factor is the total quantity of all crude oil purchased or landed in October 1974 for refining or to meet its obligations under the buy-sell program (i.e., excluding its crude oil purchased for reseller sales), less the total quantity of crude oil sold under the buy-sell program during that month:

Total crude oil purchased	10,000,000 Bbls.
Less crude oil sold under buy-sell program	1,000,000
Q^t	9,000,000

The value which Firm A must give to the C^t factor is the total cost of all crude oil purchased or landed in October 1974 for refining or to meet its obligations under the buy-sell program (i.e., excluding the cost of crude oil purchased for reseller sales), less its total allowable cost recoveries on crude oil sold under the buy-sell program during that month:

Total cost of crude oil purchased during October 1974	$84,000,000
Less allowable cost recoveries on buy-sell sales	8,400,000
C^t	75,600,000

Therefore, the amount of increased cost of crude oil purchased or landed in October which Firm A has available in November to pass through to its customers of refined products is determined as follows:

$$A^t = Q^t\left(\frac{C^t}{Q^t} - \frac{C^o}{Q^o}\right)$$

$$= 9{,}000{,}000\left(\frac{\$75{,}600{,}000}{9{,}000{,}000} - \frac{\$27{,}000{,}000}{9{,}000{,}000}\right)$$

$$= 9{,}000{,}000\ (\$8.40 - \$3.00)$$

$$= 9{,}000{,}000\ (\$5.40)$$

$$= \$48{,}600{,}000$$

That the application of the refiner's formula in this manner allows Firm A a full recovery of its cost of crude oil on a dollar-for-dollar basis can be seen by comparing the increased cost of crude oil recoverable on each category of Firm A's sales with Firm A's total increased cost of crude oil.

First, as noted above, the increased costs of crude oil other than that purchased for refining or for sale under the buy-sell program is excluded from consideration because, under the reseller rule, such costs are recoverable on a dollar-for-dollar basis in the prices which Firm A may charge for such resales. With this category excluded from consideration, Firm A's total crude oil costs for the month of October were $84,000,000, and its increased crude oil costs over May 1973 cost levels were $54,000,000 ($84,000,000 less 10,000,000 barrels times a weighted average May 15, 1973 price of $3 per barrel).

Firm A's increased crude oil costs recoverable on buy-sell sales were:

Total allowable cost recoveries on buy-sell sales	$8,400,000
Less cost of same quantity of crude oil at May 1973 cost levels	3,000,000
Increased crude oil costs recoverable on buy-sell sales	5,400,000

The increased crude oil costs recoverable on refined products when the refiner's formula is applied as described

herein are, as calculated above, $48,600,000, which, when added to the $5,400,000 of increased crude oil costs recoverable on buy-sell sales, means that Firm A is able to recover fully its $54,000,000 of increased crude oil costs.

For the purposes of uniformity and consistency with respect to the completion of Form FEO–96, Part II, refiner-sellers should state on line 3 of Part II (total cost of crude petroleum purchased during the month of measurement), not the total of lines 1 and 2 as indicated on the Form FEO–96 itself, but the sum of lines 1 and 2 less the crude oil costs which the refiner-seller is allowed to recover on buy-sell sales. In other words, line 3 should have stated on it the value given to C^t in the refiner's cost formula as determined in the manner specified above. Similarly, line 9 (total quantity of crude petroleum purchased during the month of measurement), rather than being the sum of lines 7 and 8 as indicated on the form, should be such sum less the quantity of crude oil sold under the buy-sell program during the month of measurement (i.e., the Q^t factor).

ISSUE #2

If the same set of hypothetical facts had arisen during the first buy-sell program, which in effect from February through May 1974, Firm A would have been able to pass through on its refined products an additional amount equal to 84 cents times the number of barrels resold under the buy-sell program, But, except for this 84-cent allowance provided for by former § 212.88(d), both the amount of increased crude oil costs which Firm A would have had available for pass through on refined products and the manner in which that amount was calculated would have been the same.

The question has been raised recently as to whether a different method of computing increased crude oil costs available for pass through on refined products was permitted during the first crude oil allocation program by former § 212.88(e), which was deleted as unnecessary effective June 1, 1974. That paragraph read as follows:

(e) *Reflection of costs.* Refiners required to sell crude oil under [the buy-sell program] shall be allowed to increase their product prices to reflect increased crude oil costs of all available crude oil prior to making crude oil sales to comply with [the buy-sell program].

FEA's refinery audit program has determined that some of the 38 refiner-sellers under the first buy-sell program read this provision as allowing the increased cost of crude oil required to be sold under the buy-sell program to be recovered twice—once when the crude oil was sold to a refiner-buyer and again by recovering it in the prices of the refiner-seller's refined products.

The proper interpretation of § 212.88 (e) is simply that the cost of crude oil purchased or landed in the month to meet a refiner-seller's buy-sell commitments was to be included with the cost of crude oil purchased for refining, until a buy-sell sale was made, as described above. It was anticipated that many refiner-sellers would be required to meet their commitments under the buy-sell program by either taking the crude oil from inventories of crude oil they otherwise intended to refine or, preferably, by purchasing additional quantities of crude oil on the world market. Since these incremental purchases would be at prices as high as $15 per barrel and since the refiner-sellers were required to sell crude oil under the buy-sell program at a weighted average cost of all their crude oil (which for most refiners was about $7–8 per barrel), FEO was concerned that refiner-sellers might think they were required to absorb a loss on the buy-sell sales of such incremental world market purchases. For example, the crude oil sold under the buy-sell program in District V by Firm A at $9 per barrel in the hypothetical set of facts considered in this ruling could well have been a part of a shipment of crude oil landed by Firm A at a cost of $14 per barrel.

Such a possible misconception by refiner-sellers is understandable in view of the fact that up to the time the buy-sell program was implemented, refiners properly excluded the costs of crude oil purchased for resale from the refiner's cost formula. The continuation of this practice with respect to crude oil resold under the buy-sell program would, of course, have created a substantial disincentive against the importation of crude oil to meet buy-sell commitments.

Thus, § 212.88(e) indicated that the portion of increased crude oil costs which a refiner-seller could not recover on buy-sell sales, because of the requirement that it make those sales at its weighted average cost, could be included in the C^t factor of the refiner's cost formula for purposes of determining the proper weighted average cost of crude oil refined. Thus, under § 212.88(e), the increased costs of crude oil sold under the buy-sell program were to be "reflected" (but not included in their entirety) in the cost pass throughs on refined products.

It has been determined through refinery audits, however, that some refiner-sellers concluded that § 212.88(e) permitted the C^t factor to include the cost of all crude oil purchased, without subtracting therefrom the costs attributable to crude oil which is not refined but which is required to be sold in buy-sell sales, and as also allowing the Q^t factor of the refiner's formula to include the quantity of crude oil sold under the buy-sell program and not refined. If such a reading had been given to the refiner's cost formula by Firm A in the foregoing hypothetical, the C^t factor would have had a value of $84,000,000 and the Q^t factor would have had a value of 10,000,000 barrels. They would have yielded an amount available for pass through on refined products as follows:

$$A^t = 10{,}000{,}000\left(\frac{\$84{,}000{,}000}{10{,}000{,}000} - \frac{\$27{,}000{,}000}{9{,}000{,}000}\right)$$
$$= 10{,}000{,}000\ (\$8.40 - \$3.00)$$
$$= 10{,}000{,}000\ (\$5.40)$$
$$= \$54{,}000{,}000$$

Thus, in applying the formula in this mnaner Firm A would have fully recovered all of its increased crude oil costs on the sale of refined products alone, and, in addition, would have recovered an additional $5,400,000 of "increased costs" on buy-sell sales. This additional amount, as discussed above, is not a permissible crude oil cost recovery, for such an interpretation of § 212.88(e) would have been contrary to the well established policy of the Cost of Living Council and FEA pricing regulations that, except in certain instances clearly designated in the regulations, prices of petroleum products may reflect increased crude oil costs only on a dollar-for-dollar pass through basis.

Refiner-sellers are hereby advised that amended Form FEO–96's should be filed if previous filings are inconsistent with this ruling. FEA has also determined that it would be inequitable to allow a minority of refiner-sellers which may have recouped amounts in excess of their increased product costs as a result of a misinterpretation of § 212.88(e) or of the refiner's cost formula to retain the proceeds of such overrecoupment. Therefore, those refiners-sellers which not only misapplied the refiner's formula but which FEA determines have also passed through to the marketplace amounts in excess of their increased product costs as a result of such a misapplication of the rules will be required, in a manner to be specified by FEA, to return such overrecoveries to the marketplace.

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

OCTOBER 31, 1974.

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NOTICE TO FEDERAL REGISTER READERS

As part of its continuing program to improve the quality of the daily FEDERAL REGISTER and CODE OF FEDERAL REGULATIONS, the Office of the Federal Register is soliciting the views of interested persons on the effectiveness of individual Federal Register documents and on regulations contained in the CODE OF FEDERAL REGULATIONS.

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.

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