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

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

## Title 7—Agriculture

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

[Navel Orange Reg. 330, Amdt. 1]

## PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

### Limitation of Handling

This regulation increases the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period December 13–19, 1974. The quantity that may be shipped is increased due to improved market conditions for Navel oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Navel Orange Regulation 330 (39 FR 43293). The marketing picture now indicates that there is a greater demand for Navel oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Navel oranges to fill the current market demand thereby making a greater quantity of Navel oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

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

(b) *Order, as amended.* The provisions in paragraph (b)(1)(i) and (iii) of § 907.630 (Navel Orange Regulation 330) (39 FR 43293) are hereby amended to read as follows:

**§ 907.630 Navel Orange Regulation 330.**

* * * * *

(b)(1) * * *

(i) District 1: 1,334,000 cartons;

(iii) District 3: 116,000 cartons:

* * * * *

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

Dated: December 18, 1974.

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

[FR Doc.74-29799 Filed 12-20-74;8:45 am]

## PART 913—GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT IN FLORIDA

### Expenses and Rate of Assessment

This document authorizes expenses of $27,800 of the Interior Grapefruit Marketing Committee, under Marketing Order No. 913, for the 1974–75 fiscal period and fixes a rate of assessment of $0.0055 per standard packed box of grapefruit handled in such period to be paid to the committee by each first handler as his pro rata share of such expenses.

On November 27, 1974, notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 41379) regarding proposed expenses and the related rate of assessment for the period August 1, 1974, through July 31, 1975, pursuant to the marketing agreement, as amended, and Order No. 913, as amended (7 CFR Part 913), regulating the handling of grapefruit grown in the Interior District in Florida. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The notice provided that all written data, views, or arguments in connection with said proposals be submitted by December 12, 1974. None were received. After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Interior Grapefruit Marketing Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

**§ 913.210 Expenses and rate of assessment.**

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Interior Grapefruit Marketing Committee during the period August 1, 1974, through July 31, 1975, will amount to $27,800.

(b) *Rate of Assessment.* The rate of assessment for said period, payable by each handler in accordance with § 913.31, is fixed at $0.0055 per standard packed box of grapefruit.

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of grapefruit are now being made, (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable grapefruit handled during the aforesaid period, and (3) such period began on August 1, 1974, and said rate of assessment will automatically apply to all such grapefruit beginning with such date.

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

Dated: December 17, 1974.

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

[FR Doc.74-29798 Filed 12-20-74;8:45 am]

## CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER A—GENERAL REGULATIONS AND POLICIES

## PART 1408—SETOFF, WITHHOLDING AND STOP PAYMENT POLICIES OF COMMODITY CREDIT CORPORATION

### Carrier Debts; Correction

FR Doc. 74–28085, in the issue dated December 2, 1974, is corrected as follows.

On page 41733 in the heading in the second column "Debits" Due CCC should read "Debts" Due CCC. On the same page in § 1408.4(e)(2)(iii) the word "prescribe" should read "prescribed".

On page 41734 in § 1408.11(a) the word "bared" should read "barred", and in the same paragraph the reference to § 1408.4(d)(4) should be changed to 1408.4(e)(3). In § 1408.11(c) the reference to (d) of § 1408.4 should be changed to (e) of 1408.4.

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

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

[FR Doc.74-29849 Filed 12-20-74;8:45 am]

## Title 10—Energy

## CHAPTER II—FEDERAL ENERGY ADMINISTRATION

## PART 317—PRIORITY DELIVERY OF COAL UNDER DEPARTMENT OF DEFENSE CONTRACTS

On October 8, 1974 the Federal Energy Administration (FEA) issued a notice of proposed rulemaking to establish procedures for instituting priority coal supply contracts or priority treatment of coal supply contracts for the Department of Defense (DOD). Under the proposal, FEA would be authorized to issue written orders to suppliers requiring them to provide specific types and amounts of coal to DOD. Such orders would take precedence over all other existing contracts.

Comments were invited from all interested persons by October 21, 1974 and a total of eight written comments were received. The public hearing which was scheduled in the proceeding for October 21 and 22 was cancelled on October 18th after FEA failed to receive any requests to present oral presentations.

The final regulations published here reflect FEA's consideration of all comments received, including those received subsequent to the official closing date, as well as all other information available to FEA.

A number of changes have been made in the regulations, as proposed, in response to comments received. Several comments expressed concern over the possible adverse effects a priority system for the military might have on other end users of coal such as homeowners, hospitals, schools, and public utilities. Several suggestions were offered for alleviating this concern including granting all persons adversely affected by a priority order the right to appeal, providing public notice of all priority orders, and making FEA's intention to avoid unfair distributions of burdens and undue hardships explicit in the regulations.

In response to these suggestions and further analysis by FEA, the following changes have been made in the regulations, as proposed:

Section 317.3 has been amended to require FEA's actions in administering the priority program to be consistent with its general responsibility under section 7 of the Federal Energy Administration Act of 1974 to avoid unfair distribution of burdens and undue hardships whenever possible.

A new § 317.4 has been added to require that public notice be given of all written, requests received from DOD for priority orders.

Section 317.5 has been amended to require a supplier who must reduce the amount of coal being delivered to non-DOD contractors in order to fulfill a priority order, to do so on a pro-rata basis except as otherwise provided in the order.

Section 317.6 has been amended to permit any person whose supply of coal will be directly reduced as a result of a priority order to file an appeal with FEA.

A number of minor revisions have also been made to the regulations, as proposed, in response to comments received. At the suggestion of the Environmental Protection Agency, § 317.3 has been amended to require FEA to specify the sulphur and ash content of coal to be delivered to DOD under priority orders. A minor change in the wording of § 317.3 has also been made to make it clear that a supplier will not be required to enter into a contract with another supplier in order to fulfill a priority order. Finally, § 317.9 has been amended to provide that all communications concerning Part 317 be addressed to the Federal Energy Administration, Code 55, Washington, D.C. 20461.

(Defense Production Act of 1950, as amended (50 U.S.C. App. 2071 et seq.); Federal Energy Administration Act of 1974 Pub. L. 93-275, 88 Stat. 96; E.O. 11790, 39 FR 23185)

In consideration of the foregoing, Part 317 of Chapter II Title 10 of the Code of Federal Regulations, is established as set forth below, effective immediately.

Issued in Washington, D.C., December 17, 1974.

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

Part 317 is added to Chapter II to read as follows:

Sec.
317.1 Purpose.
317.2 Definitions.
317.3 Order.
317.4 Notice.
317.5 Effect of order.
317.6 Appeal.
317.7 Other procedures.
317.8 Records and reports.
317.9 Address.
317.10 Violations and sanctions.

AUTHORITY: Defense Production Act of 1950, as amended, 50 U.S.C., App. 2071 et seq.; Federal Energy Administration Act of 1974, Pub. L. 93-275, 88 Stat. 96; E.O. 11790, 39 FR 23185.

### § 317.1 Purpose.

This part establishes the procedures to be utilized by FEA to implement the provisions of the Defense Production Act of 1950 (50 U.S.C. App. 2071 et seq.) whenever the interests of national defense require the priority delivery of coal under Department of Defense contracts. The regulation provides that FEA may require that, upon issuance of an order directing priority treatment, persons shall supply coal to the Department of Defense on a priority basis above all other contractual or other obligations.

### § 317.2 Definitions.

"DOD" means the Department of Defense, including Military Departments and Defense Agencies.

"FEA" means the Federal Energy Administration, acting either through the Administrator or the delegate of the Administrator.

"Order" means a written directive or verbal communication of a written directive, if promptly confirmed in writing, issued by FEA.

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

### § 317.3 Order.

(a) *Issuance.* Upon receipt of written notification from DOD that a serious disruption will occur in the supply of coal necessary to meet a particular and essential military need, the FEA consistent with the responsibilities imposed under section 7 of the Federal Energy Administration Act of 1974 and the Defense Production Act of 1950, as amended, may order a person regardless of other existing contracts and orders, to perform fully its contractual obligations to provide DOD with coal meeting its specifications, or to enter into agreements with DOD to provide coal in excess of such requirements, or to enter into contracts with DOD to provide a specific quality and quantity of coal. Such order shall state the type, size, and sulphur and ash content of coal to be delivered, the maximum quantity of coal that the person is obligated to deliver, the delivery schedule, and any other terms necessary to ensure the timely receipt of the specified supply of coal.

(b) *Compliance.* Each person to whom an order is issued pursuant to this part shall deliver the specified supply of coal to DOD in accordance with the terms of the order.

### § 317.4 Notice.

Upon receipt of written notification from DOD pursuant to § 317.3, notice shall be given to the public either through publication in the FEDERAL REGISTER or through another appropriate method prior to the issuance of an order.

### § 317.5 Effect of order.

(a) *Defense against claims for damages.* No person shall be liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with the provisions of any authorized order issued in accordance with this part.

(b) *Pro-rata reduction.* If, in order to fulfill a priority order for a specific type of coal, a supplier must reduce the amount of that type of coal being supplied to another non-DOD contractors, such reductions shall be made on a pro-rata basis except as otherwise provided in the order.

**§ 317.6 Appeal.**

Any person to whom an order is issued in accordance with this part or whose supply of coal will be directly reduced as a result of a priority order, may file an appeal of such order with FEA. The procedures that control the filing and the evaluation of such appeal are those stated in Subpart H of Part 205 of this chapter.

**§ 317.7 Other procedures.**

(a) *Stay.* An application for stay of an order issued in accordance with this part may be filed in accordance with Subpart I of Part 205 of this chapter.

(b) *Conferences or hearings.* A request for a conference or hearing regarding an order issued in accordance with this part may be filed in accordance with Subpart M of Part 205 of this chapter.

(c) *Computation of time; effective date of orders.* The computation of time with respect to any order issued in accordance with this part and the effective date of any such order shall be as stated in §§ 205.5 and 205.10, respectively, of Part 205 of this chapter.

(d) *Service.* The service of any order issued in accordance with this part shall be in accordance with § 205.7 of Part 205 of this chapter.

(e) *Subpoenas, Witness fees.* The issuance of subpoenas and the payment of witness fees shall be in accordance with § 205.8 of Part 205 of this chapter.

**§ 317.8 Records and reports.**

(a) Each person to whom an order is issued in accordance with this part shall make and preserve for at least two years thereafter accurate and complete records of deliveries in accordance with such order. Such records may be retained in the form of microfilm or photographic persons who, at the time such microfilm copies instead of the original by those or other photographic records are made, maintain such records in the regular and usual course of business.

(b) All records required by this part shall be made available upon request for inspection and audit by duly authorized representatives of the FEA.

(c) Persons to whom orders are issued in accordance with this part shall make such records and submit such reports to FEA as it may require.

**§ 317.9 Address.**

All written communications concerning this part shall be addressed to the Federal Energy Administration, Code 55, Washington, D.C. 20461.

**§ 317.10 Violations and sanctions.**

(a) Any practice that circumvents or contravenes or results in a circumvention or contravention of the requirements of this part or any order issued pursuant thereto is a violation of the regulations provided in this part.

(b) *Criminal Penalties.* Any person who wilfully violates any provision of this part, either by commission or omission, or any order issued pursuant thereto shall be subject to a fine of not more than $10,000 or imprisoned for not more than one year, or both.

[FR Doc.74-29850 Filed 12-18-74;4:13 pm]

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## Title 14—Aeronautics and Space

## CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 74-SW-36; Amdt. 39-2048]

## PART 39—AIRWORTHINESS DIRECTIVES

### Bell Model 205A and 205A-1 Helicopters

Amendment 39-1304 (36 FR 19360), AD 71-21-2, requires certain repetitive inspections of the vertical fin forward spar until the spar is modified for Bell Model 205A and 205A-1 helicopters equipped with certain tail booms. After issuing Amendment 39-1304, the agency found the daily inspection requirement needed clarification. In response to an air carrier operator's hardship, the AD is being amended to specify certain checks before the first flight of each day in place of certain inspections.

Since this amendment provides a relief from Amendment 39-1304 and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1304 (36 FR 19360), AD 71-21-2 is further amended as follows:

1. By amending paragraph (d) to read:

Before the first flight of each day after the inspection in paragraph (c) is accomplished, conduct a check as follows:

2. By amending paragraph (d)(4) to read:

The above check may be performed by the pilot.

This amendment becomes effective December 23, 1974.

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

Issued in Fort Worth, Texas on December 6, 1974.

HENRY L. NEWMAN,
*Director, Southwest Region.*

[FR Doc.74-29951 Filed 12-20-74;8:45 am]

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[Docket No. 74-NE-45, Amdt. 39-2055]

## PART 39—AIRWORTHINESS DIRECTIVES

### Pratt & Whitney JT8D Aircraft Engines

On November 14, 1974, a proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive applicable to Pratt & Whitney Aircraft Model JT8D-1, -1A, -7, and -7A turbofan engines due to failures of low turbine shafts was published in the FEDERAL REGISTER (39 FR 40167). These failures have been caused by excessive taper wear or plate peeling of the No. 2 compressor hub spline which imposes an uneven leading of the shaft spline surfaces resulting in fatigue failure of the shaft. Early investigations indicated that the shafts separated at the root of the last thread of the threaded forward section which mates with the No. 2 compressor hub coupling nut. To reduce the stress levels in the threaded area, Pratt & Whitney released a rework procedure to undercut the threads. Shafts reworked in accordance with this procedure have been found with the failures originating in the shaft spline. Since this condition is likely to exist in other JT8D engines, the following Airworthiness Directive will require the removal of low turbine shafts that have not been reworked and a repetitive inspection on shafts with reworked splines at intervals of 6700 cycles in service. The AD will also require an inspection of the No. 2 compressor hub spline.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Most of the comments suggested clarification of the Airworthiness Directive. These suggestions have been incorporated into the AD. One comment was concerned with the identification of reworked shafts and stated that some operators have complied with the intent of Pratt & Whitney Service Bulletin 2452, to rework the low turbine shaft, except for the reidentification. Accordingly, Paragraphs 1 and 2 have been changed to include these shafts. Another commentator suggested that since the eddy current inspection procedure introduced in Pratt & Whitney Service Bulletin 2452, Revision 5, had not been changed in subsequent revisions, Revision 5, instead of Revision 9, should be used to preclude confusion in the acceptable inspection procedure. This request has been incorporated.

Paragraph 2 of the proposed AD specified eddy current inspection of certain turbine shafts prior to the accumulation of 6700 cycles since last inspection or within the next 2000 cycles, whichever is later. A commentator questioned whether other methods of inspection were acceptable for previous inspections. Since no data has been submitted to justify the use of an alternate method, the AD has been changed to specify only the eddy current inspection procedure.

Paragraph 3 of the AD requires the inspection of the No. 2 compressor hub spline for taper wear or plate peeling when the low turbine shafts are removed or inspected in accordance with Paragraphs 1 and 2. A comment was received indicating this could cause unnecessary engine disassembly when shafts are removed for reasons other than for shaft inspections. Therefore, Paragraph 3 has been changed to specify that the No. 2 compressor hub spline inspection for taper wear need not coincide with shaft

removals. Plated No. 2 compressor hubs must be inspected for plate peeling at each shaft removal.

It has been requested that operators be allowed to submit data for adjustment in compliance times. To allow this, a new paragraph has been added.

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

PRATT & WHITNEY AIRCRAFT. Applies to all Pratt & Whitney JT8D–1, –1A, –7, and –7A model turbofan engines

Compliance required as indicated.

To prevent failure of the low turbine shaft spline accomplish the following:

1. Remove from service thin wall low turbine shafts not incorporating Pratt & Whitney Aircraft Service Bulletin 2452 (P/Ns 479796; 493412, 511215, 524958, 528365, 528366, 538951, 540354, 540355, 540452, 562503, 562504, 576305, 576312, 576313, 576314, and 587879) prior to the accumulation of 6700 cycles in service since new, or within the next 2000 cycles in service after the effective date of this AD, whichever is later.

2. Inspect thin wall low turbine shafts incorporating Pratt & Whitney Aircraft Service Bulletin 2452 (P/Ns 540354–S/B2452, 540355–S/B2452, 540452–S/B2452, 676276, 676277, 676278, 676279, 676280, 676282, 676283, 676284, 676285, 676286, and 676287) for cracked splines in accordance with the eddy current spline inspection procedure in Pratt & Whitney Service Bulletin 2452, Revision 5, or later FAA approved revision, or equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region, prior to the accumulation of 6700 cycles in service since last eddy current spline inspection or within the next 2000 cycles in service after the effective date of this AD, whichever is later, unless already accomplished. Inspect thereafter at intervals not to exceed 6700 cycles in service from the last inspection. Remove shafts with cracks from service before further flight.

3. Inspect the No. 2 compressor hub spline for taper wear or plate peeling in accordance with Pratt & Whitney Aircraft Alert Service Bulletin 4357 or later FAA approved revision, Paragraph IV.D.1, IV.D.2, IV.D.3, and IV.D.4 as applicable, when the low turbine shafts are removed or inspected in accordance with Paragraph 1 and 2 above, or when inspecting for taper wear, at intervals not to exceed 6700 cycles in service from last hub inspection. Remove hubs with taper wear in excess of .010 inch or plate peeling from service before further flight.

The manufacturer's service bulletins identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Pratt & Whitney Aircraft, 400 Main Street, East Hartford, Connecticut 06108. These documents may also be examined at the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at Federal Aviation Administration Headquarters, 800 Independence Avenue, SW., Washington, D.C. 20591. A historical file on this AD which includes the incorporated material in full is maintained by the Federal Aviation Administration at its headquarters in Washington, D.C., and at the New England Regional Office in Burlington, Massachusetts.

Upon submission of substantiating data through an FAA maintenance inspector by an owner or operator, the Chief, Engineering and Manufacturing Branch, FAA, New England Region, may adjust the compliance time.

NOTE: Pratt & Whitney Alert Service Bulletin 4357 pertains to this subject.

This amendment becomes effective January 8, 1975.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958 (49 U.S.C. 1345(a), 1420, 1423); of sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

NOTE.—The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

Issued in Burlington, Mass., on December 16, 1974.

FERRIS J. HOWLAND,
*Director, New England Region*

[FR Doc. 74–29868; Filed 12–20–74;8:45 am]

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[Docket No. 74–SO–113; Amdt. 39–2043]

## PART 39—AIRWORTHINESS DIRECTIVES

### Grumman American Model G–1159 Airplanes

Amendment 39–2027 (39 FR 41516) AD 74–25–03 requires the installation of a placard on the Flight Power Shut-off handle to prevent the actuation of the handle in flight until Grumman American Aircraft Service Change No. 186 has been incorporated. After issuing Amendment 39–2027 (39 FR 41516) the agency determined that compliance with Aircraft Service Change No. 186 should have been required in the AD, rather than assuming compliance would take place. Therefore, the AD is being amended to require the incorporation of Aircraft Service Change No. 186 in conjunction with the installation of the placard.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (37 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39–2027 (39 FR 41516) AD 74–25–03 is amended by deleting the second sentence and adding two sentences: "Incorporate Grumman American Aircraft Service Change No. 186. Upon compliance with this service change, remove the placard."

This amendment becomes effective immediately.

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

Issued in East Point, Ga., on December 3, 1974.

DUANE W. FREER,
*Deputy Director, Southern Region.*

[FR Doc.74–29869 Filed 12–20–74;8:45 am]

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[Airspace Docket No. 74–AL–15]

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

### Airway, Controlled Airspace and Reporting Point Changes

On November 20, 1974, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (39 FR 40784) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would change airways, control areas, reporting points and a control zone in the areas of King Salmon and Cold Bay, Alaska.

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., February 27, 1975, as hereinafter set forth.

1. Section 71.103 (40 FR 305) is amended as follows:

a. In G–8 "20 AGL INT Fort Randall, Alaska, RBN 255° and Cape Sarichef, Alaska, RBN 344° bearings; 20 AGL Fort Randall RBN; 20 AGL Naknek River, Alaska, RBN;" is deleted and "20 AGL INT Cold Bay, Alaska, LOM 253° and Cape Sarichef, Alaska, NDB 344° bearings; 20 AGL Cold Bay LOM; King Salmon, Alaska, LOM;" is substituted therefor.

b. In G–11 "From INT Fort Randall, Alaska, RBN 041° and Port Moller, Alaska, RBN 313° bearings," is deleted and "From INT Cold Bay, Alaska, LOM 041° and Port Moller, Alaska, NDB 313° bearings," is substituted therefor.

2. Section 71.109 (40 FR 306) is amended as follows:

In B–27 "Naknek River, Alaska, RBN; " is deleted and "King Salmon, Alaska, LOM;" is substituted therefor.

3. Section 71.163 (40 FR 346) is amended as follows:

a. Control 1400 is amended to read as follows:

CONTROL 1400

That airspace within 5 miles each side of the 262° bearing from King Salmon, Alaska, LOM extending from the LOM to the Anchorage CTA/FIR boundary, and between lines diverging at an angle of 5° from the King Salmon LOM 262° bearing extending from the LOM to the Anchorage CTA/FIR boundary, excluding the airspace below 2,000 feet MSL outside the United States.

b. Control 1401 is amended to read as follows:

CONTROL 1401

That airspace within 5 miles each side of the 246° bearing from the King Salmon,

Alaska, LOM extending from the LOM to Long. 160°00'00" W., and between lines diverging at an angle of 5° from the King Salmon, LOM 246° bearing extending from the LOM to Long. 160°00'00" W., excluding the airspace below 2,000 feet MSL outside the United States.

4. Section 71.171 (40 FR 354) is amended as follows:

The Cold Bay, Alaska, Control Zone is amended to read as follows:

COLD BAY, ALASKA

Within a 5-mile radius of the Cold Bay Airport (Lat. 55°12'06" N., Long. 162°43'28" W.); within 3 miles each side of the 339° bearing from the Cold Bay LOM, extending from the 5-mile radius zone to 10.5 miles north of the LOM, and within 5 miles west and 2.5 miles east of the Cold Bay VORTAC 150° radial, extending from the 5-mile radius zone to 18 miles south of the VORTAC.

5. In § 71.211 (40 FR 634) the following reporting points are amended to read as follows:

a. CRACK Lat. 57°21'23" N., Long. 159° 23'14" W. (INT King Salmon, Alaska, LOM 226°, Port Heiden, Alaska, NDB 314° bearings).

b. GARRS Lat. 58°19'09" N., Long. 161° 20'25" W. (INT King Salmon, Alaska, LOM 262°, Cape Newenham, Alaska, NDB 131° bearings).

c. HERRY Lat. 57°50'30" N., Long. 160° 20'27" W. (INT King Salmon, Alaska, LOM 246°, Cape Newenham, Alaska, NDB 131° bearings).

d. DEPTH Lat. 56°19'17" N., Long. 161° 09'43" W. (INT Cold Bay, Alaska, LOM 041°, Port Moller, Alaska, NDB 313° bearings).

e. MORDI Lat. 54°52'29" N., Long. 165°03' 54" W. (INT Cold Bay, Alaska, LOM 253°, Cape Sarichef, Alaska, NDB 344° bearings).

f. WIDTH Lat. 57°21'18" N., Long. 155°59' 40" W. (INT King Salmon, Alaska, LOM 163°, Port Heiden, Alaska, NDB 074° bearings).

6. In § 71.213 (40 F.R. 637) the following reporting points are amended as follows:

a. GARRS Lat. 58°19'09" N. Long. 161°20' 25" W. (INT King Salmon, Alaska, LOM 262°, Cape Newenham, Alaska, NDB 131° bearings).

b. HERRY Lat. 57°50'30" N., Long. 160°20' 27" W. (INT King Salmon, Alaska, LOM 246°, Cape Newenham, Alaska, NDB 131° bearings).

(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 December 16, 1974.

EDWARD J. MALO,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.74-29870 Filed 12-20-74;8:45 am]

## CHAPTER II—CIVIL AERONAUTICS BOARD

### SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-890, Amdt. 7]

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

#### Inclusion of Foreign Air Carriers on a Limited Basis; Extending Effective Date

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., December 17, 1974.

By ER-880, published in the FEDERAL REGISTER on October 29, 1974,[1] the Board adopted an amendment to its "denied-boarding compensation" rule, as set forth in Part 250 of its Economic Regulations (14 CFR Part 250), so as to expand coverage of the rule to include foreign air carriers. The effective date of the amendment was stated to be December 28, 1974.

A number of foreign carriers have requested that the effectiveness of this amendment be stayed or substantially extended. Although the separate requests vary in particular details, they are generally grounded on the argument that the present effective date gives foreign carriers an insufficient amount of time in which to prepare themselves for compliance. The foreign carriers note that they face particular practical difficulties in preparing the requisite tariffs and priority boarding rules for filing with the Board, as well as in preparing company manuals for the instruction and guidance of their far-flung personnel, in various stations throughout the world, who will be responsible for administering these rules. Moreover, they note that some questions have arisen as to the proper interpretation of the precise scope of this rule,[2] the manner in which payments thereunder are to be affected by currency restrictions which may prevail in certain countries, and the extent to which the rule's reporting requirements and the prescribed reporting form are appropriate.

We are persuaded that the difficulties involved in carrying out the various intermediate procedural steps which are necessary to insure full compliance with ER-880 by the carriers, their agents and employees cannot reasonably be surmounted by the December 28th effective date. However, we do not believe that the effectiveness of a regulation which we have duly adopted for the protection of users of air transportation should be delayed, in its entirety, for a longer period than is absolutely essential.

Accordingly, we have determined to extend the effective date of ER-880 until March 1, 1975. As so extended, the foreign air carriers will have had an aggregate of approximately four months from the date of publication of this amendment until its effectiveness. This length of time should be entirely adequate to enable these carriers to prepare themselves for compliance with a rule which has applied to their U.S. competitors for more than seven years.[3] To the extent that a question has been raised as to the rule's precise applicability, we shall shortly issue our interpretation. However, pending such interpretation, we wish to emphasize that we fully expect foreign air carriers to proceed with implementation of their internal procedures to enable compliance to be achieved by March 1, 1975.

Accordingly, the effective date of ER-880 is hereby extended to March 1, 1975.[4]

(Sec. 204(a), Federal Aviation Act, as amended, 72 Stat. 743, (49 U.S.C. 1324))

By the Civil Aeronautics Board.

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

[FR Doc.74-29840 Filed 12-20-74;8:45 am]

[1] 39 FR 38087.

[2] The question arises under the provision of § 250.2 which states that the rule "applies to flights or portions of flights originating or terminating in the United States * * *."

[3] Part 250 was adopted by ER-503, dated August 3, 1967, and became effective on October 17, 1967.

[4] By PS-60, issued contemporaneously herewith, we are similarly extending the effective date of PS-58, which was issued contemporaneously with ER-880 so as to apply our policy an orally confirmed reservations to foreign air carriers.

### SUBCHAPTER F—POLICY STATEMENTS

[Reg. PS-60, Amdt. 39]

### PART 399—STATEMENTS OF GENERAL POLICY

#### Oral Confirmed Reservations To Include Foreign Air Carriers; Extending Effective Date

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., December 17, 1974.

By PS-58 (39 FR 38096, Oct. 29, 1974), we amended our Policy Statement § 399.83, on orally confirmed reservations, so as to apply to foreign air carriers. That amendment was adopted contemporaneously with ER-880, which amended our "denied-boarding compensation" rule so as to apply to foreign air carriers.

By ER-890, issued contemporaneously herewith, we are extending the effective date of ER-880 from December 28, 1974, until March 1, 1975. For the reasons stated therein, we are granting the same extension for the effective date of the related amendment to § 399.83, as made by PS-58.

Accordingly, the effective date of PS-58 is hereby extended to March 1, 1975.

(Sec. 204(a), Federal Aviation Act, as amended, 72 Stat. 743 (49 U.S.C. 1324))

By the Civil Aeronautics Board.

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

[FR Doc.74-29839 Filed 12-20-74;8:45 am]

## Title 15—Commerce and Foreign Trade

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

### PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

#### Modification of Fertilizer Monitoring Reports

The FEDERAL REGISTER of August 27, 1974 announced that beginning with the month of September 1974, Form DIB-661P, "Report by Fertilizer Exporter," would be required to be submitted on a monthly basis, rather than semi-monthly as previously. The present format of Form DIB-661P provides information on unfilled contracts for the export of fertilizer through the fourth quarter of 1974. Due to the continuing shortage of

fertilizer and the resultant need for statistics on existing export contracts through the 1975 crop year, fertilizer exporters are hereby required to report monthly all existing export contracts through the first half of 1975 on Form DIB–661P. In order to make the continuation of reporting as simple as possible, rather than introduce a new monthly form, Form DIB–661P will continue in use and exporters are requested to revise items 1, 2, and 5 to read "* * * for shipment through June 1975" instead of "* * * for shipment through 1974" and to provide information for this period. In addition, the column headings under "Unfilled Export Contracts" should be revised to read: "1st Quarter 1975" and "2nd Quarter 1975" with information provided accordingly and remaining columns left blank.

Accordingly, § 376.5(b) of the Export Administration Regulations is revised to read as follows:

§ 376.5 Monitoring of fertilizers.

* * * * *

(b) *Monthly reports and deadlines.* The reporting period is monthly, and information is to be compiled for the period ending as of the close of business on the last business day of each calendar month. If the exporter has Forms DIB–661P that indicate the need for a semi-monthly report, he may alter the heading by removing the prefix "semi-" from the word "semi-monthly." In addition, Form DIB–661P should be altered by revising items 1, 2, and 5 to read "* * * for shipment through June 1975" instead of "* * * for shipment through 1974," and by revising the first two column headings under "Unfilled Export Contracts" to read: "1st Quarter 1975" and "2nd Quarter 1975"—the other columns remaining unused. Information supplied in accordance with these revised instructions will provide statistics as to future export contracts through the 1975 crop year. Reports must be physically received in the Office of Export Administration by the close of business on the eighth working day after the end of each calendar month. If an accounting system is used that is incompatible with the reporting periods and deadlines specified, the specific details should be reported promptly to the Office of Export Administration for a determination as to whether an exception from these requirements can be granted. If an eight day deadline has been satisfied through the use of a Telex or TWX submission, a confirmation form must be submitted to the Office of Export Administration within 24 hours (by mail as evidenced by a U.S. Postal Service postmark, or by actual delivery).

* * * * *

Effective date of action: December 18, 1974.

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

[FR Doc.74–29819 Filed 12–20–74;8:45 am]

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## Title 21—Food and Drugs

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

### SUBCHAPTER A—GENERAL

[FD&C Red No. 40]

### PART 8—COLOR ADDITIVES

### Subpart G—Listing of Color Additives for Cosmetic Use Subject to Certification

The Commissioner of Food and Drugs, having evaluated data in a color additive petition (CAP 4C0111) filed by Allied Chemical Corp. Specialty Chemicals Division, c/o CFR Services, Reston, VA 22070, concludes that FD&C Red No. 40 and its lakes are safe and suitable for use in coloring cosmetics generally within the limitations prescribed by this order. It is further concluded that certification is necessary for the protection of the public health.

The provisions set forth in this order are for general use of the color in cosmetics which would include its currently regulated use in the coloring of dentifrices which are cosmetics. Accordingly, the specific use in coloring dentifrices is deleted from the regulation.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399–403; 21 U.S.C. 376 (b), (c), and (d)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 8 is amended in § 8.7201 by revising paragraphs (a) and (b) to read as follows:

§ 8.7201 FD&C Red No. 40.

(a) *Identity and specifications.* (1) The color additive FD&C Red No. 40 shall conform in identity and specifications to the requirements of § 8.244(a) (1) and (b).

(2) The listing of this color additive includes lakes prepared as described in §§ 9.100 and 9.280 of this chapter, except that the color additive used is FD&C Red No. 40 and the resultant lakes meet the specification and labeling requirements prescribed by § 9.100 or § 9.280 of this chapter.

(b) *Uses and restrictions.* FD&C Red No. 40 may be safely used in coloring cosmetics generally subject to the following restrictions:

(1) The color additive may be used in amounts consistent with good manufacturing practice.

(2) The color additive shall not be exposed to oxidizing or reducing agents which may affect the integrity of the color or any other conditions which may affect the integrity of the color.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before January 22, 1975 file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

*Effective date.* This order shall become effective February 21, 1975, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Sec. 706(b), (c), (d), 74 Stat. 399–403; 21 U.S.C. 376(b), (c), (d))

Dated: December 13, 1974.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.74–29790 Filed 12–20–74;8:45 am]

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### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

### PART 18—MILK AND CREAM

### Identity Standards for Milk and Cream; Order Staying Certain Provisions

*Correction*

In FR Doc. 74–28402 appearing at page 42351 in the issue of Thursday, December 5, 1974, in the first line of paragraph 1 of item II on page 42353 of the preamble, the reference to "§ 10.10" should read "§ 18.10".

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 428]

## PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

### Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the fourth column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 **Status of participating communities.**

| State | County | Location | Effective date of authorization of sale of flood insurance for area | Hazard area identified | State map repository | Local map repository |
|---|---|---|---|---|---|---|
| * | * | * | * | * | * | |
| Alabama | Shelby | Alabaster, city of | Dec. 13, 1974. Emergency | May 24, 1974 | | |
| Arkansas | Cross | Parkin, city of | do | | | |
| California | Sonoma | Sebastopol, city of | do | | | |
| Florida | Osceola | Kissimmee, city of | do | Mar. 8, 1974 | | |
| Indiana | Madison | Alexandria, town of | do | July 19, 1974 | | |
| Do | Jackson | Unincorporated areas | do | Nov. 23, 1973 | | |
| Do | Tippecanoe | West Lafayette, city of | do | | | |
| Iowa | Carroll | Carroll, city of | do | July 28, 1974 | | |
| Michigan | Charlevoix | Charlevoix, city of | do | July 7, 1974 | | |
| New York | Rockland | Pomona, village of | do | Mar. 15, 1974 | | |
| Do | Ulster | Ulster, town of | do | May 3, 1974 | | |
| Do | Rockland | Haverstraw, town of | do | Mar. 29, 1974 | | |
| Ohio | Cuyahoga | Strongsville, city of | do | June 21, 1974 | | |
| Oklahoma | Kingfisher | Dover, town of | do | | | |
| Pennsylvania | Allegheny | Verona, borough of | do | May 31, 1974 | | |
| Do | York | Seven Valleys, borough of | do | May 3, 1974 | | |
| Do | Schuylkill | Pale Alto, borough of | do | July 26, 1974 | | |
| * | * | * | * | * | * | |
| Do | Luzerne | Ashley, borough of | do | Apr. 5, 1974 | | |
| Do | Lancaster | Providence, township of | do | May 31, 1974 | | |
| Do | Washington | North Charleroi, borough of | do | Nov. 1, 1974 | | |
| Texas | Harris | Hillshire Village, city of | do | July 28, 1974 | | |
| Do | Deaf Smith | Hereford, city of | do | June 7, 1974 | | |
| Do | San Saba | San Saba, city of | do | Feb. 8, 1974 | | |
| Do | Cooke | Gainesville, city of | do | Feb. 15, 1974 | | |
| Utah | Davis | Layton, city of | do | Aug. 9, 1974 | | |
| Virginia | Fauquier | Remington, town of | do | Nov. 15, 1974 | | |
| W. Virginia | Mercer | Matoaka, town of | do | May 31, 1974 | | |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969), (42 U.S.C. 4001–4127); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

Issued: December 10, 1974.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.74-29726 Filed 12-20-74;8:45 am]

[Docket No. FI-429]

## PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

### Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the fourth column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 **Status of participating communities.**

| State | County | Location | Effective date of authorization of sale of flood insurance for area | Hazard area identified | State map repository | Local map repository |
|---|---|---|---|---|---|---|
| * | * | * | * | * | * | * |
| Arkansas | Columbia | Magnolia, city of | Dec. 20, 1974. Emergency | Oct. 26, 1973 | | |
| Kansas | Sherman | Goodland, city of | do | Feb. 15, 1974 | | |
| Mississippi | Covington | Collins, city of | do | | | |
| Do | Simpson | Magee, city of | do | | | |
| Pennsylvania | Tioga | Sullivan, township of | do | Jan. 3, 1975 | | |
| South Carolina | Williamsburg | Kingstree, town of | do | May 17, 1974 | | |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969), (42 U.S.C. 4001–4127); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

Issued: December 12, 1974.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.74-29728 Filed 12-20-74;8:45 am]

[Docket No. FI 430]

## PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

### Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the fourth column of the table is followed by a designation which indicates whether the date signifies (1) the effective date of the authorization of the sale of flood insurance in the area under the emergency or under the regular flood insurance program; (2) the effective date on which the community became ineligible for the sale of flood insurance because of its failure to submit land use and control measures as required pursuant to § 1909.24(a); or (3) the effective date of a community's formal reinstatement in the program pursuant to § 1909.24(b). The entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * * * *

| State | County | Location | Effective date of authorization of sale of flood insurance for area | Hazard area identified | State map repository | Local map repository |
|---|---|---|---|---|---|---|
| * | * | * | * | * | * | |
| Arkansas | Logan | Paris, city of | Dec. 18, 1974. Emergency | May 31, 1974 | | |
| Connecticut | New Haven | Seymour, town of | do | July 26, 1974 | | |
| Illinois | Cook | Dolton, village of | do | Mar. 22, 1974 | | |
| New York | Ulster | Shandaken, town of | do | May 31, 1974 | | |
| Do | Nassau | Sands Point, village of | do | June 28, 1974 | | |
| Do | do | Great Neck, village of | do | July 26, 1974 | | |
| South Dakota | Pennington | Rapid City, city of | Dec. 3, 1974. Suspension withdrawn. | | | |
| Texas | Coryell | Gatesville, city of | Dec. 3, 1974. Emergency | Apr. 5, 1974 | | |
| Utah | Cache | Smithfield, city of | do | June 28, 1974 | | |
| Virginia | Rockingham | Timberville, town of | do | Feb. 15, 1974 | | |
| Washington | Thurston | Tumwater, city of | do | Jan. 23, 1974 | | |
| West Virginia | Brook | Wellsburg, city of | do | May 17, 1974 | | |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969) (42 U.S.C. 4001–4127); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

Issued: December 11, 1974.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.74-29729 Filed 12-20-74;8:45 am]

## Title 29—Labor

## CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

## PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

### Tennessee Plan; Level of Federal Enforcement

1. *Background.* Part 1954 of Title 29, Code of Federal Regulations, sets out procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for the evaluation and monitoring of State plans which have been approved under section 18(c) of the Act and 29 CFR Part 1902. Section 1954.3 of this chapter provides guidelines and procedures for the exercise of discretionary Federal enforcement authority under section 18(e) of the Act with regard to Federal standards in issues covered under an approved State plan. In accordance with § 1954.3(b) of this chapter, Federal enforcement authority will not be exercised as to occupational safety and health issues covered under a State plan where a State is operational. A State is determined to be operational under § 1954.3(b) of this chapter when it has provided for the following requirements: Enacted enabling legislation, approved State standards, a sufficient number of qualified enforcement personnel and provisions for the review of enforcement actions. In determining whether and to what extent a State plan meets the operational guidelines, the results of evaluations conducted under 29 CFR Part 1954 are taken into consideration. Once this determination has been made, under § 1954.3(f) of this chapter, a notice of the determination of the operational status of a State plan as described in an agreement setting forth the Federal-State responsibilities is to be published in the FEDERAL REGISTER.

2. *Notice of Tennessee operational agreement.* (a) In accordance with the provisions of § 1954.3 of this chapter, notice is hereby given that it has been determined that Tennessee has met the following conditions for operational status:

(1) Enactment of the Tennessee Occupational Safety and Health Act of 1972 (hereinafter referred to as TOSHA) (Title 50, chapter 5, TCA) which became effective on July 1, 1972; and was amended by chapter 513 Public Acts 1974 and House Bill 1407 which became effective July 1, 1974, in conformity with the requirements of § 1952.223(b) of this chapter;

(2) Promulgation under Tennessee Code Annotated, section 50–507 and 50–515 of the Tennessee Occupational Safety and Health Act of 1972, of general industry and construction standards by the Commissioner of Labor on July 2, 1973, January 9, 1974, and May 31, 1974, and of occupational health standards by the Commissioner of Health on July 18, 1973, May 3, 1974, and August 1, 1974. The maritime standards of 29 CFR 1910.13 through 1910.16 are excluded as Tennessee has not assumed jurisdiction over maritime or longshoring activities covered by those standards. The general industry and construction standards were found in the professional judgment of the Assistant Regional Director to be identical to the Federal standards in 29 CFR Part 1910 and 29 CFR Part 1926, and to provide overall protection equal to the comparable Federal standards in such issues;

(3) A sufficient number of qualified safety and health personnel employed under an approved merit system: namely nineteen (19) safety inspectors and nineteen (19) health inspectors as of September 1, 1974;

(4) Operation since May 5, 1974, of a review and appeals system before the Tennessee Occupational Safety and Health Review Commission providing the mechanism for employers and employees to contest enforcement actions and/or abatement dates. The appeals are processed in accordance with rules of procedure promulgated by the Commission and effective on May 5, 1974, Tennessee Plan Change Supplement I, p. V(c)(3).

(5) State enforcement since July 2, 1973, of the State standards described in (2) above, monitored under 29 CFR Part

1954, including two semi-annual evaluations, covering the period from July 1, 1973, to June 30, 1974.

(b) In addition, the State has provided under its plan for:

(1) Notification to employers and employees since October 1, 1974, of rights and responsibilities under TOSHA by requiring the display of a State poster in workplaces covered by the plan;

(2) Occupational accident and illness recordkeeping and reporting by employers covered under the Plan (TCA 50–552);

(3) Responding to complaints filed with the Tennessee Department of Labor or the Tennessee Department of Health for violations of the prohibition against discrimination by employers against employees for exercising their rights under TOSHA (TCA 50–542);

(4) Assurance of the rights of employers and employees and their representatives consistent with the provisions of the Federal Act and its implementing regulations.

(5) Coverage of State and local Government employees in a manner designed to be ultimately as effective as coverage provided for private employees.

Pursuant to this finding, an agreement effective November 11, 1974, and incorporated as part of the Tennessee plan has been entered into between Eugene Fowinkle, Commissioner of the Tennessee Department of Public Health, Ben O. Gibbs, Commissioner of the Tennessee Department of Labor, and Donald E. MacKenzie, Assistant Regional Director for Occupational Safety and Health of the U.S. Department of Labor providing that Federal enforcement activity under section 18(e) of the Act will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910 and 29 CFR Part 1926 wherever Tennessee occupational safety and health standards are in effect and operational.

Under the agreement, Federal responsibility under the Act will continue to be exercised, among other things, with regard to complaints about violations of the discrimination provisions of section 11(c) of the Act (29 U.S.C. 660(c)); enforcement of standards promulgated under the Act subsequent to the agreement where necessary to protect employees, as in the case of standards promulgated under section 6(c) of the Act (29 U.S.C. 665(c)), until such time as the State shall have adopted equivalent standards in accordance with Subpart C of 29 CFR Part 1953; enforcement of Federal standards in the maritime and longshoring issues covered by 29 CFR 1910.13 through 1910.16 which issues have been specifically excluded from coverage under the plan; and investigations and inspections for the purpose of evaluating the State plan under sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)).

The agreement is subject to revision or termination by the Assistant Secretary of Labor for Occupational Safety and Health upon substantial failure by the State to comply with any of its provisions, or when the results of evaluation under 29 CFR Part 1954 reveal that State operations covered by the agreement fail in a substantial manner to be at least as effective as the Federal program.

In accordance with this agreement and effective as of November 11, 1974, Subpart P of 29 CFR Part 1952 is hereby amended as set forth below.

Section 1952.222 is amended to read as follows:

**§ 1952.222 Level of Federal enforcement.**

Pursuant to § 1902.20(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been entered into with Tennessee, effective November 11, 1974, and based on a determination that Tennessee is operational in issues covered by the Tennessee occupational safety and health plan, discretionary Federal enforcement authority under section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under Part 1910 and Part 1926 of this chapter. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: Complaints filed with the U.S. Department of Labor about violations of the discrimination provisions of section 11(c) of the Act (29 U.S.C. 660(c)); Federal standards promulgated subsequent to the agreement where necessary to protect employees, as in the case of temporary emergency standards promulgated under section 6(c) of the Act (29 U.S.C. 665(c)), in the issues covered under the plan and the agreement until such time as Tennessee shall have adopted equivalent standards in accordance with Subpart C of Part 1953 of this chapter; Standards in §§ 1910.13 through 1910.16 of this chapter which issues have been specifically excluded from coverage under the Tennessee plan; and investigations and inspections for the purpose of the evaluation of the Tennessee plan under section 18 (e) and (f) of the Act (29 U.S.C. 667(e) and (f)). The Assistant Regional Director for Occupational Safety and Health will make a prompt recommendation for resumption of exercise of Federal enforcement authority under section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in Tennessee.

(Secs. 8(g)(2), 18, 84 Stat. 1600, 1608 (29 U.S.C. 257(g)(2), 667)).

Signed at Washington, D.C., 16th day of December 1974.

JOHN STENDER,
*Assistant Secretary of Labor.*

[FR Doc.74-29801 Filed 12-20-74;8:45 am]

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## PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

### Vermont State Plan; Completion of Developmental Steps

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On October 16, 1973, notice was published in the FEDERAL REGISTER (38 FR 28658) of the approval of the Vermont Plan and of the adoption of Subpart U of Part 1952 containing the decision and describing the plan. On January 16, 1974, and on May 13, 1974, the State of Vermont submitted supplements to the plan involving developmental changes, and State initiated changes.

The supplements include legislation captioned S. 196 submitted to the State Legislature in accordance with the requirement of 29 CFR 1952.273(a) of the State's developmental schedule, enacted, and approved by the Governor on April 3, 1974, and administrative regulations, issued under section 230 of the Vermont Occupational Safety and Health Act, effective January 1974, governing the operation of the Vermont Occupational Safety and Health Review Board, in accordance with the requirement of 29 CFR 1952.273(c) of the State developmental schedule. The legislation provides for the following:

(a) Deletion of the provision permitting the granting of variances for premises other than a work place. (section 205(b)).

(b) Giving the Commissioner of Labor and Industry, pursuant to his authority to make inspections and investigations, the necessary legal authority to get a court order compelling an individual to testify in cases where such individual has refused to do so. (section 206(b)).

(c) Mandatory provision for employee participation during the inspection process. (section 206(e)).

(d) Provision for the right of an employee to request an inspection or register a complaint, coupled with the right of such employee to remain anonymous, and to receive written notice of determination that no violation exists. (section 206(f)).

(e) Provision for the right of employees or their representatives to notify the Commissioner in writing, before or during an inspection of any violation of the Act and have an informal review of any refusal to cite, with a written statement of the Commissioner's final disposition of the case. (section 206(g)).

(f) Provision for the right of employees to be informed of imminent danger situations. (section 208(b)).

(g) Deletion of the section dealing with penalties and employee sanctions and replacement with new penalty sections which are substantively identical to the penalty provisions of the Federal Act. (section 210).

(h) Clarification of the section on standards for products distributed or used in interstate commerce. (section 222(a)).

(i) Provision for both employers and employees to have twenty (20) days to

appeal a citation to the review board. (section 226(c)).

(j) Elimination of the de novo review procedure and substitution of a new judicial review procedure patterned after the Federal one. (section 227).

(k) Elimination of the requirement that at least one member of the occupational safety and health review board be qualified for membership in the American Society of Safety Engineers, and enumeration of the duties of the hearing judges employed by the board. (Section 230(a) and (b).)

(l) Authorization of the commissioner to set standards which assure that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. (Section 224(e).)

(m) Provision of the right of employees to be informed of their protections and obligations under the Act and the right of employees to have access to information on their exposure to toxic materials or harmful physical agents and to receive prompt information when he has been or is being exposed to such materials at levels in excess of those prescribed by applicable health and safety standards. (Sections 228(c)(1) and (2).)

(n) Provision for handling employee discrimination complaints under the Act with the Commissioner of Labor and Industry Investigating complaints of discrimination and bringing appropriate court action. (Section 231(a), (b) and (c).)

(o) Repeal of 21 V.S.A. Section 1621 (f) which made it an unfair labor practice to discriminate against an employee because he has filed a complaint or instituted a proceeding under the Vermont Act.

The administrative regulations governing the operation of the Review Board are substantively identical to Part 2200 of this chapter.

2. *Location of the plan and its supplements for inspection and copying.* A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations; Office of the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room 850, 1726 M Street NW., Washington, D.C. 20210; Regional Administrator, Occupational Safety and Health Administration, 18 Oliver Street, Fifth Floor, Boston, Massachusetts 02110; and Department of Labor and Industry, State Office Building, Montpelier, Vermont 05602.

3. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that good cause exists for not publishing Vermont's enacted legislation and regulations because both the legislation and the regulations substantively meet the assurances given by the State when the plan was approved and incorporate language essentially identical to the Federal Act. Therefore further public comment would be unnecessary.

4. *Decision.* Since the legislation and regulations, as passed, are in substantive compliance with the assurances given by the State when the plan was approved, and incorporate language identical to the Federal Act in all essential areas, it is determined that the legislation and regulations, incorporated as part of the approved plan, should be approved as completion of developmental steps in the Vermont plan.

Accordingly, Subpart U of 29 CFR Part 1952 is hereby amended, effective immediately, as set forth below.

A new § 1952.274 is added to Subpart U of Part 1952 to read as follows:

**§ 1952.274 Completed developmental steps.**

(a) In accordance with § 1952.273(a), amendments to the Vermont Occupational Safety and Health Act were passed by the legislature and signed by the Governor on April 3, 1974.

(b) In accordance with § 1952.273(c), rules governing the operation of the Occupational Safety and Health Review Board have been adopted, under section 230 of the Vermont Act, effective January, 1974.

(Secs. 8(g), 18, Pub. L. 91-596, 84 Stat. 1600, 1608, (29 U.S.C. 657(g), 667))

Signed at Washington, D.C., this 16th day of December 1974.

JOHN STENDER,
*Assistant Secretary of Labor.*

[FR Doc.74-29800 Filed 12-20-74;8:45 am]

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## PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

### Hawaii Plan Supplement

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) for review of changes and progress in the development and implementation of State plans which have been approved under section 18(c) of the Act and Part 1902 of this title. On January 4, 1974, a notice was published in the FEDERAL REGISTER of the approval of the Hawaii plan and of the adoption of Subpart Y of Part 1952 describing the plan. On October 22, 1974, the State of Hawaii submitted a supplement involving a developmental change (See Subpart B of 29 CFR Part 1953). This supplement consists of amendments, H.B. 2193, to the State's enabling legislation, H.R.S. section 396-1 et seq., which were enacted by the Hawaii Legislature and became effective on June 4, 1974.

2. *Issues.* The decision approving the Hawaii State plan, including its enabling legislation, incorporated several assurances from the State on amendments to the legislation to meet the requirements of the Act and 29 CFR Part 1902. These amendments provide for the following:

(a) Adequate protections for trade secrets;

(b) Posting of citations or orders at or near the place where a violation occurred;

(c) Removal of the provision providing for arrest powers;

(d) Mandatory relief under section 8(e)(4) of the Hawaii Occupational Safety and Health Act where there is a finding of discrimination for exercising rights provided for under the Act; and

(e) Sanctions which are in conformity with the Federal sanctions.

In addition, our review of the enabling legislation has revealed a potentially critical situation which must be resolved by the State. The Hawaii Administrative Procedure Act, H.R.S. 91-1 et seq., is applicable to review proceedings before the Appeals Board. It has become apparent that the designee, the Department of Labor and Industrial Relations, may not have the right to appeal an adverse decision of the Appeals Board to the courts. Access to the courts is provided for any person aggrieved by an order of an administrative agency. However, the definition of "person" under the Hawaii A.P.A. seems to specifically exclude a state agency. H.R.S. 91-1. If experience under plan operations indicates such a defect, the State may be required to amend its law to provide for such an agency right to appeal. (See Nevada Decision, 39 FR 1008).

3. *Location of supplements for inspection and copying.* A copy of this supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Room 850, 1726 M Street, NW., Washington, D.C. 20210; Office of the Assistant Regional Director, Occupational Safety and Health Administration, Room 9470, Federal Office Building, 450 Golden Gate Avenue, San Francisco, California 94102; and the Department of Labor and Industrial Relations, Room 308, 825 Milani Street, Honolulu, Hawaii, 96813.

4. *Public participation.* Under § 1953.2 (c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the amendments to the Hawaii enabling legislation are stated as they were in the plan as it was submitted and approved and do not constitute any change from the plan as approved. Accordingly, it is believed that further public comment is unnecessary.

5. *Decision.* After consideration, the Hawaii Plan Supplement outlined above

is approved under Part 1953. However, this decision is not to be interpreted as relieving Hawaii from seeking further legislative amendments if, during the continuing evaluation of the plan by the Assistant Secretary, it is found that such amendments may be necessary to render the Hawaii plan operations at least as effective as the Federal program. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. Accordingly Subpart Y of 29 CFR Part 1952 is amended by adding a new section, § 1952.314.

**§ 1952.314 Completed developmental steps.**

In accordance with § 1952.313(i), specific Legislative amendments were enacted by the State Legislature and signed by the Acting Governor on June 7, 1974.

(Secs. 8(g), Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 657(g) 667))

Signed at Washington, D.C., this 13th day of December 1974.

JOHN STENDER,
*Assistant Secretary of Labor.*

[FR Doc.74-29802 Filed 12-20-74;8:45 am]

## Title 41—Public Contracts and Property Management

## CHAPTER 4—DEPARTMENT OF AGRICULTURE

## PART 4-50—DISPUTES AND APPEALS

### Procurement; Miscellaneous Amendments

These amendments involve matters relating to agency management and to contracts and include rules interpreting and implementing existing regulations of other Federal agencies which are not subject to the notice and public procedure requirements for rule making under 5 U.S.C. 553. It is in the public interest that these provisions be made effective immediately. Accordingly, in accordance with the Secretary's Statement of Policy (36 FR 13804) it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest.

### Subpart 4-50.2—Contract Appeals

1. Section 4-50.203 is revised to read as follows:

**§ 4-50.203 Receipt and transmittal.**

Upon receipt of the appeal, the officer receiving it shall certify the date of receipt, and such date shall be considered as the date of filing with the Board of Contract Appeals. The appeal shall be forwarded within 10 days after receipt through agency channels to the Board of Contract Appeals in care of the Hearing Clerk, Department of Agriculture, Washington, D.C. 20250.

A copy of the letter transmitting the appeal to the Board shall be furnished to the Office of Operations.

2. Section 4-50.204 is revised to read as follows:

**§ 4-50.204 Board of Contract Appeals.**

The organization, functions, and rules of procedure of the Board of Contract Appeals, Department of Agriculture, are set forth in Title 7, Code of Federal Regulations, Part 24. (See § 4-52.506.)

Effective date: December 23, 1975.

(5 USC 301, 40 USC 486(c))

Done at Washington, D.C., this 13th day of December 1974.

GEORGE C. KNAPP,
*Acting Director,*
*Office of Operations.*

[FR Doc.74-29847 Filed 12-20-74;8:45 am]

## Title 45—Public Welfare

## CHAPTER XII—ACTION

## PART 1217—VISTA VOLUNTEER LEADER

### Adoption of Proposed Regulations

On September 23, 1974, there was published in the FEDERAL REGISTER (39 FR 34063) a notice of proposed rulemaking to Chapter XII, Title 45. The proposed regulations provide for the designation of volunteer leaders for the VISTA volunteer program. Such leaders are designated after at least one year of service on the basis of experience and special skills and a demonstrated leadership among volunteers.

Interested persons were given 30 days in which to submit comments.

No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

*Effective date.* These regulations are effective December 23, 1974.

Approved: December 18, 1974.

JOHN L. GANLEY,
*Deputy Director, ACTION.*

Sec.
1217.1 Introduction.
1217.2 Establishment of position.
1217.3 Qualifications.
1217.4 Selection procedure.
1217.5 Allowances and benefits.
1217.6 Roles of volunteers.

AUTHORITY: (Secs. 104(b) and 420 of Pub. L. 93-113, 87 Stat. 398 and 414.)

**§ 1217.1 Introduction.**

Section 105(a)(1), Part A, of the Domestic Volunteer Service Act of 1973, Pub. L. 93-113, 87 Stat. 398, authorizes the Director of ACTION to pay VISTA volunteers a stipend not to exceed $50 per month and a stipend not to exceed $75 a month in the case of VISTA volunteers who have served for at least a year and have been designated volunteer leaders. Section 105(a)(1) further provides that the selection of volunteer leaders shall be pursuant to standards, established in regulations which the Director shall prescribe, which shall be based upon the experience and special skills and the demonstrated leadership of such persons among volunteers.

**§ 1217.2 Establishment of position.**

A request for the proposed establishment of VISTA volunteer leader position for a specific project shall be submitted by a sponsor in writing in advance to the appropriate ACTION Regional Director. Specific tasks, responsibilities, qualifications, and the proposed supervisory structure are to be detailed in the request.

**§ 1217.3 Qualifications.**

A volunteer recommended for a VISTA volunteer leader position must have:

(a) completed a one-year term as a VISTA volunteer.

(b) demonstrated ability to work constructively and communicate with volunteers, supervisor/sponsor, and the target population.

(c) demonstrated ability to work well with and gain acceptance of other volunteers.

(d) demonstrated ability to provide self-motivation and self-direction, and maturity to accept supervision and direction from supervisor/sponsor.

(e) sensitivity to the needs and attitudes of others, and exhibit a sincere commitment to the mission of VISTA.

**§ 1217.4 Selection procedure.**

(a) *Nomination.* Candidates may be nominated in writing to the Regional Director by the Program Officer or the State Program Director in whose area the volunteer serves. The nomination shall include a copy of the completed ACTION Form V-95a, for the Regional Director's review.

(b) *Selection.* VISTA volunteer leaders will be selected by the Regional Director (or his designee). The criteria for selection shall include:

(1) The recommendation of the volunteer by the State Program Director or Program Officer.

(2) An overall rating by the supervisor/sponsor of above average on the ACTION Form V-95a.

(3) A description of specific tasks, responsibilities, qualifications, and the proposed supervisory structure, which justifies the establishment of the VISTA volunteer leader position. A selection decision is final.

(c) *Reenrollment.* VISTA volunteer leaders may be reenrolled in accordance with the VISTA reenrollment and extension policy.

**§ 1217.5 Allowances and benefits.**

The VISTA volunteer leader shall be entitled to all allowances and benefits of a VISTA volunteer at the level which is consistent with the level for all volunteers on his/her project, except that:

(a) The stipend will be increased from $50 to $75 per month effective on the date of selection of the VISTA volunteer leader.

(b) Support for on-the-job transportation may be increased, consistent with ACTION policy.

**§ 1217.6 Roles of volunteers.**

VISTA volunteer leaders may have the following roles:

(a) Primary contact with VISTA volunteers on personal and administrative matters.

(b) Aid in communication of VISTA policies to VISTA volunteers.

(c) Encourage and develop VISTA volunteer leadership and initiative on projects.

(d) Aid as a resource in development and conduct of training programs.

(e) Assist sponsor in preparation for arrival of VISTA volunteers, and assist new volunteers in settling-in, housing, orientation, etc.

(f) Aid in the development of meaningful relationship and understanding of individual program concepts with VISTA volunteers and supervisor/sponsor.

(g) Advise supervisor on potential problem areas, and needs of VISTA volunteers.

(h) Aid supervisor/sponsor in the redevelopment of projects to best meet goals and objectives addressing the community's problem(s).

[FR Doc.74-29824 Filed 12-20-74;8:45 am]

## Title 46—Shipping

### CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

### SUBCHAPTER H—TRAINING

[General Order 97, Rev., Amdt. 5]

### PART 310—MERCHANT MARINE TRAINING

### Subpart C—Admission and Training of Midshipmen at the United States Merchant Marine Academy

PAY INCREASE

Part 310 of Title 46 of the Code of Federal Regulations is hereby amended. This amendment increases the pay that midshipmen of the United States Merchant Marine Academy receive while assigned to merchant vessels for sea year training.

The purpose of this amendment is to implement the Maritime Administration policy that midshipmen shall receive the same rate of pay from their steamship company employers for the sea year training as cadets receive at the Federal academies.

Since the rate of pay received by midshipmen while assigned to subsized merchant vessels is a matter of public contract with the owners of such vessels, this amendment to the Merchant Marine Training regulations is adopted without notice of proposed rule making.

Part 310 of Title 46 of the Code of Federal Regulations is amended by revising the first sentence of paragraph (c) of § 310.58 to read as follows:

**§ 310.58 Training on subsidized vessels.**

* * * * *

(c) *Pay.* Midshipmen shall receive pay, while attached to merchant vessels, at the rate of $317.10 per month from their steamship company employers.

* * * * *

*Effective date.* This amendment shall become effective January 1, 1975.

(Sec. 204(b), Merchant Marine Act, 1936, as amended (49 Stat. 1987, 46 U.S.C. 1114), Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 842) as amended by Pub. L. 91-469 (84 Stat. 1036), Department of Commerce Order 10-8 (38 FR 19707, July 23, 1973))

(Catalog of Federal Domestic Assistance Program No. 11-507 U.S. Merchant Marine Academy (Kings Point))

Dated: December 17, 1974.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.74-29852 Filed 12-20-74;8:45 am]

## Title 47—Telecommunication

### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19988]

### PART 76—CABLE TELEVISION SERVICES

### Program Origination Correction

The appendix to the report and order in Docket 19988, FCC 74-1279, released December 9, 1974 (39 FR 43303, December 12, 1974), is corrected to include amendment of §§ 76.13 (a), (b), and (c), to read as follows:

In § 76.13, paragraphs (a)(4), (b)(4) and (c)(3) are amended, as follows:

**§ 76.13 Filing of applications.**

* * * * *

(a) * * *

(4) A statement that explains how the proposed system's franchise and its plans for availability and administration of access channels and other nonbroadcast cable services are consistent with the provisions of §§ 76.31, 76.251, and 76.253;

NOTE: If the proposed system's franchise was issued prior to March 31, 1972, only substantial consistency with the provisions of § 76.31 need be demonstrated in the statement required by subparagraph (4), until the end of the current franchise period, or March 31, 1977, whichever occurs first.

* * * * *

(b) * * *

(4) A statement that explains how the system's plans for availability and administration of access channels and other nonbroadcast cable services are consistent with the provisions of §§ 76.251 and 76.253;

* * * * *

(c) * * *

(3) A statement that explains how the system's plans for availability and administration of access channels and other nonbroadcast cable services are consistent with the provisions of §§ 76.251 and 76.253;

* * * * *

Released: December 12, 1974.

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

[FR Doc.74-29816 Filed 12-20-74;8:45 am]

[Docket No. 20109; FCC 74-1353]

### NEW YORK AND LOS ANGELES URBANIZED AREAS

### Reallocation of Land Mobile Channels

*Report and order—Proceeding Terminated.* In the matter of amendment of Parts 89, 91, and 93 of the rules to reallocate land mobile channels in the 470-512 MHz band in the New York and Los Angeles urbanized areas, Docket No. 20109.

1. On July 23, 1974, the Commission released a notice of proposed rulemaking in the above entitled matter which was published in the FEDERAL REGISTER of July 31, 1974 (39 FR 27702). Comments and reply comments were filed by the organizations listed below.

*Comments*

American Trucking Association (ATA)
Central Committee on Telecommunications of the American Petroleum Institute (API)
National Association of Business and Educational Radio (NABER)
National Association of Manufacturers (NAM)

*Reply Comments*

California Mobile Radio Assn. (CMRA)

2. Our proposal to reallocate frequencies in the 470-512 MHz band received support predictably from representatives of services which would benefit from the proposal and opposition from representatives of services which would lose frequencies. API and NAM opposed the reallocation proposal primarily because some of the frequencies now allocated jointly in the Petroleum, Forestry Products, and Manufacturers Radio Services would be reallocated to the Business Radio Service. API and NAM argued, in substance, that although the frequencies set aside in the 470-512 MHz band for these services are not used extensively, they will be required in the future, and the Commission should reserve them for this purpose in recognition of the importance of the activities in which petroleum and manufacturers licensees use radio facilities.

3. While we appreciate API's and NAM's arguments, we do not believe they are persuasive in the context of this proceeding. As we have previously stated, the frequencies in the 470-512 MHz band were made available in order to accommodate immediate requirements in our most populous urban centers. The fact is that the frequencies allocated in the Petroleum/Forestry Products/Manufacturers pool are not being used while frequencies in the Business Radio Service are being rapidly exhausted and applications continue to be filed in the Business Radio Service at a rapid rate. Reallocation of those frequencies in the Business Radio Service will permit us to accommodate the increasing requirements in that service, as well as to provide for any immediate

needs of petroleum and manufacturers services who would continue to have access to them in the Business Radio Service. Accordingly, we will adopt the reallocation proposal. However, some changes will be made in accordance with the comments and other information that has come to our attention since the proposal was issued.

4. Thus, instead of allocating all of the frequencies in the reserve pool in New York City to the Business Radio Service, we will set aside six of those channel pairs for the Taxicab Radio Service. This is to accommodate recently developed requirements in that service brought about, in part, by changes in the rules governing taxicab operations in New York City. While six pairs of channels may not accommodate all of the immediate taxicab radio requirements in New York City, in view of the magnitude of the total frequency requirements in that industry,[1] they will afford substantial immediate relief. It is apparent, however, that the overall solution will have to be found on frequencies between 806 and 947 MHz recently made available for land mobile purposes in Docket No. 18262. As a further step in accommodating some of the immediate requirements in the taxicab industry under Taxicab Radio Service in that area, we are also amending the Rules to increase channel loading in the 470–512 MHz band from 150 to 200 mobiles per channel pair.

5. In Los Angeles, based on the comments, we have decided to make available for assignment the frequencies in reserve pool A, as well as those proposed in the notice of proposed rulemaking, but for those frequencies (reserve pool A) we will follow the assignment method we have developed for assigning frequencies in the 470–512 MHz band in the Dallas, Houston, and Miami urbanized areas. This assignment scheme will permit Public Safety Radio Service applicants, for example, to apply for the first channel in the reserve pool and when that channel is substantially filled, the next channel may be licensed, and so on. Conversely, the highest channel in reserve pool A will be made available to any user from any of the other service groups. In addition, those frequencies will be assigned only when the applicant shows that the frequencies in his service in this band are loaded to or near capacity. The rules in the attached appendix reflect the allocation and the method for assigning these frequencies.

6. The proposal to permit mobile relay frequencies in the Land Transportation Radio Service received no significant opposition. Therefore, we are amending the rules in Part 93 to permit mobile relay operations in the 470–512 MHz band. In this connection, we note that ATA expresses concern that, with this amendment, the Land Transportation Radio Service applicants might somehow be excluded from the Business Radio Service. This, obviously, was not our intention.

7. We have also modified our original proposal concerning frequency assignments for shared repeater operations, the so-called "community repeaters." We had proposed a certain maximum period of time (such as 18 months) during which we would not re-assign in the same area a frequency pair set aside for a particular community repeater. This was to allow such a facility to develop sufficient capacity to saturate the channel and avoid inherent interference problems. While this proposal was generally accepted, a number of suggestions for changes were made. For example, NABER indicated that the period of 18 months would be too long and urged that a 12 month period be designated instead. CMRA urged that the operator of a community repeater be required to complete construction of the facility within sixty days after the first license for its use was granted, that applications for at least three more users be filed with the Commission for the use of the same facility within six months, and that the channel be at least 50 percent loaded within nine months after the date of the first grant was made. We agree that some of CMRA's suggestions are worth while and we are incorporating them in the rules. However we will require construction of the facility within ninety days and that the frequency assigned to it be loaded to at least 50 percent within a nine month period. We are also adopting NABER's suggestion and will reduce the period during which a frequency will not be reassigned to twelve months. Thus, unless these requirements are substantially met, the frequency pair assigned to a community repeater will be made available for assignment to other systems as well.

8. Our proposal to reduce the maximum permissible power for stations situated on high sites in the Los Angeles area elicited opposition from API and CMRA. CMRA argued:

> * * * the power levels presently allowed under the rules that apply to the 470–512 MHz band are the minimum levels necessary to provide adequate signals, even within the 30 mile mobile operating area. Due to the hills within a 30 mile radius of Mt. Lukens, the most heavily used site serving the Los Angeles area, knife edge diffraction and reflection of signals play an important part in eliminating "dead areas" throughout the geographic vicinity. Any power reduction will only serve to reduce the effectiveness of the 470–512 MHz channels and make them greatly inferior to the lower UHF frequencies.[2]

9. We have considered CMRA's argument, and substantially similar arguments advanced by API, but we do not agree they justify retention of the power levels now permitted for stations on the high sites, such as Mt. Lukens or Sierra Peak. Neither CMRA nor API supplied engineering calculations to support their contention. Clearly, there will always be some locations where a mobile station will be unable to receive its base station, even with presently authorized power levels. This is due to the "shadowing" effect which most often occurs when the mobile unit is behind a high hill or tall building, and only an enormous increase in base station power could overcome many such obstruction losses. We do not believe that land mobile systems can or should be engineered to overcome all obstructions. Rather, systems should be engineered to provide a signal which will be useable in a reasonable percentage of the locations within the licensee's service area. To do otherwise would result in the rapid exhaustion of available land mobile frequencies because of congestion generated by excessive base station power. Nevertheless, we recognize the path losses caused by "shadowing" and we have made reasonable allowances in the power levels we will allow in order to overcome some of the obstruction or "shadowing" losses: Namely, we have built a 20 dB allowance into the formula we have used to calculate maximum permissible power levels at different site elevations and we believe this allowance is reasonable. Clearly, this will not provide coverage in all "shadow" areas, but, as we have just stated, this would require enormous power levels. The power levels now authorized provide a marginal benefit in this respect, but limit, generally, the possibility of re-use of the frequencies. In our view, the benefit of the higher power levels is not sufficient to warrant their continued authorization. Our objective here is to assure reasonable re-use of the frequencies in the Los Angeles area and, to accomplish this objective, curtailment of the power of stations at high elevations is necessary.

10. We want to emphasize that we are dealing here with a situation where many of the land mobile transmitters on frequencies in the 470–512 MHz band are located at high elevations. As we stated in the Notice, most of the mobile relay

[1] There are over 10,000 taxicabs in that city, most of which are not equipped with radio because of restrictions formerly placed on taxicab operation. Previously, a cab "on call" was required to stop and pick up any passenger desiring a ride without regard to the cab's original destination. Relaxation of this rule permits New York taxicab operators to use radio much more effectively than heretofore and cabs are being equipped with radio as rapidly as possible.

[2] CMRA also contended that power reduction in stations on high elevations will not achieve the desired result (that is it will not allow increased re-use of the frequencies at 40 mile or longer distances) because, even with reduced power, temperature inversions in the Los Angeles area can generate an increase in UHF signal level up to 30 dB. We are aware of this phenomenon, but we do not believe that this argument supports CMRA's position. Generally, for more than marginal increases, signal enhancement due to temperature inversion is not significant at line of sight distances. Substantial signal enhancements caused by temperature inversions occur at distances where refraction through the troposphere is the dominant mode of communications at UHF frequencies. These distances are generally much greater than the 40–50 miles with which we are concerned here.

stations in this band are situated on just three sites, Sierra Peak, elevation 3,045' above sea level (ASL), Mt. Lukens, elevation 5,040' ASL, and a peak eastward of Mt. Lukens, elevation 2,000' ASL. From these three sites there are virtually line-of-sight paths into much of the Los Angeles metropolitan area. Assuming a useable receiver threshold sensitivity of 0.5 $\mu$V/50 ohms, and allowing a 20 dB margin for overcoming shadowing and other location variability losses, the values in the following table will provide sufficient signal levels for coverage within the 30 mile operating radius of the mobile units in the Los Angeles area.

| *Antenna height (ASL) (feet)* | *Power (ERP)* |
|---|---|
| 5,000 | 25 W. |
| 4,500 | 30 W. |
| 4,000 | 40 W. |
| 3,500 | 50 W. |
| 3,000 | 70 W. |
| 2,500 | 100 W. |
| 2,000 | 150 W. |

This table is derived from the formula:

R(dBw) = −113dB −40log(D) −20log(F) +20log(Ht) +20log(Hr) +10log(P) where R(dBw) = −123dBw; D=30 miles; F=500 MHz; Ht= Base Station Antenna height (ASL); Hr=6'; and P=Base Station Power (ERP)

This formula is derived from the information supplied in Report R-6602, released by the Office of the Chief Engineer on September 7, 1966.

11. We believe that the power levels shown above will allow a reasonable quality of service and expanded re-use of frequencies. The reduced power levels shown above will apply to new systems authorized in the 470–512 MHz band in the Los Angeles urbanized area. Existing systems will be required to comply within a period of five years, January 1, 1980.

12. The basic plan adopted by the Commission for the shared use of frequencies in the 470–512 MHz band requires, among other things, that land mobile systems be designed so that the mobile units operate within 30 miles of the associated base station. CMRA urged that this limitation should be eliminated and that mobile units should be permitted to operate within 80 miles of the center of the urbanized area involved. CMRA's request will be denied here. It is not within the scope of the notice in this proceeding and it is contrary to the basic plan designed to avoid interference to television stations and to assure re-use of the frequencies.[3]

[3] CMRA in its comments has stated that some licensees in the 470–512 MHz band use powers in mobile units in excess of the 200 watts ERP maximum permitted by the rules. While CMRA has not provided us with specific information, we are concerned about its allegations and enforcement effort will be directed to this problem. Also, we want to caution licensees that they may jeopardize their licenses if they operate their radio facilities in violation of the rules and the terms of their authorizations.

13. In view of the foregoing, the Commission concludes that the public interest will be served by amending the rules as proposed in Docket 20109.

14. *Accordingly, it is ordered,* Pursuant to the authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, That Parts 89, 91, and 93 of the Commission's Rules are amended effective January 27, 1975 as set forth below. *It is further ordered,* That this proceeding is terminated.

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

Adopted: December 10, 1974.

Released: December 19, 1974.

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

Parts 89, 91, and 93 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

## PART 89—PUBLIC SAFETY RADIO SERVICES

A. In § 89.123, paragraph (b) is amended by the addition of a new footnote to Figure "A", paragraph (e) is amended by the addition of a new footin the frequency tabulation, and new paragraphs (i) & (j) added to read as follows:

**§ 89.123 Frequencies in the band 470–512 MHz.**

* * * * *

(b) * * *

[2] For stations in the Los Angeles urbanized area with antenna elevations 1,500 or more feet above sea level, the maximum authorized effective radiated power (ERP) shall be in accordance with the following table:

| *Antenna height (ASL) (feet)* | *Power (ERP)* |
|---|---|
| 1,501–2,000 | 155 W. |
| 2,001–2,500 | 100 W. |
| 2,501–3,000 | 70 W. |
| 3,001–3,500 | 50 W. |
| 3,501–4,000 | 38 W. |
| 4,001–4,500 | 31 W. |
| 4,501–5,000 | 25 W. |

Existing stations may continue to use presently authorized powers until January 1, 1980.

* * * * *

(e) * * *

CHANNEL 14

PUBLIC SAFETY

| *Base* | *Mobile* |
|---|---|
| 470.3125 to 471.4125 | 473.3125 to 474.4125 |

CHANNEL 15

PUBLIC SAFETY

| *Base* | *Mobile* |
|---|---|
| 476.3125 to 477.4125 | 479.3125 to 480.4125 |

* * * * *

(i) Frequencies available for assignment in the Los Angeles, Calif. urbanized area:

CHANNEL 14

PUBLIC SAFETY

| *Base* | *Mobile* |
|---|---|
| 470.3125 to 471.1375 | 473.3125 to 474.1375 |

RESERVE POOL

| *Base* | *Mobile* |
|---|---|
| 471.1625 to 471.2875 | 474.1625 to 474.2875 |

CHANNEL 20

PUBLIC SAFETY

| *Base* | *Mobile* |
|---|---|
| 506.3125 to 507.1375 | 509.3125 to 510.1375 |

RESERVE POOL

| *Base* | *Mobile* |
|---|---|
| 507.1625 to 507.2875 | 510.1625 to 510.2875 |

(j) Reserve pool frequencies are available for assignment to applicants in the Public Safety Radio Service in the Los Angeles urbanized area after all available Public Safety frequencies in the 470–512 MHz band have been assigned and are substantially loaded in accordance with the standard set forth in footnote 2, paragraph (c) of this section. Channels shall be assigned starting with the lowest frequency (471.1625 or 507.1625 MHz) and progressing upward from these points a channel at a time. Mobile station frequencies are 3 MHz higher than the corresponding base station frequencies. Normally, each channel shall be substantially filled before the next channel will be assigned.

## PART 91—INDUSTRIAL RADIO SERVICES

B. 1. In § 91.58 a new paragraph (d) is added as follows:

**§ 91.58 Supplemental information to be submitted with application.**

* * * * *

(d) Each application for authority to operate on any frequency in the range 470–512 MHz shall be accompanied by a statement indicating whether or not the proposed base station frequency will be used by more than one licensee. When an applicant plans to share the use of such a facility, he must submit the names and call signs of all existing users.

2. In § 91.114, paragraph (b) is amended by the addition of a new footnote to Figure "A", footnote 2 in paragraph (f) is amended, the frequency tabulation under paragraph (h) is amended, and a

[2] For stations in the Los Angeles urbanized area with antenna elevations 1,500 or more feet above sea level, the maximum authorized effective radiated power (ERP) shall be in accordance with the following table:

| *Antenna Height (ASL) (feet)* | *Power (ERP)* |
|---|---|
| 1,501–2,000 | 155 W. |
| 2,001–2,500 | 100 W. |
| 2,501–3,000 | 70 W. |
| 3,001–3,500 | 50 W. |
| 3,501–4,000 | 38 W. |
| 4,001–4,500 | 31 W. |
| 4,501–5,000 | 25 W. |

Existing stations may continue to use presently authorized powers until January 1, 1970.

new paragraph (j) is added to read as follows:

**§ 91.114 Frequencies in the band 470–512 MHz.**

* * * * *

(f) * * *

2. The channel loading is 90 units. A unit is defined as one vehicular mobile unit or three hand carried transmitter-receivers. Loading standards will be applied in terms of the number of units actually in use or to be placed in use within 8 months following authorization. A licensee will be required to show that an assigned frequency pair is at full capacity before it may be assigned a second or additional frequency. Channel capacity may be reached either by the requirements of a single licensee or by several users sharing a channel. Until a channel is loaded to capacity it will be available for assignment to other users in the same area. A frequency pair may be reassigned at distances 40 miles (20 miles for Channel 15, Chicago; Channel 20, Philadelphia; and Channel 17, Washington) or more from the location of base station authorized on that pair without reference to loading at the point of original installation. Following authorization, the licensee shall notify the Commission either during or at the close of the 8 month period of the number of units in operation. Notwithstanding the foregoing, if the base station facility is to be used by more than a single licensee, the frequency assigned to it will not be reassigned for use by another facility within 40 miles (or 20 miles where applicable) for a period of 12 months: *Provided*, That the facility is constructed within 90 days from the date of the first grant, meets the loading standards to at least 50 per cent within 9 months, and meets all loading standards within 12 months.

* * * * *

(h) * * *

CHANNEL 14

BUSINESS

| *Base* | *Mobile* |
|---|---|
| 471.6625 to 472.3375 *and* 472.7625 to 472.8875 | 474.6625 to 475.3375 *and* 475.7625 to 475.8875 |

PETROL-FOREST PROD. MANUF.

| *Base* | *Mobile* |
|---|---|
| 472.9125 to 472.9375 | 475.9125 to 475.9375 |

CHANNEL 15

BUSINESS

| *Base* | *Mobile* |
|---|---|
| 477.6625 to 478.3375 *and* 478.6875 to 478.8375 | 480.6625 to 481.3375 *and* 481.6875 to 481.8375 |

PETROL-FOREST PROD. MANUF.

| *Base* | *Mobile* |
|---|---|
| 478.9125 to 478.9375 | 481.9125 to 481.9375 |

* * * * *

(j) Frequencies available for assignment in the Los Angeles, California urbanized area:

CHANNEL 14

POWER TELEPHONE MAINTENANCE

| *Base* | *Mobile* |
|---|---|
| 471.3125 to 471.4125 | 474.3125 to 474.4125 |

PETROL.-FOREST PROD. MANUF.

| *Base* | *Mobile* |
|---|---|
| 472.6125 to 472.8875 | 475.8125 to 475.8875 |

SPECIAL INDUSTRIAL

| *Base* | *Mobile* |
|---|---|
| 471.4375 to 471.6375 | 474.4375 to 474.6375 |

BUSINESS

| *Base* | *Mobile* |
|---|---|
| 471.6625 to 472.6375 | 474.6625 to 475.4375 |

CHANNEL 20

POWER TELEPHONE MAINTENANCE

| *Base* | *Mobile* |
|---|---|
| 507.3125 to 407.4125 | 510.3125 to 510.4125 |

PETROL.-FOREST PROD. MANUF.

| *Base* | *Mobile* |
|---|---|
| 508.8125 to 508.8875 | 511.8125 to 511.8875 |

SPECIAL INDUSTRIAL

| *Base* | *Mobile* |
|---|---|
| 507.4375 to 507.6375 | 510.4375 to 510.6375 |

BUSINESS

| *Base* | *Mobile* |
|---|---|
| 507.6425 to 508.4375 | 510.6425 to |

CHANNEL 14

RESERVE POOL*

| *Base* | *Mobile* |
|---|---|
| 471.1625 to 471.2875 | 474.1625 to 474.2875 |

CHANNEL 20

RESERVE POOL *

| *Base* | *Mobile* |
|---|---|
| 508.1625 to 508.2875 | 511.1625 to 511.2875 |

* Reserve pool frequencies are available for assignment to applicants in the Industrial Radio Services in the Los Angeles urbanized area after all available Industrial frequencies in the 470–512 MHz band have been assigned and are substantially loaded in accordance with the standards set forth in footnote 2, paragraph (d), (e), and (f) of this section. Channels shall be assigned starting with the highest frequency (471.2875 or 508.2875 MHz) and progressing downward from those points a channel at a time. Mobile station frequencies are 3 MHz higher than the corresponding base station frequencies. Normally, each channel shall be substantially filled before the next channel will be assigned.

## PART 93—LAND TRANSPORTATION RADIO SERVICES

C. In § 93.114, paragraph (a) is amended by the addition of a new subparagraph (8), paragraph (b) is amended by the addition of a new footnote to Fig. "A", the first sentence of footnote 2 is amended in paragraph (c), the frequency tabulation in paragraph (f) is amended, and a new paragraph (j) is added as follows:

**§ 93.114 Frequencies in the band 470–512 MHz.**

(a) * * *

(8) The mobile relay mode of operation may be authorized in the Land Transportation Radio Services.

(b) * * *

---

[1] For stations in the Los Angeles urbanized area with antenna elevations 1,500 or more feet above sea level, the maximum authorized effective radiated power (ERP) shall be in accordance with the following table.

| *Antenna height (ASL) (feet)* | *Power (ERP)* |
|---|---|
| 1,501–2,000 | 155 W. |
| 2,001–2,500 | 100 W. |
| 2,501–3,000 | 70 W. |
| 3,001–3,500 | 50 W. |
| 3,501–4,000 | 38 W. |
| 4,001–4,500 | 31 W. |
| 4,501–5,000 | 25 W. |

Existing stations may continue to use presently authorized powers until January 1, 1980.

(c) * * *

2. The channel loading is 150 units except in the New York-Northeast, New Jersey urbanized area where the channel loading is 200 units.

* * * * *

(f) * * *

CHANNEL 14

TAXICAB

| *Base* | *Mobile* |
|---|---|
| 472.3625 to 472.4375 *and* 472.6375 to 472.7375 | 475.3625 to 475.4375 *and* 475.6375 to 475.7375 |

RAILROAD-MOTOR CARRIER-AUTOMOBILE EMERGENCY

| *Base* | *Mobile* |
|---|---|
| 472.4625 to 472.6125 | 475.4625 to 475.6125 |

CHANNEL 15

TAXICAB

| *Base* | *Mobile* |
|---|---|
| 478.3625 to 478.4875 *and* 478.6875 to 478.7375 | 481.3625 to 481.4875 *and* 481.6875 to 481.7375 |

RAILROAD-MOTOR CARRIER-AUTOMOBILE EMERGENCY

| *Base* | *Mobile* |
|---|---|
| 478.5125 to 478.6625 | 478.5125 to 478.6625 |

(j) Frequencies available for assignment in the Los Angeles, California area:

CHANNEL 14

TAXICAB

| Base | Mobile |
|---|---|
| 472.9125 | 475.9125 |
| to | to |
| 472.9875 | 475.9875 |

RAILROAD-MOTOR CARRIER-AUTOMOBILE EMERGENCY

| Base | Mobile |
|---|---|
| 472.4625 | 475.4625 |
| to | to |
| 472.7875 | 475.7875 |

CHANNEL 20

TAXICAB

| Base | Mobile |
|---|---|
| 508.9125 | 511.9125 |
| to | to |
| 508.9875 | 511.9875 |

RAILROAD-MOTOR CARRIER-AUTOMOBILE EMERGENCY

| Base | Mobile |
|---|---|
| 508.4625 | 511.4625 |
| to | to |
| 508.7875 | 511.7875 |

CHANNEL 14

RESERVE POOL*

| Base | Mobile |
|---|---|
| 471.1625 | 474.1625 |
| to | to |
| 471.2875 | 474.2875 |

CHANNEL 20

RESERVE POOL*

| Base | |
|---|---|
| 508.1625 | 511.1625 |
| to | Mobile |
| 508.2875 | to |
| | 511.2875 |

[FR Doc.74-29688 Filed 12-20-74;8:45 am]

## Title 49—Transportation

## CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Rev. S.O. 1108-A]

### PART 1033—CAR SERVICE

### Reading Co. et al. Authorized To Operate Over Tracks of Lehigh Valley Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 16th day of December 1974.

Upon further consideration of Revised Service Order No. 1108 (37 FR 28634; 38 FR 5876, 23792; 39 FR 1851, 10591, 20799 and 40499), and good cause appearing therefor:

*It is ordered,* That: § 1033.1108 *Revised Service Order 1108-A* (Reading Company, Andrew L. Lewis, Jr., and Joseph L. Castle, trustees, authorized to operate over tracks of Lehigh Valley Railroad Company, John F. Nash and Robert C. Haldeman, trustees) be, and it is hereby, vacated and set aside.

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

*It is further ordered,* That this order shall become effective at 11:59 p.m., December 18, 1974 and that a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

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

[FR Doc.74-29858 Filed 12-20-74;8:45 am]

[S.O. 1125, Amdt. 4]

### PART 1033—CAR SERVICE

### St. Louis-San Francisco Railway Co. Authorized To Operate Over Tracks of the Kansas City Southern Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 16th day of December 1974.

Upon further consideration of Service Order No. 1125 (38 FR 6883, 19126, 33482, and 39 FR 18281), and good cause appearing therefor:

*It is ordered,* That: § 1033.1125 *Service Order No. 1125 St. Louis-San Francisco Railway Company authorized to operate over tracks of the Kansas City Southern Railway Company* be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

*Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 1, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

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

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

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

By the Commission, Railroad Service Board.

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

[FR Doc.74-29859 Filed 12-20-74;8:45 am]

[S.O. 1154, Amdt. 2]

### PART 1033—CAR SERVICE

### St. Louis-San Francisco Railway Co. Authorized To Operate Over Tracks of the Alabama Great Southern Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 16th day of December 1974.

Upon further consideration of Service Order No. 1154 (38 FR 28292 and 39 FR 12009), and good cause appearing therefor:

*It is ordered,* That: § 1033.1154 *Service Order No. 1154 St. Louis-San Francisco Railway Company authorized to operate over tracks of the Alabama Great Southern Railroad Company* be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 1, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

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

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

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

By the Commission, Railroad Service Board.

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

[FR Doc.74-29860 Filed 12-20-74;8:45 am]

* Reserve pool frequencies are available for assignment to applicants in the Land Transportation Radio Services in the Los Angeles urbanized area after all available Public Safety frequencies in the 470-512 MHz band have been assigned and are substantially loaded in accordance with the standard set forth in footnote 2, paragraph (c) and (d) of this section. Channels shall be assigned starting with the highest frequency (471.2875 or 508.2875 MHz) and progressing downward from these points a channel at a time. Mobile station frequencies are 3MHz higher than the corresponding base station frequencies. Normally, each channel shall be substantially filled before the next channel will be assigned.

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

## PART 28—PUBLIC ACCESS, USE, AND RECREATION

### Blackwater National Wildlife Refuge, Maryland

The following special regulations are issued and are effective during the period January 1, 1975 through December 31, 1975.

§ 28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

MARYLAND

BLACKWATER NATIONAL WILDLIFE REFUGE

Entry by foot or motor vehicle is permitted during daylight hours on designated travel routes for the purposes of nature study, photography, hiking, and sightseeing. Two-wheel motor vehicles (motorcycles, motorbikes, trail bikes, and mini-bikes) are not permitted on the auto drive. Visitors must remain in their vehicles while on the auto drive. Bicycles are permitted on a designated portion of the auto drive.

Pets are permitted on a leash not exceeding 10 feet in length in designated parking areas only.

Fires are prohibited for any purpose in the public use areas.

The refuge, comprising approximately 11,627 acres, is delineated on a map available from the Refuge Manager, Blackwater National Wildlife Refuge, Route 1, Box 121, Cambridge, Maryland 21613, or from the Regional Director, U.S. Fish and Wildlife Service, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1975.

RICHARD E. GRIFFITH,
*Regional Director, U.S. Fish and Wildlife Service.*

DECEMBER 13, 1974.

[FR Doc.74-29773 Filed 12-20-74;8:45 am]

## PART 28—PUBLIC ACCESS, USE, AND RECREATION

### Montezuma National Wildlife Refuge, New York

The following special regulation is issued and is effective during the period January 1, 1975 through December 31, 1975.

§ 28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

NEW YORK

MONTEZUMA NATIONAL WILDLIFE REFUGE

Travel by motor vehicle or on foot is permitted on designated travel routes for the purpose of nature study, photography, and sight-seeing during daylight hours. Pets are permitted if on a leash not over 10 feet in length.

The refuge area, comprising 6,433 acres, is delineated on maps available from the Refuge Manager, Montezuma National Wildlife Refuge, R.D. #1, Box 1411, Seneca Falls, New York 13148 and from the Regional Director, U.S. Fish and Wildlife Service, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1975.

RICHARD E. GRIFFITH,
*Regional Director, U.S. Fish and Wildlife Service.*

DECEMBER 13, 1974.

[FR Doc.74-29775 Filed 12-20-74;8:45 am]

## PART 28—PUBLIC ACCESS, USE, AND RECREATION

### Supawna Meadows National Wildlife Refuge, New Jersey

The following special regulation is issued and is effective during the period January 1, 1975 through December 31, 1975.

§ 28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

NEW JERSEY

SUPAWANA MEADOWS NATIONAL WILDLIFE REFUGE

Travel by bicycle or on foot is permitted from sunrise to sunset unless prohibited by posting, for the purpose of nature study, photography, hiking, and sight-seeing. Pets are permitted if on a leash not over ten feet in length.

The refuge area, comprising 653 acres, is delineated on maps available at refuge headquarters, Brigantine National Wildlife Refuge, PO. Box 72, Great Creek Road, Oceanville, new Jersey 08231, or from the Regional Director, U.S. Fish and Wildlife Service, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1975.

RICHARD E. GRIFFITH,
*Regional Director, U.S. Fish and Wildlife Service.*

DECEMBER 13, 1974.

[FR Doc.74-29771 Filed 12-20-74;8:45 am]

## PART 28—PUBLIC ACCESS, USE, AND RECREATION

### Tinicum National Environmental Center, Pennsylvania

The following special regulation is issued and is effective during the period January 1, 1975 through December 31, 1975.

§ 28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

PENNSYLVANIA

TINICUM NATIONAL ENVIRONMENTAL CENTER

Entrance into the refuge is permitted for the purpose of bicycling, hiking, nature study, sightseeing and photography from dawn to dusk. Motorcycles, snowmobiles, all terrain, air cushion or other similar motor vehicles are prohibited on the refuge dikes. Pets are permitted if on a leash not exceeding 10 feet in length. Boats are not permitted in the refuge impoundments.

A map of the refuge is available at the refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, John W. McCormack Post Office and Courthouse Building, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1975.

RICHARD E. GRIFFITH,
*Regional Director, Fish and Wildlife Service.*

DECEMBER 13, 1974.

[FR Doc.74-29772 Filed 12-20-74;8:45 am]

## PART 28—PUBLIC ACCESS, USE, AND RECREATION

### Trustom Pond National Wildlife Refuge, Rhode Island

The following special regulation is issued and is effective during the period January 1, 1975 through December 31, 1975.

§ 28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

RHODE ISLAND

TRUSTOM POND NATIONAL WILDLIFE REFUGE

Entry into and travel by bicycle or on foot is permitted from sunrise to sunset on designated routes unless prohibited by posting for the purpose of nature study, biking, photography, and sightseeing. Pets are permitted if on a leash not over 10 feet in length.

The entire refuge beach has no lifeguards. Swimming will be at the visitor's own risk. Year round access across the refuge for surf fishing is permitted.

Small cooking fires are permitted only on the ocean beach. No other fires are permitted at other locations on the refuge. Camping, tents, floating devices and nudity are not permitted on the refuge.

Over-the-sand vehicles, snowmobiles, air cushion, all terrain or other similar vehicles are not permitted on the refuge.

A map of the refuge is available from the Refuge Manager, Ninigret National Wildlife Refuge, Box 307, Charlestown, Rhode Island 02813 or from the Regional

Director, U.S. Fish and Wildlife Service, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations governing recreation on wildlife refuge areas generally, which are set forth in 50 CFR Part 28 and are effective through December 31, 1975.

RICHARD E. GRIFFITH,
*Regional Director, U.S. Fish and Wildlife Service.*

DECEMBER 13, 1974.

[FR Doc.74-29774 Filed 12-20-74;8:45 am]

## PART 33—SPORT FISHING

### Blackwater National Wildlife Refuge, Maryland

The following special regulations are issued and are effective during the period April 15, 1975 through October 31, 1975.

**§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.**

MARYLAND

BLACKWATER NATIONAL WILDLIFE REFUGE

Sport fishing and crabbing on the Blackwater National Wildlife Refuge, Route 1, Box 121, Cambridge, Maryland 21613, is permitted only on those areas designated by signs as open to fishing. These open areas, comprising, approximately 2,700 acres, are delineated on a map available at refuge headquarters or from the Regional Director, U.S. Fish and Wildlife Service, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109. Sport fishing and crabbing shall be in accordance with all applicable State regulations except for the following special conditions.

(1) Season: April 15–October 31—daylight hours only.

(2) Boat launching from refuge lands is not permitted.

(3) All fish and crab lines must be attended. No set tackle may be used.

(4) Use of airboats is prohibited.

The provisions of this special regulation supplement the regulations which govern sport fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through October 31, 1975

RICHARD E. GRIFFITH,
*Regional Director, U.S. Fish and Wildlife Service.*

DECEMBER 13, 1974.

[FR Doc.74-29768 Filed 12-20-74;8:45 am]

## PART 33—SPORT FISHING

### Bombay Hook National Wildlife Refuge, Delaware

The following special regulation is issued and is effective during the period January 1, 1975 through December 31, 1975.

**§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.**

DELAWARE

BOMBAY HOOK NATIONAL WILDLIFE REFUGE

Sport fishing on the Bombay Hook National Wildlife Refuge, Smyrna, Delaware, is permitted in tidal waters. These open areas are delineated on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, John W. McCormack Post Office and Courthouse Building, Boston, Massachusetts 02109. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) Fishing from boats only is permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas, generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1975.

RICHARD E. GRIFFITH,
*Regional Director, U.S. Fish and Wildlife Service.*

DECEMBER 13, 1974.

[FR Doc.74-29770 Filed 12-20-74;8:45 am]

## PART 33—SPORT FISHING

### Iroquois National Wildlife Refuge, New York

The following special regulation is issued and is effective during the period January 1, 1975 through December 31, 1975.

**§ 33.5 Special regulation; sport fishing; for individual wildlife refuge areas.**

NEW YORK

IROQUOIS NATIONAL WILDLIFE REFUGE

Sport fishing on the Iroquois National Wildlife Refuge, Basom, New York is permitted on all waters designated by signs as open in accordance with specified dates. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions.

(1) All waters will be closed to fishing from April 1 through July 15 and October 1 through November 30 except those portions of the Feeder Canal and Oak Orchard Creek designated by signs as open.

(2) Boats without motors may be used on Oak Orchard Creek from the Knowlesville Road to a wire two miles westward.

(3) Firearms are not permitted in boats.

(4) Leaving boats, structures, or other equipment overnight on the refuge is not permitted.

All fishing areas are delineated on maps available at refuge headquarters or from the Regional Director, Fish and Wildlife Service, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas, generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1975.

RICHARD E. GRIFFITH,
*Regional Director, Fish and Wildlife Service.*

DECEMBER 13, 1974.

[FR Doc.74-29767 Filed 12-20-74;8:45 am]

## PART 33—SPORT FISHING

### Prime Hook National Wildlife Refuge

The following special regulation is issued and is effective during the period January 1, 1975 through December 31, 1975.

**§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.**

DELAWARE

PRIME HOOK NATIONAL WILDLIFE REFUGE

Sport fishing is permitted in accordance with all applicable State regulations. Boats, with or without motors, are permitted for fishing freshwater streams and ponds. Boats may be launched from designated access points or public roads.

The refuge is delineated on maps available at refuge headquarters or from the Regional Director, U.S. Fish and Wildlife Service, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1975.

RICHARD E. GRIFFITH,
*Regional Director, U.S. Fish and Wildlife Service.*

DECEMBER 13, 1974.

[FR Doc.74-29769 Filed 12-20-74;8:45 am]

# Title 26—Internal Revenue

## CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

### SUBCHAPTER A—INCOME TAX

[T.D. 7334]

## PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

### Special Rules for Determining Tax Credit for Foreign Income Taxes Paid by Controlled Foreign Corporations

By a notice of proposed rule making appearing in the FEDERAL REGISTER for December 23, 1971 (36 FR 24816), amendments to the Income Tax Regulations (26 CFR Part 1) were proposed in order to provide special rules for determining the tax credit of a domestic corporation for foreign income taxes paid by a controlled foreign corporation. After

consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, certain changes were made, and the proposed amendments of the regulations, subject to the changes indicated below, are adopted by this document.

Sections 1.960–1(c)(3) and 1.960–1(c)(2) have each been changed from the notice of proposed rule making by inserting a cross reference to the principles of paragraphs (b)(3)(iv) and (viii) and (c) of § 1.9541 for determining the effective foreign tax rate and by the addition of a simple example involving the dividends-received deduction.

This document also amends example (2) in § 1.963–3(h), which was amended by paragraph 9 of T.D. 7120, which was published in the FEDERAL REGISTER for June 4, 1971 (36 FR 10851). This amendment was not proposed with the notice of proposed rule making published on December 23, 1971. The penultimate sentence in example (2) provides that the foreign tax credit is determined in accordance with § 1.963–4. This is incorrect since the example does not involve a chain or group of controlled foreign corporations. Accordingly, the sentence has been corrected to refer to section 902 as modified by the regulations under section 963.

The proposed amendments of the regulations are hereby adopted, subject to the changes set forth below, effective for taxable years of foreign corporations beginning after December 31, 1962, and for taxable years of U.S. shareholders within which or with which such taxable years of such corporations end:

PARAGRAPH 1. The amendment of § 1.960–1, as set forth in paragraph 2 of the notice, is changed by revising so much of § 1.960–1 (c)(3) as follows subdivision (ii) thereof to read as set forth below.

PAR. 2. The amendment of § 1.960–2, as set forth in paragraph 3 of the notice, is changed by revising so much of § 1.960–2 (c)(2) as follows subdivision (ii) thereof to read as set forth below.

Par. 3. Section 1.963–3 is amended by revising example (2) in paragraph (h) to read as set forth below.

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

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

Approved: December 16, 1974.

FREDERIC W. HICKMAN,
*Assistant Secretary of the Treasury.*

1. In § 1.959–3 paragraph (e) is amended to read as follows:

**§ 1.959–3 Allocation of distributions to earnings and profits of foreign corporations.**

* * * * *

(e) *Determination of foreign tax credit.* For purposes of applying section 902 and section 960 in determining the foreign tax credit allowable under section 901 in a case in which distributions are made by a second-tier corporation or a first-tier corporation, as the case may be, from its earnings and profits for a taxable year which are attributable to an amount included in the gross income of a U.S. shareholder under section 951(a) or which are attributable to amounts excluded from the gross income of such foreign corporation under section 959(b) and § 1.959–2 with respect to a U.S. shareholder, the rules of paragraph (b) of this section shall apply except that in applying subparagraph (1) or (2) of such paragraph—

(1) Distributions from the earnings and profits for such taxable year of the second-tier corporation shall be considered first attributable to its earnings and profits attributable to distributions from the earnings and profits of the foreign corporation, if any, next lower in the chain of ownership described in section 958(a), to the extent of such earnings and profits of the second-tier corporation, and then to the other earnings and profits of such second-tier corporation, and

(2) Distributions from the earnings and profits for such taxable year of the first-tier corporation shall be considered first attributable to its earnings and profits attributable to distributions from the earnings and profits of the second-tier corporation, to the extent of such earnings and profits of the first-tier corporation, and then to the other earnings and profits of such first-tier corporation. For purposes of this paragraph, a second-tier corporation is a foreign corporation referred to in section 960(a)(1)(B), and a first-tier corporation is a foreign corporation referred to in section 960(a)(1)(A). The application of this paragraph may be illustrated by the following examples:

*Example (1).* * * *

(c) During 1964, S Corporation distributes $100 to R Corporation, and R Corporation distributes $100 to A Corporation. Neither corporation has any earnings or profits or deficit in earnings and profits for such year. On December 31, 1964, R Corporation has earnings and profits (computed before distributions to A Corporation made for the year) of $200, consisting of $100 of section 959(c)(1) amounts of R Corporation for 1963 and of $100 of section 959(c)(1) amounts of S Corporation for 1963. For purposes of determining the foreign tax credit under section 960 and the regulations thereunder, the $100 distribution by R Corporation shall be considered attributable to S Corporation's earnings and profits for 1963 described in section 959(c)(1).

*Example (2).* * * *

(c) During 1965 neither T Corporation nor U Corporation has any earnings and profits or deficit in earnings and profits or investment of earnings in U.S. property, but T Corporation distributes $100 to A Corporation. For purposes of determining the foreign tax credit under section 960 and the regulations thereunder, the $100 distribution of T Corporation shall be considered attributable to T Corporation's earnings and profits for 1964 described in section 959(c)(1).

* * * * *

2. In § 1.960–1 paragraph (c) is amended to read as follows:

**§ 1.960–1 Foreign tax credit with respect to taxes paid on earnings and profits of controlled foreign corporations.**

* * * * *

(c) *Amount of foreign income taxes deemed paid by domestic corporation in respect of earnings and profits of foreign corporation attributable to amount included in income under section 951—(1) In general.* * * *

(iii) In applying subdivision (i) of this subparagraph to a first-tier corporation which for the taxable year has income excluded under section 959(b), subparagraph (3) of this paragraph shall apply for purposes of excluding certain earnings and profits of such corporation and foreign income taxes, if any, attributable to such excluded income.

* * * * *

(3) *Exclusion of earnings and profits and taxes of first-tier corporation having income excluded under section 959(b).* If in the case of a first-tier corporation to which subparagraph (1)(i) of this paragraph is applied—

(i) The earnings and profits of such first-tier corporation for its taxable year consist of (*a*) earnings and profits attributable to dividends received from a second-tier corporation to which, in accordance with paragraph (b) of § 1.960–2, section 902(b) does not apply and (*b*) other earnings and profits, and

(ii) The effective rate of foreign income taxes paid or accrued by such first-tier corporation in respect to the dividends to which its earnings and profits described in subdivision (i)(*a*) of this subparagraph are attributable is higher or lower than the effective rate of foreign income taxes paid or accrued by such first-tier corporation in respect to the income to which its earnings and profits described in subdivision (i)(*b*) of this subparagraph are attributable, then, for purposes of applying subparagraph (1)(i) of this paragraph to the foreign income taxes paid, accrued, or deemed to be paid, by such first-tier corporation on or with respect to its earnings and profits for such taxable year, the earnings and profits of such first-tier corporation for such taxable year shall be considered not to include the earnings and profits described in subdivision (i)(*a*) of this subparagraph and only the foreign income taxes paid, accrued, or deemed to be paid, by such first-tier corporation in respect to the income to which its earnings and profits described in subdivision (i)(*b*) of this subparagraph are attributable shall be taken into account. For purposes of applying this subparagraph, the effective rate of foreign income taxes paid or accrued in respect to income shall be determined consistently with the principles of paragraphs (b)(3)(iv) and (viii) and (c) of

§ 1.954–1. Thus, for example, the effective rate of foreign income taxes paid or accrued in respect to dividends received by such first-tier corporation shall be determined by taking into account any intercorporate dividends received deduction allowed to such corporation for such dividends.

(4) *Illustrations.* * * *

*Example* (6). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include in gross income $175 attributable to the earnings and profits of A Corporation for such year. For 1965, B Corporation has earnings and profits of $225, on which it pays foreign income taxes of $75. In 1965, B Corporation distributes $150, which, under paragraph (b) of § 1.960–2, consists of $100 to which section 902(b) does not apply (from B Corporation's earnings and profits attributable to an amount required under section 951 to be included in N Corporation's gross income with respect to B Corporation) and $50 to which section 902(b)(1) applies (from B Corporation's other earnings and profits). The country under the laws of which A Corporation is incorporated imposes an income tax of 40 percent on all income but exempts from tax dividends received from a subsidiary corporation. A Corporation makes no distribution for 1965. Under paragraph (b) of § 1.960–2, A Corporation is deemed to have paid $25 ($50/$150 × $75) of the $75 foreign income taxes paid by B Corporation on its pretax earnings and profits of $225. The foreign income taxes deemed paid by N Corporation for 1965 under section 960(a)(1)(C) with respect to A Corporation are determined as follows upon the basis of the following assumed facts:

| | |
|---|---|
| Pretax earnings and profits of A corporation: | |
| Dividends received from B corporation | $150.00 |
| Other income | 250.00 |
| Total pretax earnings and profits | 400.00 |
| Foreign income taxes: | |
| On dividends received from B corporation | None |
| On other income ($250×0.40) | 100.00 |
| Total foreign income taxes | 100.00 |
| Earnings and profits: | |
| Attributable to dividends received from B corporation to which sec. 902(b) does not apply | 100.00 |
| Attributable to other income: | |
| Attributable to dividends received from B corporation to which section 902(b)(1) applies | 50.00 |
| Attributable to other income ($250—$100 [$250×0.40]) | 150.00 |
| Subtotal | 200.00 |
| Total earnings and profits | 300.00 |
| Foreign income taxes deemed paid by N corporation under sec. 960(a)(1)(C) with respect to A corporation: | |
| Tax paid by A corporation in respect to its income other than dividends received from B corporation to which sec. 902(b) does not apply ($175/$200×$100) | 87.50 |
| Tax of B corporation deemed paid by A corporation under sec. 902(b)(1) in respect to such income ($175/$200×$25) | 21.88 |
| Total foreign income taxes deemed paid by N corporation under sec. 960(a)(1)(C) with respect to A corporation | 109.38 |

3. In § 1.960–2 paragraphs (c) and (e) are amended to read as follows:

**§ 1.960–2 Interrelation of section 902 and section 960 when dividends are paid by second-tier corporation or by first-tier corporation.**

* * * * *

(c) *Application of section 902(a) to dividends received by domestic corporation from first-tier corporation.* * * *

(2) *Separate determinations under section 902(a) in case of first-tier corporation having income excluded under section 959(b).* If in the case of a first-tier corporation to which subparagraph (1) of this paragraph is applied—

(i) The earnings and profits of such first-tier corporation for its taxable year consist of (*a*) earnings and profits attributable to dividends received from a second-tier corporation to which, in accordance with paragraph (b) of this section, section 902(b) does not apply and (*b*) other earnings and profits, and

(ii) The effective rate of foreign income taxes paid or accrued by such first-tier corporation in respect to the dividends to which its earnings and profits described in subdivision (i)(*a*) of this subparagraph are attributable is higher or lower than the effective rate of foreign income taxes paid or accrued by such first-tier corporation in respect to the income to which its earnings and profits described in subdivision (i)(*b*) of this subparagraph are attributable, then, for purposes of applying subparagraph (1) of this paragraph to dividends received by the domestic corporation from the first-tier corporation, section 902(a) shall be applied separately to the portion of the dividends which is attributable to the earnings and profits described in subdivision (i)(*a*) of this subparagraph and separately to the portion of the dividends which is attributable to the earnings and profits described in subdivision (i)(*b*) of this subparagraph. For this purpose, in making each such separate determination, only the foreign income taxes paid, accrued, or, in the case of earnings and profits described in subdivision (i)(*b*) of this subparagraph, deemed to be paid, by such first-tier corporation in respect to the income to which the earnings and profits are attributable in respect of which the separate determination is being made shall be taken into account. For purposes of applying this subparagraph, no part of the foreign income taxes paid, accrued, or deemed to be paid, by such first-tier corporation for such taxable year in respect to the income to which its earnings and profits described in subdivision (i)(*b*) of this subparagraph are attributable shall be attributed to its earnings and profits described in subdivision (i)(*a*) of this subparagraph; and no part of the foreign income taxes paid or accrued by such first-tier corporation for such taxable year in respect to the dividends to which its earnings and profits described in subdivision (i)(*a*) of this subparagraph are attributable shall be attributed to its earnings and profits described in subdivision (i)(*b*) of this subparagraph. Furthermore, the effective rate of foreign income taxes paid or accrued in respect to income shall be determined consistently with the principles of paragraphs (b)(3) (iv) and (viii) and (c) of § 1.954–1. Thus, for example, the effective rate of foreign income taxes paid or accrued in respect to dividends received by such first-tier corporation shall be determined by taking into account any intercorporate dividends received deduction allowed to such corporation for such dividends.

* * * * *

(e) *Illustrations.* The application of this section may be illustrated by the following examples, in all of which, other than examples (7) and (8), it is assumed that the effective rate of foreign income taxes paid or accrued by the first-tier corporation in respect to dividends received from the second-tier corporation is the same as the effective rate of foreign income taxes paid or accrued by the first-tier corporation in respect to its other income:

* * * * *

*Example* (7). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include in gross income $100 attributable to the earnings and profits of B Corporation for such year. For 1965, B Corporation distributes $150 consisting of $100 from its earnings and profits attributable to the amount required under section 951 to be included in N Corporation's gross income with respect to B Corporation and $50 from its other earnings and profits. The country under the laws of which A Corporation is incorporated imposes an income tax of 10 percent on all income but exempts from tax dividends received from a subsidiary corporation. For 1965, A Corporation distributes $175, consisting of $100 from its earnings and profits attributable to the amount required under section 951 to be included in N Corporation's gross income with respect to B Corporation, and $75 from its other earnings and profits. The foreign income taxes deemed paid by N Corporation for 1965 under section 960(a)(1)(C) and section 902(a)(1) are determined as follows on the basis of the facts assumed:

| | |
|---|---|
| B corporation (2d-tier corporation): | |
| Pretax earnings and profits | $200.00 |
| Foreign income taxes (20%) | 40.00 |
| Earnings and profits | 160.00 |
| Amount required to be included in N corporation's gross income for 1965 under sec. 951 with respect to B corporation | 100.00 |
| Dividends paid by B corporation: | |
| Dividends to which sec. 902(b) does not apply (from B corporation's earnings and profits in respect of which an amount is required under sec. 951 to be included in N corporation's gross income with respect to B corporation) | 100.00 |
| Dividends to which sec. 902(b)(1) applies (from B corporation's other earnings and profits) | 50.00 |
| Total dividends paid to A corporation | 150.00 |
| Foreign income taxes of B corporation deemed paid by A corporation for 1965 under sec. 902(b)(1) ($50/$100×$40) | 12.50 |
| A corporation (1st-tier corporation): | |
| Pretax earnings and profits: | |
| Dividends received from B corporation | 150.00 |
| Other income | 100.00 |
| Total pretax earnings and profits | 250.00 |
| Foreign income taxes: | |
| On dividends received from B corporation | None |
| On other income ($100×0.10) | 10.00 |
| Total foreign income taxes | 10.00 |
| Earnings and profits: | |
| Attributable to dividends received from B corporation to which sec. 902(b) does not apply | 100.00 |
| Attributable to other income: | |
| Attributable to dividends received from B corporation to which sec. 902(b)(1) applies | 50.00 |
| Attributable to other income ($100—$10) | 90.00 |
| Subtotal | 140.00 |
| Total earnings and profits | 240.00 |
| Earnings and profits after exclusion of amounts attributable to dividends to which sec. 902(b) does not apply ($240—$100) | 140.00 |
| Amount required to be included in N corporation's gross income for 1965 under sec. 951 with respect to A corporation | None |
| Dividends paid by A corporation: | |
| Dividends to which sec. 902(a) does not apply (from A corporation's earnings and profits in respect of which an amount is required under sec. 951 to be included in N corporation's gross income with respect to A corporation) | None |
| Dividends to which sec. 902(a)(1) applies (from A corporation's other earnings and profits) | 175.00 |
| Total dividends paid to N corporation | 175.00 |
| N corporation (domestic corporation): | |
| Foreign income taxes deemed paid by N corporation under sec. 960(a)(1)(C) with respect to B corporation ($100/$160×$40) | 25.00 |
| Foreign income taxes deemed paid by N corporation under sec. 902(a)(1) with respect to A corporation (allocation of earnings and profits being made under pars. (c)(2) and (d) of this section): | |
| Tax paid by A corporation in respect to dividends received from B corporation to which sec. 902(b) does not apply ($100/$100×$0) | None |
| Tax paid by A corporation in respect to its other income ($75/$140×$10) | 5.36 |
| Tax of B corporation deemed paid by A corporation in respect to such other income ($75/$140×$12.50) | 6.79 |
| Total taxes deemed paid under sec. 902(a)(1) | 12.06 |
| Total foreign income taxes deemed paid by N corporation under sec. 901 | 37.06 |

*Example (8).* Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include in gross income $150 attributable to the earnings and profits of B Corporation for such year and $47.50 attributable to the earnings and profits of A Corporation for such year. For 1965, B Corporation distributes $200, consisting of $150 from its earnings and profits attributable to the amount required under section 951 to be included in N Corporation's gross income with respect to B Corporation and $50 from its other earnings and profits. The country under the laws of which A Corporation is incorporated imposes an income tax of 5 percent on dividends received from a subsidiary corporation and 20 percent on other income. For 1965, A Corporation distributes $100 from its earnings and profits to N Corporation, such amount being attributable under paragraph (e) of § 1.959–3 to the amount required under section 951 to be included in N Corporation's gross income with respect to B Corporation. The foreign income taxes deemed paid by N Corporation for 1965 under section 960(a)(1)(C) and section 902(a)(1) are determined as follows on the basis of the facts assumed:

| | |
|---|---|
| B corporation (2d-tier corporation): | |
| Pretax earnings and profits | $250.00 |
| Foreign income taxes (20 percent) | 50.00 |
| Earnings and profits | 200.00 |
| Amount required to be included in N corporation's gross income for 1965 under sec. 951 with respect to B corporation | 150.00 |
| Dividends paid by B corporation: | |
| Dividends to which sec. 902(b) does not apply (from B corporation's earnings and profits in respect of which an amount is required under sec. 951 to be included in N corporation's gross income with respect to B corporation) | 150.00 |
| Dividends to which sec. 902(b)(1) applies (from B corporation's other earnings and profits) | 50.00 |
| Total dividends paid to A corporation | 200.00 |
| Foreign income taxes of B corporation deemed paid by A corporation for 1965 under sec. 902(b)(1) ($50/$200×$50) | 12.50 |
| A corporation (1st-tier corporation): | |
| Pretax earnings and profits: | |
| Dividends received from B corporation | 200.00 |
| Other income | 100.00 |
| Total pretax earnings and profits | 300.00 |
| Foreign income taxes: | |
| On dividends received from B corporation to which sec. 902(b) does not apply ($150×0.05) | 7.50 |
| On other income: | |
| Dividends received from B corporation which to sec. 902(b)(1) applies ($50×0.05) | 2.50 |
| Other income of A corporation ($100×0.20) | 20.00 |
| Total | 22.50 |
| Total foreign income taxes | 30.00 |
| Earnings and profits: | |
| Attributable to dividends received from B corporation to which sec. 902(b) does not apply ($150—$7.50) | 142.50 |
| Attributable to other income: | |
| Attributable to dividends received from B corporation to which sec. 902(b)(1) applies ($50—$2.50) | 47.50 |
| Attributable to other income ($100—$20) | 80.00 |
| Total | 127.50 |
| Total earnings and profits | 270.00 |
| Earnings and profits after exclusion of amounts attributable to dividends to which sec. 902(b) does not apply ($270 less $142.50) | 127.50 |
| Amount required to be included in N corporation's gross income for 1965 under sec. 951 with respect to A corporation | 47.50 |
| Dividends paid by A corporation: | |
| Dividends to which sec. 902(a) does not apply (from A corporation's earnings and profits in respect of which an amount is required under sec. 951 to be included in N corporation's gross income with respect to A corporation) | None |
| Dividends to which sec. 902(a)(1) applies (from A corporation's other earnings and profits) | 100.00 |
| Total dividends paid to N corporation | 100.00 |
| N Corporation (domestic corporation): | |
| Foreign income taxes deemed paid by N corporation under sec. 960(a)(1)(C) with respect to— | |
| B corporation ($150/$200×$50) | 37.50 |
| A corporation (allocation of earnings and profits being made under § 1.960-1(c) (3) and par. (d) of this sec.): | |
| Tax paid by A corporation ($47.50/$127.50×$22.50) | 8.38 |
| Tax of B corporation deemed paid by A corporation under sec. 902(b)(1) ($47.50/$127.50×$12.50) | 4.66 |
| Total | 13.04 |
| Total taxes deemed paid under sec. 960(a)(1)(C) | 50.54 |
| Foreign income taxes deemed paid by N corporation under sec. 902(a)(1) with respect to A corporation (allocations of earnings and profits being made under pars. (c)(2) and (d) of this sec.) ($100/$142.50×$7.50) | 5.26 |
| Total foreign income taxes deemed paid by N Corporation under sec. 901 | 55.80 |

4. In § 1.963–3 paragraph (h) is amended to read as follows:

**§ 1.963–3 Distributions counting toward a minimum distribution.**

* * * * *

(h) *Illustrations.* The application of this section may be illustrated by the following examples:

* * * * *

*Example* (2). Domestic corporation M directly owns all of the one class of stock of controlled foreign corporation A. Both corporations use the calendar year as the taxable year, and A Corporation's taxable year and its distribution period for 1963 coincide. For 1963, $50 is included in the gross income of M Corporation under section 951(a)(1)(B) as A Corporation's increase in earnings invested for such year in United States property. For 1964, M Corporation makes a first-tier election with respect to A Corporation. For 1964, A Corporation has earnings and profits of $100, including $10 attributable to an increase in earnings invested for such year in United States property. During 1964, A Corporation distributes earnings and profits of $80 to M Corporation. Without regard to paragraph (e) of this section, $10 of this distribution is attributable under section 959(c)(1) to A Corporation's 1964 earnings and profits required to be included in M Corporation's gross income under section 951(a)(1)(D). Pursuant to paragraph (e) of this section, however, the entire distribution of $80 counts toward a minimum distribution for 1964 and is considered to be from earnings and profits of A Corporation for 1964 described in section 959(c)(3). Thus the entire distribution of $80 is included in M Corporation's gross income as a dividend and the foreign tax credit in respect of such amount is determined in accordance with section 902 as modified by the regulations under section 963. On the other hand, if A Corporation made no distributions for 1964, no part of the $10 of A Corporation's increase in earnings invested in United States property for such year would count toward a minimum distribution for any other year but would be included in the gross income for M Corporation for 1964 under section 951(a)(1)(B), and the foreign tax credit in respect of such amount would be determined in accordance with § 1.960–1.

* * * * *

[FR Doc.74–29867 Filed 12–20–74;8:45 am]

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[TD 7332]

## PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

### SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

## PART 301—PROCEDURE AND ADMINISTRATION

### Imposition of Tax on Nonresident Alien Individuals; Return Requirements; Declarations of Estimated Income Tax

By a notice of proposed rule making appearing in the FEDERAL REGISTER for October 5, 1971 (36 FR 19371), amendments to the Income Tax Regulations (26 CFR Part 1) and the regulations on procedure and administration (26 CFR Part 301) were proposed in order to conform such regulations to the amendments of the Internal Revenue Code of 1954 made by subsections (a), (b), (f), (g), (j), (l), and (m) of section 103 of the Foreign Investors Tax Act of 1966 (80 Stat. 1547, 1550, 1551, 1552, and 1554). The amendments made by such subsections are effective for taxable years beginning after December 31, 1966.

Section 103(a) of the Act amends section 871 of the Code to substantially revise the income tax treatment of nonresident alien individuals. Under the new provisions the income of a nonresident alien individual which is effectively connected with the conduct of a U.S. business is taxed at the regular graduated rates applicable to individuals, and certain income from U.S. sources which is not so connected is taxed at a flat 30-percent rate. U.S. source capital gains of a nonresident alien individual not engaged in business in the United States are taxed at a flat rate of 30 percent, but only if the alien was in the United States for 183 days or more during the taxable year. An election is also provided which allows a nonresident alien individual to treat income from real property as income which is effectively connected with the conduct of a U.S. business. Moreover, a new rule provides for an exclusion from gross income of certain annuities received under qualified stock bonus, pension, profit-sharing, or annuity plans in certain circumstances.

Section 103(b) of the Act adds a new rule in section 872 of the Code that the gross income of a nonresident alien individual includes only that income from U.S. sources which is not effectively connected with the conduct of a U.S. business and all income (whether or not derived from U.S. sources) which is effectively connected with the conduct of a U.S. business. A new section 872(b)(4) excludes from gross income certain bond income of residents of certain Pacific Islands.

Section 103(f) of the Act adds to the Code a new section 877, which provides

in certain cases for a special income tax in the case of an individual who at any time after March 8, 1965, and within the 10-year period preceding the close of the taxable year made a tax-motivated expatriation from the United States.

Section 103(g) of the Act amends 116 of the Code to provide that, in the case of a nonresident alien individual, the $100 dividend exclusion applies as a general rule only in determining the graduated tax and only if the dividends are effectively connected with the conduct of a U.S. business.

Section 103(j) of the Act adds a new section 6015(i) to the Code. Under new section 6015(i) a declaration of estimated tax is required of a nonresident alien individual only if he is subject to withholding of tax on wages, or has certain income which is effectively connected with the conduct of a U.S. business, or is a resident of Puerto Rico for the entire taxable year.

Section 103(l) of the Act makes what is essentially a conforming amendment in 7701(a)(31) of the Code, relating to the definition of a foreign estate or trust.

Section 103(m) of the Act makes a conforming amendment in section 932 of the Code, relating to citizens of possessions of the United States who are not otherwise citizens of the United States.

In addition to conforming the regulations to the changes made by the Foreign Investors Tax Act of 1966 certain other changes are made in the Income Tax Regulations. Thus, new § 1.871–13 provides rules for the taxation of an alien individual for a taxable year in which he becomes a citizen or resident of the United States or of an individual for a taxable year in which he gives up his U.S. citizenship or becomes a nonresident alien. An amendment to § 1.932–1(a)(1) incorporates a rule, taken in principle form I.T. 3788, 1946–1 C.B. 153, that the term "naturalization", as used in such section, means only naturalization in a State, Territory, or the District of Columbia. Section 1.6012–1(b) contains revised return requirements of nonresident alien individuals. One significant change is that with certain exceptions every nonresident alien individual who is engaged in trade or business in the United States is required to make a return of income. Another change consists of return requirements in the case of an individual who becomes a citizen or resident of the United States, or abandons his U.S. citizenship or residence, during the taxable year.

In order to avoid confusion by making such amendments in the Income Tax Regulations as were necessary to conform to the significant changes made by the 1966 Act, the decision was reached to replace the pertinent regulations with completely new regulations applicable only to taxable years beginning after December 31, 1966, and to refer to those sections in the Code of Federal Regulations (revised as of January 1, 1971) where the corresponding rules for taxable years beginning before January 1, 1967, may be found.

After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed on October 5, 1971, the amendments of the regulations as so proposed are hereby adopted, subject to the changes set forth below:

INCOME TAX REGULATIONS

PARAGRAPH 1. The amendment to § 1.1–1, as set forth in paragraph 2 of the notice of proposed rule making, is changed by adding thereto an amendment of so much of paragraph (a)(2) as precedes the table therein and by adding a new paragraph (a)(2)(ii), to read as set forth below.

PAR. 2. Section 1.871–1, as set forth in paragraph 10 of the notice of proposed rule making, is changed by revising paragraph (a) to read as set forth below.

PAR. 3. Section 1.871–7, as set forth in paragraph 12 of the notice of proposed rule making, is changed by revising paragraph (d)(3)(i) to read as set forth below.

PAR. 4. Section 1.871–8, as set forth in paragraph 12 of the notice of proposed rule making, is changed by revising paragraph (b)(1), example (2) in paragraph (c)(2), and paragraph (d) to read as set forth below.

PAR. 5. Section 1.871–10, as set forth in paragraph 12 of the notice of proposed rule making, is changed by revising paragraph (b)(3), and by adding a new subparagraph (3) to paragraph (d), to read as set forth below.

PAR. 6. Section 1.871–11, as set forth in paragraph 12 of the notice of proposed rule making, is changed by revising paragraphs (a), (c), and (e), and example (2)(a) in paragraph (f), to read as set forth below.

PAR. 7. Section 1.871–12, as set forth in paragraph 12 of the notice of proposed rule making, is changed by revising paragraph (c)(2) and example (2) in paragraph (d) to read as set forth below.

PAR. 8. Section 1.871–13, as set forth in paragraph 12 of the notice of proposed rule making, is changed by revising the heading of such section, by revising paragraphs (a), (b), (c), and (d), and by revising example (3) in paragraph (e), to read as set forth below.

PAR. 9. Section 1.872–2, as set forth in paragraph 16 of the notice of proposed rule making, is changed by revising paragraph (e)(2) to read as set forth below.

PAR. 10. Section 1.876–1, as set forth in paragraph 17 of the notice of proposed rule making, is changed by revising paragraph (c) to read as set forth below.

PAR 11. Section 1.878, as set forth in paragraph 18 of the notice of proposed rulemaking, is changed to read as set forth below.

PAR. 12. The amendment of § 1.932–1(a)(1), as set forth in paragraph 21 of the notice of proposed rulemaking, is changed to read as set forth below.

PAR. 13. The amendment of § 1.6012–1, as set forth in paragraph 24 of the notice of proposed rulemaking, is changed by deleting the amendment of paragraph (a)(5) and by revising subparagraphs (1)(i), (2)(ii), (3)(ii), and (5) of paragraph (b) to read as set forth below.

PAR. 14. The amendment of § 1.6012–3, as set forth in paragraph 25 of the notice of proposed rulemaking, is changed by revising paragraph (b)(2)(i)(c) to read as set forth below.

PAR. 15. The amendment of § 1.6015(a), as set forth in paragraph 27 of the notice of proposed rule making, is deleted.

PAR. 16. The amendment of § 1.6015(a)–1, as set forth in paragraph 28 of the notice of proposed rule making, is changed by striking out the deletion of paragraph (c).

PAR. 17. Section 1.6015(i)–1, as set forth in paragraph 31 of the notice of proposed rule making, is changed by revising paragraph (b)(1) to read as set forth below.

PAR. 18. Section 1.703–1 is amended by adding at the end of paragraph (b)(2) the following new subdivision to read as set forth below.

PAR. 19. Section 1.864–4 is amended by revising paragraph (c)(3)(i) to read as set forth below.

PAR. 20. The following new section is added immediately after § 1.875–1 to read as set forth below.

PAR. 21. Section 1.912 is amended to read as set forth below.

PAR. 22. Section 1.6012–2 is amended by revising paragraph (g)(5) to read as set forth below.

REGULATIONS ON PROCEDURE AND ADMINISTRATION

PAR. 23. Section 301.6015 is amended by revising subsection (c) of section 6015, by redesignating subsection (i) of section 6015 as subsection (j), by adding a new subsection (i) to section 6015 immediately after subsection (h), and by revising the historical note, as set forth below.

PAR. 24. Section 301.6015–1 is amended to read as set forth below.

PAR. 25. Section 301.7701, as set forth in paragraph 33 of the notice of proposed rulemaking, is amended by revising paragraph (34)(B) of section 7701(a) and the historical note to read as set forth below.

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

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

Approved: December 16, 1974.

Frederic W. Hickman,
*Assistant Secretary of the Treasury.*

PARAGRAPH 1. Section 1.1 is amended by redesignating subsection (d) of section 1 (as amended by section 111 of the Revenue Act of 1964) as subsection (e), by adding a new subsection (d) to such section 1, and by revising the first historical note, as follows:

**§ 1.1 Statutory provisions; tax imposed.**

SECTION 1. *Tax imposed.* * * *

(d) *Nonresident aliens.* In the case of a nonresident alien individual, the tax imposed by subsection (a) shall apply only as provided by section 871 or 877.

(e) *Cross reference.* For definition of taxable income, see section 63.

[Sec. 1 as amended by sec. 111, Rev. Act 1964 (78 Stat. 19); sec. 103(a)(2), Foreign Investors Tax Act 1966 (80 Stat. 1550)]

* * * * *

PAR. 2. Section 1.1–1 is amended by revising paragraphs (a)(1), (b), and (c) to read as follows:

**§ 1.1–1 Income tax on individuals.**

(a) *General rule.* (1) Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of the United States and, to the extent provided by section 871(b) or 877(b), on the income of a nonresident alien individual. For optional tax in the case of taxpayers with adjusted gross income of less than $10,000 (less than $5,000 for taxable years beginning before January 1, 1970) see section 3. The tax imposed is upon taxable income (determined by subtracting the allowable deductions from gross income). The tax is determined in accordance with the table contained in section 1. See subparagraph (2) of this paragraph for reference guides to the appropriate table for taxable years beginning on or after January 1, 1964, and before January 1, 1965, taxable years beginning after December 31, 1964, and before January 1, 1971, and taxable years beginning after December 31, 1970. In certain cases credits are allowed against the amount of the tax. See part IV (section 31 and following), subchapter A, chapter 1 of the Code. In general, the tax is payable upon the basis of returns rendered by persons liable therefor (subchapter A (sections 6001 and following), chapter 61 of the Code) or at the source of the income by withholding. For the computation of tax in the case of a joint return of a husband and wife, or a return of a surviving spouse, for taxable years beginning before January 1, 1971, see section 2. The computation of tax in such a case for taxable years beginning after December 31, 1970, is determined in accordance with the table contained in section 1(a) as amended by the Tax Reform Act of 1969. For other rates of tax on individuals, see section 5(a). For the imposition of an additional tax for the calendar years 1968, 1969, and 1970, see section 51(a).

(2)(i) For taxable years beginning on or after January 1, 1964, the tax imposed upon a single individual, a head of a household, a married individual filing a separate return, and estates and trusts is the tax imposed by section 1 determined in accordance with the appropriate table contained in the following subsection of section 1:

* * * * *

(ii) For taxable years beginning after December 31, 1970, the tax imposed by section 1(d), as amended by the Tax Reform Act of 1969, shall apply to the income effectively connected with the conduct of a trade or business in the United States by a married alien individual who is a nonresident of the United States for all or part of the taxable year or by a foreign estate or trust. For such years the tax imposed by section 1(c), as amended by such Act, shall apply to the income effectively connected with the conduct of a trade or business in the United States by an unmarried alien individual (other than a surviving spouse) who is a nonresident of the United States for all or part of the taxable year. See paragraph (b)(2) of § 1.871–8.

* * * * *

(b) *Citizens or residents of the United States liable to tax.* In general, all citizens of the United States, wherever resident, and all resident alien individuals are liable to the income taxes imposed by the Code whether the income is received from sources within or without the United States. Pursuant to section 876, a nonresident alien individual who is a bona fide resident of Puerto Rico during ing the entire taxable year is, except as provided in section 933 with respect to Puerto Rican source income, subject to taxation in the same manner as a resident alien individual. As to tax on nonresident alien individuals, see sections 871 and 877.

(c) *Who is a citizen.* Every person born or naturalized in the United States and subject to its jurisdiction is a citizen. For other rules governing the acquisition of citizenship, see chapters 1 and 2 of title III of the Immigration and Nationality Act (8 U.S.C. 1401–1459). For rules governing loss of citizenship, see sections 349 to 357, inclusive, of such Act (8 U.S.C. 1481–1489), Schneider v. Rusk, (1964) 377 U.S. 163, and Rev. Rul. 70–506, C.B. 1970–2, 1. For rules pertaining to persons who are nationals but not citizens at birth, e.g., a person born in American Samoa, see section 308 of such Act (8 U.S.C. 1408). For special rules applicable to certain expatriates who have lost citizenship with a principal purpose of avoiding certain taxes, see section 877. A foreigner who has filed his declaration of intention of becoming a citizen but who has not yet been admitted to citizenship by a final order of a naturalization court is an alien.

PAR. 3. Section 1.116 is amended by revising section 116(d) and by revising the historical note. These amended provisions read as follows:

**§ 1.116 Statutory provisions; partial exclusion of dividends received by individuals.**

SEC. 116. *Partial exclusion of dividends received by individuals.* * * *

(d) *Certain nonresident aliens ineligible for exclusion.* In the case of a nonresident alien individual, subsection (a) shall apply only—

(1) In determining the tax imposed for the taxable year pursuant to section 871(b)(1) and only in respect of dividends which are effectively connected with the conduct of a trade or business within the United States, or

(2) In determining the tax imposed for the taxable year pursuant to section 877(b).

[Sec. 116 as amended by sec. 3(a), Life Insurance Company Tax Act 1959 (73 Stat. 139); sec. 10(f), Act of Sept. 14, 1960 (Public Law 86–779, 74 Stat. 1009); secs. 201 (c) and (d)(6)(C), Rev. Act 1964 (78 Stat. 32); sec. 103(g), Foreign Investors Tax Act 1966 (80 Stat. 1552)]

PAR. 4. Section 1.116–1 is amended by revising paragraph (e)(1). This amended provision reads as follows:

**§ 1.116–1 Partial exclusion of dividends.**

* * * * *

(e) *Taxpayers not entitled to exclusion.* (1) For taxable years beginning after December 31, 1966, the exclusion allowed by section 116(a) and paragraph (a) of this section shall, in the case of a nonresident alien individual, apply only (i) in determining the tax imposed for the taxable year pursuant to section 871(b)(1), and the regulations thereunder, and only in respect of dividends which are effectively connected for the taxable year with the conduct of a trade or business in the United States by such individual, or (ii) in determining the tax imposed for the taxable year pursuant to section 877(b). For taxable years beginning before January 1, 1967, the exclusion is not available to nonresident alien individuals with respect to whom a tax is imposed for the taxable year under section 871(a).

* * * * *

PAR. 5. Section 1.154 is amended by revising section 154(3) and by adding a historical note. These amended and added provisions read as follows:

**§ 1.154 Statutory provisions; cross references.**

SEC. 154. *Cross references.* * * *

(3) For exemptions of nonresident aliens, see section 873(b)(3).

* * * * *

[Sec. 154 as amended by sec. 103(c)(2), Foreign Investors Tax Act 1966 (80 Stat. 1551)]

PAR. 6. Section 1.337–5 is amended by revising paragraph (d) to read as follows:

**§ 1.337–5 Special rules for certain minority shareholders.**

* * * * *

(d) *Claim for credit or refund.* Claim for credit or refund of the tax deemed to have been paid by a shareholder pursuant to section 337(d) and paragraph (b) of this section shall be made on the shareholder's income tax return (or in an amended return or claim for credit or refund) for the taxable year in which he receives the first distribution in complete liquidation. In the case of a shareholder which is a partnership, claim shall be made by the partners for credit or refund of their distributive shares of the tax deemed to have been paid by the partnership. In the case of a shareholder which is an electing small business corporation (within the meaning of section 1371(b)), claim shall be made by those persons who are shareholders of such corporation on the last day of the corporation's taxable year in which it received the first distribution in complete liquidation. In the case of a shareholder which is exempt from tax under section 501(a) and to which section 511 does not apply for the taxable year, claim for refund of the tax deemed to have been paid by such shareholder shall be made on Form 843. For other rules applicable to the filing

of claims for credit or refund of an overpayment of tax, see section 6402 and the regulations thereunder. For the limitations applicable to the credit or refund of an overpayment of tax, see section 6511 and the regulations thereunder.

* * * * *

PAR. 7. Section 1.852–9 is amended by revising paragraph (c)(2)(ii) to read as follows:

**§ 1.852–9 Special procedural requirements applicable to designation under section 852(b)(3)(D).**

* * * * *

(c) *Shareholders.* * * *

(2) *Credit or refund.* * * *

(ii) *Form to be used.* Claim for refund or credit of the tax deemed to have been paid by a shareholder with respect to an amount of undistributed capital gains shall be made on the shareholder's income tax return for the taxable year in which such amount of undistributed capital gains is includable in gross income. In the case of a shareholder which is a partnership, claim shall be made by the partners on their income tax returns for refund or credit of their distributive shares of the tax deemed to have been paid by the partnership. In the case of a shareholder which is exempt from tax under section 501(a) and to which section 511 does not apply for the taxable year, claim for refund of the tax deemed to have been paid by such shareholder on an amount of undistributed capital gains for such year shall be made on Form 843 and copy B of Form 2439 furnished to such shareholder shall be attached to its claim. For other rules applicable to the filing of claims for credit or refund of an overpayment of tax, see § 301.6402–2 of this chapter (Regulations on Procedure and Administration), relating to claims for credit or refund, and § 301.6402–3 of this chapter, relating to special rules applicable to income tax.

* * * * *

PAR. 8. Section 1.871 is amended by revising the heading thereof, by revising so much of section 871(a) as precedes paragraph (2) thereof, by revising section 871(b), and by revising the historical note, as follows:

**§ 1.871A Statutory provisions; tax on nonresident alien individuals (before amendment by Foreign Investors Tax Act of 1966).**

SEC. 871. *Tax on nonresident alien individuals*—(a) *No United States business—30 percent tax*—(1) *Imposition of tax.* Except as otherwise provided in subsection (b) there is hereby imposed for each taxable year, in lieu of the tax imposed by section 1, on the amount received, by every nonresident alien individual not engaged in trade or business within the United States, from sources within the United States, as interest (except interest on deposits with persons carrying on the banking business), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income (including amounts described in section 402(a)(2), section 403(a)(2), section 631 (b) and (c), and section 1235, which are considered to be gains from the sale or exchange of capital assets), a tax of 30 percent of such amount.

* * * * *

(b) *No United States business—regular tax.* A nonresident alien individual not engaged in trade or business within the United States shall be taxable without regard to subsection (a) if during the taxable year the sum of the aggregate amount received from the sources specified in subsection (a)(1), plus the amount by which gains from sales or exchanges of capital assets exceed losses from such sales or exchanges (determined in accordance with subsection (a)(2)) is more than $19,000 in the case of a taxable year beginning in 1964 or more than $21,200 in the case of a taxable year beginning after 1964, except that—

(1) The gross income shall include only income from the sources specified in subsection (a)(1) plus any gain (to the extent provided in subchapter P; sec. 1201 and following, relating to capital gains and losses) from a sale or exchange of a capital asset if such gain would be taken into account were the tax being determined under subsection (a)(2);

(2) The deductions (other than the deduction for charitable contributions and gifts provided in section 873(c)) shall be allowed only if and to the extent that they are properly allocable to the gross income from the sources specified in subsection (a), except that any loss from the sale or exchange of a capital asset shall be allowed (to the extent provided in subchapter P without the benefit of the capital loss carryover provided in section 1212), if such loss would be taken into account were the tax being determined under subsection (a)(2).

If (without regard to this sentence) the amount of the taxes imposed in the base of such an individual under section 1 or under section 1201(b), minus the credit under section 35, is an amount which is less than 30 percent of the sum of—

(A) The aggregate amount received from the sources specified in subsection (a)(1), plus

(B) The amount, determined under subsection (a)(2), by which gains from sales or exchanges of capital assets exceed losses from such sales or exchanges,

then this subsection shall not apply and subsection (a) shall apply. For purposes of this subsection, the term "aggregate amount received from the sources specified in subsection (a)(1)" shall be applied without any exclusion under section 116.

* * * * *

[Sec. 871 as amended by secs. 40(a) and 41(a), Technical Amendments Act 1958 (72 Stat. 1638, 1639); sec. 2(b), Act of April 22, 1960 (Pub. L. 86–437, 74 Stat. 79); sec. 110(b), Mutual Educational and Cultural Exchange Act 1961 (75 Stat. 535); secs. 113(b) and 201(d)(12), Rev. Act 1964 (78 Stat. 24, 32); as in effect before amendment by sec. 103(a), Foreign Investors Tax Act 1966 (80 Stat. 1547)]

PAR. 9. Immediately before § 1.871–1 the following new section is inserted:

**§ 1.871 Statutory provisions; tax on nonresident alien individuals (after amendment by Foreign Investors Tax Act of 1966).**

SEC. 871. *Tax on nonresident alien individuals*—(a) *Income not connected with United States business—30 percent tax*—(1) *Income other than capital gains.* There is hereby imposed for each taxable year a tax of 30 percent of the amount received from sources within the United States by a nonresident alien individual as—

(A) Interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income,

(B) Gains described in section 402(a)(2), 403(a)(2), or 631 (b) or (c), and gains on transfers described in section 1235 made on or before October 4, 1966,

(C) In the case of bonds or other evidences of indebtedness issued after September 28, 1965, amounts which under section 1232 are considered as gains from the sale or exchange of property which is not a capital asset, and

(D) Gains from the sale or exchange after October 4, 1966, of patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like property, or of any interest in any such property, to the extent such gains are from payments which are contingent on the productivity, use, or disposition of the property or interest sold or exchanged, or from payments which are treated as being so contingent under subsection (e), but only to the extent the amount so received is not effectively connected with the conduct of a trade or business within the United States.

(2) *Capital gains of aliens present in the United States 183 days or more.* In the case of a nonresident alien individual present in the United States for a period or periods aggregating 183 days or more during the taxable year, there is hereby imposed for such year a tax of 30 percent of the amount by which his gains, derived from sources within the United States, from the sale or exchange at any time during such year of capital assets exceed his losses, allocable to sources within the United States, from the sale or exchange at any time during such year of capital assets. For purposes of this paragraph, gains and losses shall be taken into account only if, and to the extent that, they would be recognized and taken into account if such gains and losses were effectively connected with the conduct of a trade or business within the United States, except that such gains and losses shall be determined without regard to section 1202 (relating to deduction for capital gains) and such losses shall be determined without the benefits of the capital loss carryover provided in section 1212. Any gain or loss which is taken into account in determining the tax under paragraph (1) or subsection (b) shall not be taken into account in determining the tax under this paragraph. For purposes of the 183-day requirement of this paragraph, a nonresident alien individual not engaged in trade or business within the United States who has not established a taxable year for any prior period shall be treated as having a taxable year which is the calendar year.

(b) *Income connected with United States business—graduated rate of tax*—(1) *Imposition of tax.* A nonresident alien individual engaged in trade or business within the United States during the taxable year shall be taxable as provided in section 1 or 1201(b) on his taxable income which is effectively connected with the conduct of a trade or business within the United States.

(2) *Determination of taxable income.* In determining taxable income for purposes of paragraph (1), gross income includes only gross income which is effectively connected with the conduct of a trade or business within the United States.

(c) *Participants in certain exchange or training programs.* For purposes of this section, a nonresident alien individual who (without regard to this subsection) is not engaged in trade or business within the United States and who is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section

101(a)(15) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a)(15)(F) or (J)), shall be treated as a nonresident alien individual engaged in trade or business within the United States, and any income described in section 1441(b) (1) or (2) which is received by such individual shall, to the extent derived from sources within the United States, be treated as effectively connected with the conduct of a trade or business within the United States.

(d) *Election to treat real property income as income connected with United States business*—(1) *In general.* A nonresident alien individual who during the taxable year derives any income—

(A) From real property held for the production of income and located in the United States, or from any interest in such real property, including (i) gains from the sale or exchange of such real property or an interest therein, (ii) rents or royalties from mines, wells, or other natural deposits, and (iii) gains described in section 631 (b) or (c), and

(B) Which, but for this subsection, would not be treated as income which is effectively connected with the conduct of a trade or business within the United States,

may elect for such taxable year to treat all such income as income which is effectively connected with the conduct of a trade or business within the United States. In such case, such income shall be taxable as provided in subsection (b)(1) whether or not such individual is engaged in trade or business within the United States during the taxable year. An election under this paragraph for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary or his delegate with respect to any taxable year.

(2) *Election after revocation.* If an election has been made under paragraph (1) and such election has been revoked, a new election may not be made under such paragraph for any taxable year before the fifth taxable year which begins after the first taxable year for which such revocation is effective, unless the Secretary or his delegate consents to such new election.

(3) *Form and time of election and revocation.* An election under paragraph (1), and any revocation of such an election, may be made only in such manner and at such time as the Secretary or his delegate may by regulations prescribe.

(e) *Gains from sale or exchange of certain intangible property.* For purposes of subsection (a)(1)(D), and for purposes of sections 881(a)(4), 1441(b), and 1442(a)—

(1) *Payments treated as contingent on use, etc.* If more than 50 percent of the gain for any taxable year from the sale or exchange of any patent, copyright, secret process or formula, good will, trademark, trade brand, franchise, or other like property, or of any interest in any such property, is from payments which are contingent on the productivity, use, or disposition of such property or interest, all of the gain for the taxable year from the sale or exchange of such property or interest shall be treated as being from payments which are contingent on the productivity, use, or disposition of such property or interest.

(2) *Source rule.* In determining whether gains described in subsection (a)(1)(D) and section 881(a)(4) are received from sources within the United States, such gains shall be treated as rentals or royalties for the use of, or privilege of using, property or an interest in property.

(f) *Certain annuities received under qualified plans.* For purposes of this section, gross income does not include any amount received as an annuity under a qualified annuity plan described in section 403(a)(1), or from a qualified trust described in section 401(a) which is exempt from tax under section 501(a), if—

(1) All of the personal services by reason of which such annuity is payable were either (A) personal services performed outside the United States by an individual who, at the time of performance of such personal services, was a nonresident alien, or (B) personal services described in section 864(b)(1) performed within the United States by such individual, and

(2) At the time the first amount is paid as such annuity under such annuity plan, or by such trust, 90 percent or more of the employees for whom contributions or benefits are provided under such annuity plan, or under the plan or plans of which such trust is a part, are citizens or residents of the United States.

(g) *Cross references.* (1) For tax treatment of certain amounts distributed by the United States to nonresident alien individuals, see section 402(a)(4).

(2) For taxation of nonresident alien individuals who are expatriate U.S. citizens, see section 877.

(3) For doubling of tax on citizens of certain foreign countries, see section 891.

(4) For adjustment of tax in case of nationals or residents of certain foreign countries, see section 896.

(5) For withholding of tax at source on nonresident alien individuals, see section 1441.

(6) For the requirement of making a declaration of estimated tax by certain nonresident alien individuals, see section 6015(i).

[Sec. 871 as amended by secs. 40(a) and 41(a), Technical Amendments Act 1958 (72 Stat. 1638, 1639); sec. 2(b), Act of April 22, 1960 (Public Law 86-437, 74 Stat. 79); sec. 110(b), Mutual Educational and Cultural Exchange Act 1961 (75 Stat. 535); secs. 113(b) and 201(d)(12), Rev. Act 1964 (78 Stat. 24, 32); sec. 103(a), Foreign Investors Tax Act 1966 (80 Stat. 1547)]

PAR. 10. Section 1.871–1 is revised to read as follows:

**§ 1.871–1 Classification and manner of taxing alien individuals.**

(a) *Classes of aliens.* For purposes of the income tax, alien individuals are divided generally into two classes, namely, resident aliens and nonresident aliens. Resident alien individuals are, in general, taxable the same as citizens of the United States; that is, a resident alien is taxable on income derived from all sources, including sources without the United States. See § 1.1–1(b). Nonresident alien individuals are taxable only on certain income from sources within the United States and on the income described in section 864(c)(4) from sources without the United States which is effectively connected for the taxable year with the conduct of a trade or business in the United States.

(b) *Classes of nonresident aliens*—(1) *In general.* For purposes of the income tax, nonresident alien individuals are divided into the following three classes:

(i) Nonresident alien individuals who at no time during the taxable year are engaged in a trade or business in the United States,

(ii) Nonresident alien individuals who at any time during the taxable year are, or are deemed under § 1.871–9 to be, engaged in a trade or business in the United States, and

(iii) Nonresident alien individuals who are bona fide residents of Puerto Rico during the entire taxable year.

An individual described in subdivision (i) or (ii) of this subparagraph is subject to tax pursuant to the provisions of subpart A (section 871 and following), part II, subchapter N, chapter 1 of the Code, and the regulations thereunder. See §§ 1.871–7 and 1.871–8. The provisions of subpart A do not apply to individuals described in subdivision (iii) of this subparagraph, but such individuals, except as provided in section 933 with respect to Puerto Rican source income, are subject to the tax imposed by section 1 or section 1201(b). See § 1.876–1.

(2) *Treaty income.* If the gross income of a nonresident alien individual described in subparagraph (1) (i) or (ii) of this paragraph includes income on which the tax is limited by tax convention, see § 1.871–12.

(3) *Exclusions from gross income.* For rules relating to the exclusion of certain items from the gross income of a nonresident alien individual, including annuities excluded under section 871(f), see §§ 1.872–2 and 1.894–1.

(4) *Expatriation to avoid tax.* For special rules applicable in determining the tax of a nonresident alien individual who has lost U.S. citizenship with a principal purpose of avoiding certain taxes, see section 877.

(5) *Adjustment of tax of certain nonresident aliens.* For the application of pre-1967 income tax provisions to residents of a foreign country which imposes a more burdensome income tax than the United States, and for the adjustment of the income tax of a national or resident of a foreign country which imposes a discriminatory income tax on the income of citizens of the United States or domestic corporations, see section 896.

(6) *Citizens of certain U.S. possessions.* For rules for treating as nonresident alien individuals certain citizens of possessions of the United States who are not otherwise citizens of the United States, see section 932 and § 1.932–1.

(d) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.871–1 and 1.871–7(a) (Rev. as of Jan. 1, 1971).

PAR. 11. Section 1.871–6 is amended to read as follows:

**§ 1.871–6 Duty of withholding agent to determine status of alien payee.**

(a) *Proof of status required.* If income is paid to an alien individual without withholding the tax under chapter 3 of the Code, except insofar as the regulations thereunder permit exemption from withholding, then the withholding agent must be prepared to justify the failure to withhold.

(b) *Evidence of residence.* A withholding agent may rely upon the evidence of residence afforded by the fact that the alien individual has filed Form 1078 or an equivalent written statement. This statement or form shall be filed in the manner prescribed in § 11441.5.

(c) *Cross reference.* For definition of the term "withholding agent," see § 1.1465–1.

(d) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.871–6 (Rev. as of Jan. 1, 1971).

PAR. 12. Section 1.871–7 is deleted and the following new sections are inserted in lieu thereof:

**§ 1.871–7 Taxation of nonresident alien individuals not engaged in U.S. business.**

(a) *Imposition of tax.* (1) This section applies for purposes of determining the tax of a nonresident alien individual who at no time during the taxable year is engaged in trade or business in the United States. However, see also § 1.871–8 where such individual is a student or trainee deemed to be engaged in trade or business in the United States or where he has an election in effect for the taxable year in respect to real property income. Except as otherwise provided in § 1.871–12, a nonresident alien individual to whom this section applies is not subject to the tax imposed by section 1 or section 1201(b) but, pursuant to the provision of section 871(a), is liable to a flat tax of 30 percent upon the aggregate of the amounts determined under paragraphs (b), (c), and (d) of this section which are received during the taxable year from sources within the United States. Except as specifically provided in such paragraphs, such amounts do not include gains from the sale or exchange of property. To determine the source of such amounts, see sections 861 through 863, and the regulations thereunder.

(2) The tax of 30 percent is imposed by section 871(a) upon an amount only to the extent the amount constitutes gross income. Thus, for example, the amount of an annuity which is subject to such tax shall be determined in accordance with section 72.

(3) Deductions shall not be allowed in determining the amount subject to tax under this section except that losses from sales or exchanges of capital assets shall be allowed to the extent provided in section 871(a)(2) and paragraph (d) of this section.

(4) Except as provided in §§ 1.871–9 and 1.871–10, a nonresident alien individual not engaged in trade or business in the United States during the taxable year has no income, gain, or loss for the taxable year which is effectively connected for the taxable year with the conduct of a trade or business in the United States. See section 864(c)(1)(B) and § 1.864–3.

(5) Gains and losses which, by reason of section 871(d) and § 1.871–10, are treated as gains or losses which are effectively connected for the taxable year with the conduct of a trade or business in the United States by the nonresident alien individual shall not be taken into account in determining the tax under this section. See, for example, paragraph (c)(2) of §1.871–10.

(6) For special rules applicable in determining the tax of certain nonresident alien individuals, see paragraph (b) of § 1.871–1.

(b) *Fixed or determinable annual or periodical income.* The tax of 30 percent imposed by section 871(a)(1) applies to the gross amount received from sources within the United States as fixed or determinable annual or periodical gains, profits, or income. Specific items of fixed or determinable annual or periodical income are enumerated in section 871(a)(1)(A) as interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, and emoluments, but other items of fixed or determinable annual or periodical gains, profits, or income are also subject to the tax, as, for instance, royalties, including royalties for the use of patents, copyrights, secret processes and formulas, and other like property. As to the determination of fixed or determinable annual or periodical income, see paragraph (a) of § 1.1441–2. For special rules treating gain on the disposition of section 306 stock as fixed or determinable annual or periodical income for purposes of section 871(a), see section 306(f) and paragraph (h) of § 1.306–3.

(c) *Other income and gains*—(1) *Items subject to tax.* The tax of 30 percent imposed by section 871(a)(1) also applies to the following gains received during the taxable year from sources within the United States:

(i) Gains described in section 402(a)(2), relating to the treatment of total distributions from certain employees' trusts; section 403(a)(2), relating to treatment of certain payments under certain employee annuity plans; and section 631 (b) or (c), relating to treatment of gain on the disposal of timber, coal, or iron ore with a retained economic interest;

(ii) [Reserved]

(iii) Gains on transfers described in section 1235, relating to certain transfers of patent rights, made on or before October 4, 1966; and

(iv) Gains from the sale or exchange after October 4, 1966, of patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, or other like property, or of any interest in any such property, to the extent the gains are from payments (whether in a lump sum or in installments) which are contingent on the productivity, use or disposition of the property or interest sold or exchanged, or from payments which are treated under section 871(e) and § 1.871–11 as being so contingent.

(2) *Nonapplication of 183-day rule.* The provisions of section 871(a)(2), relating to gains from the sale or exchange of capital assets, and paragraph (d)(2) of this section do not apply to the gains described in this paragraph; as a consequence, the taxpayer receiving gains described in subparagraph (1) of this paragraph during a taxable year is subject to the tax of 30 percent thereon without regard to the 183-day rule contained in such provisions.

(3) *Determination of amount of gain.* The tax of 30 percent imposed upon the gains described in subparagraph (1) of this paragraph applies to the full amount of the gains and is determined (i) without regard to the alternative tax imposed by section 1201(b) upon the excess of the net long-term capital gain over the net short-term capital loss; (ii) without regard to the deduction allowed by section 1202 in respect of capital gains; (iii) without regard to section 1231, relating to property used in the trade or business and involuntary conversions; and (iv), except in the case of gains described in subparagraph (1)(ii) of this paragraph, whether or not the gains are considered to be gains from the sale or exchange of property which is a capital asset.

(d) *Gains from sale or exchange of capital assets*—(1) *Gains subject to tax.* The tax of 30 percent imposed by section 871(a)(2) applies to the excess of gains derived from sources within the United States over losses allocable to sources within the United States, which are derived from the sale or exchange of capital assets, determined in accordance with the provisions of subparagraphs (2) through (4) of this paragraph.

(2) *Presence in the United States 183 days or more.* (i) If the nonresident alien individual has been present in the United States for a period or periods aggregating 183 days or more during the taxable year, he is liable to a tax of 30 percent upon the amount by which his gains, derived from sources within the United States, from sales or exchanges of capital assets effected at any time during the year exceed his losses, allocable to sources within the United States, from sales or exchanges of capital assets effected at any time during that year. Gains and losses from sales or exchanges effected at any time during such taxable year are to be taken into account for this purpose even though the nonresident alien individual is not present in the United States at the time the sales or exchanges are effected. In addition, if the nonresident alien individual has been present in the United States for a period or periods aggregating 183 days or more during the taxable year, gains and losses for such taxable year from sales or exchanges of capital assets effected during a previous taxable year beginning after December 31, 1966, are to be taken into account, but only if he was also present in the United States during such previous taxable year for a period or periods aggregating 183 days or more.

(ii) If the nonresident alien individual has not been present in the United States during the taxable year, or if he has been present in the United States for a period or periods aggregating less than 183 days during the taxable year, gains and losses

from sales or exchanges of capital assets effected during the year are not to be taken into account, except as required by paragraph (c) of this section, in determining the tax of such individual even though the sales or exchanges are effected during his presence in the United States. Moreover, gains and losses for such taxable year from sales or exchanges of capital assets effected during a previous taxable year beginning after December 31, 1966, are not to be taken into account, even though the nonresident alien individual was present in the United States during such previous year for a period or periods aggregating 183 days or more.

(iii) For purposes of this subparagraph, a nonresident alien individual is not considered to be present in the United States by reason of the presence in the United States of a person who is an agent or partner of such individual or who is a fiduciary of an estate or trust of which such individual is a beneficiary or a grantor-owner to whom section 671 applies.

(iv) The application of this subparagraph may be illustrated by the following examples:

*Example* (*1*) B, a nonresident alien individual not engaged in trade or business in the United States and using the calendar year as the taxable year, is present in the United States from May 1, 1971, to November 15, 1971, a period of more than 182 days. While present in the United States, B effects for his own account on various dates a number of transactions in stocks and securities on the stock exchange, as a result of which he has recognized capital gains of $10,000. During the period from January 1, 1971, to April 30, 1971, he carries out similar transactions through an agent in the United States, as a result of which B has recognized capital gains of $5,000. On December 15, 1971, through an agent in the United States B sells a capital asset on the installment plan, no payments being made by the purchaser in 1971. During 1972, B receives installment payments of $50,000 on the installment sale made in 1971, and the capital gain from sources within the United States for 1972 attributable to such payments is $12,500. In addition, during the period from January 1, 1972, to May 31, 1972, B effects for his own account, through an agent in the United States, a number of transactions in stocks and securities on the stock exchange, as a result of which B has recognized capital gains of $20,000. At no time during 1972 is B present in the United States or engaged in trade or business in the United States. Accordingly, for 1971, B is subject to tax under section 871(a)(2) on his capital gains of $15,000 from the transactions in that year on the stock exchange. For 1972, B is not subject to tax on the capital gain of $12,500 from the installment sale in 1971 or on the capital gains of $20,000 from the transactions in 1972 on the stock exchange.

*Example* (*2*). The facts are the same as in example (1) except that B is present in the United States from June 15, 1972, to December 31, 1972, a period of more than 182 days. Accordingly, B is subject to tax under section 871(a)(2) for 1971 on his capital gains of $15,000 from the transactions in that year on the stock exchange. He is also subject to tax under section 871(a)(2) for 1972 on his capital gains of $32,500 ($12,500 from the installment sale in 1971 plus $20,000 from the transactions in 1972 on the stock exchange).

*Example* (*3*). D, a nonresident alien individual not engaged in trade or business in the United States and using the calendar year as the taxable year, is present in the United States from April 1, 1971, to August 31, 1971, a period of less than 183 days. While present in the United States, D effects for his own account on various dates a number of transactions in stocks and securities on the stock exchange, as a result of which he has recognized capital gains of $15,000. During the period from January 1, 1971, to March 31, 1971, he carries out similar transactions through an agent in the United States, as a result of which D has recognized capital gains of $8,000. On December 20, 1971, through an agent in the United States D sells a capital asset on the installment plan, no payments being made by the purchaser in 1971. During 1972, D receives installment payments of $200,000 on the installment sale made in 1971, and the capital gain from sources within the United States for 1972 attributable to such payments is $50,000. In addition, during the period from Feburary 1, 1972, to August 15, 1972, a period of more than 182 days. D effects for his own account, through an agent in the United States, a number of transactions in stocks and securities on the stock exchange, as a result of which D has recognized capital gains of $25,000. At no time during 1972 is D present in the United States or engaged in trade or business in the United States. Accordingly, D is not subject to tax for 1971 or 1972 on any of his recognized capital gains.

*Example* (*4*). The facts are the same as in example (3) except that D is present in the United States from February 1, 1972, to August 15, 1972, a period of more than 182 days. Accordingly, D is not subject to tax for 1971 on his capital gains of $23,000 from the transactions in that year on the stock exchange. For 1972 he is subject to tax under section 871(a)(2) on his capital gains of $25,000 from the transactions in that year on the stock exchange, but he is not subject to the tax on the capital gain of $50,000 from the installment sale in 1971.

(3) *Determination of 183-day period*—(i) *In general.* In determining the total period of presence in the United States for a taxable year for purposes of subparagraph (2) of this paragraph, all separate periods of presence in the United States during the taxable year are to be aggregated. If the nonresident alien individual has not previously established a taxable year, as defined in section 441(b), he shall be treated as having a taxable year which is the calendar year, as defined in section 441(d). Subsequent adoption by such individual of a fiscal year as the taxable year will be treated as a change in the taxpayer's annual accounting period to which section 442 applies, and the change must be authorized under this part (Income Tax Regulations) or prior approval must be obtained by filing an application on Form 1128 in accordance with paragraph (b) of § 1.442–1. If in the course of his taxable year the nonresident alien individual changes his status from that of a citizen or resident of the United States to that of a nonresident alien individual, or vice versa, the determination of whether the individual has been present in the United States for 183 days or more during the taxable year shall be made by taking into account the entire taxable year, and not just that part of the taxable year during which he has the status of a nonresident alien individual.

(ii) *Definition of "day".* The term "day", as used in subparagraph (2) of this paragraph, means a calendar day during any portion of which the nonresident alien individual is physically present in the United States (within the meaning of sections 7701(a)(9) and 638) except that, in the case of an individual who is a resident of Canada or Mexico and, in the normal course of his employment in transportation service touching points within both Canada or Mexico and the United States, performs personal services in both the foreign country and the United States, the following rules shall apply:

(*a*) The performance of labor or personal services during 8 hours or more in any 1 day within the United States shall be considered as 1 day in the United States, except that if a period of more or less than 8 hours is considered a full workday in the transportation job involved, such period shall be considered as 1 day within the United States.

(*b*) The performance of labor or personal services during less than 8 hours in any day in the United States shall, except as provided in (*a*) of this subdivision, be considered as a fractional part of a day in the United States. The total number of hours during which such services are performed in the United States during the taxable year, when divided by eight, shall be the number of days during which such individual shall be considered present in the United States during the taxable year.

(*c*) The aggregate number of days determined under (*a*) and (*b*) of this subdivision shall be considered the total number of days during which such individual is present in the United States during the taxable year.

(4) *Determination of amount of excess gains*—(i) *In general.* For the purpose of determining the excess of gains over losses subject to tax under this paragraph, gains and losses shall be taken into account only if, and to the extent that, they would be recognized and taken into account if the nonresident alien individual were engaged in trade or business in the United States during the taxable year and such gains and losses were effectively connected for such year with the conduct of a trade or business in the United States by such individual. However, in determining such excess of gains over losses no deduction may be taken under section 1202, relating to the deduction for capital gains, or section 1212, relating to the capital loss carryover. Thus, for example, in determining such excess gains all amounts considered under chapter 1 of the Code as gains or losses from the sale or exchange of capital assets shall be taken into account, except those gains which are described in section 871(a)(1) (B) or (D) and taken into account under paragraph (c) of this section and are considered to be gains from the sale or exchange of capital assets. Also, for example, a loss described in section 631 (b) or (c) which is considered to be a loss from the sale of a

capital asset shall be taken into account in determining the excess gains which are subject to tax under this paragraph. In further illustration, in determining such excess gains no deduction shall be allowed, pursuant to the provisions of section 267, for losses from sales or exchanges of property between related taxpayers. Any gains which are taken into account under section 871(a)(1) and paragraph (c) of this section shall not be taken into account in applying section 1231 for purposes of this paragraph. Gains and losses are to be taken into account under this paragraph whether they are short-term or long-term capital gains or losses within the meaning of section 1222.

(ii) *Gains not included.* The provisions of this paragraph do not apply to any gains described in section 871(a)(1)(B) or (D), and in subdivision (i), (iii), or (iv) of paragraph (c)(1) of this section, which are considered to be gains from the sale or exchange of capital assets.

(iii) *Allowance of losses.* In determining the excess of gains over losses subject to tax under this paragraph losses shall be allowed only to the extent provided by section 165(c). Losses from sales or exchanges of capital assets in excess of gains from sales or exchanges of capital assets shall not be taken into account.

(e) *Credits against tax.* The credits allowed by section 31 (relating to tax withheld on wages), by section 32 (relating to tax withheld at source on nonresident aliens), by section 39 (relating to certain uses of gasoline and lubricating oil), and by section 6402 (relating to overpayments of tax) shall be allowed against the tax of a nonresident alien individual determined in accordance with this section.

(f) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.871–7 (b) and (c) (Rev. as of Jan. 1, 1971).

**§ 1.871–8 Taxation of nonresident alien individuals engaged in U.S. business or treated as having effectively connected income.**

(a) *Segregation of income.* This section applies for purposes of determining the tax of a nonresident alien individual who at any time during the taxable year is engaged in trade or business in the United States. It also applies for purposes of determining the tax of a nonresident alien student or trainee who is deemed under section 871(c) and § 1.871–9 to be engaged in trade or business in the United States or of a nonresident alien individual who at no time during the taxable year is engaged in trade or business in the United States but has an election in effect for the taxable year under section 871(d) and § 1.871–10 in respect to real property income. A nonresident alien individual to whom this section applies must segregate his gross income for the taxable year into two categories, namely (1) the income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual, and (2) the income which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual. A separate tax shall then be determined upon each such category of income, as provided in paragraph (b) of this section. The determination of whether income or gain is or is not effectively connected for the taxable year with the conduct of a trade or business in the United States by the nonresident alien individual shall be made in accordance with section 864(c) and §§ 1.864–3 through 1.864–7. For purposes of this section income which is effectively connected for the taxable year with the conduct of a trade or business in the United States includes all income which is treated under section 871 (c) or (d) and § 1.871–9 or § 1.871–10 as income which is effectively connected such year with the conduct of a trade or business in the United States by the nonresident alien individual.

(b) *Imposition of tax*—(1) *Income not effectively connected with the conduct of a trade or business in the United States.* If a nonresident alien individual who is engaged in trade or business in the United States at any time during the taxable year derives during such year from sources within the United States income or gains described in section 871(a)(1), and paragraph (b) or (c) of § 1.871–7 or gains from the sale or exchange of capital assets determined as provided in section 871(a)(2) and paragraph (d) of § 1.871–7, which are not effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual, such income or gains shall be subject to a flat tax of 30 percent of the aggregate amount of such items. This tax shall be determined in the manner, and subject to the same conditions, set forth in § 1.871–7 as though the income or gains were derived by a nonresident alien individual not engaged in trade or business in the United States during the taxable year, except that (i) the rule in paragraph (d)(3) of such section for treating the calendar year as the taxable year shall not apply and (ii) in applying paragraph (c) and (d)(4) of such section, there shall not be taken into account any gains or losses which are taken into account in determining the tax under section 871(b) and subparagraph (2) of this paragraph. A nonresident alien individual who has an election in effect for the taxable year under section 871(d) and § 1.871–10 and who at no time during the taxable year is engaged in trade or business in the United States must determine his tax under § 1.871–7 on his income which is not treated as effectively connected with the conduct of a trade or business in the United States, subject to the exception contained in subdivision (ii) of this subparagraph.

(2) *Income effectively connected with the conduct of a trade or business in the United States*—(i) *In general.* If a nonresident alien to whom this section applies derives income or gains which are effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual, the taxable income or gains shall, except as provided in § 1.871–12, be taxed in accordance with section 1 or, in the alternative, section 1201(b). See section 871(b)(1). Any income of the nonresident alien individual which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual shall not be taken into account in determining either the rate or amount of such tax. See paragraph (b) of § 1.872–1.

(ii) *Determination of taxable income.* The taxable income for any taxable year for purposes of this subparagraph consists only of the nonresident alien individual's taxable income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual; and, for this purpose, it is immaterial that the trade or business with which that income is effectively connected is not the same as the trade or business carried on in the United States by that individual during the taxable year. See example (2) in § 1.864–4(b). In determining such taxable income all amounts constituting, or considered to be, gains or losses for the taxable year from the sale or exchange of capital assets shall be taken into account if such gains or losses are effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual, and, for such purpose, the 183-day rule set forth in section 871(a)(2) and paragraph (d)(2) of § 1.871–7 shall not apply. Losses which are not effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual shall not be taken into account in determining taxable income under this subdivision, except as provided in section 873(b)(1).

(iii) *Cross references.* For rules for determining the gross income and deductions for the taxable year, see sections 872 and 873, and the regulations thereunder.

(c) *Change in trade or business status*—(1) *In general.* The determination as to whether a nonresident alien individual is engaged in trade or business within the United States during the taxable year is to be made for each taxable year. If at any time during the taxable year he is engaged in a trade or business in the United States, he is considered to be engaged in trade or business within the United States during the taxable year for purposes of sections 864(c)(1) and 871(b), and the regulations thereunder. Income, gain, or loss of a nonresident alien individual is not treated as being effectively connected for the taxable year with the conduct of a trade or business in the United States if he is not engaged in trade or business within the United States during such year, even though such income, gain, or loss may have been effectively connected for a previous taxable year with the conduct of a trade or business in the United

States. See § 1.864–3. However, income, gain, or loss which is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by a nonresident alien individual will generally be treated as effectively connected for a subsequent taxable year if he is engaged in a trade or business in the United States during such subsequent year, even though such income, gain, or loss is not effectively connected with the conduct of the trade or business carried on in the United States during such subsequent year. This subparagraph does not apply to income described in section 871 (c) or (d). It may not apply to a nonresident alien individual who for the taxable year uses an accrual method of accounting or to income which is constructively received in the taxable year within the meaning of § 1.451–2.

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

*Example (1).* B, a nonresident alien individual using the calendar year as the taxable year and the cash receipts and disbursements method of accounting, is engaged in business (business R) in the United States from January 1, 1971, to August 31, 1971. During the period of September 1, 1971, to December 31, 1971, B receives installment payments of $30,000 on sales made in the United States by business R during that year, and the income from sources within the United States for that year attributable to such payments is $7,509. On September 15, 1971, another business (business S), which is carried on by B only in a foreign country sells to U.S. customers on the installment plan several pieces of equipment from inventory. During the period of September 16, 1971, to December 31, 1971, B receives installment payments of $50,000 on these sales by business S, and the income from sources within the United States for that year attributable to such payments is $10,000. Under section 864(c)(3) and paragraph (b) of § 1.864–4 the entire income of $17,500 is effectively connected for 1971 with the conduct of a business in the United States by B. Accordingly, such income is taxable to B under paragraph (b)(2) of this section.

*Example (2).* Assume the same facts as in example (1), except that during 1972 B receives installment payments of $20,000 from the sales made during 1971 in the United States by business R, and of $80,000 from the sales made in 1971 to U.S. customers by business S, the total income from sources within the United States for 1972 attributable to such payments being $13,000. At no time during 1972 is B engaged in a trade or business in the United States. Under section 864(c)(1)(B) the income of $13,000 for 1972 is not effectively connected with the conduct of a trade or business in the United States by B. Moreover, such income is not fixed or determinable annual or periodical income. Accordingly, no amount of such income is taxable to B under section 871.

*Example (3).* Assume the same facts as in example (2), except that during 1972 B is engaged in a new business (business T) in the United States from July 1, 1972, to December 31, 1972. Under section 864(c)(3) and paragraph (b) of § 1.864–4, the income of $13,000 is effectively connected for 1972 with the conduct of a business in the United States by B. Accordingly, such income is taxable to B under paragraph (b)(2) of this section.

*Example (4).* Assume the same facts as in example (2), except that the installment payments of $20,000 from the sales made during 1971 in the United States by business R and not received by B until 1972 could have been received by B in 1971 if he had so desired. Under § 1.451–2, B is deemed to have constructively received the payments of $20,000 in 1971. Accordingly, the income attributable to such payments is effectively connected for 1971 with the conduct of a business in the United States by B and is taxable to B in 1971 under paragraph (b)(2) of this section.

(d) *Credits against tax.* The credits allowed by section 31 (relating to tax withheld on wages), section 32 (relating to tax withheld at source on nonresident aliens), section 33 (relating to the foreign tax credit), section 35 (relating to partially tax-exempt interest), section 38 (relating to investment in certain depreciable property), section 39 (relating to certain uses of gasoline and lubricating oil), section 40 (relating to expenses of work incentive programs), and section 6402 (relating to overpayments of tax) shall be allowed against the tax determined in accordance with this section. However, the credits allowed by sections 33, 38, and 40 shall not be allowed against the flat tax of 30 percent imposed by section 871(a) and paragraph (b)(1) of this section. Moreover, no credit shall be allowed under section 35 to a nonresident alien individual with respect to whom a tax is imposed for the taxable year under section 871(a) and paragraph (b)(1) of this section, even though such individual has income for such year upon which tax is imposed under section 871 (b) and paragraph (b)(2) of this section. For special rules applicable in determining the foreign tax credit, see section 906 (b) and the regulations thereunder. For the disallowance of certain credits where a return is not filed for the taxable year, see section 874 and § 1.874–1.

(e) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.871–7(d) (Rev. as of Jan. 1, 1971).

**§ 1.871–9 Nonresident alien students or trainees deemed to be engaged in U.S. business.**

(a) *Participants in certain exchange or training programs.* For purposes of §§ 1.871–7 and 1.871–8 a nonresident alien individual who is temporarily present in the United States during the taxable year as a nonimmigrant under subparagraph (F) (relating to the admission of students into the United States) or subparagraph (J) (relating to the admission of teachers, trainees, specialists, etc., into the United States) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F) or (J)), and who without regard to this paragraph is not engaged in trade or business in the United States during such year, shall be deemed to be engaged in trade or business in the United States during the taxable year. For purposes of determining whether an alien who is present in the United States on an F visa or a J visa is a resident of the United States, see § 1.871–2.

(b) *Income treated as effectively connected with U.S. business.* Any income described in paragraph (1) (relating to the nonexcluded portion of certain scholarship or fellowship grants) or paragraph (2) (relating to certain nonexcluded expenses incident to such grants) of section 1441(b) which is received during the taxable year from sources within the United States by a nonresident alien individual described in paragraph (a) of this section is to be treated for purposes of §§ 1.871–7, 1.871–8, 1.872–1, and 1.873–1 as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual. However, such income is not to be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States for purposes of section 1441(c)(1) and paragraph (a) of § 1.1441–4. For exclusion relating to compensation paid to such individual by a foreign employer, see paragraph (b) of § 1.872–2.

(c) *Exchange visitors.* For purposes of paragraph (a) of this section a nonresident alien individual who is temporarily present in the United States during the taxable year as a nonimmigrant under subparagraph (J) of section 101(a)(15) of the Immigration and Nationality Act includes a nonresident alien individual admitted to the United States as an "exchange visitor" under section 201 of the U.S. Information and Educational Exchange Act of 1948 (22 U.S.C. 1446), which section was repealed by section 111 of the Mutual Educational and Cultural Exchange Act of 1961 (75 Stat. 538).

(d) *Mandatory application of rule.* The application of this section is mandatory and not subject to an election by the taxpayer.

(e) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.871–7(a)(3) (Rev. as of Jan. 1, 1971).

**§ 1.871–10 Election to treat real property income as effectively connected with U.S. business.**

(a) *When election may be made.* A nonresident alien individual or foreign corporation which during the taxable year derives any income from real property which is located in the United States and, in the case of a nonresident alien individual, held for the production of income, or derives income from any interest in any such property, may elect, pursuant to section 871(d) or 882(d) and this section, to treat all such income as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that taxpayer. The election may be made whether or not the taxpayer is engaged in trade or business in the United States during the taxable year for which the election is made or whether or not the taxpayer has income from real property

which for the taxable year is effectively connected with the conduct of a trade or business in the United States, but it may be made only with respect to that income from sources within the United States which, without regard to this section, is not effectively connected for the taxable year with the conduct of a trade or business in the United States by the taxpayer. If for the taxable year the taxpayer has no income from real property located in the United States, or from any interest in such property, which is subject to the tax imposed by section 871(a) or 881(a), the election may not be made. But if an election has been properly made under this section for a taxable year, the election remains in effect, unless properly revoked, for subsequent taxable years even though during any such subsequent taxable year there is no income from the real property, or interest therein, in respect of which the election applies.

(b) *Income to which the election applies*—(1) *Included income.* An election under this section shall apply to all income from real property which is located in the United States and, in the case of a nonresident alien individual, held for the production of income, and to all income derived from any interest in such property, including (i) gains from the sale or exchange of such property or an interest therein, (ii) rents or royalties from mines, oil or gas wells, or other natural resources, and (iii) gains described in section 631 (b) or (c), relating to treatment of gain on the disposal of timber, coal, or iron ore with a retained economic interest. The election may not be made with respect to only one class of such income. For purposes of the election, income from real property, or from any interest in real property, includes any amount included under section 652 or 662 in the gross income of a nonresident alien individual or foreign corporation that is the beneficiary of an estate or trust if, by reason of the application of section 652(b) or 662(b), and the regulations thereunder, such amount has the character in the hands of that beneficiary of income from real property, or from any interest in real property. It is immaterial that no tax would be imposed on the income by section 871(a) and paragraph (a) of § 1.871–7, or by section 881(a) and paragraph (a) of § 1.881–2, if the election were not in effect. Thus, for example, if an election under this section has been made by a nonresident alien individual not engaged in trade or business in the United States during the taxable year, the tax imposed by section 871(b)(1) and paragraph (b)(2) of § 1.871–8 applies to his gains derived from the sale of real property located in the United States and held for the production of income, even though such income would not be subject to tax under section 871(a) if the election had not been made. In further illustration, assume that a nonresident alien individual not engaged in trade or business, or present, in the United States during the taxable year has income from sources within the United States consisting of oil royalties, rentals from a former personal residence, and capital gain from the sale of another residence held for the production of income. If he makes an election under this section, it will apply with respect to his royalties, rentals, and capital gain, even though such capital gain would not be subject to tax under section 871(a) if the election had not been made.

(2) *Income not included.* For purposes of subparagraph (1) of this paragraph, income from real property, or from any interest in real property, does not include (i) interest on a debt obligation secured by a mortgage of real property, (ii) any portion of a dividend, within the meaning of section 316, which is paid by a corporation or a trust, such as a real estate investment trust described in section 857, which derives income from real property, (iii) in the case of a nonresident alien individual, income from real property, such as a personal residence, which is not held for the production of income or from any transaction in such property which was not entered into for profit, (iv) rentals from personal property, or royalties from intangible personal property, within the meaning of subparagraph (3) of this paragraph, or (v) income which, without regard to section 871(d) or 882(d) and this section, is treated as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States.

(3) *Rules applicable to personal property.* For purposes of subparagraph (2) of this paragraph, in the case of a sales agreement, or rental or royalty agreement, affecting both real and personal property, the income from the transaction is to be allocated between the real property and the personal property in proportion to their respective fair market values unless the agreement specifically provides otherwise. In the case of such a rental or royalty agreement, the respective fair market values are to be determined as of the time the agreement is signed. In making determinations of this subparagraph, the principles of paragraph (c) of § 1.48–1, relating to the definition of "section 38 property," apply for purposes of determining whether property is tangible or intangible personal property and of paragraph (a)(5) of § 1.1245–1 apply for purposes of making the allocation of income between real and personal property.

(c) *Effect of the election*—(1) *Determination of tax.* The income to which, in accordance with paragraph (b) of this section, an election under this section applies shall be subject to tax in the manner, and subject to the same conditions, provided by section 871(b)(1) and paragraph (b)(2) of § 1.871–8, or by section 882(a)(1) and paragraph (b)(2) of § 1.882–1. For purposes of determining such tax for the taxable year, income to which the election applies shall be aggregated with all other income of the nonresident alien individual or foreign corporation which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that taxpayer. To the extent that deductions are connected with income from real property to which the election applies, they shall be treated for purposes of section 873(a) or section 882(c)(1) as connected with income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by the nonresident alien individual or foreign corporation. An election under this section does not cause a nonresident alien individual or foreign corporation, which is not engaged in trade or business in the United States during the taxable year, to be treated as though such taxpayer were engaged in trade or business in the United States during the taxable year. Thus, for example, the compensation received during the taxable year for services performed in the United States in a previous taxable year by a nonresident alien individual, who has an election in effect for the taxable year under this section but is engaged in trade or business in the United States at no time during the taxable year, is not effectively connected for the taxable year with the conduct of a trade or business in the United States. In further illustration, gain for the taxable year from the casual sale of personal property described in section 1221 (I) derived by a nonresident alien individual who is not engaged in trade or business in the United States during the taxable year but has an election in effect for such year under this section is not effectively connected with the conduct of a trade or business in the United States. See § 1.864–3. If an election under this section is in effect for the taxable year, the income to which the election applies shall be treated, for purposes of section 871(b)(1) or section 882(a)(1), section 1441(c)(1), and paragraph (a) of § 1.1441–4, as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by the taxpayer.

(2) *Treatment of property to which election applies.* Any real property, or interest in real property, with respect to which an election under this section applies shall be treated as a capital asset which, if depreciable, is subject to the allowance for depreciation provided in section 167 and the regulations thereunder. Such property, or interest in property, shall be treated as property not used in a trade or business for purposes of applying any provisions of the Code, such as section 172(d)(4)(A), relating to gain or loss attributable to a trade or business for purposes of determining a net operating loss; section 1221(2), relating to property not constituting a capital asset; or section 1231(b), relating to special rules for treatment of gains and losses. For example, if a nonresident alien individual makes the election under this section and, while the election is in effect, sells unimproved land which is located in the United States and held for investment

purposes, any gain or loss from the sale shall be considered gain or loss from the sale of a capital asset and shall be treated, for purposes of determining the tax under section 871(b)(1) and paragraph (b)(2) of § 1.871–8, as a gain or loss which is effectively connected for the taxable year with the conduct of a trade or business in the United States.

(d) *Manner of making or revoking an election*—(1) *Election, or revocation, without consent of Commissioner*—(i) *In general.* A nonresident alien individual or foreign corporation may, for the first taxable year for which the election under this section is to apply, make the initial election at any time before the expiration of the period prescribed by section 6511(a), or by section 6511(c) if the period for assessment is extended by agreement, for filing a claim for credit or refund of the tax imposed by chapter 1 of the Code for such taxable year. This election may be made without the consent of the Commissioner. Having made the initial election, the taxpayer may, within the time prescribed for making the election for such taxable year, revoke the election without the consent of the Commissioner. If the revocation is timely and properly made, the taxpayer may make his initial election under this section for a later taxable year without the consent of the Commissioner. If the taxpayer revokes the initial election without the consent of the Commissioner he must file amended income tax returns, or claims for credit or refund, where applicable, for the taxable years to which the revocation applies.

(ii) *Statement to be filed with return.* An election made under this section without the consent of the Commissioner shall be made for a taxable year by filing with the income tax return required under section 6012 and the regulations thereunder for such taxable year a statement to the effect that the election is being made. This statement shall include (*a*) a complete schedule of all real property, or any interest in real property, of which the taxpayer is titular or beneficial owner, which is located in the United States, (*b*) an indication of the extent to which the taxpayer has direct or beneficial ownership in each such item of real property, or interest in real property, (*c*) the location of the real property or interest therein, (*d*) a description of any substantial improvements on any such property, and (*e*) an identification of any taxable year or years in respect of which a revocation or new election under this section has previously occurred. This statement may not be filed with any return under section 6851 and the regulations thereunder.

(iii) *Exemption from withholding of tax.* For statement to be filed with a withholding agent at the beginning of a taxable year in respect of which an election under this section is to be made, see paragraph (a) of § 1.1441–4.

(2) *Revocation, or election, with consent of Commissioner*—(i) *In general.* If the nonresident alien individual or foreign corporation makes the initial election under this section for any taxable year and the period prescribed by subparagraph (1)(i) of this paragraph for making the election for such taxable year has expired, the election shall remain in effect for all subsequent taxable years, including taxable years for which the taxpayer realizes no income from real property, or from any interest therein, or for which he is not required under section 6012 and the regulations thereunder to file an income tax return. However, the election may be revoked in accordance with subdivision (iii) of this subparagraph for any subsequent taxable year with the consent of the Commissioner. If the election for any such taxable year is revoked with the consent of the Commissioner, the taxpayer may not make a new election before his fifth taxable year which begins after the first taxable year for which the revocation is effective unless consent is given to such new election by the Commissioner in accordance with subdivision (iii) of this subparagraph.

(ii) *Effect of new election.* A new election made for the fifth taxable year, or taxable year thereafter, without the consent of the Commissioner, and a new election made with the consent of the Commissioner, shall be treated as an initial election to which subparagraph (1) of this paragraph applies.

(iii) *Written request required.* A request to revoke an election made under this section when such revocation requires the consent of the Commissioner, or to make a new election when such election requires the consent of the Commissioner, shall be made in writing and shall be addressed to the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225. The request shall include the name and address of the taxpayer and shall be signed by the taxpayer or his duly authorized representative. It must specify the taxable year for which the revocation or new election is to be effective and shall be filed within 75 days after the close of the first taxable year for which it is desired to make the change. The request must specify the grounds which are considered to justify the revocation or new election. The Director of International Operations may require such other information as may be necessary in order to determine whether the proposed change will be permitted. A copy of the consent by the Director of International Operations shall be attached to the taxpayer's return required under section 6012 and the regulations thereunder for the taxable year for which the revocation or new election is effective. A copy of such consent may not be filed with any return under section 6851 and the regulations thereunder.

(3) *Election by partnership.* If a nonresident alien individual or foreign corporation is a member of a partnership which has income described in paragraph (b)(1) of this section from real property, any election to be made under this section in respect of such income shall be made by the partners and not by the partnership.

(e) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. There are no corresponding rules in this part for taxable years beginning before January 1, 1967.

**§ 1.871–11 Gains from sale or exchange of patents, copyrights, or similar property.**

(a) *Contingent payment defined.* For purposes of section 871(a)(1)(D), section 881(a)(4), § 1.871–7(c)(1)(iv), § 1.881–2(c)(1)(iii), and this section, payments which are contingent on the productivity, use, or disposition of property or of an interest therein include continuing payments measured by a percentage of the selling price of the products marketed, or based on the number of units manufactured or sold, or based in a similar manner upon production, sale or use, or disposition of the property or interest transferred. A payment which is certain as to the amount to be received, but contingent as to the time of payment, or an installment payment of a principal sum agreed upon in a transfer agreement, shall not be treated as a contingent payment for purposes of this paragraph. For the inapplication of section 1253 to certain amounts described in this paragraph, see paragraph (a) of § 1.1253–1.

(b) *Payments treated as contingent on use.* Pursuant to section 871(e), if more than 50 percent of the gain of a nonresident alien individual or foreign corporation for any taxable year from the sale or exchange after October 4, 1966, of any patent, copyright, secret process or formula, goodwill, trademark, trade brand, franchise, or other like property, or of any interest in any such property, is from payments which are contingent on the productivity, use, or disposition of such property or interest, all of the gain of such individual or corporation for the taxable year from the sale or exchange of such property or interest are, for purposes of section 871(a)(1)(D), section 881(a)(4), section 1441(b), or section 1442(a), and the regulations thereunder, to be treated as being from payments which are contingent on the productivity, use, or disposition of such property or interest. This paragraph does not apply for purposes of determining under section 871(b)(1) or 882(a)(1) the tax of a nonresident alien individual or foreign corporation on income which is effectively connected for the taxable year with the conduct of a trade or business in the United States.

(c) *Sale or exchange.* A sale or exchange for purposes of this section includes, but is not limited to, a transfer by an individual which by reason of section 1235, relating to the sale or exchange of patents, is considered the sale or exchange of a capital asset. The provisions of section 1253, relating to transfers of franchises, trademarks, and trade names, do not apply in determining whether a transfer is a sale or exchange for purposes of this section.

(d) *Recovery of adjusted basis.* For purposes of determining for any taxable

year the amount of gains which are subject to tax under section 871(a)(1)(D) or 881(a)(4), payments received by the nonresident alien individual or foreign corporation during such year must be reduced by amounts representing recovery of the taxpayer's adjusted basis of the property or interest which is sold or exchanged. Where the taxpayer receives in the same taxable year payments which, without reference to section 871(e) and this section, are not contingent on the productivity, use, or disposition of the property or interest which is sold or exchanged and payments which are contingent on the productivity, use, or disposition of the property or interest which is sold or exchanged, the taxpayer's unrecovered adjusted basis in the property or interest which is sold or exchanged must be allocated for the taxable year between such payments on the basis of the gross amount of each such type of payments. Where the taxpayer receives in the taxable year only payments which are not so contingent or only payments which are so contingent, the taxpayer's unrecovered basis must be allocated in its entirety to such payments for the taxable year.

(e) *Source rule.* In determining whether gains described in section 871(a)(1)(D) or 881(a)(4) and paragraph (b) of this section are received from sources within the United States, such gains shall be treated, for purposes of section 871(a)(1)(D), section 881(a)(4), section 1441(b), and section 1442(a), as rentals or royalties for the use of, or privilege of using, property or an interest in property. See section 861(a)(4), § 1.861–5, and paragraph (a) of § 1.862–1.

(f) *Illustrations.* The application of this section may be illustrated by the following examples:

*Example (1).* (a) A, a nonresident alien individual who uses the cash receipts and disbursements method of accounting and the calendar year as the taxable year, holds a U.S. patent which he developed through his own effort. On December 15, 1967, A enters into an agreement of sale with M Corporation, a domestic corporation, whereby A assigns to M Corporation all of his U.S. rights in the patent. In consideration of the sale, M Corporation is obligated to pay a fixed sum of $60,000, $20,000 being payable on execution of the contract and the balance payable in four annual installments of $10,000 each. As additional consideration, M Corporation agrees to pay to A a royalty in the amount of 2 percent of the gross sales of the products manufactured by M Corporation under the patent. A is not engaged in trade or business in the United States at any time during 1967 and 1968. His adjusted basis in the patent at the time of sale is $28,800.

(b) In 1967, A receives only the $20,000 paid by M Corporation on the execution of the contrac asot elf
the contract of sale. No gain is realized by A upon receipt of this amount, and his unrecovered adjusted basis in the patent is reduced to $8,800 ($28,800 less $20,000).

(c) In 1968, M Corporation has gross sales of $600,000 from products manufactured under the patent. Consequently, for 1968, M Corporation pays $22,000 to A, $10,000 being the annual installment on the fixed payment and $12,000 being payments under the terms of the royalty provision. A's recognized gain for 1968 is $13,200 ($22,000 reduced by the unrecovered adjusted basis of $8,800). Of the total gain of $13,200, gain in the amount of $6,000 ($10,000−[$8,800×$10,000/$22,000]) is considered to be from the fixed installment payment and of $7,200 ($12,000−[$8,800×$12,000/$22,000]) is considered to be from the royalty payment. Since 54.5 percent ($7,200/$13,200) of the gain recognized in 1968 from the sale of the patent is from payments which are contingent on the productivity, use, or disposition of the patent, all of the $13,200 gain recognized in 1968 is treated, for purposes of section 871(a)(1)(D) and section 1441(b), as being from payments which are contingent on the productivity, use, or disposition of the patent.

*Example (2).* (a) F, a foreign corporation using the calendar year as the taxable year and not engaged in trade or business in the United States, holds a U.S. patent on certain property which it developed through its own efforts. Corporation F uses the cash receipts and disbursements method of accounting. On December 1, 1966, F Corporation enters into an agreement of sale with D Corporation, a domestic corporation, whereby D Corporation purchases the exclusive right and license, and the right to sublicense to others, to manufacture, use, and/or sell certain devices under the patent in the United States during the term of the patent. The agreement grants D Corporation the right to dispose, anywhere in the world, of machinery manufactured in the United States and equipped with such devices. Corporation D is granted the right, at its own expense, to prosecute infringers in its own name or in the name of F Corporation, or both, and to retain any damages recovered.

(b) Corporation D agrees to pay to F Corporation annually $5 for each device manufactured under the patent during the year but in no case less than $5,000 per year. In 1967, D Corporation manufactures 2,500 devices under the patent; and, in 1968, 1,500 devices. Under the terms of the contract D Corporation pays to F Corporation in 1967 $12,500 with respect to production in that year and $7,500 in 1968 with respect to production in that year. F Corporation's basis in the patent at the time of the sale is $17,000.

(c) With respect to the payments received by F Corporation in 1967, no gain is realized by that corporation and its unrecovered adjusted basis in the patent is reduced to $4,500 ($17,000 less $12,500).

(d) With respect to the payments received by F Corporation in 1968, such corporation has recognized gain of $3,000 ($7,500 reduced by unrecovered adjusted basis of $4,500). Of the total gain of $3,000, gain in the amount of $2,000 ($5,000−[$4,500×$5,000/$7,500]) is considered to be from the fixed installment payment and of $1,000 ($2,500−[$4,500×$2,500/$7,500]) is considered to be from payments which are contingent on the productivity, use, or disposition of the patent. Since 33.3 percent ($1,000/$3,000) of the gain recognized in 1968 from the sale of the patent is from payments which are contingent on the productivity, use, or disposition of the patent, only $1,000 of the $3,000 gain for that year constitutes gains which, for purposes of section 881(a)(4) and section 1442(a), are from payments which are contingent on the productivity, use, or disposition of the patent. The balance of $2,000 is gain from the sale of property and is not subject to tax under section 881(a).

(g) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966, but only in respect of gains from sales or exchanges occurring after October 4, 1966. There are no corresponding rules in this part for taxable years beginning before January 1, 1967.

**§ 1.871–12 Determination of tax on treaty income.**

(a) *In general.* This section applies for purposes of determining under § 1.871–7 or § 1.871–8 the tax of a nonresident alien individual, or under § 1.881–2 or § 1.882–1 the tax of a foreign corporation, which for the taxable year has income described in section 872(a) or 882(b) upon which the tax is limited by an income tax convention to which the United States is a party. Income for such purposes does not include income of any kind which is exempt from tax under the provisions of an income tax convention to which the United States is a party. See §§ 1.872–2(c) and 1.883–1(b). This section shall not apply to a nonresident alien individual who is a bona fide resident of Puerto Rico during the entire taxable year.

(b) *Definition of treaty and nontreaty income*—(1) *In general.* (i) For purposes of this section the term "treaty income" shall be construed to mean the gross income of a nonresident alien individual or foreign corporation, as the case may be, the tax on which is limited by a tax convention. The term "nontreaty income" shall be construed, for such purposes, to mean the gross income of the nonresident alien individual or foreign corporation other than the treaty income. Neither term includes income of any kind which is exempt from the tax imposed by chapter 1 of the Code.

(ii) In determining either the treaty or nontreaty income the gross income shall be determined in accordance with §§ 1.872–1 and 1.872–2, or with §§ 1.882–3 and 1.883–1, except that in determining the treaty income the exclusion granted by section 116(a) for dividends shall not be taken into account. Thus, for example, treaty income includes the total amount of dividends paid by a domestic corporation not disqualified by section 116(b) and received from sources within the United States if, in accordance with a tax convention, the dividends are subject to the income tax at a rate not to exceed 15 percent but does not include interest which, in accordance with a tax convention, is exempt from the income tax. In further illustration, neither the treaty nor the nontreaty income includes interest on certain governmental obligations which by reason of section 103 is excluded from gross income, or interest which by reason of a tax convention is exempt from the tax imposed by chapter 1 of the Code.

(iii) For purposes of applying any income tax convention to which the United States is a party, original issue discount which is subject to tax under section 871(a)(1)(C) or 881(a)(3) is to be treated as interest, and gains which are subject to tax under section 871(a)(1)(D) or 881(a)(4) are to be treated as royalty income. This subdivision shall not apply, however, where its application would be contrary to any treaty obligation of the United States.

(2) *Application of permanent establishment rule of treaties.* In applying this section with respect to income which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by a nonresident alien individual or foreign corporation, see section 894(b), which provides that with respect to such income the nonresident alien individual or foreign corporation shall be deemed not to have a permanent establishment in the United States at any time during the taxable year for purposes of applying any exemption from, or reduction in rate of, tax provided by any tax convention.

(c) *Determination of tax*—(1) *In general.* If the gross income of a nonresident alien individual or foreign corporation, as the case may be, consists of both treaty and nontreaty income, the tax liability for the taxable year shall be the sum of the amounts determined in accordance with subparagraphs (2) and (3) of this paragraph. In no case, however, may the tax liability so determined exceed the tax liability (tax reduced by allowable credits) with respect to the taxpayer's entire income, determined in accordance with § 1.871–7 or § 1.871–8, or with § 1.881–2 or § 1.882–1, as though the tax convention had not come into effect and without reference to the provisions of this section. Determinations under this paragraph shall be made without taking into account any credits allowed by sections 31, 32, 39, and 6402, but such credits shall be allowed against the tax liability determined in accordance with this subparagraph.

(2) *Tax on nontreaty income.* For purposes of subparagraph (1) of this paragraph, compute a partial tax (determined without the allowance of any credit) upon only the nontreaty income in accordance with § 187–1 or § 1.871–8, or with § 1.881–2 or § 1.882–1, whichever applies, as though the tax convention had not come into effect. To the extent allowed by paragraph (d) of § 1.871–8, or paragraph (c) of § 1.882–1, the credits allowed by sections 33, 35, 38, and 40 shall then be allowed, without taking into account any item included in the treaty income, against the tax determined under this subparagraph.

(3) *Tax on treaty income.* For purposes of subparagraph (1) of this paragraph, compute a tax upon the gross amount, determined without the allowance of any deduction, of each separate item of treaty income at the reduced rate applicable to that item under the tax convention. No credits shall be allowed against the tax determined under this subparagraph.

(d) *Illustrations.* The application of this section may be illustrated by the following examples:

*Example (1).* (a) A nonresident alien individual who is a resident of a foreign country with which the United States has entered into a tax convention receives during the taxable year 1967 from sources within the United States total gross income of $4,100, consisting of the following items and determined without regard to the $100 exclusion granted by section 116(a):

| | |
|---|---|
| Dividends the tax on which is limited by the tax convention to a rate not to exceed 15 percent | $3,100 |
| Compensation for personal services, the tax on which is not limited by the tax convention | 1,000 |
| Total gross income | 4,100 |

(b) The dividends are paid by a domestic corporation not disqualified by section 116(b). The taxpayer is engaged in business in the United States during the taxable year by reason of performing personal services in the United States for a period in excess of 90 days, but does not have a permanent establishment therein. Under paragraph (c)(6)(i) of § 1.864–4, the dividends are effectively connected for the taxable year with the conduct of a trade or business in the United States. Interest expense in the amount of $2,100 connected with the dividend income is paid by the taxpayer during the taxable year.

(c) The tax liability for the taxable year is $193, determined as follows:

| | | |
|---|---|---|
| Total gross income, determined by taking into account the exclusion granted by section 116(a) | | $4,000 |
| Less: Deduction for interest expense paid | $2,100 | |
| Deduction for personal exemption | 600 | 2,700 |
| Taxable income | | 1,300 |
| Tax under section 1 of the Code (determined as provided in § 1.871–8(b)(2) as though the tax convention had not come into effect) ($145 plus 16 percent of $300) | | 193 |

(d) If the tax had been determined as provided in paragraph (c)(2) and (3) of this section, the tax liability would have been $521, determined as follows:

| | |
|---|---|
| Nontreaty gross income | $1,000 |
| Less: Deduction for personal exemption | 600 |
| Nontreaty taxable income | 400 |
| Tax under section 1 of the Code on nontreaty taxable income (14% of $400) | 56 |
| Plus: Tax on treaty income (gross dividends) ($3,100×15 percent) | 465 |
| Total tax | 521 |

*Example (2).* (a) A nonresident alien individual who is a resident of a foreign country with which the United States has entered into a tax convention receives during the taxable year 1967 from sources within the United States total gross income of $22,000, consisting of the following items:

| | |
|---|---|
| Compensation for personal services the tax on which is not limited by the tax convention (effectively connected income under § 1.864–4(c)(6)(ii)) | $20,000 |
| Oil royalties the tax on which is limited by the tax convention to 15 percent of the gross amount thereof (effectively connected income by reason of election under § 1.871–10) | 2,000 |
| Total gross income | 22,000 |

(b) The taxpayer is engaged in business in the United States during the taxable year but does not have a permanent establishment therein. There are no allowable deductions, other than the deductions allowed by sections 613 and 873(b)(3).

(c) The tax liability for the taxable year is $6,100, determined as follows:

| | | |
|---|---|---|
| Nontreaty gross income | | $20,000 |
| Less: Deduction for personal exemption | | 600 |
| Nontreaty taxable income | | 19,400 |
| Tax under section 1 of the Code on nontreaty taxable income ($5,170 plus 45 percent of $1,400) | | 5,800 |
| Plus: Tax on treaty income (Gross oil royalties) ($2,000×15 percent) | | 300 |
| Total tax (determined as provided in paragraph (c)(2) and (3) of this section) | | 6,100 |

(d) If the tax had been determined under paragraph (b)(2) of § 1.871–8 as though the tax liability would have been $6,478, determined as follows and by taking into account the election under § 1.871–10:

| | | |
|---|---|---|
| Total gross income | | $22,000 |
| Less: Deduction under section 613 for percentage depletion ($2000×27½ percent) | $550 | |
| Deduction for personal exemption | 600 | 1,150 |
| Taxable income | | 20,850 |
| Tax under section 1 of the Code on taxable income ($6,070 plus 48 percent of $850) | | 6,478 |

(e) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.871–7(e) (Rev. as of Jan. 1, 1971).

**§ 1.871–13 Taxation of individuals for taxable year of change of U.S. citizenship or residence.**

(a) *In general.* (1) An individual who is a citizen or resident of the United States at the beginning of the taxable year but a nonresident alien at the end of the taxable year, or a nonresident alien at the beginning of the taxable year but a citizen or resident of the United States at the end of the taxable year, is taxable for such year as though his taxable year were comprised of two separate periods, one consisting of the time during which he is a citizen or resident of the United States and the other consisting of the time during which he is not a citizen or resident of the United States. Thus, for example, the income tax liability of an alien individual under chapter 1 of the Code for the taxable year in which he changes his residence will be computed under two different sets of rules, one relating to resident aliens for the period of residence and the other relating to nonresident aliens for the period of nonresidence. However, in determining the taxable income for such year which is subject to the graduated rate of tax imposed by section 1 or 1201 of the Code, all income for the period of U.S. citizenship or residence must be aggregated with the income for the period of nonresidence which is effectively connected for such year with the conduct of a trade or business in the United States.

(2) For purposes of this section, an individual is deemed to be a citizen or resident of the United States for the day on which he becomes a citizen or resident of the United States, a nonresident of the United States for the day on which he abandons his U.S. residence, and an alien for the day on which he gives up his U.S. citizenship.

(b) *Acquisition of U.S. citizenship or residence.* Income from sources without the United States which is not effectively connected with the conduct by the taxpayer of a trade or business in the United States is not taxable if received by an alien individual while he is not a resident of the United States even though he becomes a citizen or resident of the United States after its receipt and before the close of the taxable year. However, income from sources without the United States which is not effectively connected with the conduct by the taxpayer of a trade or business in the United States is taxable if received by an individual while he is a citizen or resident of the United States, even though he earns the income earlier in the taxable year while he is neither a citizen nor resident of the United States.

(c) *Abandonment of U.S. citizenship or residence.* Income from sources without the United States which is not effectively connected with the conduct by the taxpayer of a trade or business in the United States is not taxable if received by an alien individual while he is not a resident of the United States, even though he earns the income earlier in the taxable year while he is a citizen or resident of the United States. However, income from sources without the United States which is not effectively connected with the conduct by the taxpayer of a trade or business in the United States is taxable if received by an individual while he is a citizen or resident of the United States, even though he abandons his U.S. citizenship or residence after its receipt and before the close of the taxable year.

(d) *Special rules*—(1) *Method of accounting.* Paragraphs (b) and (c) of this section may not apply to an individual who for the taxable year uses an accrual method of accounting.

(2) *Deductions for personal exemptions.* An alien individual to whom this section applies is entitled to deduct one personal exemption for the taxable year under section 151. In addition, he is entitled to such additional exemptions as are allowed as a deduction under section 151 but only to the extent the amount of such additional exemptions do not exceed his taxable income (determined without regard to any deduction for personal exemptions) for the period in the taxable year during which he is a citizen or resident of the United States. This subparagraph does not apply to the extent it is inconsistent with section 873, and the regulations thereunder, or with the provisions of an income tax convention to which the United States is a party.

(3) *Exclusion of dividends received.* In determining the $100 exclusion for the taxable year provided by section 116 in respect of certain dividends, only those dividends for the period during which the individual is neither a citizen nor resident of the United States may be taken into account as are effectively connected for the taxable year with the conduct of a trade or business in the United States. See § 1.116–1(e)(1).

(e) *Illustrations.* The application of this section may be illustrated by the following examples:

*Example (1).* A, a married alien individual who uses the calendar year as the taxable year and the cash receipts and disbursements method of accounting, becomes a resident of the United States on June 1, 1971. During the period of nonresidence from January 1, 1971, to May 31, 1971, inclusive, A receives $15,000 income from sources without the United States which is not effectively connected with the conduct of a trade or business in the United States. During the period of residence from June 1, 1971, to December 31, 1971, A receives wages of $10,000, dividends of $200 from a foreign corporation, and dividends of $75 from a domestic corporation qualifying under section 116(a). Of the amount of wages so received, $2,000 is for services performed by A outside the United States during the period of nonresidence. Total allowable deductions (other than for personal exemptions) amount to $700, none of which are deductible under section 62 in computing adjusted gross income. For 1971 A's spouse has no gross income and is not the dependent of another taxpayer. For 1971, A's taxable income is $8,200, all of which is subject to tax under section 1, as follows:

| | | |
|---|---|---|
| Wages | | $10,000 |
| Dividends from foreign corporation | | 200 |
| Dividends from domestic corporation ($75 less $75 exclusion) | | 0 |
| Adjusted gross income | | 10,200 |
| Less deductions: | | |
| Personal exemptions (2×$650) | $1,300 | |
| Other allowable deductions | 700 | 2,000 |
| Taxable income | | 8,200 |

*Example (2).* The facts are the same as in example (1) except that during the period of nonresidence from January 1, 1971, to May 31, 1971, A receives from sources within the United States income of $1,850 which is effectively connected with the conduct by A of a business in the United States and $350 in dividends from domestic corporations qualifying under section 116(a). Only $50 of these dividends are effectively connected with the conduct by A of a business in the United States. The assumption is made that there are no allowable deductions connected with such effectively connected income. For 1971, A has taxable income of $10,075 subject to tax under section 1 and $300 income subject to tax under section 871(a)(1)(A), as follows:

| | | |
|---|---|---|
| Wages | | $10,000 |
| Business income | | 1,850 |
| Dividends from foreign corporation | | 200 |
| Dividends from domestic corporation ($125 less $100 exclusion) | | 25 |
| Adjusted gross income | | 12,075 |
| Less deductions: | | |
| Personal exemptions (2×$650) | $1,300 | |
| Other allowable deductions | 700 | 2,000 |
| Taxable income subject to tax under section 1 | | 10,075 |
| Income subject to tax under section 871(a)(1)(A) | | 300 |

*Example (3).* A, a married alien individual with three children, uses the calendar year as the taxable year and the cash receipts and disbursements method of accounting. On October 1, 1971, A and his family become residents of the United States. During the period of nonresidence from January 1, 1971, to September 30, 1971, A receives income of $18,000 from sources without the United States which is not effectively connected with the conduct of a trade or business in the United States and of $2,500 from sources within the United States which is effectively connected with the conduct of a business in the United States. It is assumed there are no allowable deductions connected with such effectively connected income. During the period of residence from October 1, 1971, to December 31, 1971, A receives wages of $2,000, of which $400 is for services performed outside the United States during the period of nonresidence. Total allowable deductions (other than for personal exemptions) amount to $250, none of which are deductible under section 62 in computing adjusted gross income. Neither the spouse nor any of the children has any gross income for 1971, and the spouse is not the dependent of another taxpayer for such year. For 1971, A's taxable income is $1,850, all of which is subject to tax under section 1, as follows:

| | | |
|---|---|---|
| Wages (residence period) | $2,000 | |
| Less: Allowable deductions | 250 | |
| Taxable income (without deduction for personal exemptions) (residence period) | | $1,750 |
| Business income (nonresidence period) | | 2,500 |
| Total taxable income (without deduction for personal exemptions) | | 4,250 |
| Less deduction for personal exemptions: | | |
| Taxpayer | 650 | |
| Wife and 3 children (4×$650, but not to exceed $1,750) | 1,750 | |
| | | 2,400 |
| Taxable income | | 1,850 |

(f) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. There are no corresponding rules in this part for taxable years beginning before January 1, 1967.

**§ 1.871–8 [Deleted]**

PAR. 13. Section 1.871–8 is deleted.

PAR. 14 Section 1.872 is amended by revising sections 872 (a) and (b)(3)(B), by adding a new paragraph (4) at the end of section 872(b), and by revising the historical note. These amended and added provisions read as follows:

**§ 1.872 Statutory provisions; gross income.**

SEC. 872. *Gross income*—(a) *General rule.* In the case of a nonresident alien individual, gross income includes only—

(1) Gross income which is derived from sources within the United States and which is not effectively connected with the conduct of a trade or business within the United States, and

(2) Gross income which is effectively connected with the conduct of a trade or business within the United States.

(b) *Exclusions.* * * *

(3) *Compensation of participants in certain exchange or training programs.* * * *

(B) An office or place of business maintain in a foreign country or in a possession of the United States by a domestic corporation, a domestic partnership, or an individual who is a citizen or resident of the United States.

(4) *Certain bond income of residents of the Ryukyu Islands or the Trust Territory of the Pacific Islands.* Income derived by a nonresident alien individual from a series E or series H U.S. savings bond, if such individual acquired such bond while a resident of the Ryukyu Island or the Trust Territory of the Pacific Islands.

[Sec. 872 as amended by sec. 110(c), Mutual Educational and Cultural Exchange Act 1961 (75 Stat. 536); sec. 103(b), Foreign Investors Tax Act 1966 (80 Stat. 1550)]

PAR. 15. Section 1.872–1 is amended to read as follows:

**§ 1.872–1 Gross income of nonresident alien individuals.**

(a) *In general*—(1) *Inclusions.* The gross income of a nonresident alien individual for any taxable year includes only (i) the gross income which is derived from sources within the United States and which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual and (ii) the gross income, irrespective of whether such income is derived from sources within or without the United States, which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual. For the determination of the sources of income, see sections 861 through 863 and the regulations thereunder. For the determination of whether income from sources within or without the United States is effectively connected for the taxable year with the conduct of a trade or business in the United States, see sections 864(c) and 871 (c) and (d), §§ 1.864–3 through 1.864–7, and §§ 1.871–9 and 1.871–10. For special rules for determining the income of an alien individual who changes his residence during the taxable year, see § 1.871–13.

(2) *Exchange transactions.* Even though a nonresident alien individual who effects certain transactions in the United States in stocks, securities, or commodities during the taxable year may not, by reason of section 864(b)(2) and paragraph (c) or (d) of § 1.864–2, be engaged in trade or business in the United States during the taxable year through the effecting of such transactions, nevertheless he shall be required to include in gross income for the taxable year the gains and profits from those transactions to the extent required by § 1.871–7 or § 1.871–8.

(3) *Exclusions.* For exclusions from gross income, see § 1.872–2.

(b) *Individuals not engaged in U.S. business.* In the case of a nonresident alien individual who at no time during the taxable year is engaged in trade or business in the United States, the gross income shall include only (1) the gross income from sources within the United States which is described in section 871 (a) and paragraphs (b), (c), and (d) of § 1.871–7, and (2) the gross income from sources within the United States which, by reason of section 871 (c) or (d) and § 1.871–9 or § 1.871–10, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual.

(c) *Individuals engaged in U.S. business.* In the case of a nonresident alien individual who is engaged in trade or business in the United States at any time during the taxable year, the gross income shall include (1) the gross income from sources within and without the United States which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual, (2) the gross income from sources within the United States which, by reason of the election provided in section 871(d) and § 1.871–10, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual, and (3) the gross income from sources within the United States which is described in section 871(a) and paragraphs (b), (c), and (d) of § 1.871–7 and is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual.

(d) *Special rules applicable to certain expatriates.* For special rules for determining the gross income of a nonresident alien individual who has lost U.S. citizenship with a principal purpose of avoiding certain taxes, see section 877 (b)(1).

(e) *Alien resident of Puerto Rico.* This section shall not apply in the case of a nonresident alien individual who is a bona fide resident of Puerto Rico during the entire taxable year. See section 876 and § 1.876–1.

(f) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.872–1 (Rev. as of Jan. 1, 1971).

PAR. 16. Section 1.872–2 is amended to read as follows:

**§ 1.872–2 Exclusions from gross income of nonresident alien individuals.**

(a) *Earnings of foreign ships or aircraft*—(1) *Basic rule.* So much of the income from sources within the United States of a nonresident alien individual as consists of earnings derived from the operation of a ship or ships documented, or of aircraft registered, under the laws of a foreign country which grants an equivalent exemption to citizens of the United States nonresident in that foreign country and to corporations organized in the United States shall not be included in gross income.

(2) *Equivalent exemption*—(i) *Ships.* A foreign country which either imposes no income tax, or, in imposing an income tax, exempts from taxation so much of the income of a citizen of the U.S. nonresident in that foreign country and of a corporation organized in the United States as consists of earnings derived from the operation of a ship or ships documented under the laws of the United States is considered as granting an equivalent exemption for purposes of the exclusion from gross income of the earnings of a foreign ship or ships.

(ii) *Aircraft.* A foreign country which either imposes no income tax, or, in imposing an income tax, exempts from taxation so much of the income of a citizen of the U.S. nonresident in that foreign country and of a corporation organized in the United States as consists of earnings derived from the operation of aircraft registered under the laws of the United States is considered as granting an equivalent exemption for purposes of the exclusion from gross income of the earnings of foreign aircraft.

(3) *Definition of earnings.* For purposes of subparagraphs (1) and (2) of this paragraph, compensation for personal services performed by an individual aboard a ship or aircraft does not constitute earnings derived by such individual from the operation of ships or aircraft.

(b) *Compensation paid by foreign employer to participants in certain exchange or training programs*—(1) *Exclusion from income.* Compensation paid to a nonresident alien individual for the period that the nonresident alien individual is temporarily present in the United States as a nonimmigrant under subparagraph (F) (relating to the admission of students into the United States) or subparagraph (J) (relating to the admission of teachers, trainees, specialists, etc., into the United States) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F) or (J)) shall be excluded from gross income if the compensation is paid to such alien by his foreign employer. Compensation paid to a nonresident alien individual by the U.S. office of a domestic bank which is acting as paymaster on behalf of a foreign employer constitutes compensation paid by a foreign employer for purposes of this paragraph if the domestic bank is reimbursed by the foreign employer for such payment. A nonresident alien individual who is temporarily present in the United States as a nonimmigrant under such subparagraph (J) includes a nonresident alien individual admitted to the United States as an "exchange visitor" under section 201 of the U.S. Information and Educational Exchange Act of 1948 (22 U.S.C. 1446), which section was repealed by section 111 of the Mutual Education and Cultural Exchange Act of 1961 (75 Stat. 538).

(2) *Definition of foreign employer.* For purposes of this paragraph, the term "foreign employer" means a nonresident alien individual, a foreign partnership, a foreign corporation, or an office or place of business maintained in a foreign country or in a possession of the United States by a domestic corporation, a

domestic partnership, or an individual who is a citizen or resident of the United States. The term does not include a foreign government. However, see section 893 and § 1.893–1. Thus, if a French citizen employed in the Paris branch of a banking company incorporated in the State of New York were admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act to study monetary theory and continued to receive a salary from such foreign branch while studying in the United States, such salary would not be includable in his gross income.

(c) *Tax convention.* Income of any kind which is exempt from tax under the provisions of a tax convention or treaty to which the United States is a party shall not be included in the gross income of a nonresident alien individual. Income on which the tax is limited by tax convention shall be included in the gross income of a nonresident alien individual if it is not otherwise excluded from gross income. See §§ 1.871–12 and 1.894–1.

(d) *Certain bond income of residents of the Ryukyu Islands or the Trust Territory of the Pacific Islands.* Income derived by a nonresident alien individual from a series E or series H U.S. savings bond shall not be included in gross income if such individual acquired the bond while he was a resident of the Ryukyu Islands or the Trust Territory of the Pacific Islands. It is not necessary that the individual continue to be a resident of such Islands or Trust Territory for the period when, without regard to section 872(b)(4) and this paragraph, the income from the bond would otherwise be includible in his gross income under the provisions of section 446 or 454.

(e) *Certain annuities received under qualified plans.* Pursuant to section 871(f), income received by a nonresident alien individual as an annuity under a qualified annuity plan described in section 403(a)(1) (relating to taxation of employee annuities), or from a qualified trust described in section 401(a) (relating to qualified pension, profit-sharing, and stock bonus plans) which is exempt from tax under section 501(a) (relating to exemption from tax on corporations, certain trusts, etc.), shall not be included in gross income, and shall be exempt from tax, for purposes of section 871 and §§ 1.871–7 and 1.871–8, if—

(1) All of the personal services by reason of which the annuity is payable were either—

(i) Personal services performed outside the United States by an individual (whether or not the annuitant) who, at the time of performance of the services, was a nonresident alien individual, or

(ii) Personal services performed in the United States by a nonresident alien individual (whether or not the annuitant) which, by reason of section 864(b)(1) (or corresponding provision of any prior law), were not personal services causing such individual to be engaged in trade or business in the United States during the taxable year, and

(2) At the time the first amount is paid (even though paid in a taxable year beginning before January 1, 1967) as such annuity under such annuity plan, or by such trust, to (i) the individual described in subparagraph (1) of this paragraph, or (ii) his nonresident alien beneficiary if such beneficiary is entitled to receive such first amount, 90 percent or more of the employees or annuitants for whom contributions or benefits are provided under the annuity plan, or under the plan or plans of which the trust is a part, are citizens or residents of the United States.

This paragraph shall apply whether or not the taxpayer is engaged in trade or business in the United States at any time during the taxable year in which the annuity is received. This paragraph shall not apply to distributions by an employees' trust or from an annuity plan which give rise to gains described in section 402(a)(2) or 403(a)(2), whichever applies. See section 871(a)(1)(B) and paragraph (c)(1)(i) of § 1.871–7. For exemption from withholding of tax at source on an annuity which is exempt from tax under section 871(f) and this paragraph, see paragraph (g) of § 1.1441–4.

(f) *Other exclusions.* Income which is from sources without the United States, as determined under the provisions of sections 861 through 863, and the regulations thereunder, is not included in the gross income of a nonresident alien individual unless such income is effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual. To determine specific exclusions in the case of other items which are from sources within the United States, see the applicable sections of the Code. For special rules under a tax convention for determining the sources of income and for excluding, from gross income, income from sources without the United States which is effectively connected with the conduct of a trade or business in the United States, see the applicable tax convention. For determining which income from sources without the United States is effectively connected with the conduct of a trade or business in the United States, see section 864(c)(4) and § 1.864–5.

(g) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 4, 1967 see 26 CFR 1.872–2 (Rev. as of Jan. 1, 1971).

PAR. 17. Section 1.876–1 is amended by revising paragraphs (b) and (c) and by adding a new paragraph (d). These amended and added provisions read as follows:

**§ 1.876–1 Alien residents of Puerto Rico.**

* * * * *

(b) *Exceptions.* Though subject to the tax imposed by section 1, a nonresident alien individual who is a bona fide resident of Puerto Rico during his entire taxable year shall nevertheless be treated as a nonresident alien individual for the purpose of many provisions of the Code relating to nonresident alien individuals. Thus, for example, such a resident of Puerto Rico is not allowed to determine his tax in accordance with the optional tax table (section 4(d)(1)); is not allowed the standard deduction (section 142(b)(1); is not allowed a deduction for a "dependent" who is a resident of Puerto Rico unless the dependent is a citizen of the United States (section 152(b)(3)); is subject to withholding of tax at source under chapter 3 of the Code (sections 1441(e) and 1451(e)); is generally excepted from the collection of income tax at source on wages (paragraph (d)(1) of § 31.3401(a)(6)–1 of this chapter (Employment Tax Regulations)); is not allowed to make a joint return or a joint declaration of estimated tax (sections 6013(a)(1) and 6015(b)); must pay his estimated income tax on or before the 15th day of the 4th month of the taxable year (sections 6015(i)(3), 6073(a), and 6153(a)(1)); and generally must pay his income tax on or before the 15th day of the 6th month following the close of the taxable year (sections 6072(c) and 6151(a)).

(c) *Credits against tax.* The credits allowed by section 31 (relating to tax withheld on wages), section 32 (relating to tax withheld at source on nonresident alients), section 33 (relating to taxes of foreign countries), section 35 (relating to partially tax-exempt interest), section 38 (relating to investment in certain depreciable property), section 39 (relating to certain uses of gasoline and lubricating oil), and section 40 (relating to expenses of work incentive programs) shall be allowed against the tax determined in accordance with this section. No credit shall be allowed under section 37 in respect of retirement income.

(d) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.876–1 (Rev. as of Jan. 1, 1971).

PAR. 18. Section 1.877 is redesignated as § 1.878 and revised to read as follows:

**§ 1.878 Statutory provisions; certain foreign exempt organizations.**

SEC. 878. *Foreign educational, charitable, and certain other exempt organizations.* For special provisions relating to foreign educational, charitable, and other exempt organizations, see sections 512(a) and 4948.

[Sec. 878 as redesignated by sec. 103(f)(1), Foreign Investors Tax Act 1966 (80 Stat. 1551); as amended by sec. 101(j)(20), Tax Reform Act 1969 (83 Stat. 528)]

PAR. 19. The following new section is inserted immediately after § 1.876–1:

**§ 1.877 Statutory provisions; expatriation to avoid tax.**

SEC. 877. *Expatriation to avoid tax*—(a) *In general.* Every nonresident alien individual who at any time after March 8, 1965, and within the 10-year period immediately preceding the close of the taxable year lost U.S. citizenship, unless such loss did not have for one of its principal purposes the avoidance of taxes under this subtitle or subtitle B,

shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

(b) *Alternative tax.* A nonresident alien individual described in subsection (a) shall be taxable for the taxable year as provided in section 1 or section 1201(b), except that—

(1) The gross income shall include only the gross income described in section 872(a) (as modified by subsection (c) of this section), and

(2) The deductions shall be allowed if and to the extent that they are connected with the gross income included under this section except that the capital loss carryover provided by section 1212(b) shall not be allowed; and the proper allocation and apportionment of the deductions for this purpose shall be determined as provided under regulations prescribed by the Secretary or his delegate.

For purposes of paragraph (2), the deductions allowed by section 873(b) shall be allowed; and the deduction (for losses not connected with the trade or business if incurred in transactions entered into for profit) allowed by section 165(c)(2) shall be allowed, but only if the profit, if such transaction had resulted in a profit, would be included in gross income under this section.

(c) *Special rules of source.* For purposes of subsection (b), the following items of gross income shall be treated as income from sources within the United States:

(1) *Sale of property.* Gains on the sale or exchange of property (other than stock or debt obligations) located in the United States.

(2) *Stock or debt obligations.* Gains on the sale or exchange of stock issued by a domestic corporation or debt obligations of U.S. persons or of the United States, a State or political subdivision thereof, or the District of Columbia.

(d) *Exception for loss of citizenship for certain causes.* Subsection (a) shall not apply to a nonresident alien individual whose loss of U.S. citizenship resulted from the application of section 301(b), 350, or 355 of the Immigration and Nationality Act, as amended (8 U.S.C. 1401(b), 1482, or 1487).

(e) *Burden of proof.* If the Secretary or his delegate establishes that it is reasonable to believe that an individual's loss of U.S. citizenship would, but for this section, result in a substantial reduction for the taxable year in the taxes on his probable income for such year, the burden of proving for such taxable year that such loss of citizenship did not have for one of its principal purposes the avoidance of taxes under this subtitle or subtitle B shall be on such individual.

[Sec. 877 as added by sec. 103(f)(1), Foreign Investors Tax Act 1966 (80 Stat. 1551)]

PAR. 20. Section 1.932 is amended by revising section 932(a) and by adding a historical note as follows:

**§ 1.932 Statutory provisions; taxation of citizens of possessions of the United States.**

SEC. 932. *Citizens of possessions of the United States*—(a) *General rule.* Any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States shall be subject to taxation under this subtitle in the same manner and subject to the same conditions as in the case of a nonresident alien individual. This section shall have no application in the case of a citizen of Puerto Rico.

* * * * *

[Sec. 932 as amended by sec. 103(m), Foreign Investors Tax Act 1966 (80 Stat. 1554)]

PAR. 21. Section 1.932–1 is amended by revising paragraph (a)(1) to read as follows:

**§ 1.932–1 Status of citizens of U.S. possessions.**

(a) *General rule*—(1) *Definition and treatment.* A citizen of a possession of the United States (except Puerto Rico), who is not otherwise a citizen or resident of the United States, including only the States and the District of Columbia, is treated for the purpose of the taxes imposed by Subtitle A of the Code (relating to income taxes) as if he were a nonresident alien individual. However, for purposes of the tax imposed on self-employment income by chapter 2 of the Code, the term "possession of the United States" as used in section 932 and the preceding sentence does not include American Samoa, Guam, or the Virgin Islands. See section 1402(a)(9). See subpart A (section 871 and following), part II, subchapter N, chapter 1 of the Code, and the regulations thereunder, for rules relating to imposition of tax on nonresident alien individuals. For Federal income tax purposes, a citizen of a possession of the United States who is not otherwise a citizen of the United States is a citizen of a possession of the United States who has not become a citizen of the United States by naturalization in a State, Territory, or the District of Columbia. The fixed or determinable annual or periodical income from sources within the United States of a citizen of a possession of the United States who is treated as if he was a nonresident alien individual is subject to withholding. See section 1441.

* * * * *

PAR. 22. Section 1.1493 is amended by adding a historical note to read as follows:

**§ 1.1493 Statutory provisions; definition of foreign trust.**

* * * * *

[Sec. 1493 as in effect before its repeal by sec. 103(1)(2), Foreign Investors Tax Act 1966 (80 Stat. 1544)]

PAR. 23. Section 1.1493–1 is revised to read as follows:

**§ 1.1493–1 Definition of foreign trust.**

For taxable years beginning before January 1, 1967, a trust is to be considered a "foreign trust" within the meaning of chapter 5 of the Code, if, assuming a subsequent sale by the trustee, outside the United States and for cash, of the property transferred to the trust, the profit, if any, from such sale (being income from sources without the United States under the provisions of part I (section 861 and following), subchapter N, chapter 1 of the Code), would not be included in the gross income of the trust under subtitle A of the Code. For taxable years beginning after December 31, 1966, the term "foreign trust," as used in chapter 5 of the Code, shall have the meaning prescribed by section 7701(a)(31).

PAR. 24. Section 1.6012–1 is amended by revising paragraph (b) to read as follows:

**§ 1.6012–1 Individuals required to make returns of income.**

* * * * *

(b) *Return of nonresident alien individual*—(1) *Requirement of return*—(i) *In general.* Except as otherwise provided in subparagraph (2) of this paragraph, every nonresident alien individual who is engaged in trade or business in the United States at any time during the taxable year or who has income which is subject to taxation under subtitle A of the Code shall make a return on Form 1040NR. For this purpose it is immaterial that the gross income for the taxable year is less than the minimum amount specified in section 6012(a) for making a return. Thus, a nonresident alien individual who is engaged in a trade or business in the United States at any time during the taxable year is required to file a return on Form 1040NR even though (*a*) he has no income which is effectively connected with the conduct of a trade or business in the United States, (*b*) he has no income from sources within the United States, or (*c*) his income is exempt from income tax by reason of an income tax convention or any section of the Code. However, if the nonresident alien individual has no gross income for the taxable year, he is not required to complete the return schedules but must attach a statement to the return indicating the nature of any exclusions claimed and the amount of such exclusions to the extent such amounts are readily determinable.

(ii) *Treaty income.* If the gross income of a nonresident alien individual includes treaty income, as defined in paragraph (b)(1) of § 1.871–12, a statement shall be attached to the return on Form 1040NR showing with respect to that income—

(*a*) The amounts of tax withheld,

(*b*) The names and post office addresses of withholding agents, and

(*c*) Such other information as may be required by the return form, or by the instructions issued with respect to the form, to show the taxpayer's entitlement to the reduced rate of tax under the tax convention.

(2) *Exceptions*—(i) *Return not required when tax is fully paid at source.* A nonresident alien individual who at no time during the taxable year is engaged in a trade or business in the United States is not required to make a return for the taxable year if his tax liability for the taxable year is fully satisfied by the withholding of tax at source under chapter 3 of the Code. This subdivision does not apply to a nonresident alien individual who has income for the taxable year which is treated under section 871 (c) or (d) and § 1.871–9 (relating to students or trainees) or § 1.871–10 (relating to real property income) as income which is effectively connected for the taxable year with the conduct of a trade or business in the

United States by that individual, or to a nonresident alien individual making a claim under § 301.6402–3 of this chapter (Procedure and Administration Regulations) for the refund of an overpayment of tax for the taxable year. For purposes of this subdivision, some of the items of income from sources within the United States upon which the tax liability will not have been fully satisfied by the withholding of tax at source under chapter 3 of the Code are:

(*a*) Interest upon so-called tax-free covenant bonds upon which, in accordance with section 1451 and § 1.1451–1, a tax of only 2 percent is required to be withheld at the source.

(*b*) In the case of bonds or other evidences of indebtedness issued after September 28, 1965, amounts described in section 871(a)(1)(C),

(*c*) Capital gains described in section 871(a)(2) and paragraph (d) of § 1.871–7, and

(*d*) Accrued interest received in connection with the sale of bonds between interest dates, which, in accordance with paragraph (h) of § 1.1441–4, is not subject to withholding of tax at the source.

(ii) *Return of individual for taxable year of change of U.S. citizenship or residence.* (*a*) If an alien individual becomes a citizen or resident of the United States during the taxable year and is a citizen or resident of the United States on the last day of such year, he must make a return on Form 1040 for the taxable year. However, a separate schedule is required to be attached to this return to show the income tax computation for the part of the taxable year during which the alien was neither a citizen nor resident of the United States. A Form 1040NR, clearly marked "Statement" across the top, may be used as such a separate schedule.

(*b*) If an individual abandons his U.S. citizenship or residence during the taxable year and is not a citizen or resident of the United States on the last day of such year, he must make a return on Form 1040NR for the taxable year. However, a separate schedule is required to be attached to this return to show the income tax computation for the part of the taxable year during which the individual was a citizen or resident of the United States. A Form 1040, clearly marked "Statement" across the top, may be used as such a separate schedule.

(*c*) A return is required under this subdivision (ii) only if the individual is otherwise required to make a return for the taxable year.

(iii) *Beneficiaries of estates or trusts.* A nonresident alien individual who is a beneficiary of an estate or trust which is engaged in trade or business in the United States is not required to make a return for the taxable year merely because he is deemed to be engaged in trade or business within the United States under section 875(2). However, such nonresident alien beneficiary will be required to make a return if he otherwise satisfies the conditions of subparagraph (1)(i) of this paragraph for making a return.

(iv) *Certain alien residents of Puerto Rico.* This paragraph does not apply to a nonresident alien individual who is a bona fide resident of Puerto Rico during the taxable year. See section 876 and paragraph (a)(1)(iii) of this section.

(3) *Representative or agent for nonresident alien individual*—(i) *Cases where power of attorney is not required.* The responsible representative or agent within the United States of a nonresident alien individual shall make on behalf of his nonresident alien principal a return of, and shall pay the tax on, all income coming within his control as representative or agent which is subject to the income tax under subtitle A of the Code. The agency appointment will determine how completely the agent is substituted for the principal for tax purposes. Any person who collects interest or dividends on deposited securities of a nonresident alien individual, executes ownership certificates in connection therewith, or sells such securities under special instructions shall not be deemed merely by reason of such acts to be the responsible representative or agent of the nonresident alien individual. If the responsible representative or agent does not have a specific power of attorney from the nonresident alien individual to file a return in his behalf, the return shall be accompanied by a statement to the effect that the representative or agent does not possess specific power of attorney to file a return for such individual but that the return is being filed in accordance with the provisions of this subdivision.

(ii) *Cases where power of attorney is required.* Whenever a return of income of a nonresident alien individual is made by an agent acting under a duly authorized power of attorney for that purpose, the return shall be accompanied by the power of attorney in proper form, or a copy thereof, specifically authorizing him to represent his principal in making, executing, and filing the income tax return. Form 2848 may be used for this purpose. The agent, as well as the taxpayer, may incur liability for the penalties provided for erroneous, false, or fraudulent returns. For the requirements regarding signing of returns, see § 1.6061–1. The rules of paragraph (e) of § 601.504 of this chapter (Statement of Procedural Rules) shall apply under this subparagraph in determining whether a copy of a power of attorney must be certified.

(iii) *Limitation.* A return of income shall be required under this subparagraph only if the nonresident alien individual is otherwise required to make a return in accordance with this paragraph.

(4) *Disallowance of deductions and credits.* For provisions disallowing deductions and credits when a return of income has not been filed by or on behalf of a nonresident alien individual, see section 874(a) and the regulations thereunder.

(5) *Effective date.* This paragraph shall apply for taxable years beginning after December 31, 1966, except that it shall not be applied to require (i) the filing of a return for any taxable year ending before January 1, 1974, which, pursuant to instructions applicable to the return, is not required to be filed or (ii) the amendment of a return for such a taxable year which, pursuant to such instructions, is required to be filed. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.6012–1(b) (Rev. as of Jan. 1, 1967).

* * * * *

PAR. 25. Section 1.6012–3 is amended by revising subparagraph (2) (i), (iii), and (v) of paragraph (b) to read as follows:

**§ 1.6012–3 Returns by fiduciaries.**

* * * * *

(b) *For other persons.* * * *

(2) *Nonresident alien individuals*—(i) *In general.* A resident or domestic fiduciary or other person charged with the care of the person or property of a nonresident alien individual shall make a return for that individual and pay the tax unless—

(*a*) The nonresident alien individual makes a return of, and pays the tax on, his income for the taxable year,

(*b*) A responsible representative or agent in the United States of the nonresident alien individual makes a return of, and pays the tax on, the income of such alien individual for the taxable year, or

(*c*) The nonresident alien individual has appointed a person in the United States to act as his agent for the purpose of making a return of income and, if such fiduciary is required to file a Form 1041 for an estate or trust of which such alien individual is a beneficiary, such fiduciary attaches a copy of the agency appointment to his return on Form 1041.

* * * * *

(iii) *Disallowance of deductions and credits.* For provisions disallowing deductions and credits when a return of income has not been filed by or on behalf of a nonresident alien individual, see section 874 and the regulations thereunder.

* * * * *

(v) *Cross reference.* For requirements of withholding tax at source on nonresident alien individuals and of returns with respect to such withheld taxes, see §§ 1.1441–1 to 1.1465–1, inclusive.

* * * * *

PAR. 26. Section 1.6011a–4 is revised to read as follows:

**§ 1.6012–4 Miscellaneous returns.**

For returns by regulated investment companies of tax on undistributed capital gain designated for special treatment under section 852(b)(3)(D), see § 1.852–9. For returns with respect to tax withheld on nonresident aliens and foreign corporations and on tax-free convenant bonds, see §§ 1.1461–1 to 1.1465–1, inclusive. For returns of tax on transfers to avoid income tax, see § 1.1494–1. For the requirement of an annual report by persons completing a Government contract,

see 26 CFR (1939) 17.16 (Treasury Decision 4906, approved June 23, 1939), and 26 CFR (1939) 16.15 (Treasury Decision 4909, approved June 28, 1939), as made applicable to section 1471 of the 1954 Code by Treasury Decision 6091, approved August 16, 1954 (19 F.R. 5167, C.B. 1954–2, 47). See also § 1.1471–1.

* * * * *

PAR. 28. Section 1.6015(a)–1 is amended by revising paragraph (d), as follows:

**§ 1.6015(a)–1 Declaration of estimated income tax by individuals.**

* * * * *

(d) *Nonresident alien individuals.* For the rules exempting certain nonresident alien individuals from the requirement of making a declaration of estimated income tax, see § 1.6015(i)–1.

* * * * *

PAR. 29. Section 1.6015(i) is redesignated as § 1.6015(j) and revised to read as follows:

**§ 1.6015(j) Statutory provisions; declaration of estimated income tax by individuals; applicability.**

SEC. 6015. *Declaration of estimated income* tax by individuals. * * *

(j) *Applicability.* This section shall be applicable only with respect to taxable years beginning after December 31, 1954; and sections 58, 59, and 60 of the Internal Revenue Code of 1939 shall continue in force with respect to taxable years beginning before January 1, 1955.

[Sec. 6015(j) as redesignated by sec. 103(j)(2) Foreign Investors Tax Act (80 Stat. 1554)]

[(b) *Declarations of estimated tax.* In the case of a taxable year beginning before [December 30, 1969], if any taxpayer is required to make a declaration or amended declaration of estimated tax, or to pay any amount or additional amount of estimated tax, by reason of the amendments made by [the Tax Reform Act of 1969], such amount or additional amount shall be paid ratably on or before each of the remaining installment dates for the taxable year beginning with the first installment date on or after [January 29, 1970]. With respect to any declaration or payment of estimated tax before such first installment date, sections 6015 [and] 6654 * * * of the Internal Revenue Code of 1954 shall be applied without regard to the amendments made by [the Tax Reform Act of 1969]. For purposes of this subsection, the term "installment date" means any date on which, under section 6153 * * * of such Code * * *, an installment payment of estimated tax is required to be made by the taxpayer. (Sec. 946(b), Tax Reform Act 1969 (83 Stat. 729))]

**§ 1.6015(j)–1 [Redesignated]**

PAR. 30. Section 1.6015(i)–1 is redesignated as § 1.6015(j)–1.

PAR. 31. The following new sections are inserted immediately after § 1.6015(h)–1:

**§ 1.6015(i) Statutory provisions; declaration of estimated income tax by individuals; nonresident alien individuals.**

(i) *Nonresident alien individuals.* No declaration shall be required to be made under this section by a nonresident alien individual unless—

(1) Withholding under chapter 24 is made applicable to the wages, as defined in section 3401(a), of such individual,

(2) Such individual has income (other than compensation for personal services subject to deduction and withholding under section 1441) which is effectively connected with the conduct of a trade or business within the United States, or

(3) Such individual is a resident of Puerto Rico during the entire taxable year.

[Sec. 6015(i) as added by sec. 103(j)(3), Foreign Investors Tax Act 1966 (80 Stat. 1554)]

**§ 1.6015(i)–1 Nonresident alien individuals.**

(a) *Exception from requirement of making a declaration.* No declaration of estimated income tax is required to be made under section 6015(a) and § 1.6015(a)–1 by a nonresident alien individual unless—

(1) Such individual has wages, as defined in section 3401(a), and the regulations thereunder, upon which tax is required to be withheld under section 3402,

(2) Such individual has income (other than compensation for personal services upon which tax is required to be withheld at source under section 1441) which is effectively connected for the taxable year with the conduct of a trade or business in the United States by such individual, or

(3) Such individual has been, or expects to be, a resident of Puerto Rico during the entire taxable year.

(b) *Rules applicable to nonresident alien individuals required to make a declaration*—(1) *Tests to be applied.* A nonresident alien individual who is not excepted by paragraph (a) of this section from the requirement of making a declaration of income tax is required to file a declaration if his gross income meets the requirements of section 6015(a) and § 1.6015(a)–1. In making the determination under section 6015(a)(1) as to whether the amount of the gross income of a nonresident alien individual is such as to require making a declaration of estimated income tax, only the tests relating to a single individual (other than a head of household) or to a married individual not entitled to file a joint declaration with his spouse shall apply, since a nonresident alien individual may not make a joint declaration by reason of section 6015(b) and is not a head of household. Only in a rare case would a nonresident alien individual be a surviving spouse.

(2) *Determination of gross income.* To determine the gross income of a nonresident alien individual who is not, or does not expect to be, a resident of Puerto Rico during the entire taxable year, see section 872 and §§ 1.872–1 and 1.872–2. To determine the gross income of a nonresident alien individual who is, or expects to be, a resident of Puerto Rico during the entire taxable year, see section 876 and § 1.876–1. For purposes of applying paragraph (a)(2) of this section, income which is effectively connected for the taxable year with the conduct of a trade or business in the United States includes all income which is treated under section 871 (c) or (d) and § 1.871–9 (relating to students and trainees) or § 1.871–10 (relating to real property income) as income which is effectively connected for such year with the conduct of a trade or business in the United States.

(c) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.6015(a)–1(d) (Rev. as of Jan. 1, 1971).

PAR. 32. Section 1.6061–1 is amended to read as follows:

**§ 1.6061–1 Signing of returns and other documents by individuals.**

(a) *Requirement.* Each individual (including a fiduciary) shall sign the income tax return required to be made by him, except that the return may be signed for the taxpayer by an agent who is duly authorized in accordance with paragraph (a)(5) or (b) of § 1.6012–1 to make such return. Other returns, statements, or documents required under the provisions of subtitle A or F of the Code or of the regulations thereunder to be made by any person with respect to any tax imposed by subtitle A of the Code shall be signed in accordance with any regulations contained in this chapter, or any instructions, issued with respect to such returns, statements, or other documents.

(b) *Cross references.* For provisions relating to the signing of returns, statements, or other documents required to be made by corporations and partnerships with respect to any tax imposed by subtitle A of the Code, see §§ 1.6062–1 and 1.6063–1, respectively. For provisions relating to the making of returns by agents, see paragraphs (a)(5) and (b) of § 1.6012–1; and to the making of returns for minors and persons under a disability, see paragraph (a)(4) of § 1.6012–1 and paragraph (b) of § 1.6012–3.

Par. 18. Section 1.703–1 is amended by adding at the end of paragraph (b)(2) the following new subdivision:

**§ 1.703–1 Partnership computations.**

* * * * *

(b) *Elections of the partnership.* * * *

(2) *Exceptions.* * * *

(iii) Each partner who is a nonresident alien individual or a foreign corporation shall add his distributive share of income derived by the partnership from real property located in the United States, as described in section 871(d)(1) or 882(d)(1), to any such income derived by him and may elect under § 1.871–10 to treat all such income as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States.

Par. 19. Section 1.864–4 is amended by revising paragraph (c)(3)(i) to read as follows:

**§ 1.864–4 U.S. source income effectively connected with U.S. business.**

* * * * *

(c) *Fixed or determinable income and capital gains.* * * *

(3) *Application of the business-activities test*—(i) *In general.* For purposes of subparagraph (1) of this paragraph, the business-activities test shall ordinarily apply in making a determination with respect to income, gain, or loss which, even though generally of the passive type, arises directly from the active conduct of the taxpayer's trade or business in the United States. The business-activities test is of primary significance, for example, where (*a*) dividends or interest are derived by a dealer in stocks or securities, (*b*) gain or loss is derived from the sale or exchange of capital assets in the active conduct of a trade or business by an investment company, (*c*) royalties are derived in the active conduct of a business consisting of the licensing of patents or similar intangible property, or (*d*) service fees are derived in the active conduct of a servicing business. In applying the business-activities test, activities relating to the management of investment portfolios shall not be treated as activities of the trade or business conducted in the United States unless the maintenance of the investments constitutes the principal activity of that trade or business. See also subparagraph (5) of this paragraph for rules applicable to taxpayers conducting a banking, financing, or similar business in the United States.

* * * * *

PAR. 20. The following new section is added immediately after § 1.875–1:

**§ 1.875–2 Beneficiaries of estates or trusts.**

(a) [Reserved]

(b) *Exception for certain taxable years.* Notwithstanding paragraph (a) of this section, for any taxable year beginning before January 1, 1975, the grantor of a trust, whether revocable or irrevocable, is not deemed to be engaged in trade or business within the United States merely because the trustee is engaged in trade or business within the United States.

(c) [Reserved]

PAR. 21. Section 1.912 is amended to read as follows:

**§ 1.912 Statutory provisions; exemptions for certain allowances.**

Sec. 912. *Exemptions for certain allowances.* The following items shall not be included in gross income, and shall be exempt from taxation under this subtitle:

(1) *Foreign areas allowances.* In the case of civilian officers and employees of the Government of the United States, amounts received as allowances or otherwise (but not amounts received as post differentials) under—

(A) Title IX of the Foreign Service Act of 1946, as amended (22 U.S.C., sec. 1131 and following),

(B) Section 4 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C., sec. 403e),

(C) Title II of the Overseas Differentials and Allowances Act, or

(D) Subsection (e) or (f) of the first section of the Administrative Expenses Act of 1946, as amended, or section 22 of such Act.

(2) *Cost-of-living allowances.* In the case of civilian officers or employees of the Government of the United States stationed outside the continental United States (other than Alaska), amounts (other than amounts received under title II of the Overseas Differentials and Allowances Act) received as cost-of-living allowances in accordance with regulations approved by the President.

(3) *Peace corps allowances.* In the case of an individual who is a volunteer or volunteer leader within the meaning of the Peace Corps Act and members of his family, amounts received as allowances under section 5 or 6 of the Peace Corps Act other than amounts received as—

(A) Termination payments under section 5(c) or section 6(1) of such Act,

(B) Leave allowances,

(C) If such individual is a volunteer leader training in the United States, allowances to members of his family, and

(D) Such portion of living allowances as the President may determine under the Peace Corps Act as constituting basic compensation.

[Sec. 912 as amended by sec. 523(a), Overseas Differentials and Allowances Act (74 Stat. 802); sec. 201(a), Peace Corps Act (75 Stat. 625)]

Par. 22. Section 1.6012–2 is amended by revising paragraph (g)(5) to read as follows:

**§ 1.6012–2 Corporations required to make returns of income.**

* * * * *

(g) *Returns by foreign corporations.* * * *

(5) *Effective date.* This paragraph shall apply for taxable years beginning after December 31, 1966, except that it shall not be applied to require (i) the filing of a return for any taxable year ending before January 1, 1974, which, pursuant to instructions applicable to the return, is not required to be filed or (ii) the amendment of a return for such a taxable year which, pursuant to such instructions, is required to be filed. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.6012–2(g) (Rev. as of Jan. 1, 1967).

REGULATIONS ON PROCEDURE AND ADMINISTRATION

PAR. 23. Section 301.6015 is amended by revising subsection (c) of section 6015, by redesignating subsection (i) of section 6015 as subsection (j), by adding a new subsection (i) to section 6015 immediately after subsection (h), and by revising the historical note, as follows:

**§ 301.6015 Statutory provisions; declaration of estimated income tax by individuals.**

Sec. 6015. *Declaration of estimated income tax by individuals.* * * *

(c) *Estimated tax.* For purposes of this title, in the case of an individual, the term "estimated tax" means—

(1) The amount which the individual estimates as the amount of the income tax imposed by chapter 1 for the taxable year (other than the tax imposed by section 56) plus

(2) The amount which the individual estimates as the amount of the self-employment tax imposed by chapter 2 for the taxable year, minus

(3) The amount which the individual estimates as the sum of any credits against tax provided by part IV of subchapter A of chapter 1.

* * * * *

(i) *Nonresident alien individuals.* No declaration shall be required to be made under this section by a nonresident alien individual unless—

(1) Withholding under chapter 24 is made applicable to the wages, as defined in section 3401(a), of such individual,

(2) Such individual has income (other than compensation for personal services subject to deduction and withholding under section 1441) which is effectively connected with the conduct of a trade or business within the United States, or

(3) Such individual is a resident of Puerto Rico during the entire taxable year.

(j) *Applicability.* This section shall be applicable only with respect to taxable years beginning after December 31, 1954; and sections 58, 59, and 60 of the Internal Revenue Code of 1939 shall continue in force with respect to taxable years beginning before January 1, 1955.

[Sec. 6015 as amended by sec. 74, Technical Amendments Act 1958 (72 Stat. 1660); sec. 5(a), Act of Sept. 14, 1960 (Pub. Law 86–779, 74 Stat. 1000); sec. 1(a)(1), Act of Sept. 25, 1962 (Pub. Law 87–682, 76 Stat. 575); sec. 102(a) Tax Adjustment Act 1966 (80 Stat. 62); sec. 103(j), Foreign Investors Tax Act 1966 (80 Stat. 1554); secs. 301(b)(12), 803(d)(7) and 944, Tax Reform Act 1969 (83 Stat. 586, 684, 729); sec. 209, Rev. Act 1971 (85 Stat. 517)]

[(b) *Declarations of estimated tax.* In the case of a taxable year beginning before [December 30, 1969], if any taxpayer is required to make a declaration or amended declaration of estimated tax, or to pay any amount or additional amount of estimated tax, by reason of the amendments made by [the Tax Reform Act of 1969], such amount or additional amount shall be paid ratably on or before each of the remaining installment dates for the taxable year beginning with the first installment date on or after [January 29, 1970]. With respect to any declaration or payment of estimated tax before such first installment date, sections 6015 [and] 6654 * * * of the Internal Revenue Code of 1954 shall be applied without regard to the amendments made by [the Tax Reform Act of 1969]. For purposes of this subsection, the term "installment date" means any date on which, under section 6153 * * * of such Code * * *, an installment payment of estimated tax is required to be made by the taxpayer. (sec. 946(b), Tax Reform Act 1969 (83 Stat. 729))]

PAR. 24. Section 301.6015–1 is amended to read as follows:

**§ 301.6015–1 Declaration of estimated income tax by individuals.**

For provisions relating to requirement of declarations of estimated income tax by individuals, see §§ 1.6015(a)–1 to 1.6015(j)–1, inclusive, of this chapter (Income Tax Regulations).

* * * * *

PAR. 33. Section 301.7701 is amended by revising section 7701(a)(20), by adding paragraphs (30), (31), (33), and (34) to section 7701(a), and by revising the historical note. These amended and added provisions read as follows:

**§ 301.7701 Statutory provisions; definitions.**

Sec. 7701. *Definitions.* (a) When used in this title where not otherwise distinctly expressed or manifest incompatible with the intent thereof—

* * * * *

(20) *Employee.* For the purpose of applying the provisions of section 79 with respect to group-term life insurance purchased for employees, for the purpose of applying the provisions of sections 104, 105, and 106 with respect to accident and health insurance or accident and health plans, for the purpose of applying the provisions of section 101(b) with respect to employees' death benefits, and for the purpose of applying the provisions of subtitle A with respect to contributions to or under a stock bonus, pension, profit-sharing, or annuity plan, and with respect to distributions under such a plan, or by a trust forming part of such a plan, the term "employee" shall include a full-time life insurance salesman who is considered an employee for the purpose of chapter 21, or in the case of services performed before January 1, 1951, who would be considered an employee if his services were performed during 1951.

* * * * *

(30) *U.S. person.* The term "United States person" means—

(A) A citizen or resident of the United States,

(B) A domestic partnership,

(C) A domestic corporation, and

(D) Any estate or trust (other than a foreign estate or foreign trust, within the meaning of section 7701(a)(31)).

(31) *Foreign estate or trust.* The terms "foreign estate" and "foreign trust" mean an estate or trust, as the case may be, the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A.

* * * * *

(33) *Regulated public utility.* The term "regulated public utility" means—

(A) A corporation engaged in the furnishing or sale of—

(i) Electric energy, gas, water, or sewerage disposal services, or

(ii) Transportation (not included in subparagraph (C)) on an intrastate, suburban, municipal, or interurban electric railroad, on an intrastate, municipal, or suburban trackless trolley system, or on a municipal or suburban bus system, or

(iii) Transportation (not included in clause (ii)) by motor vehicle—

if the rates for such furnishing or sale, as the case may be, have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, by a public service or public utility commission or other similar body of the District of Columbia or of any State or political subdivision thereof, or by a foreign country or an agency or instrumentality or political subdivision thereof.

(B) A corporation engaged as a common carrier in the furnishing or sale of transportation of gas by pipeline, if subject to the jurisdiction of the Federal Power Commission.

(C) A corporation engaged as a common carrier (i) in the furnishing or sale of transportation by railroad, if subject to the jurisdiction of the Interstate Commerce Commission, or (ii) in the furnishing or sale of transportation of oil or other petroleum products (including shale oil) by pipeline, if subject to the jurisdiction of the Interstate Commerce Commission or if the rates for such furnishing or sale are subject to the jurisdiction of a public service or public utility commission or other similar body of the District of Columbia or of any State.

(D) A corporation engaged in the furnishing or sale of telephone or telegraph service, if the rates for such furnishing or sale meet the requirements of subparagraph (A).

(E) A corporation engaged in the furnishing or sale of transportation as a common carrier by air, subject to the jurisdiction of the Civil Aeronautics Board.

(F) A corporation engaged in the furnishing or sale of transportation by common carrier by water, subject to the jurisdiction of the Interstate Commerce Commission under part III of the Interstate Commerce Act, or subject to the jurisdiction of the Federal Maritime Board under the Intercoastal Shipping Act of 1933.

(G) A railroad corporation subject to part I of the Interstate Commerce Act, if (i) substantially all of its railroad properties have been leased to another such railroad corporation or corporations by an agreement or agreements entered into before January 1, 1954, (ii) each lease is for a term of more than 20 years, and (iii) at least 80 percent or more of its gross income (computed without regard to dividends and capital gains and losses) for the taxable year is derived from such leases and from sources described in subparagraphs (A) through (F), inclusive. For purposes of the preceding sentence, an agreement for lease of railroad properties entered into before January 1, 1954, shall be considered to be a lease including such term as the total number of years of such agreement may, unless sooner terminated, be renewed or continued under the terms of the agreement, and any such renewal or continuance under such agreement shall be considered part of the lease entered into before January 1, 1954.

(H) A common parent corporation which is a common carrier by railroad subject to part I of the Interstate Commerce Act if at least 80 percent of its gross income (computed without regard to capital gains or losses) is derived directly or indirectly from sources described in subparagraphs (A) through (F), inclusive. For purposes of the preceding sentence, dividends and interest, and income from leases described in subparagraph (G), received from a regulated public utility shall be considered as derived from sources described in subparagraphs (A) through (F), inclusive, if the regulated public utility is a member of an affiliated group (as defined in section 1504) which includes the common parent corporation.

The term "regulated public utility" does not (except as provided in subparagraphs (G) and (H)) include a corporation described in subparagraphs (A) through (F), inclusive, unless 80 percent or more of its gross income (computed without regard to dividends and capital gains and losses) for the taxable year is derived from sources described in subparagraphs (A) through (F), inclusive. If the taxpayer establishes to the satisfaction of the Secretary or his delegate that (i) its revenue from regulated rates described in subparagraph (A) or (D) and its revenue derived from unregulated rates are derived from the operation of a single interconnected and coordinated system or from the operation of more than one such system, and (ii) the unregulated rates have been and are substantially as favorable to users and consumers as are the regulated rates, then such revenue from such unregulated rates shall be considered, for purposes of the preceding sentence, as income derived from sources described in subparagraph (A) or (D).

(34) *Estimated income tax.* The term "estimated income tax" means—

(A) In the case of an individual, the estimated tax as defined in section 6015(c), or

(B) In the case of a corporation, the estimated tax as defined in section 6154(c).

[Sec. 7701 as amended by sec. 22 (g) and (h), Alaska Omnibus Act (73 Stat. 146, 147); sec. 18 (i) and (j), Hawaii Omnibus Act (74 Stat. 416); sec. 103(t), Social Security Amendments 1960 (74 Stat. 941); secs. 6(c) and 7(h), Rev. Act 1962 (76 Stat. 982, 988); sec. 5, Act of Oct. 23, 1962 (Pub. Law 87-870, 76 Stat. 1161); secs. 204(a)(3) and 234 (b)(3), Rev. Act 1964 (78 Stat. 36, 114); sec. 102(b)(5), Tax Adjustment Act 1966 (80 Stat. 64); sec. 103(l)(1), Foreign Investors Tax Act 1966 (80 Stat. 1554); sec. 103(e)(6), Revenue and Expenditure Control Act 1968 (82 Stat. 264)]

[FR Doc.74-29866 Filed 12-20-74;8:45 am]

# proposed rules

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

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### [ 50 CFR Part 280 ]

### EASTERN PACIFIC TUNA FISHERIES

### Proposed Continuation of Experimental Program

The resolution adopted by the Inter-American Tropical Tuna Commission for 1975 recommends to continue in 1975 the experimental fishing program in effect since 1969.

The Commission's resolution for 1975, as in 1974, allows vessels of 400 tons carrying capacity or less to fish for yellowfin tuna within the regulatory area during the closed season under such restrictions as may be necesary to limit the catch of yellowfin by such vessels to 6000 tons during 1975. Regarding this allotment, the National Marine Fisheries Service will entertain comments from the industry or interested persons on changes to the present distribution of the allotment to vessels under 400 short tons carrying capacity. The total allotment tonnage for distribution for 1975 is 6700 short tons. The additional 700 tons allotted to the vessels of 400 short tons carrying capacity or less is expected to be available from the unused portion of the overall country 15 percent incidental catch.

Experience gained since the last publication of amendments to the yellowfin tuna regulations on May 1, 1974, indicates a need for further amendments to the regulations to make them more effective in implementing the yellowfin conservation recommendations of the Commission.

An explanation of the proposed amendments follows:

1. In § 280.1(p) a new definition is added to eliminate certifications required by § 280.9(f-g) which are not necessary to the yellowfin conservation program.

2. Section 280.6(b) and § 280.7(d)(1) are amended in order to adopt a constant reporting time frame. This is especially important because some foreign countries may wish to utilize the United States reporting procedures as an aid to enforcement of their regulations in 1975. The time designation is felt to be universally used and understood.

3. Section 280.7(a)(1) is amended to immediately implement emergency measures for 1975 which may be communicated by the Director of Investigations. The Commission recognized in its Resolution for 1975 that any emergency measures adopted at a special meeting (tentatively scheduled for March 3, 1975) must be implemented promptly by the Contracting Governments if such measures are to have the conservation effects intended. Interested persons are therefore notified that publication of such emergency measures in accordance with normal rulemaking is expected to be impracticable and that good cause is expected to exist for making such measures effective less than 30 days from publication.

4. Section 280.7(a)(1) is amended to qualify vessels which are fishing off Africa when the open season for yellowfin tuna ends in 1975 for a last open season trip by eliminating the requirement that such vessels must be in an actual port on the closure date. The in-port requirement for such vessels is not necessary to the IATTC conservation program because the location of these vessels in the Atlantic or Caribbean at the closure precludes the potential for illegal fishing in the regulatory area prior to the departure of such vessels on their last open season trip. However, it should be noted that the proposed amendment does not eliminate the other requirements of § 280.7(a)(1–2), including the condition that the vessel must have completed a voyage in the regulatory area during the current open season or the previous year, and that departure from an actual port must be made within 30 days after the closure and under the conditions of § 280.7(a)(2).

5. Section 280.7(b)(3) is amended to better enable us to keep proper records of the yellowfin catches made against the bait and jig boat allotment. A large number of bait and jig boats are not members of any boat owner's association; and some have fished on the allotment without our knowledge, with the result that the bait boat allotment for 1974 was exceeded. Without notification prior to a vessel's leaving on such a trip, we would need to compensate for these unknown trips, with a possibility that the reversion to a 15 percent incidental catch would occur sooner than was actually necessary.

6. Section 280.7(f)(1) is amended to spell out a vessel's obligations and alleviate the problems resulting from the failure of vessels to provide NMFS with timely notification prior to unloading.

7. Section 280.7(h) is revised to stop the sale in a foreign country of yellowfin tuna which was taken in excess of the closed season restrictions.

Before final adoption of amendments, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731, on or before January 15, 1975.

Interested persons will also be afforded an opportunity to comment orally on the proposed amendments at a public hearing to be held in the United Portuguese Club, 2818 Addison Street, San Diego, California, beginning at 9:30 a.m., January 10, 1975. Any person who intends to testify at this hearing is requested to furnish in writing prior to the hearing his name and the name of the organization he represents, if any, to the said Regional Director.

The proposed amendments are issued under the authority contained in subsection (c) of section 6 of the Tuna Conventions Act of 1950, as amended (16 U.S.C. 955(c)), as modified by Reorganization Plan No. 4, effective October 3, 1970 (35 FR15627).

Issued at Washington, D.C., and dated December 17, 1974.

JACK W. GEHRINGER,
*Acting Director.*

The proposed amendments are described below.

1. Section 280.1 is amended by adding a new definition, reading as follows:

**§ 280.1 Definitions.**

* * * * *

(p) Port facility in the Americas. All port facilities in North, South, and Central America, including all the Caribbean ports, but excluding ports in Argentina, Brazil, and Uruguay.

**§ 280.6 [Amended.]**

2. Section 280.6(b) is amended by changing the phrase "* * * between 0800 and 1000 hours local California time." to read "* * * between 1600 Greenwich Mean Time (G.m.t.) and 1800 G.m.t."

**§ 280.7 [Amended]**

3. Section 280.7(a)(1) is amended by the addition of a new section to the end of the existing language, to read as follows: "; *Provided, however,* That if the Director of Investigations, as a result of emergency measures adopted at a special meeting of the Commission, notifies the Contracting Governments to the Convention that further unrestricted fishing for yellowfin tuna shall cease, or that other measures must be taken to protect the stocks, every fishing vessel at sea, having yellowfin tuna aboard in excess of the incidental catch limitations provided in § 280.7(b), shall return directly without delay to its home port or port of departure to unload or to receive an inspection by a designated agent of the National Marine Fisheries Service. This

requirement shall take effect upon publication of notice in the FEDERAL REGISTER by the Service Director, or on a date to be specified in such notice. Any vessel failing to comply with the above requirements shall be restricted to the incidental catch limitations of § 280.7(b) for its entire fishing voyage; vessels in port on the effective date of such notice will not be allowed an additional unrestricted fishing voyage, but shall be subject to the incidental catch limitations of § 280.7(b). Other, less restrictive, measures may be specified, in the manner provided above, as necessary to implement the notification from the Director of Investigations."

4. Section 280.7(a)(1) is amended by the addition of a new sentence at the end of the paragraph as amended in (3) above, to read as follows: "A vessel which is in the Atlantic Ocean or the Caribbean Sea at the closure shall, for the purposes of this paragraph (a)(1) of § 280.7 only, be considered to be 'in port'."

5. Section 280.7(b)(3) is amended by the addition of a new sentence between the existing second and third sentences to read as follows: "During the period of the closed season that bait and jig boats are fishing for their allotments, all such boats must notify the Regional Director when they depart port on a fishing voyage."

6. Section 280.7(d)(1) is amended by changing the phrase "* * * between 0800 and 1000 hours local California time." to read "* * * between 1600 Greenwich Mean Time (G.m.t.) and 1800 G.m.t."

7. Section 280.7(f)(1) is amended by the addition of a new sentence before the last sentence of the paragraph, to read as follows: In addition, the Regional Director shall be notified not less than 48 hours in advance of the date and place of any unloadings from inspected vessels.

8. Section 280.7(h) is revised to read as follows: (h) All fishing vessels wishing to sell or deliver in a foreign country fish caught in the Pacific Ocean, either within or outside the regulatory area, must first obtain express permission from the Regional Director prior to unloading. Requests for such permission shall be made at least 48 hours prior to the desired date of such sale or delivery and shall include the tonnage by species to be unloaded, whether such fish were caught within or outside the regulatory area, and the desired date and place of unloading. The Regional Director may deny permission or set such conditions, including a different date or place of unloading, as are necessary to insure compliance with the provisions of these regulations.

[FR Doc.74-29776 Filed 12-20-74;8:45 am]

## CIVIL SERVICE COMMISSION

### [ 5 CFR Part 890 ]

### COMPREHENSIVE HEALTH BENEFITS PLAN NETWORKS

#### Proposed Approval Procedures

Notice is hereby given that under authority of section 8913 of title 5, United States Code, it is proposed to add § 890.-204 to Subpart B of Part 890 of Chapter I of Title 5 of the Code of Federal Regulations to provide for the approval of comprehensive health benefits plan networks.

It is the opinion of the Civil Service Commission that the present health benefits statute (chapter 89 of title 5, United States Code) permits the Commission to enter into contracts for one or more networks of group-practice or individual-practice comprehensive health benefit plans. However, an amendment to the existing health benefits regulations is necessary, to establish the rules and procedures for such networks to be approved for participation in the Federal Employees Health Benefits Program, and to give public notice that the Civil Service Commission will entertain applications by organizations interested in offering such networks under this program.

Carriers and other interested persons may submit written comments, objections, or suggestions to the Bureau of Retirement, Insurance, and Occupational Health, U.S. Civil Service Commission, Washington, D.C. 20415, on or before January 22, 1974.

Accordingly, it is proposed to amend Part 890 by adding a new § 890.204 to Subpart B to read as follows:

**§ 890.204 Comprehensive Plan Networks.**

(a) *Discretionary approval.* The Commission may, in its discretion, approve the offering by a qualified carrier of a network of five or more group-practice plans or a network of five or more individual-practice plans when it determines that approval would afford employees and annuitants in the geographic areas to be served by the plans an additional choice in the method of obtaining health care. Letter application for approval may be made by the carrier to the Commission. Participation of an approved network becomes effective on the January 1st which is (1) at least nine months after the Commission receives the application and (2) at least six months after the Commission has received all evidence to demonstrate that the carrier and plans in the network have met all requirements for approval.

(b) *Qualified carriers.* For purposes of this section a carrier is a legal entity defined in section 8901(7) of title 5, United States Code, and which provides assurances satisfactory to the Commission that it has:

(1) At least five years recent successful experience in operating a health benefits plan of the indemnity, service, group- or individual-practice type.

(2) Financial resources sufficient to guarantee the solvency of each plan in the network it offers, and

(3) Arrangements in effect to monitor the operations, including the administration and prompt availability and quality of care, of each plan in the network it offers and the ability to promptly correct deficiencies in such operations.

(c) *Compliance with law and regulations.* Each carrier offering a network of plans must agree, in its own behalf and in behalf of each plan in the network, to comply with those provisions of chapter 89 of title 5, United States Code and of this Part which, in the judgment of the Commission, apply to their operation and are not inconsistent with provisions of this section.

(d) *Carrier certification.* No offering of a network of plans shall be approved and no new plan shall be added to an existing network unless the carrier certifies, in the form specified by the Commission, either that each plan is a "qualified health maintenance organization" as that term is defined in section 1310 (d) of the Health Maintenance Organization Act of 1973, or that, as of the date of certification, it has—

(1) Been in operation for at least one year,

(2) At least 5,000 enrollees, exclusive of family members,

(3) Contracts to provide prepaid health care with at least ten employers, and

(4) A formal procedure in effect for adjusting complaints from enrollees.

(e) *Additional requirements for group-practice networks.* No offering of a network of group-practice plans shall be approved and no plan shall be added to an existing network unless the carrier certifies, in the form specified by the Commission, that each such plan:

(1) Has physicians practicing as a group in a common center or centers,

(2) Includes physicians representing at least three major medical specialties who receive at least 75 percent of their professional income from prepaid funds,

(3) Provides a full range of medical care, including preventive care, and reasonable indemnities for emergency care obtained outside the area served by the plan, and

(4) Is community-rated.

(f) *Additional requirements for individual-practice networks.* No offering of a network of individual-practice plans shall be approved and no plan shall be added to an existing network unless the carrier certifies, in the form specified by the Commission, that each such plan:

(1) Has contracts or other binding agreements with participating physicians who constitute at least 50 percent of the physicians in the area served by the plan which require their acceptance of payments by the plan as full or substantially full payment for covered services,

(2) Provides a full range of medical care, including in-hospital services, general home and office care, out-of-hospital diagnostic procedures, preventive care, and reasonable indemnities for care, obtained from nonparticipating physicians.

(3) Pays its participating physicians on the same basis (e.g., fee-for-service, periodic per capita payment), as all other plans in the network, and

(4) Assumes 100 percent of the financial risk attributable to providing physician and related care (but not necessarily services and supplies provided and

billed for by nonphysician providers), except that the carrier may assume such risk for all plans in the network.

(g) *Uniform benefits and enrollment charges.* All plans in a network shall provide the same benefits at the same enrollment charges.

(h) *Enrollment charges for group-practice networks.* Under such formulae as may be agreed to by the carrier and the Commission, the enrollment charges for a group-practice network shall be community-rated and be developed by averaging the community rates of each of the plans in the network, adjusted by such increments and decrements as are appropriate to account for differences between the benefits and features offered Federal employees and those offered other subscribers in the community, with each such rate weighted by the number of self-only and self-and-family enrollees in each plan in the network as of June 30 preceding the year in which the enrollment charges apply. For a newly approved network, or for a plan newly added to a network, the plans', or plan's, weighted adjusted community rate shall be used in computing the average. An increment, as agreed upon by the carrier and the Commission, for the reasonable and necessary operating expenses of the carrier shall be included in the development of enrollment charges but increments for risk, service, or similar charges to be retained by the carrier or for capital expenditures or the accumulation of reserves (other than the contingency reserve) shall not be included.

(i) *Enrollment charges for individual-practice networks.* Enrollment charges for an individual-practice network may be community-rated and developed as provided in paragraph (h) of this section for a group-practice network if the plans in the network pay participating physicians on other than a fee-for-service basis, or they may be experience-rated so that any net gains, plus earnings from their investment, or losses on the operations of the network in one year are taken into account in developing the enrollment charges for the next year. For experience-rated networks, increments, as agreed upon by the carrier and the Commission, for maintaining reserves considered prudent by agreement of the Carrier and the Commission, and for the actual, reasonable, and necessary operating expenses of the carrier and the plans shall be included in the development of enrollment charges but increments for risk, service, or similar charges to be retained by the carrier or the plans shall not be included. Reserves shall be prudently invested by the carrier and earnings credited to the reserves. Upon termination of an experience-rated network any reserves or operating gains, plus earnings thereon, held by the carrier after all its liabilities attributable to the operation of the network have been paid shall revert to the contingency reserve for the network in the Employees Health Benefits Fund.

(j) *Move from the area served by network plan.* An employee or annuitant enrolled in a network plan who moves out of the area served by the plan into an area served by another plan in the same network continues the enrollment and is entitled to benefits from the other plan. If the move is to an area not served by another plan in the same network, he may change plans under § 890.301.

(k) *Plans added to network.* Each plan added to a network must be approved in advance by the Commission. Letter application for approval, may be made by the carrier to the Commission. Addition of an approved plan becomes effective on the January 1st which is (1) at least nine months after the Commission receives the application and (2) at least six months after the Commission receives all certifications required for approval.

(l) *Summary withdrawal of approval.* The Commissioners may, in their discretion, summarily withdraw approval of a plan (or plans) in a network if they find that the plan is not in compliance with the applicable provisions of chapter 89 of title 5, United States Code or of this part, or that the certifications mentioned in paragraph (d) and (e) or (f) of this section are unwarranted, or that the continued offering of the plan is inimical to Federal employees or annuitants or to the Federal Employees Health Benefits Program.

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

[FR Doc.74-29730 Filed 12-20-74;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

### [ 40 CFR Part 52 ]

[FRL 310-3]

### CALIFORNIA

### Approval and Disapproval of Compliance Schedules

On May 31, 1972 (37 FR 10842), September 22, 1972 (37 FR 19812), and May 14, 1973 (38 FR 12702), pursuant to Section 110 of the Clean Air Act, as amended (42 U.S.C. § 1857c-5) and 40 CFR Part 51, the Administrator approved and promulgated portions of the California plan for the implementation of the national ambient air quality standards. On June 19, September 4 and 19, and October 18, 1974, after notice and public hearings, the Governor of California through his designee submitted to the Environmental Protection Agency (EPA) revisions to the state compliance schedule portion of the approved plan. This publication proposes that these revisions be approved, with specific exceptions discussed below, pursuant to section 110 of the Clean Air Act and 40 CFR 51.8.

Seventy-four compliance schedules were submitted. Two of the schedules are ambiguous regarding the specific regulations with which the subject sources are required to comply. Therefore no formal action will be taken by EPA regarding these schedules pending clarification by the State. One schedule requires compliance with a regulation for the control of pollutants for which the Administrator of EPA has not established national standards. Since EPA has no authority to promulgate or enforce such a regulation, it will take no formal action regarding the compliance schedule. However, the lack of such action by EPA in no way affects the ability of the state or local air pollution control agency to enforce the schedule.

It is proposed to disapprove 2 schedules, Monolith Portland Cement Company and Simpson Lee Paper Company, because the final compliance date in each schedule extends beyond the allowable attainment date as specified in 40 CFR 52.238.

The remaining 69 schedules have been found to satisfy the requirements of section 110 of the Clean Air Act and 40 CFR Part 51. However, 40 of these 64 schedules have expired and the affected sources are now required to be in compliance with the applicable air pollution control regulations. Therefore, EPA will take no action with regard to the compliance schedules submitted for these sources. It is proposed that the remaining 29 schedules listed below be approved as revisions to the State plan.

Each proposed compliance schedule revision establishes a new date by which an individual air pollution source must comply with an emission limitation specified by the implementation plan. This date is indicated in the table below, under the heading "Final Compliance Date." In some cases, the schedule includes incremental steps towards compliance with the specified regulations. While the table below does not include these interim dates, the actual compliance schedule does. The increments of progress, as well as the final compliance date, are legally enforceable by the Administrator pursuant to section 113 of the Clean Air Act, as amended.

The heading "Effective Date" in the table below refers to the date the compliance schedule becomes effective for purposes of federal enforcement. The entry "Immediately" under that heading indicates that the schedule will be federally enforceable when the final promulgation of the schedule becomes effective.

Proposed compliance schedule revisions listed below are available for public inspection at the California Air Resources Board, at the office of EPA, Region IX, and at EPA's Washington, D.C. office, at the addresses listed below. An evaluation report setting forth EPA's position on each of the 74 schedules is also available at the office of EPA, Region IX.

State of California Air Resources Board
1709 11th Street
Sacramento CA 95814

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

Environmental Protection Agency
Division of Stationary Source Enforcement
Room 3202
401 M Street SW.
Washington DC 20460

Interested persons are encouraged to submit written comments on any proposed compliance schedule. All comments postmarked on or before January 22, 1974, will be considered by EPA prior to finalizing this proposed rulemaking. Comments should be addressed to: Director, Enforcement Division, EPA, Region IX, 100 California Street, San Francisco, California 94111. All comments will be available for public inspection during business hours at the above address.

This proposed rulemaking is issued under the authority of section 110(a) of the Clean Air Act, as amended (42 U.S.C. 1857c-5(a)).

Dated: December 11, 1974.

PAUL DEFALCO,
*Regional Administrator.*

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

### Subpart F—California

1. In § 52.220, paragraph (c) is amended as follows:

**§ 52.220 Identification of plan.**

* * * * *

(c) * * *

(8) Supplemental information (compliance schedules) was submitted by the California Air Resources Board on December 27, 1973, February 19, April 22, June 7 and 19, September 4 and 19, and October 18, 1974.

2. In § 52.240, paragraph (g) is amended by adding the following schedules to the table in subparagraph (1):

**§ 52.240 Compliance schedules.**

* * * * *

(g) * * *

(1) * * *

| Source | Location (county) | Rule or regulation involved | Date of adoption | Effective date | Final compliance date |
|---|---|---|---|---|---|
| * | * | * | * | * | * |
| Diamond International Corp. (Chico). | Butte | 2-2, 2-4, 2-5 | July 31, 1974 | Immediately | Jan. 2, 1975 |
| Amstar Corp., Spreckels Sugar Division. | Fresno | 404, 405 | June 19, 1974 | do | Dec. 31, 1974 |
| Holtville Alfalfa Mills (dehydrating system) (order No. 1b). | Imperial | 114, 121 | Apr. 30, 1974 | do | Jan. 31, 1975 |
| Standard Oil Co. of California (order No. 74-7). | Kern | 413 | June 6, 1974 | do | Feb. 1, 1975 |
| General Motors Corp., General Motors Assembly Division (order No. 1504-2). | Los Angeles | 66(c) | June 25, 1974 | do | July 1, 1975 |
| U.S. Air Force—Norwalk facility | do | 61 | June 20, 1974 | do | May 31, 1975 |
| American Forest Products (Oakhurst). | Madera | 401 | May 29, 1974 | do | Dec. 10, 1974 |
| USAF, Castle Air Force Base (classified waste incinerator). | Merced | 417 | Apr. 25, 1974 | do | May 31, 1975 |
| Texaco, Inc. (order No. 66) | Monterey | 415 | Jan. 24, 1974 | do | July 1, 1975 |
| Kerr Glass Manufacturing Corp. (order No. 73-101). | Orange | 50, 52, 54 | June 19, 1974 | do | Dec. 15, 1974 |
| USAF, Mureh Air Force Base (order No. 6-74). | Riverside | 61 | Mar. 19, 1974 | do | July 31, 1975 |
| E. C. De Young, Inc. (order No. 106). | San Bernardino | 50, 50A | Jan. 10, 1974 | do | Jan. 1, 1975 |
| La Habra Products, Inc. (order No. 107). | do | 50, 50A | Feb. 21, 1974 | do | Do. |
| Texti-West, Inc. (order No. 76-D) | do | 50, 50A | do | do | Do. |
| Diamond Walnut Growers, Inc. (order No. 74-17). | San Joaquin | 401, 404 | May 16, 1974 | do | June 15, 1975 |
| Haley Brothers, Inc. (order No. 74-20). | do | 404 | June 20, 1974 | do | Jan. 1, 1975 |
| Phillips Petroleum Co. (order No. 74-14). | do | 410, 412 | Mar. 21, 1974 | do | Dec. 31, 1974 |
| Port of Stockton (order No. 73-8) | do | 401, 404 | Apr. 18, 1974 | do | May 1, 1975 |
| Union Oil Co. (order No. 74-16) | do | 412 | Mar. 21, 1974 | do | Dec. 31, 1974 |
| Johns-Manville Products Corp. (order No. 7). | Santa Barbara | 16 | Mar. 11, 1974 | do | July 31, 1975 |
| U.S. Plywood, Division of Champion International (order No. 74-2). | Siskiyou | 4.1 | Apr. 15, 1974 | do | Jan. 31, 1975 |
| East-West Dairymen's Association (order No. 12). | Stanislaus | 405, 406 | July 24, 1974 | do | July 24, 1975 |
| Farmers Warehouse (order No. 7) | do | 405, 406 | Apr. 17, 1974 | do | Mar. 13, 1975 |
| Foremost-McKesson, Inc. (order No. 8). | do | 405, 406 | do | do | Apr. 4, 1975 |
| Haig Berberian, Inc. (order No. 10). | do | 404, 405 | July 24, 1974 | do | Dec. 15, 1974 |
| Knudsen Corp. (order No. 9) | do | 405, 406 | do | do | Apr. 17, 1975 |
| Glen A. Wells Co. (order No. 13) | Tulare | 401, 404, 406 | May 14, 1974 | do | Jan. 1, 1975 |
| Glen A. Wells Co. (order No. 14) | do | 401, 404, 406 | do | do | Do. |
| Pacific International Rice Mills, Inc. (order No. 74-003). | Yolo | 2.19 | Apr. 17, 1974 | do | Apr. 17, 1975 |

3. In § 52.240, paragraph (g) is amended by adding a new subparagraph (2) as follows:

**§ 52.240 Compliance schedules.**

* * * * *

(g) * * *

(2) The compliance schedules for the sources identified below are disapproved as not meeting the requirements of § 51.15 of this chapter. All regulations cited are air pollution control regulations of the county in which the source is located, unless otherwise indicated.

| Source | Location (county) | Rule or regulation involved | Date of adoption | Effective date | Final compliance date |
|---|---|---|---|---|---|
| Simpson Lee Paper Co. (order No. 72-V-7). | Shasta | 3.2 | Oct. 31, 1973 | Immediately | Jan. 15, 1976 |
| Monolith Portland Cement Co. (order No. 73-6 as amended Mar. 11, 1974). | Kern | 401(b), 404.1, 406 | Dec. 31, 1973 | do | July 1, 1976 |

[FR Doc.74-29709 Filed 12-20-74;8:45 am]

## [ 40 CFR Part 52 ]

[FRL 309-8]

## GEORGIA

### Approval and Promulgation of Implementation Plans

Section 110 of the Clean Air Act and the implementing regulations of 40 CFR Part 51 require each State to submit a plan which provides for the attainment and maintenance of the national ambient air quality standards throughout its territory. Each such plan is to contain legally enforceable compliance schedules setting forth the dates by which all sources must be in compliance with any applicable requirements of the plan.

On February 13, 1974 (39 FR 5504), the Administrator published as proposed rulemaking a number of individual compliance schedules submitted by the State of Georgia pursuant to these requirements. Additional schedules were proposed on October 3, 1974 (39 FR 35681). At that time the Administrator noted that the State had, on August 2, 1974, submitted a number of schedules which had not received a public hearing. These schedules, in the form of temporary operating permits, were subsequently resubmitted on November 7, 1974 after notice and public hearing; additional temporary operating permits were submitted for the first time on the same date. On October 8, 1974, Georgia submitted a number of temporary operating permits for sources previously subject to consent orders. These schedules are now offered as proposed rulemaking, and the public is invited to comment on them.

Each of the proposed compliance schedules identified below establishes a date by which an individual air pollution source must attain compliance with an emission limitation of the State implementation plan. This date is indicated under the heading "Final Compliance Date". In most cases the schedule includes incremental steps toward compliance, with interim dates for achieving these steps. While the table below does not list these dates, the actual schedules do. The notation "Immediately" under the heading "Effective Date" means that the schedule will become Federally enforceable immediately upon its approval by the Administrator.

The compliance schedules listed below are available for public inspection at the following locations:

Air Programs Office
Environmental Protection Agency
Region IV
1421 Peachtree Street, NE.
Atlanta, Georgia 30309

Air Quality Control Section
Environmental Protection Division
Georgia Department of Natural Resources
19 Hunter Street, SW.
Atlanta, Georgia 30334

Freedom of Information Center
Environmental Protection Agency
401 M Street, SW.
Washington, D.C. 20460

An evaluation of any schedule may be obtained by consulting personnel of the Agency's Region IV Air Programs Office at the Atlanta address given above.

Each of the schedules was adopted by the State and submitted to the Agency after notice and public hearing as required by 40 CFR 51.4. Each also satisfies the substantive requirements of 40 CFR 51.6 and 51.15 pertaining respectively to plan revisions and compliance schedules, and is consistent with the approved control strategies of the Georgia plan. None of these schedules involves regulations now under litigation.

All interested parties are encouraged to submit written comments on these proposed compliance schedules. To be considered, such comments must be received on or before January 22, 1975. After carefully weighing the relevant comments received and all other available information in the light of requirements set forth in the Clean Air Act and in the implementing regulations of 40 CFR Part 51, the Administrator will take approval/disapproval action on the schedules. Comments should be addressed to the attention of John Eagles at the Agency's Region IV Air Programs Office (address given above).

(Sec. 110(a), Clean Air Act (42 U.S.C. 1857c-5(a)))

Dated: December 13, 1974.

JACK E. RAVAN,
*Regional Administrator,*
*Region IV.*

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

### Subpart L—Georgia

§ 52.570 [Amended]

1. Section 52.570(c) is amended by inserting in paragraph (4) the following dates in proper chronological order: October 8 and November 7 (1974).

2. Section 52.576 is added as follows:

§ 52.576 Compliance schedules.

(a) The compliance schedules for the sources identified below are approved as meeting the requirements of § 51.6 and § 51.15 of this chapter. All regulations cited are air pollution control regulations of the State.

| Source | Location | Regulation involved | Date of adoption | Effective | Final compliance date |
|---|---|---|---|---|---|
| American Coach Co., conical burner, permit No. 2451-005-1595-T. | Milledgeville, Baldwin County. | 391-3-1-.02 (2)(L). | Oct. 29, 1974 | Immediately | Dec. 31, 1974 |
| American Cyanamid Co., kaolin clay processing facilities, permit No. 3295-094-1669-T. | Anderson, Sumter County. | 391-3-1-.02 (2)(N). | do | do | Nov. 30, 1974 |
| American Industrial Clay Co., kaolin clay processing facilities, permit No. 3295-150-1231-T. | Sandersville, Washington County. | 391-3-1-.02 (2)(N), 391-3-1-.02 (2)(P). | do | do | Dec. 31, 1974 |
| Associated Rubber Co., facility for the reclaiming of rubber, permit No. 3069-071-1259-T. | Tallapoosa, Haralson County. | 391-3-1-.02 (2)(A). | do | do | July 1, 1975 |
| Augusta Building Supply, ready mix concrete facility, permit No. 3273-121-1433-T. | Augusta, Richmond County. | 391-3-1-.02 (2)(N). | do | do | Do. |
| Babcock and Wilcox Co., kaolin clay processing facility, permit No. 3295-121-1719-T. | Hephzibah, Richmond County. | 391-3-1-.02 (2)(N). | do | do | Jan. 1, 1975 |
| Bainbridge Tie & Lumber Co., lumber company—open burning of waste, permit No. 2421-043-1800-T. | Fowlstown, Decature County. | 391-3-1-.02 (2)(A). | do | do | Dec. 31, 1974 |
| Balfour Lumber Co., conical burner only, permit No. 2421-136-1696-T. | Thomasville, Thomas County. | 391-3-1-.02 (2)(L). | do | do | Do. |
| Bostwick Gin, cotton gin, permit No. 0724-104-1474-T. | Bostwick, Morgan County. | 391-3-1-.02 (2)(Q). | do | do | Aug. 15, 1974 |
| Burgess Pigment Co., kaolin clay processing facilities, permit No. 3295-150-1661-T. | Sandersville, Washington County. | 391-3-1-.02 (2)(N), 391-3-1-.02 (2)(P). | do | do | Aug. 1, 1974 |
| C. & S. Block, Inc., concrete block facility, permit No. 3271-155-1722-T. | Dalton, Whitfield County. | 391-3-1-.02 (2)(N). | do | do | July 1, 1975 |
| Cohutta Talc Co., Inc., talc processing facility, permit No. 3295-105-1682-T. | Chatsworth, Murray County. | 391-3-1-.02 (2)(N). | do | do | Aug. 31, 1974 |
| Collins Ready Mix Concrete, Inc., ready mix concrete facility, permit No. 3273-018-1345-T. | Jackson, Butts County. | 391-3-1-.02 (2)(N). | do | do | Sept. 30, 1974 |
| Columbia Nitrogen Corp., granular fertilizer manufacturing plant, permit No. 2871-011-1341-T. | Macon, Bibb County. | 391-3-1-.02(2)(R), 391-3-1-.02(2)(N). | do | do | Dec. 31, 1974 |
| Columbia Nitrogen Corp., sulfuric acid plant, permit No. 2871-035-1360-T. | Moultrie, Colquitt County. | 391-3-1-.02(2)(N). | do | do | Do. |
| Coastal Timber Lands, Inc., conical burner, permit No. 2421-084-1508-T. | Gray-Jones County. | 391-3-1-.02(2)(L). | do | do | Do. |
| Dave T. Brown Lumber Co., lumber wastes, open burning, permit No. 2421-041-1761-T. | Trenton, Dade County. | 391-3-1-.02(2)(A). | do | do | Do. |
| E. C. Carter Gin Co., cotton gin, permit No. 0724-016-1587-T. | Portal, Bulloch County. | 391-3-1-.02(2)(Q). | do | do | Aug. 15, 1974 |
| J. U. Barber Lumber Co., Inc., conical burner, permit No. 2421-099-1587-T. | Luthersville, Meriwether County. | 391-3-1-.02(2)(L). | do | do | Dec. 31, 1974 |
| V. Albert Brown Lumber Co., conical burner, permit No. 2421-150-1610-T. | Warthen, Washington County. | 391-3-1-.02(2)(L). | do | do | Do. |
| W. C. Bradley Co., cotton gin, permit No. 0724-128-1583-T. mix concrete facility, permit No. 3271-092-1708-T. | Omaha, Stewart County. Lowneds County. | 391-3-1-.02(2)(Q). (N). | do | do | Aug. 15, 1974 |
| Concrete Industries, Inc., concrete products facility, permit No. 3271-047-1709-T. | Albany, Dougherty County. | 391-3-1-.02(2)-(N). | do | do | Do. |
| Cornell-Young Co., ready mix concrete facility, permit No. 3273-011-1602-T. | Macon, Bibb County. | 391-3-1-.02(2)-(N). | do | do | Aug. 30, 1974 |
| Cornell-Young Co., ready mix concrete facility, permit No. 3273-011-1601-T. | do | 391-3-1-.02(2)-(N). | do | do | May 15, 1975 |
| Damascus Lumber Co., lumber company—open burning of wastes, permit No. 2421-048-1789-T. | Damascus, Early County. | 391-3-1-.02(2)-(A). | do | do | Dec. 31, 1974 |
| Davis Lumber Co., lumber company—open burning of wastes, permit No. 2421-047-1744-T. | Albany, Dougherty County. | 391-3-1-.02(2)-(A). | do | do | Do. |
| Day Co's., conical burner only, permit No. 2421-120-1697-T. | Cuthbert, Randolf County. | 391-3-1-.02(2)-(L). | do | do | Dec. 15, 1974 |
| Del-Cook Lumber Co., conical burner No. 1, conical burner No. 2, permit No. 2421-037-1736-T. | Adel, Cook County. | 391-3-1-.02 (2)(L) | do | do | Dec. 31, 1974 |
| Eagle-Picher Industries; zinc and manganous oxide line, permit No. 2875-115-1707-T. | Cedartown, Polk County. | 391-3-1-.02 (2)(E) | do | do | Feb. 15, 1975 |
| Espy Materials, Inc., ready mix concrete facility, permit No. 3273-025-1505-T. | Savannah, Chatham County. | 391-3-1-.02 (2)(Q) | do | do | Jan. 31, 1975 |
| Feed Seed and Farm Supplies, Inc., feed mill, permit No. 2048-124-1549-T. | Sylvania, Screven County. | 391-3-1-.02 (2)(N) | do | do | Do. |

| Source | Location (county) | Rule or regulation involved | Date of adoption | Effective date | Final compliance date |
|---|---|---|---|---|---|
| * * | * | * | * | * | * |
| Freeman Lumber Co., conical burner, permit No. 2448-158-1594-T. | Toomsboro, Wilkinson County. | 391-3-1-.02 (2)(L) | do | do | Dec. 31, 1974 |
| Freeport Kaolin Co., kaolin clay processing facilities, permit No. 3295-158-1672-T. | Gordon, Wilkinson County. | 391-3-1-.02 (2)(N) | do | do | July 1, 1975 |
| General American Transportation Corp., sandblasting of railroad cars, disposal of paint residue and spray painting of railroad cars, permit No. 3743-148-1622-T. | Waycross, Ware County. | 391-3-1-0.2 (2)(N) | do | do | Dec. 15, 1974 |
| General Refractories Co., kaolin clay processing facilities, permit No. 3295-005-1635-T. | Stevens Pottery, Baldwin County. | 391-3-1-.02 (2)(P), 391-3-1-.02(2)(N) | do | do | Feb. 28, 1975 |
| Georgia Crate and Basket, conical burner only, permit No. 2449-136-1702-T. | Thomasville, Thomas County. | 391-3-1-.02 (2)(L) | do | do | Dec. 31, 1974 |
| Georgia Kaolin Co., kaolin clay processing facilities, permit No. 3295-143-1244-T. | Dry Branch, Bibb County. | 391-3-1-.02 (2)(P), 391-3-1-.02 (2)(N) | do | do | Dec. 1, 1974 |
| Georgia Kaolin Co., kaolin clay bulk terminal facilities, permit No. 3295-025-1717-T. | Savannah, Chatham County. | 391-3-1-.02 (2)(N) | do | do | July 31, 1975 |
| Georgia Marble Co., calcium carbonate, permit No. 3281-061-1698-T. | Whitestone, Pickens County. | 391-3-1-.02 (2)(N) | do | do | Do. |
| Georgia Talc Co., Inc., aluminum hydrate processing facility, permit No. 3295-105-1711-T. | Chatsworth, Murray County. | 391-3-1-.02 (2)(N) | do | do | Sept. 30, 1974 |
| Georgia Tennessee Mining & Chemical Co., fullers earth clay processing plant No. 8 facilities, permit No. 3295-081-1267-T. | Wrens, Jefferson County. | 391-3-1-.02 (2)(P), 391-3-1-.02 (2)(N) | do | do | Sept. 1, 1974 |
| Cold Kist Fertilizer, superphosphate and granular fertilizer manufacturing plant, permit No. 2871-040-1328-T. | Cordele, Crisp County. | 391-3-1-.02 (2)(F), 391-3-1-.02(2)(N) | do | do | Dec. 31, 1974 |
| Griffin Gin & Supply Co., Inc.; cotton gin, permit No. 0724-130-1581-T. | Meigs, Thomas County. | 391-3-1-.02 (2)(Q) | do | do | Aug. 15, 1974 |
| Hallman Wood Products, Inc., conical burner, permit No. 2411-117-1607-T. | Eatonton, Putnam County. | 391-3-1-.02 (2)(L) | do | do | Dec. 31, 1974 |
| Hardwoods of Georgia Inc., lumber company—open burning of wastes, permit No. 2421-038-1790-T. | Raymond, Coweta County. | 391-3-1-.02 (2)(A) | do | do | Do. |
| Harris Cement Products, Inc., concrete products facility, permit No. 3272-008-1793-T. | Cartersville, Bartow County. | 391-3-1-.02 (2)(N) | do | do | Sept. 30, 1974 |
| Harris Lumber Co., conical burner, permit No. 2421-028-1586-T. | Ballground, Cherokee County. | 391-3-1-.02 (2)(L) | do | do | Dec. 31, 1974 |
| Harrison Lumber Co., conical burner, permit No. 2421-147-1585-T. | Monroe, Walton County. | 391-3-1-.02 (2)(L) | do | do | Do. |
| Hatcher Feed Mills, Inc.; feed mill, permit No. 2048-102-1457-T. | Forsyth, Monroe County. | 391-3-1-.02 (2)(N) | do | do | Jan. 31, 1975 |
| Heart of Georgia Peanut & Gin Co., cotton gin, permit No. 0724-116-1567-T. | Hawkinsville, Pulaski County. | 391-3-1-.02 (2)(Q) | do | do | Aug. 15, 1974 |
| Hogan-Scarboro Corp., conical burner, permit No. 2434-87-1589-T. | Dudley, Laurens County. | 391-3-1-.02 (2)(L) | do | do | Dec. 31, 1974 |
| Homerville Pole Co., conical burner, permit No. 2411-32-1559-T. | Homerville, Clinch County. | 391-3-1-.02 (2)(L) | do | do | Do. |
| Hopeful Peanut and Milling Co., feed mill, permit No. 2048-125-1551-T. | Camilla, Mitchell County. | 391-3-1-.02 (2)(N) | do | do | Jan. 31, 1975 |
| J. M. Huber Corp., kaolin clay processing facilities, permit No. 3295-081-1657-T. | Wrens, Jefferson County. | 391-3-1-.02 (2)(N) | do | do | June 1, 1975 |
| Irvin Lumber Co., lumber company—open burning of wastes, permit No. 2421-154-1745-T. | Cleveland, White County. | 391-3-1-.02 (2)(A) | do | do | Dec. 31, 1974 |
| Jackson Ready Mix Concrete, Inc., ready mix concrete facility, permit No. 3273-078-1627-T. | Commerce, Jackson County. | 391-3-1-.02 (2)(N) | do | do | May 15, 1975 |
| Jones Concrete Co., ready mix concrete facility, permit No. 3273-137-1626-T. | Tifton, Tift County. | 391-3-1-.02 (2)(N). | do | do | Do. |
| M. C. Jones Lumber Co., Inc., conical burner only, permit No. 2421-134-1701-T. | Milan, Telfair County. | 391-3-1-.02 (2)(L). | do | do | Dec. 31, 1974 |
| Howard Q. Kennedy Co., feed mill, permit No. 2048-135-1537-T. | Parrott, Terrell County. | 391-3-1-.02 (2)(N). | do | do | Jan. 31, 1975 |
| Frank G. Lake Sawmill, conical burner, permit No. 2421-079-1616-T. | Monticello, Jasper County. | 391-3-1-.02 (2)(L). | do | do | Dec. 31, 1974 |
| Thiele Kaolin Co., kaolin clay processing facilities, permit No. 3295-062-1654-T. | Stapleton, Jefferson County. | 391-3-1-.02 (2)(N). | do | do | June 1, 1975 |
| Thiele Kaolin Co., kaolin clay processing facility, permit No. 3295-150-1640-T. | Sandersville, Washington County. | 391-3-1-.02 (2)(P), 391-3-1-.02 (2)(N). | do | do | Dec. 31, 1974 |
| Thomason Lumber Co., Inc., conical burner, permit No. 2421-153-1609-T. | Dalton, Whitfield County. | 391-3-1-.02 (2)(L). | do | do | Do. |
| Thor Mining Co., fullers earth processing facilities, permit No. 3295-136-1716-T. | Ochlocknee, Thomas County. | 391-3-1-.02(2)(P), 391-3-1-.02(2)(N) | do | do | Sept. 15, 1974 |

| Source | Location (county) | Rule or regulation involved | Date of adoption | Effective date | Final compliance date |
|---|---|---|---|---|---|
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| Transvaal Inc., cuprous chloride, Permit No. 2819-033-1564-T. | Powder Springs, Cobb County. | 391-3-1-.02(2)(A) | do | do | June 16, 1975 |
| Tucker Concrete Co. Inc., ready mix concrete facility, permit No. 3273-044-1752-T. | Tucker, Dekalb County. | 391-3-1-.02(2)(N) | do | do | June 15, 1975 |
| Waverly Mineral Products Co., fullers earth processing facilities, permit No. 3295-136-1361-T. | Meigs, Thomas County. | 391-3-1-.02(2)(P), 391-3-1-.02(2)(N) | do | do | Feb. 1, 1975 |
| Wrightsville Lumber Co., lumber company—open burning of wastes, permit No. 2421-083-1743-T. | Wrightsville, Johnson County. | 391-3-1-.02(2)(A) | do | do | Dec. 31, 1974 |
| Young Harris College, 4-90 horsepower coal fired boilers. Permit No. 8221-139-1481-T. | Young Harris, Towns County. | 391-3-1-.02(2)(D) | do | do | June 1, 1975 |
| Wilson & Sons, ready mix concrete facility, permit No. 3273-033-1521-T. | Marietta, Cobb County. | 391-3-1-.02(2)(N) | do | do | Apr. 30, 1975 |
| Longleaf Industries Inc., conical burner only, permit No. 2421-128-1692-T. | Lumpkin, Stewart County. | 391-3-1-.02(2)(L) | do | do | Dec. 31, 1974 |
| Macon Prestressed Concrete Co., prestressed concrete facility, permit No. 3272-011-1710-T. | Macon, Bibb County. | 391-3-1-.02(2)(N) | do | do | May 30, 1975 |
| Mathis-Akins Concrete Block Co., concrete products facility, permit No. 3272-011-1713-T. | do | 391-3-1-.02(2)(N) | do | do | Do. |
| Mathis-Akins Concrete Block Co., ready mix concrete facilities, permit No. 3273-076-1712-T. | Warner Robins, Houston County. | 391-3-1-.02(2)(N) | do | do | Do. |
| Mayo Products Co., anhydrous sodium metasilicate products, permit No. 2819-033-1699-T. | Smyrna, Cobb County. | 391-3-1-.02(2)(E), 391-3-1-.02(2)(N) | do | do | July 22, 1975 |
| Meredith Pole and Timber Co., Inc., open burning of wastes, permit No. 2411-009-1741-T. | Fitzgerald, Ben Hill County. | 391-3-1-.02(2)(A) | do | do | Dec. 31, 1974 |
| NVF Co.—Hartwell Division, homade burner, permit No. 3441-073-1778-T. | Hartwell, Hart County. | 391-3-1-.02(2)(L) | do | do | Do. |
| New Riverside Ochre Co., barite and ochre processing facility, permit No. 2816-008-1705-T. | Cartersville, Bartow County. | 391-3-1-.02(2)(N) | do | do | Feb. 28, 1975 |
| Norman Park Gin Warehouse, cotton gin, permit No. 0724-035-1573-T. | Norman Park, Colquitt County. | 391-3-1-.02(2)(Q). | do | do | Aug. 15, 1974 |
| Oil-Dri Corp. of Georgia, fullers earth processing facilities, permit No. 3295-136-1354-T. | Ochlocknee, Thomas County. | 391-3-1-.02(2)(P), 391-3-1-.02(2)(N) | do | do | Aug. 1, 1974 |
| Omega Farm Supply Inc., cotton gin, permit No. 0724-137-1645-T. | Omega, Tift County | 391-3-1-.02(2)(Q) | do | do | Sept. 1, 1974 |
| Pekor Iron Works, cupola, permit No. 3561-106-1773-T. | Columbus, Muscogee County. | 391-3-1-.02(2)(O) | do | do | Oct. 30, 1974 |
| Putnam Lumber Co., conical burner, permit No. 2421-117-1608-T. | Eatonton, Putnam County. | 391-3-1-.02(2)(L) | do | do | Dec. 31, 1974 |
| Rockmart Gin Co., cotton gin, permit No. 0724-115-1605-T. | Rockmart, Polk County. | 391-3-1-.02(2)(Q) | do | do | Aug. 15, 1974 |
| Royster Co., superphosphate and granular fertilizer manufacturing plant, permit No. 2371-029-1343-T. | Athens, Clarke County. | 391-3-1-.02(2)(N) | do | do | Dec. 31, 1974 |
| Royster Co., granular fertilizer manufacturing plant, permit No. 2871-011-1342-T. | Macon, Bibb County. | 391-3-1-.02(2)(N) | do | do | Do. |
| Sardis Lumber Co., open burning of wastes, permit No. 2421-017-1739-T. | Sardis, Burke County. | 391-3-1-.02(2)(A) | do | do | Do. |
| R. D. Sharpe Lumber Co., open burning of wastes, permit No. 2421-082-1738-T. | Millen, Jenkins County. | 391-3-1-.02(2)(A) | do | do | Do. |
| Shirley Feed & Seed Service, feed mill, permit No. 2048-078-1568-T. | Commerce, Jackson County. | 391-3-1-.02(2)(N) | do | do | Jan. 31, 1975 |
| Southeast Schokbston Inc., concrete products facility, permit No. 3272-059-1532-T. | Lavonia, Franklin County. | 391-3-1-.02(2)(N) | do | do | Sept. 1, 1974 |
| Southern Crate and Veneer Co., conical burner only, permit No. 2449-011-1703-T. | Macon, Bibb County. | 391-3-1-.02(2)(L) | do | do | Dec. 31, 1974 |
| Southern Talc Co., talc, barite and aluminum hydrate processing facility, permit No. 3295-105-1644-T. | Chatsworth, Murray County. | 391-3-1-.02(2)(N) | do | do | Aug. 15, 1974 |
| Southwire Co., nickel sulfate plant, permit No. 3357-022-1639-T. | Carrollton, Carroll County. | 391-3-1-.02(2)(A) | do | do | Oct. 15, 1974 |

| Source | Location (county) | Rule or regulation involved | Date of adoption | Effective date | Final compliance date |
|---|---|---|---|---|---|
| Southern Wood Piedmont Co., conical burner only, permit No. 2491-121-1715-T. | Augusta, Richmond County. | 391-3-1-.02 (2)(L) | do | do | Dec. 31, 1974 |
| Stowe-Woodward Co., open burning of solvents, permit No. 3552-126-1620-T. | Griffin, Spalding County. | 391-3-1-.02 (2)(A) | do | do | Sept. 1, 1974 |
| Sullivan Lumber Co., conical burner only, permit No. 2421-152-1685-T. | Preston, Webster County. | 391-3-1-.02 (2)(L) | do | do | Dec. 31, 1974 |
| Taylor Gin and Warehouse, cotton gin, permit No. 0724-035-1543-T. | Doerun, Colquitt County. | 391-3-1-.02 (2)(Q) | do | do | Aug. 15, 1974 |
| Continental Can Co. Inc., conical burner, permit No. 2421-557-1781-T. | Washington, Wilks County. | 391-3-1-.02 (2)(L) | do | do | Dec. 31, 1974 |
| Great Southern Paper Co., No. 1 power boiler, No. 2 power boiler, permit No. 2631-049-2220-T. | Cedar Springs, Early County. | 391-3-1-.02 (2)(D) | June 1, 1973 | do | Feb. 1, 1975 |
| Great Southern Paper Co., No. 2 lime kiln, permit No. 2631-049-2218-T. | Cedar Springs, Early County. | 391-3-1-.02 (2)(E) | do | do | Nov. 1, 1974 |
| Greater Southern Paper Co., No. 1 dissolving tank with gas reinjection, No. 2 dissolving tank with mesh pad, permit No. 2631-049-2216-T. | Cedar Springs, Early County. | 393-3-1-.02 (2)(E) | do | do | Jan. 1, 1975 |
| Greater Southern Paper Co., Nos. 1 and 2 recovery boiler and electrostatic precipitator, permit No. 2631-049-2215-T. | do | 391-3-1-.02 (2))E) | do | do | Oct. 31, 1974 |
| Owens Illinois, Inc., Riley boiler, permit No. 2631-092-861-T. | Valdosta, Lowndes County. | 391-3-1-.02 (2)(D) | do | do | Jan. 1, 1975 |
| Owens Illinois, Inc., No. 1 C.E. boiler, No. 2 C.E. boiler, permit No. 2631-092-1860-T. | do | 391-3-1-.02 (2)(D) | do | do | Do. |
| Owens Illinois, Inc., Nos. 1, 2, and 3 lime kiln, permit No. 2631-092-1859-T. | do | 391-3-1-.02 (2)(E) | do | do | Nov. 30, 1974 |
| Owens Illinois, Inc., No. 3 dissolving tank, permit No. 2631-092-1858-T. | do | 391-3-1-.02 (2)(E) | do | do | Do. |
| Owens Illinois, Inc., No. 3 recovery, permit No. 2631-092-1856-T. | do | 391-3-1-.02 (2)(E). | do | do | Dec. 1, 1974 |
| Owens Illinois, Inc., facility for the surface treatment of glass products with SnCly, permit No. 3221-060-1769-T. | Hapeville, Fulton County. | 391-3-1-.02 (2)(E) | do | do | Dec. 1, 1975 |
| Owens Illinois, Inc., glass furnace E, permit No. 3221-060-1768-T. | Hapeville, Fulton County. | 391-3-1-.02 (2)(E) | do | do | Oct. 1, 1974 |
| Engelhard Minerals & Chemicals Corp., sulphuric acid byproducts plant, permit No. 2819-043-2039-T. | Attapulgus, Decatur County. | 391-3-1-.02 (2)(P), 391-3-1-.02(2)(N) | do | do | May 1, 1975 |
| Engelhard Minerals & Chemicals Corp., fuller earth processing facilities, permit No. 3295-043-1723-T. | do | 391-3-1-.02(2)(P). 391-3-1-.02(2)(N) | do | do | July 31, 1975 |
| Southern States Phosphate & Fertilizer, 2 contact sulfuric acid plants, permit No. 2819-025-1446-T. | Savannah, Chatham County. | 391-3-1-.02 (2)(J) | do | do | Dec. 31, 1974 |
| Southern States Phosphate & Fertilizer, granular fertilizer manufacturing plant, normal superphosphate manufacturing plant, permit No. 2871-025-1445-T. | do | 391-3-1-.02 (2)(R) | do | do | Do. |
| Cities Service Co., sulfuric acid plant, aluminum manufacturing plant, permit No. 2819-121-1443-T. | Augusta, Richmond County. | 391-3-1-.02 (2)(J) | do | do | Do. |
| Anderson Construction Co., ready mix concrete facility, permit No. 3273-030-1504-T. | Fort Gaines, Clay County. | 391-3-1-.02(2) (N). | Oct. 29, 1974 | do | July 1, 1975 |
| Augusta Foundry Inc., induction furnace, permit No. 3321-121-1550-T. | Augusta, Richmond County. | 391-3-1-.02(2) (Q). | do | do | Apr. 30, 1975 |
| Baxley Ready Mix, ready mix concrete facility, permit No. 3273-109-1529-T. | Baxley, Appling County. | 391-3-1-.02(2) (N). | do | do | July 1, 1975 |
| Brunswick Pulp and Paper Co., power boilers No. 1, 2, 3, and 4, permit No. 2631-063-1882-T. | Brunswick, Glynn County. | 391-3-1-.02(2) (D). | do | do | Apr. 1, 1975 |
| Brunswick Pulp and Paper Co., No. 4 lime kiln, permit No. 2631-063-1880-T. | do | 391-3-1-.02(2) (E). | do | do | Jan. 1, 1975 |
| Cedartown Block and Concrete Co., ready mix concrete facility, permit No. 3273-115-1971-T. | Cedartown, Glynn County. | 391-3-1-.02(2) (N). | do | do | July 1, 1975 |
| Concrete Industries Inc., ready mix concrete, permit No. 3273-137-1963-T. | Tifton, Tift County. | 391-3-1-.02(2) (N). | do | do | Do. |

| Source | Location (county) | Rule or regulation involved | Date of adoption | Effective date | Final compliance date |
|---|---|---|---|---|---|
| Concrete Industries, Inc., ready mix concrete facility, permit No. 3273-136-1519-T. | Thomasville, Thomas County. | 391-3-1-.02 (2)(N) | do | do | Do. |
| Cope Rendering Co., Inc., 1 rendering plant with the exception of fuel burning equipment covered under separate permits, permit No. 2077-035-1874-T. | Moultrie, Colquitt County. | 391-3-1-.02 (2)(A)) | do | do | Nov. 30, 1974 |
| Costal Timberlands Inc., conical burner, permit No. 2421-084-1598-T. | Gray, Jones County. | 391-3-1-.02 (2)(L) | do | do | Dec. 31, 1974 |
| Creasy Brothers, Paving Contractors, hot mix asphalt plant, permit No. 2951-016-1798-T. | Statesboro, Bulloch County. | 391-3-1-.02 (2)(K) | do | do | Oct. 1, 1974 |
| Cyprus Industrial Minerals Co., Nos. 96 and 97 kaolin clay processing facilities, permit No. 3295-143-2029-T. | Jeffersonville, Twiggs County. | 391-3-1-.02 (2)(P), 391-3-1-.02 (2)(N) | do | do | Jan. 1, 1975 |
| Cyprus Industrial Minerals Co., kaolin clay No. 53 processing facilities, permit No. 3295-150-2031-T. | Sandersville, Washington County. | 391-3-1-.02 (2)(P), 391-3-1-.02 (2)(N) | do | do | Dec. 15, 1974 |
| Dekalb General Hospital, Morse Boulger heavy duty destructor, permit No. 8062-044-2036-T. | Decatur, Dekalb County. | 391-3-1-.02 (2)(C) | do | do | May 1, 1975 |
| Design Concrete, Inc., ready mix concrete facility, permit No. 3273-057-1694-T. | Rome, Floyd County. | 391-3-1-.02 (2)(N) | do | do | July 1, 1975 |
| Engelhard Minerals & Chemicals Inc., catalyst processing facilities, permit No. 2819-043-1991-T. | Attapulgus, Decatur County. | 391-3-1-.02 (2)(P) | do | do | July 31, 1975 |
| Engelhard Minerals and Chemicals Corp., kaolin clay processing facilities, permit No. 3295-150-1981-T. | Oconee, Washington County. | 391-3-1-.02 (2)(P)(N) | do | do | July 31, 1975 |
| Evans Concrete Products Co., Inc., ready mix concrete facility, permit No. 3273-054-1528-T. | Claxton, Evans County. | 391-3-1-.02 (2)(N) | do | do | July 1, 1975 |
| Georgia Dimension Co., conical burner only, permit No. 2426-053-1695-T. | Adrian, Johnson County | 391-3-1-.02 (2)(L) | do | do | Dec. 31, 1974 |
| Georgia Kraft Co., recovery No. 1 and 2 with electrostatic precipitator, permit No. 2631-011-1819-T. | Macon, Bibb County. | 391-3-1-.02 (2)(E) | do | do | Feb. 28, 1975 |
| Georgia Kraft Co., No. 4 smelt tank with demister pads, permit No. 2631-057-1809-T. | Rome, Floyd County. | 391-3-1-.02 (2)(E) | do | do | May. 1, 1975 |
| Georgia Kraft Co., No. 2 smelt tank with demister pads, permit No. 2631-057-1807-T. | Rome, Floyd County. | 391-3-1-.02(2)(E) | do | do | Do. |
| Georgia Kraft Co., No. 1 smelt tank with demister pads, permit No. 2631-057-1806-T. | do | 391-3-1-.02(2)(E) | do | do | Do. |
| Gold Kist Fertilizer, Clya. superphosphate and granular fertilizer manufacturing plant, permit No. 2871-051-1845-T. | Clyo, Effingham County. | 391-3-1-.02(2)(F) | do | do | Dec. 31, 1974 |
| Golden's Foundry & Machine Co., foundry, permit No. 3321-106-1799-T. | Columbus, Muscogee County. | 391-3-1-.02(2)(O) | do | do | Jan. 1, 1975 |
| Haralson Gin Co., cotton gin, permit No. 0724-071-2041-T. | Haralson, Coweta County. | 391-3-1-.02(2)(Q) | do | do | July 1, 1975 |
| ITT Rayonier Inc., No. 1, 2, 3 recovery, permit No. 2631-151-1865-T. | Jesup, Wayne County. | 391-3-1-.02(2)(E) | do | do | Jan. 1, 1975 |
| Jack Davis Concrete Inc., concrete products facility, permit No. 3271-141-1872-T. | LaGrange, Troupe County. | 391-3-1-.02(2)(N) | do | do | Sept. 30, 1974 |
| Ledbetter Bros., Inc., hot mix asphalt plant, permit No. 2951-008-1976-T. | White, Bartow County. | 391-3-1-.02(2)(K) | do | do | July 1, 1975 |
| Ledbetter Bros. Inc., hot mix asphalt plant, permit No. 2951-057-1966-T. | Rome, Floyd County. | 391-3-1-.02 (2)(K) | do | do | Oct. 1, 1974 |
| Lewis Gin and Warehouse, cotton gin, permit No. 0724-035-1895-T. | Moultrie, Colquitt County. | 391-3-1-.02 (2)(Q) | do | do | Sept. 30, 1974 |
| Liberty Concrete Products, ready mix concrete facility, permit No. 3273-089-1523-T. | Midway, Liberty County. | 391-3-1-.02 (2)(N) | do | do | July 1, 1975 |
| Lyons Concrete Products, Inc., ready mix concrete facility, permit No. 3273-138-1908-T. | Lyons, Toombs County. | 391-3-1-.02 (2)(N) | do | do | Do. |
| M. & M. Super Markets, Inc., fire engineers model I 660D-I incinerator, permit No. 5411-025-2012-T. | Savannah, Chatham County. | 391-3-1-.02 (2)(C) | do | do | Feb. 15, 1975 |
| M. & M. Super Markets, Inc., fire engineers incinerator, permit No. 5411-025-2013-T. | do | 391-3-1-.02 (2)(C) | do | do | Do. |
| Masonry Products, Inc., concrete block facility, permit No. 3271-022-1696-T. | Carrollton, Carroll County. | 391-3-1-.02 (2)(N) | do | do | July 1, 1975 |

| Source | Location (county) | Rule or regulation involved | Date of adoption | Effective date | Final compliance date |
|---|---|---|---|---|---|
| McCleskey Mills, Inc., cotton gin, permit No. 0724-129-1965-T. | Americus, Sumter County. | 391-3-1-.02(2) (Q). | do | do | Jan. 5, 1975 |
| Mullite Co. of America, kaolin clay processing facility No. 1, permit No. 3295-129-2027-T. | Andersonville, Sumter County. | 391-3-1-.02(2) (N). | do | do | Jan. 1, 1975 |
| Mullite Co. of America, kaolin clay processing facility No. 2, permit No. 3295-129-2028-T. | do | 391-3-1-.02(2) (N). | do | do | Feb. 1, 1975 |
| Muscogee Lumber Co., conical burner, permit No. 2421-106-1896-T. | Columbus, Muscogee County. | 391-3-1-.02(2) (L). | do | do | Sept. 16, 1974 |
| Norman W. Paschall Co., picking and blending operation, permit No. 2294-056-1678-T. | Peachtree City, Fayette County. | 391-3-1-.02(2) (N). | do | do | Jan. 31, 1975 |
| Phillips Concrete Block Co., Inc., concrete block facility, permit No. 3271-056-1945-T. | Fayetteville, Fayette County. | 391-3-1-.02(2) (N). | do | do | July 1, 1975 |
| Phillips Concrete Block Co., Inc., ready mix concrete facility, permit No. 3273-056-1944-T. | do | 391-3-1-.02(2) (N). | do | do | Do. |
| Rosebud Manufacturing Co., waste disposal incinerator, permit No. 2341-138-1904-T. | Vidalia, Toombs County. | 391-3-1-.02(2) (C). | do | do | Do. |
| Smith-Sheppard Concrete Co., Inc., ready mix concrete facility, permit No. 3273-150-1999-T. | Sandersville, Washington County. | 391-3-1-.02 (2)(N) | do | do | July 1, 1975 |
| Southern Pipe and Supply Co./ Vidalia Concrete Block Co., concrete pipe facility, permit No. 3272-138-1997. | Vidalia, Toombs County. | 391-3-1-.02 (2)(N) | do | do | Do. |
| Southern Pipe and Supply Co./ Vidalia Concrete Block Co., ready mix concrete facility, permit No. 3273-138-1996-T. | do | 391-3-1-.02 (2)(N) | do | do | Do. |
| Steed Concrete, Inc., ready mix concrete facility, permit No. 3273-009-2019-T. | Fitzgerald, Ben Hill County. | 391-3-1-.02 (2)(N) | do | do | Jan. 31, 1975 |
| Stephens Gin and Bonded Warehouse, cotton gin, permit No. 0724-140-2051-T. | Soperton, Treutlen County. | 391-3-1-.02 (2)(Q) | do | do | Jan. 28, 1975 |
| Swainsboro Concrete Products Co., Inc., ready mix concrete facility, permit No. 3273-053-1525-T. | Swainsboro, Emanuel County. | 391-3-1-.02 (2)(N) | do | do | July 1, 1975 |
| W. G. Dunn, cotton gin, permit No. 0724-135-1475-T. | Parrott, Terrell County. | 391-3-1-.02 (2)(Q) | do | do | Aug. 15, 1974 |
| Whitley Concrete Co., ready mix concrete facility, permit No. 3273-044-1968-T. | Decatur, De Kalb County. | 391-3-1-.02 (2)(N). | do | do | Dec. 15, 1974 |
| Cyprus Industrial Minerals Co., kaolin clay processing facilities No. 51 and No. 52, permit No. 3295-150-2030-T. | Sandersville, Washington County. | 391-3-1-.02 (2)(P), 391-3-1-.02 (2)(N). | do | do | Oct. 1, 1974 |
| Georgia Marble Co., marble, dolomite and calcium carbonate processing operation, permit No. 3281-061-1614-T. | Whitestone, Pickens County. | 391-3-1-.02 (2)(N). | do | do | July 1, 1975 |
| Georgia Tennessee Mining Chemical Co., fullers earth clay processing facilities, permit No. 3295-081-1265-T. | Wrens, Jefferson County. | 391-3-1-.02 (2)(P), 391-3-1-.02 (2)(N). | do | do | Sept. 1, 1974 |
| M. C. Jones Lumber Co., conical burner only, permit No. 2421-134-1701-T. | Milan, Telfair County. | 391-3-1-.02 (2)(L). | do | do | Dec. 31, 1974 |
| Toccoa Foundry and Machine Co., Inc., electric arc furnace shotblast system with fabric filter, permit No. 3325-127-1552-T. | Toccoa, Stephens County. | 391-3-1-.02 (2)(O). | do | do | June 30, 1975 |

[FR Doc.74-29706 Filed 12-20-74;8:45 am]

## [40 CFR Part 52]

[FRL 311-2]

## GEORGIA

### Approval and Promulgation of Implementation Plans

On May 31, 1972 (37 FR 10842), the Administrator approved portions of the Georgia plan to attain and maintain the national ambient air quality standards. The State has since adopted certain changes in its regulations and now proposes to make those changes part of its implementation plan. The State also proposes to remove one regulation from the plan as being unnecessary to attain and maintain the national ambient air quality standards. All proposed revisions have met the procedural requirements of 40 CFR Part 51, pertaining to public hearings and plan revisions, and were submitted for the Agency's approval on July 23, 1974. The purpose of this notice is to describe the proposed revisions and to invite public comment on them.

Subsection 391-3-1-.02(2)(a), *General Provisions*, is revised to include an explicit statement that whenever more than one section of the regulations can be applied to a source's emissions, the more stringent one will take precedence.

Subsection 391-3-1.02(2)(g), *Sulfur Dioxide*, is revised to state that no source is exempted from the emission limits defined in paragraph (g)(1), and further revised to explicitly state that sources subject to this regulation must also meet the sulfur-in-fuel limitation of paragraph (g)(3), which remains unchanged, in addition to the provisions of paragraphs (g)(1) and (g)(2). A new paragraph (g)(4) will, however, allow the sulfur-in-fuel limit to be exceeded provided that sulfur oxide removal technology is used to reduce sulfur oxide emissions to that level which would be achieved by burning fuel specified in paragraph (g)(3) without sulfur oxide removal.

The State also proposes to remove from its implementation plan subsection 391-3-1-.02(2)(i) which provides emission limitations for nitrogen dioxide from nitric acid plants. Analysis performed since the original classification of certain areas of the State as Priority I—air quality poor enough to produce health effects—for nitrogen dioxide has led the Administrator to reclassify them as Priority III—no damage to health or welfare—(39 FR 16344). Therefore, the Agency does not require a control strategy or supporting regulations for emission of this pollutant from stationary sources. These emission limits will remain a part of the State regulations and will continue to be enforceable by the State, but the Agency will not have the power to enforce them if the present proposal is approved.

Copies of the proposed changes may be examined at the following locations during normal business hours:

Air Programs Office
Environmental Protection Agency
1421 Peachtree Street, NE.
Atlanta, Georgia 30309

Air Quality Control Section
Environmental Protection Division
Georgia Department of Natural Resources
19 Hunter Street, SW.
Atlanta, Georgia 30334

An evaluation of these changes and their effects can be obtained by consulting personnel of the Agency's Region IV Air Programs Office at the above location.

Interested persons are encouraged to submit written comments on the proposed plan revisions. After carefully weighing relevant comments and all other available information in the light of requirements set forth in section 110 (a) of the Clean Air Act and in the implementing regulations of 40 CFR Part 51, the Administrator will take approval/disapproval action on the Georgia proposals. Comments will be accepted on or before January 22, 1975. They should be addressed to Air Programs Office, Environmental Protection Agency, Region IV, 1421 Peachtree Street, NE., Atlanta, Georgia 30309, Attention: John Eagles.

(Sec. 110(a), Clean Air Act, (42 U.S.C. 1557 c-5(a)))

Dated: December 13, 1974.

JACK E. RAVAN,
*Regional Administrator,*
*Region IV.*

[FR Doc.74-29753 Filed 12-20-74;8:45 am]

[ 40 CFR Part 85 ]

[FRL 273-1]

## COVERAGE OF MOTOR VEHICLE CERTIFICATE OF CONFORMITY

### Notice of Proposed Rulemaking

I. *Introduction.* Since the beginning of the US EPA Motor Vehicle Certification Program there has been a series of apparent misunderstandings between EPA and the auto industry as to the degree of similarity that must exist between production vehicles and vehicles described in the application for certification before the certificate of conformity can be deemed to cover the production vehicles. Clearly, such similarity is of concern to the auto manufacturers because the regulations and the certificate of conformity currently provide that the certificate "covers only those new motor vehicles which conform, in all material respects, to the design specifications that applied to those vehicles described in the application for certification" (emphasis added). (Certificates of earlier model years contained language which was different, but was intended to mean the same thing.)[1] Section 203(a)(1) of the Clean Air Act provides a civil fine of up to $10,000 for each uncertified vehicle introduced into commerce.

The misunderstandings mentioned above generally involved "running changes" made by the vehicle manufacturer to production vehicles after certification and have in our opinion resulted, for the most part, from the lack of express guidance from EPA as to what is meant by the phrase "conform, in all material respects, to the design specifications."

One particular question has involved whether production vehicles which fall in a higher inertia weight class[2] than the prototype with respect to which the relevant certificate of conformity was issued are covered by that certificate.

Although we believe that in the vast majority of cases a manufacturer will be able to determine from its general experience with the certification program and EPA administration of it when a given vehicle departs too far from the design of the prototype to be considered covered by the certificate, there are obvious advantages to spelling out in a precise and definite manner exactly which production vehicles are covered by a certificate of conformity and which are not. The regulations proposed today attempt to do this.

II. *Background*—a. *Certification.* The theory of the certification process is: If prototype vehicles demonstrate compliance with the emission standards, then production vehicles which have essentially the same design as the tested vehicles should also meet the prescribed standards and are, therefore, covered by the certificate of conformity issued on the basis of the prototype testing. Then, to the extent that production vehicles are actually similar to certification prototypes, and to the extent that certification testing is representative of the actual use of production vehicles, the intent of the Act—that pollution from vehicles be controlled to the levels contemplated by the section 202 standards—is served.

The most comprehensive application of the certification theory would require that every configuration of production vehicles be represented in certification testing and that every production vehicle be exactly like its tested counterpart in all features that affect emission performance.

For several practical reasons, this comprehensive application is significantly different from either the optimum or the practiced application. First, there is a very large number of conceivable combinations of optional features (configurations) which would necessitate testing many more vehicles than the present regulations or Agency resources permit. Second, certification vehicles are constructed using processes which are different from the construction processes used in mass production, and the consequential differences in emission characteristics between prototype and production vehicles of identical configurations can be greater than the differences between configurations. Third, because of the inherent difference between certification testing and the way vehicles are actually used, the benefit of such extensive testing is questionable.

Fortunately, the drafters of the Clean Air Act apparently realized the limitations associated with the theory of certification and provided other means by which conformity with the regulations under which a certificate is issued could be determined and nonconformity remedied. Specifically, the other means are the assembly-line test of section 206 and the in-use warranty test and recall provisions of section 207.

Notwithstanding its inherent limitations, the certification process was intended to have meaning. To permit production vehicles to be different from the certification vehicles to any extent or degree that suits the manufacturers would render the entire certification process a sham. But the precise similarity between production vehicles and prototypes that is required could profitably be the subject of further clarification.

III. *Discussion.*—a. *Running change.* A running change is a design change made to production vehicles after a certificate of conformity covering such vehicles has been issued. Such changes are provided for in the regulations at 40 CFR 85.075–33 and –34.[3] These sections provide that any "change" in production vehicles in respect to certain parameters and systems specified elsewhere (§ 85.075–5(a)(3) and (b)(3)) in the regulations are to be reported to the Administrator in order to permit him "to determine, on the basis of testing that he may require or conduct, whether the production vehicle, as modified, would still be covered by the certificate of conformity then in effect."

There are at least three problems that exist in enforcing these regulations. First, the exact reference point from which a change is to be determined is not specified. This deficiency in the regulations gives rise to the question: Are change reports required when the change creates a difference between the changed production vehicle and (1) the preceeding production vehicles (as the language of § 85.075–33 suggests), the configuration of whihc may or may not have been tested as a prototype, (2) the certification vehicle which "represented" that production vehicle configuration according to § 85.075–30(b)(1), or (3) The description of that vehicle's configuration contained in the application for certification? Second, the degree of change to the referenced parameters allowed (1) Before reporting is required and (2) Before certification terminates is not clear. This has led to wide variety in the reporting practices of manufacturers. Third, the phrase "still be covered by a certificate of conformity" suggests that the degree (or effect) of a change which requires reporting is less than or different from that which causes certificate coverage to terminate. The implication is that the results of emission testing (or engineering evaluation with respect to probable emissions effect) will be determinative of certificate coverage.

Problems (1) and (2) are definitional shortcomings. We propose to resolve them by adding a new Appendix VII to Part 85 containing a list of vehicle parameters and specifications which may reasonably be expected to affect emissions. These parameters and specifications must currently be described in some detail in Part I of a manufacturer's certification application. The regulations would then specify that (1) "changes" will be determined by taking the specifications and parameters listed in Appendix VII, as described in the Part I application, as a starting point, and (2) that any change to a production vehicle which caused the description of these specifications and parameters contained in the corresponding Part I to be an inaccurate description as applied to that vehicle would both (i) trigger the reporting requirement and (ii) render that vehicle uncertified unless the Administrator took formal action to extend the coverage of the certificate.

This approach, we believe, has advantages both for the manufacturer and

[1] For a discussion of this change in language, see 39 FR 7545 (Feb. 27, 1974).

[2] Inertia weight class is a range of loaded vehicle weights which determine the setting on the dynamometer used in conducting the certification emissions tests. The dynamometer simulates the resistance which the vehicle must overcome during the emissions test. Generally speaking, the higher the inertia weight setting for a given vehicle, the higher the exhaust emissions and fuel consumption.

[3] All discussion in this preamble is keyed to the section numbers in Subpart A of 40 CFR Part 85. Identical changes are, of course, proposed for the six other parallel subparts of Part 85 setting standards for categories of vehicles and engines other than light duty vehicles (B, C, D, H, I, and J).

for EPA. The manufacturer is provided with an explicit and easily applicable "touchstone" which can be used in its production operations to ensure that the preconditions of certification are met. At the same time, EPA's enforcement task will be easier since the regulations will avoid the necessity of proving, on a case-by-case basis, whether the particular departure from the design of the prototype that is at issue is enough to support a finding that the certificate coverage does not extend to it. Though this approach does leave open the possibility that some design changes which cause standards to be exceeded may occur without voiding the coverage of the certificate, we believe that the list is comprehensive enough to minimize the possibilities of such an occurrence. However, comments on how the list in Appendix VII might be lengthened, shortened, modified, or redefined are particularly solicited.

Problem (3) demonstrates an inconsistency in the logic between what the certificate says it covers and the running change procedures of the present regulations. The regulation (§ 85.075–33) implies that a change in the design specifications ("parameters and systems") gives rise to a reporting requirement, and the Administrator will determine whether the vehicle can still be covered by a certificate. However, there is no reason within the program to require reporting of changes which would not cause termination of the certificate. A reason to require reporting of changes which would cause termination of certificate coverage is to allow the Administrator to determine if the changed vehicle can be covered by a certificate. Hence, the running change regulations should be revised to be consistent with the scope of certificate coverage.

This has been done by providing that any change in a production vehicle which causes it to cease to be accurately described by Part I application so far as the parameters and specifications enumerated in Appendix VII are concerned will have the effect of both triggering the reporting requirement and requiring an amended certificate to be obtained.

b. *Misbuilds.* A particularly difficult type of change to regulate is that of a misbuild. A misbuilt vehicle is one which, due to an error, differs in some material respect, from the intended design specifications applicable to that vehicle, and thus to the description contained in the Application for Certification. In addition to causing vehicles not to be covered by a certificate of conformity, a misbuild may also pollute above prescribed standards and not perform in the hands of the user as intended by the manufacturer. A misbuild may result from clerical mistakes in the design/production system, poor communications (e.g., misunderstood instructions to assembly line workers), or other human errors which are not, by exercise of reasonable and prudent measures, detected. Regardless of the precise reason for a misbuild, it may result in uncertified vehicles being introduced into commerce.

Clearly, it is in the interest of the auto manufacturers, the general public and EPA to assure that the occurrence of misbuilds is minimized to the greatest extent possible. Although there is no specific provision in these regulations regarding misbuilds, the auto industry is specifically invited to comment on the policy EPA should adopt regarding misbuilds.

c. *Inertia weight class.* Another important aspect of the certificate coverage definition concerns inertia weight class. The existing regulations require that the manufacturers report in the application for certification either the actual or estimated inertia weight class of vehicles to be covered by the certificate. The question then arises as to whether production vehicles are covered by a certificate of conformity if they are in an inertia weight class different from that reported in the application.

Technical amendments to the regulations (38 FR 17130, June 28, 1973) permit a manufacturer to certify a vehicle in the next higher inertia weight class if his estimated weight is within 100 pounds of the next higher inertia weight class. The stated purpose of this provision was to give manufacturers flexibility in certification. It was not made clear that a good faith, but incorrect, estimate would result in production vehicles being uncertified.

Since (1) the inertia weight class is very important to emission performance, (2) whether a manufacturer acted in good faith in certifying in a lower inertia weight class than he should have is difficult to determine, and (3) the manufacturer has pronounced incentive to certify his prototype vehicles in as low an inertia weight class as possible (an incentive that should be guarded against), the regulations proposed today would provide that any production vehicles which fall in a different inertia weight class than that reported in the application for certification are not covered by the certificate.

These amendments are issued under the authority of the following sections of the Clean Air Act, as amended: 206 (Sec. 206, 79 Stat. 994, as amended by Section 8(a), 84 Stat. 1694, 42 U.S.C. 1857f–6); 208 (Sec. 207, 79 Stat. 994, 42 U.S.C. 1857f–6); and 301(a) (Sec. 301(a), 81 Stat. 504 as amended by Sec. 15(c), 84 Stat. 1713, 42 U.S.C. 1857g(a)).

Any comments concerning the amendments proposed today should be submitted in writing to:

Director
Mobile Source Enforcement Division (EG–340)
Environmental Protection Agency
401 M Street, SW.
Washington, D.C. 20460

Five copies of any such comments should be submitted on or before February 21, 1975. Comments received after such date may not be considered in the final rulemaking. Copies of all comments will be made available for public inspection during normal working hours at the Freedom of Information Center, Room 232, West Tower, EPA, 401 M Street, SW., Washington, D.C. Copies of an issue paper by N. D. Shutler of EPA which was relied on in drawing up this proposal are also in the comment file.

Dated: December 13, 1974.

JOHN QUARLES,
*Acting Administrator.*

1. Section 85.002(a)(31) is added to read as follows:

**§ 85.002 Definitions.**

(a) * * *

(31) As applied to any individual production vehicle, "Conforms, in all material respects, to the design specifications which applied to those vehicles described in the application for certification" means that the description in the appropriate application for certification of the parameters and specifications enumerated in Appendix VIIA is accurate in all respects as applied to that vehicle.

2. The first sentence of § 85.075–2(b)(1) is revised as follows:

**§ 85.075–2 Application for certification.**

* * * * *

(b) * * *

(1) Identification and description of the vehicles covered by the application and a description of their engine, emission control system and fuel system components including the applicable parameters and specifications of Appendix VIIA.

* * * * *

3. Section 85.075–5(b)(3) is revised as follows:

**§ 85.075–5 Test vehicles.**

* * * * *

(b) * * *

(3) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider those design specifications listed in the application for certification.

4. Section 85.075–33 is revised as follows:

**§ 85.075–33 Changes to a vehicle covered by certification.**

(a) The manufacturer shall notify the Administrator of any intended change in production vehicles that would cause such vehicles not to conform to any of the specifications and parameters of Appendix VIIA as described in the appropriate application for certification, giving a full description of the change. Such notification shall constitute a proposed amendment to the application on which certification of the original vehicle was based and shall be in advance of the change unless the manufacturer elects to follow the procedures described in § 85.075–34.

(b) Based upon the description of the change, and data derived from such

testing as the Administrator may require or conduct, the Administrator will determine whether the application for certification may be amended as proposed so that the changed vehicles will be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that such an amendment to the outstanding certificate is justified, he shall notify the manufacturer in writing granting the amendment. Except as provided in § 85.075–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified vehicles will not be covered by the certificate of conformity, he will notify the manufacturer in writing. The manufacturer may then, at his option, proceed with either of the following with respect to the disapproved change:

(1) Request a hearing as provided under § 85.075–30(b)(3); or

(2) In the event the failure can be shown to the satisfaction of the Administrator to be attributable to a vehicle malfunction, repair the test vehicle, and demonstrate by testing that the repaired vehicle meets applicable standards. Another vehicle which conforms in all material respects to the same design specifications that applied to the repaired vehicle, shall then be operated and tested in accordance with applicable test procedures.

5. Paragraphs (a), (b), (c), and (d) of § 85.075–34 are revised and paragraph (e) is added as follows:

**§ 85.075–34 Alternative procedure for amending certificates of conformity.**

(a) A manufacturer, in lieu of notifying the Administrator in advance of an addition of a vehicle under § 85.075–32 or a change in a vehicle under § 85.075–33, may notify him by appropriate amendment to the application for certification concurrently with the making of the change or addition if the manufacturer determines on the basis of emission data that the addition or change will not adversely affect (cause to increase above the applicable standards) emissions from the affected vehicles. Upon such notification, the manufacturer may proceed to put the addition or change into effect. The applicable certificate of conformity then in effect will be deemed amended as set forth in the amended application unless and until the amendment is rejected by the Administrator under paragraph (c) of this section.

(b) The manufacturer may continue to produce vehicles as described in the amendment to the application for certification for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon the description of the amendment to the application, that no additional test data will be required, he will notify the manufacturer in writing of the acceptability of the amended application. If the Administrator determines that additional test data will be required, he will so notify the manufacturer and proceed as in § 85.075–32(b) and (c), or § 85.075–33(b) and (c) as appropriate.

(d) Election to produce vehicles under this section will be deemed to be a consent to recall all vehicles which the Administrator determines under § 85.075–32 or § 85.075–33 do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

(e) Any changed or added vehicles produced after the manufacturer is notified of the rejected application amendment will not be covered by a certificate of conformity.

6. Section 85.102(a)(24) is added to read as follows:

**§ 85.102 Definitions.**

(a) * * *

(24) As applied to any individual production vehicle, "Conforms, in all material respects, to the design specifications which applied to those vehicles described in the application for certification" means that the description in the appropriate application for certification of the parameters and specifications enumerated in Appendix VIIA is accurate in all respects as applied to that vehicle.

7. The first sentence of § 85.175–2(b)(1) is revised as follow:

**§ 85.175–2 Application for certification.**

* * * * *

(b) * * *

(1) Identification and description of the vehicles covered by the application and a description of their engine, emission control system and fuel system components including the applicable parameters and specifications of Appendix VIIA.

* * * * *

8. Section 85.175–5(b)(3) is revised as follows:

**§ 85.175–5 Test vehicles.**

* * * * *

(b) * * *

(3) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider those design specifications listed in the application for certification.

9. Section 85.175–33 is revised as follows:

**§ 85.175–33 Changes to a vehicle covered by certification.**

(a) The manufacturer shall notify the Administrator of any intended change in production vehicles that would cause such vehicles not to conform to any of the specifications and parameters of Appendix VIIA as described in the appropriate application for certification, giving a full description of the change. Such notification shall constitute a proposed amendment to the application on which certification of the original vehicle was based and shall be in advance of the change unless the manufacturer elects to follow the procedures described in § 85.175–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the application for certification may be amended as proposed so that the changed vehicles will be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that such an amendment to the outstanding certificate is justified, he shall notify the manufacturer in writing granting the amendment. Except as provided in § 85.175–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified vehicles will not be covered by the certificate of conformity, he will notify the manufacturer in writing. The manufacturer may then, at his option, proceed with either of the following with respect to the disapproved change:

(1) Request a hearing as provided under § 85.175–30(b)(3); or

(2) In the event the failure can be shown, to the satisfaction of the Administrator, to be attributable to a vehicle malfunction, repair the test vehicle, and demonstrate by testing that the repaired vehicle meets applicable standards. Another vehicle which conforms in all material respects to the same design specifications that applied to the repaired vehicle, shall then be operated and tested in accordance with applicable test procedures.

10. Paragraphs (a), (b), (c), and (d) of § 85.175–34 are revised and paragraph (e) is added as follows:

**§ 85.175–34 Alternative procedure for amending certificates of conformity.**

(a) A manufacturer, in lieu of notifying the Administrator in advance of an addition of a vehicle under § 85.175–32 or a change in a vehicle under § 85.175–33, may notify him by appropriate amendment to the application for certification concurrently with the making of the change or addition if the manufacturer determines on the basis of emission data that the addition or change will not adversely affect (cause to increase above the applicable standards) emissions from the affected vehicles. Upon such notification, the manufacturer may proceed to put the addition or change into effect. The applicable certificate of conformity then in effect will be deemed amended as set forth in the amended application unless and until the amendment is rejected by the Administrator under paragraph (c) of this section.

(b) The manufacturer may continue to produce vehicles as described in the

amendment to the application for certification for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon the description of the amendment to the application, that no additional test data will be required, he will notify the manufacturer in writing of the acceptability of the amended application. If the Administrator determines that additional test data will be required, he will so notify the manufacturer and proceed as in § 85.175–32 (b) and (c), or § 85.175–33 (b) and (c) as appropriate.

(d) Election to produce vehicles under this section will be deemed to be a consent to recall all vehicles which the Administrator determines under § 85.175–32 or § 85.175–33 do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

(e) Any changed or added vehicles produced after the manufacturer is notified of the rejected application amendment will not be covered by a certificate of conformity.

11. Section 85.202(a)(29) is added to read as follows:

**§ 85.202 Definitions.**

(a) * * *

(29) As applied to any individual production vehicle, "Conforms, in all material respects, to the design specifications which applied to those vehicles described in the application for certification" means that the description in the appropriate application for certification of the parameters and specifications enumerated in Appendix VIIA is accurate in all respects as applied to that vehicle.

12. The first sentence of § 85.275–2(b)(1) is revised as follows:

**§ 85.275–2 Application for certification.**

* * * * *

(b) * * *

(1) Identification and description of the vehicles covered by the application and a description of their engine, emission control system and fuel system components including the applicable parameters and specifications of Appendix VIIA.

* * * * *

13. Section 85.275–5(b)(3) is revised as follows:

**§ 85.275–5 Test vehicles.**

* * * * *

(b) * * *

(3) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider those design specifications listed in the application for certification.

14. Section 85.275–33 is revised as follows:

**§ 85.275–33 Changes to a vehicle covered by certification.**

(a) The manufacturer shall notify the Administrator of any intended change in production vehicles that would cause such vehicles not to conform to any of the specifications and parameters of Appendix VIIA is described in the appropriate application for certification, giving a full description of the change. Such notification shall constitute a proposed amendment to the application on which certification of the original vehicle was based and shall be in advance of the change unless the manufacturer elects to follow the procedures described in § 85.275–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the application for certification may be amended as proposed so that the changed vehicles will be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that such an amendment to the outstanding certificate is justified, he shall notify the manufacturer in writing granting the amendment. Except as provided in § 85.275–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified vehicles will not be covered by the certificate of conformity, he will notify the manufacturer in writing. The manufacturer may then, at his option, proceed with either of the following with respect to the disapproved change:

(1) Request a hearing as provided under § 85.275–30(b)(3); or

(2) In the event the failure can be shown, to the satisfaction of the Administrator, to be attributable to a vehicle malfunction, repair the test vehicle, and demonstrate by testing that the repaired vehicle meets applicable standards. Another vehicle which conforms in all material respects to the same design specifications that applied to the repaired vehicle, shall then be operated and tested in accordance with applicable test procedures.

15. Paragraphs (a), (b), (c), and (d) of § 85.275–34 are revised and paragraph (e) is added as follows:

**§ 85.275–34 Alternative procedure for amending certificates of conformity.**

(a) A manufacturer, in lieu of notifying the Administrator in advance of an addition of a vehicle under § 85.275–32 or a change in a vehicle under § 85.275–33, may notify him by appropriate amendment to the application for certification concurrently with the making of the change or addition if the manufacturer determines on the basis of emission data that the addition or change will not adversely affect (cause to increase above the applicable standards) emissions from the affected vehicles. Upon such notification, the manufacturer may proceed to put the addition or change into effect. The applicable certificate of conformity then in effect will be deemed amended as set forth in the amended application unless and until the amendment is rejected by the Administrator under paragraph (c) of this section.

(b) The manufacturer may continue to produce vehicles as described in the amendment to the application for certification for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon the description of the amendment to the application, that no additional test data will be required, he will notify the manufacturer in writing of the acceptability of the amended application. If the Administrator determines that additional test data will be required, he will so notify the manufacturer and proceed as in §§ 85.275–32 (b) and (c), or § 85.275–33 (b) and (c) as appropriate.

(d) Election to produce vehicles under this section will be deemed to be a consent to recall all vehicles which the Administrator determines under § 85.275–32 or § 85.275–33 do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

(e) Any changed or added vehicles produced after the manufacturer is notified of the rejected application amendment will not be covered by a certificate of conformity.

16. Section 85.302 is amended by adding a new paragraph reading as follows:

**§ 85.302 Definitions.**

* * * * *

As applied to any individual production vehicle, "Conforms, in all material respects, to the design specifications which applied to those vehicles described in the application for certification" means that the description in the appropriate application for certification of the parameters and specifications enumerated in Appendix VIIA is accurate in all respects as applied to that vehicle.

17. The first sentence of § 85.376–2(b)(1) is revised as follows:

**§ 85.376–2 Application for certification.**

* * * * *

(b) * * *

(1) Identification and description of the vehicles covered by the application and a description of their engine, emission control system and fuel system components including the applicable parameters and specifications of Appendix VIIA.

* * * * *

18. Section 85.376–5(b)(3) is revised as follows:

**§ 85.376–5 Test vehicles.**

* * * * *

(b) * * *

(3) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider those design specifications listed in the application for certification.

* * * * *

19. Section 85.376–33 is revised as follows:

**§ 85.376–33 Changes to a vehicle covered by certification.**

(a) The manufacturer shall notify the Administrator of any intended change in production vehicles that would cause such vehicles not to conform to any of the specifications and parameters of Appendix VIIA is as described in the appropriate application for certification, giving a full description of the change. Such notification shall constitute a proposed amendment to the application on which certification of the original vehicle was based and shall be in advance of the change unless the manufacturer elects to follow the procedures described in § 85.376–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the application for certification may be amended as proposed so that the changed vehicles will be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that such an amendment to the outstanding certificate is justified, he shall notify the manufacturer in writing granting the amendment. Except as provided in § 85.376–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified vehicles will not be covered by the certificate of conformity, he will notify the manufacturer in writing. The manufacturer may then, at his option, proceed with either of the following with respect to the disapproved change:

(1) Request a hearing as provided under § 85.376–30(b)(4); or

(2) In the event the failure can be shown, to the satisfaction of the Administrator, to be attributable to a vehicle malfunction, repair the test vehicle, and demonstrate by testing that the repaired vehicle meets applicable standards. Another vehicle which conforms in all material respects to the same design specifications that applied to the repaired vehicle, shall then be operated and tested in accordance with applicable test procedures.

20. The heading and paragraphs (a), (b), (c), and (d) of § 85.376–34 are revised and paragraph (e) is added as follows:

**§ 85.376–34 Alternative procedure for amending certificates of conformity.**

(a) A manufacturer, in lieu of notifying the Administrator in advance of an addition of a vehicle under § 85.376–32 or a change in a vehicle under § 85.376–33 may notify him by appropriate amendment to the application for certification concurrently with the making of the change or addition if the manufacturer determines on the basis of emission data that the addition or change will not adversely affect (cause to increase above the applicable standards) emissions from the affected vehicles. Upon such notification, the manufacturer may proceed to put the addition or change into effect. The applicable certificate of conformity then in effect will be deemed amended as set forth in the amended application unless and until the amendment is rejected by the Administrator under paragraph (c) of this section.

(b) The manufacturer may continue to produce vehicles as described in the amendment to the application for certification for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon the description of the amendment to the application, that no additional test data will be required, he will notify the manufacturer in writing of the acceptability of the amended application. If the Administrator determines that additional test data will be required, he will so notify the manufacturer and proceed as in § 85.376–32 (b) and (c), or § 85.376–33(b) and (c) as appropriate.

(d) Election to produce vehicles under this section will be deemed to be a consent to recall all vehicles which the Administrator determines under § 85.376–32 or § 85.376–33 do not meet applicable standards, and to cause such non conformity to be remedied at no expense to the owner.

(e) Any changed or added vehicles produced after the manufacturer is notified of the rejected application amendment will not be covered by a certificate of conformity.

21. Section 85.702(a)(23) is added to read as follows:

**§ 85.702 Definitions.**

(a) * * *

(23) As applied to any individual production engine, "Conforms, in all material respects, to the design specifications which applied to those engines described in the application for certification" means that the description in the appropriate application for certification of the parameters and specifications enumerated in Appendix VIIB is accurate in all respects as applied to that engine.

22. The first sentence of § 85.774–2(b)(1) is revised as follows:

**§ 85.774–2 Application for certification.**

* * * * *

(b) * * *

(1) Identification and description of the engines covered by the application and a description of their emission control systems, including the applicable parameters and specifications of Appendix VIIB.

* * * * *

23. Section 85.774–5(b)(3) is revised as follows:

**§ 85.774–5 Test engines.**

(b) * * *

(3) The Administrator may select a maximum of two additional engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in that engine family. In selecting these engines, the Administrator will consider those design specifications listed in the application for certification.

* * * * *

24. Section 85.774–33 is revised to read as follows:

**§ 85.774–33 Changes to an engine covered by certification.**

(a) The manufacturer shall notify the Administrator of any intended change in production engines that would cause such engines not to conform to any of the specifications and parameters of Appendix VIIB as described in the appropriate application for certification, giving a full description of the change. Such notification shall constitute a proposed amendment to the application on which certification of the original engine was based and shall be in advance of the change unless the manufacturer elects to follow the procedures described in § 85.774–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the application for certification may be amended as proposed so that the changed engines will be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that such an amendment to the outstanding certificate is justified, he shall notify the manufacturer in writing granting the amendment. Except as provided in § 85.774–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified engines will not be covered by the certificate of conformity, he will notify the manufacturer in writing. The manufacturer may then, at his option, proceed with either of the following with respect to the disapproved change:

(1) Request a hearing as provided under § 85.774–30(b)(3); or

(2) In the event the failure can be shown, to the satisfaction of the Administrator, to be attributable to an engine malfunction, repair the test engine, and demonstrate by testing that the repaired engine meets applicable standards. Another engine which conforms in all material respects to the same design specifications that applied to the repaired engine, shall then be operated and tested in accordance with applicable test procedures.

25. Paragraphs (a), (b), (c), and (d) of § 85.774–34 are revised and paragraph (e) is added as follows:

**§ 85.774–34 Alternative procedure for amending certificates of conformity.**

(a) A manufacturer, in lieu of notifying the Administrator in advance of an addition of an engine under § 85.774–32 or a change in an engine under § 85.774–33, may notify him by appropriate amendment to the application for certification concurrently with the making of the change or addition if the manufacturer determines on the basis of emission data that the addition or change will not adversely affect (cause to increase above the applicable standards) emissions from the affected engines. Upon such notification, the manufacturer may proceed to put the addition or change into effect. The applicable certificate of conformity then in effect will be deemed amended as set forth in the amended application unless and until the amendment is rejected by the Administrator under paragraph (c) of this section.

(b) The manufacturer may continue to produce engines as described in the amendment to the application for certification for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon the description of the amendment to the application, that no additional test data will be required, he will notify the manufacturer in writing of the acceptability of the amended application. If the Administrator determines that additional test data will be required, he will so notify the manufacturer and proceed as in § 85.774–32 (b) and (c), or § 85.774–33 (b) and (c) as appropriate.

(d) Election to produce engines under this section will be deemed to be a consent to recall all engines which the Administrator determines under § 85.774–32 or § 85.774–33 do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

(e) Any changed or added engines produced after the manufacturer is notified of the rejected application amendment will not be covered by a certificate of conformity.

26. Section 85.802(a)(28) is added to read as follows:

**§ 85.802 Definitions.**

(a) * * *

(28) As applied to any individual production engine, "Conforms, in all material respects, to the design specifications which applied to those engines described in the application for certification" means that the description in the appropriate application for certification of the parameters and specifications enumerated in Appendix VIIB is accurate in all respects as applied to that engine.

27. The first sentence of § 85.874–2(b)(1) is revised as follows:

**§ 85.874–2 Application for certification.**

* * * * *

(b) * * *

(1) Identification and description of the engines covered by the application and a description of their emission control systems, including the applicable parameters and specifications of Appendix VIIB.

* * * * *

28. Section 85.874–33 is revised to read as follows:

**§ 85.874–33 Changes to an engine covered by certification.**

(a) The manufacturer shall notify the Administrator of any intended change in production engines that would cause such engines not to conform to any of the specifications and parameters of Appendix VIIB as described in the appropriate application for certification, giving a full description of the change. Such notification shall constitute a proposed amendment to the application on which certification of the original engine was based and shall be in advance of the change unless the manufacturer elects to follow the procedures described in § 85.874–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the application for certification may be amended as proposed so that the changed engines will be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that such an amendment to the outstanding certificate is justified, he shall notify the manufacturer in writing granting the amendment. Except as provided in § 84.874–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified engines will not be covered by the certificate of conformity, he will notify the manufacturer in writing. The manufacturer may then, at his option, proceed with either of the following with respect to the disapproved change:

(1) Request a hearing as provided under § 85.874–30(b)(3); or

(2) In the event the failure can be shown, to the satisfaction of the Administrator, to be attributable to an engine malfunction, repair the test engine, and demonstrate by testing that the repaired engine meets applicable standards. Another engine which conforms in all material respects to the same design specifications that applied to the repaired engine, shall then be operated and tested in accordance with applicable test procedures.

29. The heading and text of § 85.874–34 is revised to read as follows:

**§ 85.874–34 Alternative procedure for amending certificates of conformity.**

(a) A manufacturer, in lieu of notifying the Administrator in advance of an addition of an engine under § 85.874–32 or a change in an engine under § 85.874–33 may notify him by appropriate amendment to the application for certification concurrently with the making of the change or addition if the manufacturer determines on the basis of emission data that the addition or change will not adversely affect (cause to increase above the applicable standards) emissions from the affected engines. Upon such notification, the manufacturer may proceed to put the addition or change into effect. The applicable certificate of conformity then in effect will be deemed amended as set forth in the amended application unless and until the amendment is rejected by the Administrator under paragraph (c) of this section.

(b) The manufacturer may continue to produce engines as described in the amendment to the application for certification for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon the description of the amendment to the application, that no additional test data will be required, he will notify the manufacturer in writing of the acceptability of the amended application. If the Administrator determines that additional test data will be required, he will so notify the manufacturer and proceed as in § 85.874–32 (b) and (c), or § 85.874–33 (b) and (c) as appropriate.

(d) Election to produce engines under this section will be deemed to be a consent to recall all engines which the Administrator determines under § 85.874–32 or § 85.874–33 do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

(e) Any changed or added engines produced after the manufacturer is notified of the rejected application amendment will not be covered by a certificate of conformity.

30. Section 85.902(a)(28) is added to read as follows:

**§ 85.902 Definitions.**

(a) * * *

(28) As applied to any individual production engine, "Conforms in all material respects, to the design specifications which applied to those engines described in the application for certification" means that the description in the appropriate application for certification of the parameters and specifications enumerated in Appendix VIIB is accurate in all respects as applied to that engine.

31. The first sentence § 85.974–2(b)(1) is revised as follows:

**§ 85.974–2 Application for certification.**

* * * * *

(b) * * *

(1) Identification and description of the engines covered by the application and a description of their emission control systems, including the applicable parameters and specifications of Appendix VIIB.

* * * * *

32. Section 85.974–33 is revised to read as follows:

**§ 85.974–33 Changes to an engine covered by certification.**

(a) The manufacturer shall notify the Administrator of any intended change in production engines that would cause such engines not to conform to any of the specifications and parameters of Appendix VIIB as described in the appropriate application for certification, giving a full description of the change. Such notification shall constitute a proposed amendment to the application on which certification of the original engine was based and shall be in advance of the change unless the manufacturer elects to follow the procedures described in § 85.974–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the application for certification may be amended as proposed so that the changed engines will be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that such an amendment to the outstanding certificate is justified, he shall notify the manufacturer in writing granting the amendment. Except as provided in § 85.974–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified engines will not be covered by the certificate of conformity, he will notify the manufacturer in writing. The manufacturer may then, at his option, proceed with either of the following with respect to the disapproved change:

(1) Request a hearing as provided under § 85.974–30(b)(3); or

(2) In the event the failure can be shown, to the satisfaction of the Administrator, to be attributable to an engine malfunction, repair the test engine, and demonstrate by testing that the repaired engine meets applicable standards. Another engine which conforms in all material respects to the same design specifications that applied to the repaired engine, shall then be operated and tested in accordance with applicable test procedures.

33. Section 85.974–34 is revised to read as follows:

**§ 85.974–34 Alternative procedure for amending certificates of conformity.**

(a) A manufacturer, in lieu of notifying the Administrator in advance of an addition of an engine under § 85.974–32 or a change in an engine under § 85.974–33, may notify him by appropriate amendment to the application for certification concurrently with the making of the change or addition if the manufacturer determines on the basis of emission data that the addition or change will not adversely affect (cause to increase above the applicable standards) emissions from the affected vehicles. Upon such notification, the manufacturer may proceed to put the addition or change into effect. The applicable certificate of conformity then in effect will be deemed amended as set forth in the amended application unless and until the amendment is rejected by the Administrator under paragraph (c) of this section.

(b) The manufacturer may continue to produce engines as described in the amendment to the application for certification for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon the description of the amendment to the application, that no additional test data will be required, he will notify the manufacturer in writing of the acceptability of the amended application. If the Administrator determines that additional test data will be required, he will so notify the manufacturer and proceed as in § 85.974–32 (b) and (c), or § 85.974–33 (b) and (c) as appropriate.

(d) Election to produce engines under this section will be deemed to be a consent to recall all engines which the Administrator determines under § 85.974–32 or § 85.974–33 do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

(e) Any changed or added engines produced after the manufacturer is notified of the rejected application amendment will not be covered by a certificate of conformity.

APPENDIX VII

A. Light duty vehicle parameters and specifications.

1. Cylinder bore center-to-center dimen-Cycle Reciprocating Engines.

1. Cylinder bore centre-to-center dimension.

2. Centerline of crankshaft to centerline of camshaft dimension.

3. Centerline of crankshaft to the top of the cylinder block head face dimension.

4. Cylinder block configuration and material (including liners if applicable).

5. Combustion cycle.

6. Method of aspiration.

7. Displacement.

8. Bore and stroke.

9. Number of cylinders.

10. Compression ratio.

11. Surface to volume ratio.

12. Type of cylinder head and material.

13. Combustion chamber configuration.

14. Intake port area and configuration at cylinder head and manifold mating surface.

15. Exhaust port area and configuration at cylinder head and manifold mating surface.

16. Valves.

a. Head diameter.

b. Type and material.

c. Seat angle and preparation.

d. Valve spring material and load.

e. Valve spring retainer and/or rotator configuration.

f. Valve stem seal type and material.

g. Location of valves.

h. Valve activation mechanism.

i. Number of valves per cylinder.

17. Intake manifold configuration and material.

18. Exhaust manifold configuration and material.

19. Piston and piston ring(s) configuration and material.

20. Exhaust system configuration and backpressure.

21. Camshaft timing.

a. Cam profile.

b. Valve overlap.

22. Advertised H.P. at RPM.

23. Advertised Torque at RPM.

24. Governor descriptions.

25. Supercharger description.

26. Precombustion chamber configuration and material.

II. Basic Engine Parameters—Two-Stroke Cycle Reciprocating Engines.

1–25. Same as section I.

26. Intake port(s).

a. Configuration.

b. Location.

c. Preparation.

d. Timing in combustion cycle.

27. Exhaust port(s).

a. Configuration.

b. Location.

c. Preparation.

d. Timing in combustion cycle.

28. Transfer port(s).

a. Configuration.

b. Location.

c. Preparation.

d. Timing in combustion cycle.

29. Crankcase volume.

30. Precombustion chamber configuration and material.

III. Basic Engine Parameters — Rotary Engines.

1. Major axis dimension.

2. Minor axis dimension.

3. Eccentricity dimension.

4. Width of rotor housing dimension.

5. Generating radius dimension.

6. Intake port(s).

a. Configuration.

b. Location.

c. Preparation.

d. Timing and overlap if exposed to combustion chamber.

7. Exhaust port(s).

a. Configuration.

b. Location.

c. Preparation.

d. Timing and overlap if exposed to combustion chamber.

8. Housing configuration and material.

9. Combustion cycle.

10. Method of aspiration.

11. Number of spark plugs per rotor.

12. Displacement.

13. Rotor and seals.

a. Number of rotors and seals per rotor.

b. Configuration and seal retention.

c. Materials.

14. Compression ratio.

15. Surface to volume ratio.

16. Combustion chamber configuration.

17. Intake manifold configuration and material.

18. Exhaust manifold configuration and material.

19. Advertised H.P. at RPM.

20. Advertised Torque at RPM.

21. Exhaust system configuration and backpressure.

22. Governor description.

23. Supercharger description.

24. Precombustion chamber configuration and material.

IV. Air Inlet System.

1. Air cleaner type and configuration.

2. Air inlet temperature control system.

3. Inlet fresh air pick up method.

4. Maximum allowable restriction.

V. Fuel System.
1. Carburetion.
a. Number of carburetors.
b. Type.
c. Number of venturis per carburetor.
d. Venturi diameter.
e. Maximum air flow.
f. Fuel metering system type and calibration.
g. Enrichment system type and calibration.
h. Idle stop mechanism.
i. Starting system (e.g. choke).
j. Altitude compensation type and calibration.
k. Air-fuel flow specification (flow curve).
l. General compensation system type and calibration.
m. Component material.
n. Part number(s).
2. Fuel injection.
a. Control parameters.
b. Basic type (mechanical, electronic, timed, continuous).
c. Point of injection.
d. Maximum air flow.
e. Throttle mechanism type and calibration if applicable.
f. Fuel shutoff system type and calibration.
g. Cold start enrichment system type and calibration.
h. Enrichment system type and calibration.
i. Air-fuel flow specification (flow curve).
j. Altitude compensations type and calibration.
k. General compensation systems type and calibration.
l. Injector configuration and material.
m. Operating pressures.
n. Basic injector timing and advance characteristics.
o. Part number(s).
3. General.
a. Fuel pump configuration and specifications.
b. Fuel control mechanisms and vents.
c. Altitude compensation type and calibration.
d. Idle speed specification and setting procedure.
e. Idle mixture specification and setting procedure.
f. Fuel rate at maximum horsepower (Diesel only).
g. Fuel rate at maximum torque (Diesel only).
VI. Ignition System.
1. General type and description of operation.
2. Basic initial timing.
3. Spark advance specifications.
4. Spark plug.
a. Heat range.
b. Gap.
c. Tip configuration.
5. Ignition wire material.
6. Dwell (if applicable).
7. Starting circuit description.
8. General compensating systems type and calibration.
9. Altitude compensating system.
10. Insulation and heat sink (if applicable) material.
11. Part number(s).
VII. Cooling System.
1. Thermostat calibration.
2. Capacity of coolant.
3. Water pump capacity.
VIII. Engine Accessories.
1. Air conditioning system description and usage.
2. Power steering system description and usage.
3. Power brakes system description and usage.
4. Power take-off component(s) description and usage.
5. Vacuum takeoffs.
IX. Exhaust Emission Control System.
1. System type (air injection, smoke control, EGR, etc.) and method of operation.
2. Component design and materials.
3. Location of component on vehicle.
4. Calibration of components.
5. Part number(s).
X. Evaporative Emission Control System.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibration of components.
5. Part number(s).
XI. Crankcase Emission Control System.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibration of components.
5. Part number(s).
XII. Auxiliary Emission Control Devices.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibration of components.
5. Part number(s).
XIII. Emission Control Related Warning Systems.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibrations of components.
5. Part number(s).
XIV. Driveline Parameters.
1. Torque convertor or clutch configuration and torque transfer performance.
2. Transmission.
a. Automatic gear ratios and shift speeds.
b. Semiautomatic and manual gear ratios.
3. Differential and transfer case.
a. Number of wheels driving vehicle.
b. Axle ratio.
c. Special features that cause any changes to the torque transfer characteristics and quantifications of the additional horsepower requirements (e.g. overdrive).
4. Tires.
a. Size.
b. Type.
5. Engine speed to vehicle speed relationship (N/V).
XV. Vehicle Parameters.
1. Model.
2. Inertia weight class.
3. Curb weight average for model.
4. Roadload horsepower requirements.
5. Engine location in vehicle.
6. Fuel tank(s) configuration and material.
7. Fuel line(s) and hose size (including restrictors) and routing.

B. Heavy Duty Engine Parameters and Specifications.
I. Basic Engine Parameters-Four Stroke Cycle Reciprocating Engines.
1. Cylinder bore center-to-center dimension.
2. Centerline of crankshaft to centerline of camshaft dimension.
3. Centerline of crankshaft to the top of the cylinder block head face dimension.
4. Cylinder block configuration and material (including liners if applicable).
5. Combustion cycle.
6. Method of aspiration.
7. Displacement.
8. Bore and stroke.
9. Number of cylinders.
10. Compression ratio.
11. Surface to volume ratio.
12. Type of cylinder head and material.
13. Combustion chamber configuration.
14. Intake port area and configuration at cylinder head and manifold mating surface.
15. Exhaust port area and configuration at cylinder head and manifold mating surface.
16. Valves.
a. Head diameter.
b. Type and material.
c. Seat angle and preparation.
d. Valve spring material and load.
e. Valve spring retainer and/or rotator configuration.
f. Valve stem seal type and material.
g. Location of valves.
h. Valve activation mechanism.
i. Number of valves per cylinder.
17. Intake manifold configuration and material.
18. Exhaust manifold configuration and material.
19. Piston and piston ring(s) configuration and material.
20. Exhaust system configuration and backpressure.
21. Camshaft timing.
a. Cam profile.
b. Valve overlap.
22. Advertised H.P. at RPM.
23. Advertised Torque at RPM.
24. Governor descriptions.
25. Supercharger description.
26. Precombustion chamber configuration and material.
II. Basic Engine Parameters—Two-Stroke Cycle Reciprocating Engines.
1–25. Same as section I.
26. Intake port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing in combustion cycle.
27. Exhaust port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing in combustion cycle.
28. Transfer port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing in combustion cycle.
29. Crankcase volume.
30. Precombustion chamber configuration and material.
III. Basic Engine Parameters—Rotary Engines.
1. Major axis dimension.
2. Minor axis dimension.
3. Eccentricity dimension.
4. Width of rotor housing dimension.
5. Generating radius dimension.
6. Intake port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing and overlap if exposed to combustion chamber.
7. Exhaust port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing and overlap if exposed to combustion chamber.
8. Housing configuration and material.
9. Combustion cycle.
10. Method of aspiration.
11. Number of spark plugs per rotor.
12. Displacement.
13. Rotor and seals.
a. Number of rotors and seals per rotor.
b. Configuration and seal retention.
c. Materials.
14. Compression ratio.
15. Surface to volume ratio.
16. Combustion chamber configuration.
17. Intake manifold configuration and material.
18. Exhaust manifold configuration and material.
19. Advertised H.P. at RPM.
20. Advertised Torque at RPM.
21. Exhaust system configuration and backpressure.

22. Governor description.
23. Supercharger description.
24. Precombustion chamber configuration and material.
IV. Air Inlet System.
1. Air cleaner type and configuration.
2. Air inlet temperature control system.
3. Inlet fresh air pick up method.
4. Maximum allowable restriction.
V. Fuel System.
1. Carburetion.
a. Number of carburetors.
b. Type.
c. Number of venturis per carburetor.
d. Venturi diameter.
e. Maximum air flow.
f. Fuel metering system type and calibration.
g. Enrichment system type and calibration.
h. Idle stop mechanism.
i. Starting system (e.g. choke).
j. Altitude compensation type and calibration.
k. Air-fuel flow specification (flow curve).
l. General compensation system type and calibration.
m. Component material.
n. Part number(s).
2. Fuel injection.
a. Control parameters.
b. Basic type (mechanical, electronic, timed, continuous).
c. Point of injection.
d. Maximum air flow.
e. Throttle mechanism type and calibration if applicable.
f. Fuel shutoff system type and calibration.
g. Cold start enrichment system type and calibration.
h. Enrichment system type and calibration.
i. Air-fuel flow specification (flow curve).
j. Altitude compensation type and calibration.
k. General compensation systems type and calibration.
l. Injector configuration and material.
m. Operating pressures.
n. Basic injector timing and advance characteristics.
o. Part number(s).
3. General.
a. Fuel pump configuration and specifications.
b. Fuel control mechanisms and vents.
c. Altitude compensation type and calibration.
d. Idle speed specification and setting procedure.
e. Idle mixture specification and setting procedure.
f. Fuel rate at maximum horsepower (Diesel only).
g. Fuel rate at maximum torque (Diesel only).
VI. Ignition System.
1. General type and description of operation.
2. Basic initial timing.
3. Spark advance specifications.
4. Spark plug.
a. Heat range.
b. Gap.
c. Tip configuration or glow plug.
5. Ignition wire material.
6. Dwell (if applicable).
7. Starting circuit description.
8. General compensating systems type and calibration.
9. Altitude compensating system.
10. Insulation and heat sink (if applicable) material.
11. Part number(s).
VII. Cooling System.
1. Thermostat calibration.
2. Capacity of coolant.
3. Water pump capacity.
VIII. Engine Accessories.
1. Air conditioning system description and usage.
2. Power steering system description and usage.
3. Power brakes system description and usage.
4. Power take-off component(s) description and usage.
5. Vacuum take offs.
IX. Exhaust Emission Control System.
1. System type (air injection, smoke control, EGR, etc.) and method of operation.
2. Component design and materials.
3. Location of component on vehicle.
4. Calibration of components.
5. Part Number(s).
X. Evaporative Emission Control System.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibration of components.
5. Part number(s).
XI. Crankcase Emission Control System.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibration of components.
5. Part number(s).
XII. Auxiliary Emission Control Devices.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibration of components.
5. Part number(s).
XIII. Emission Control Related Warning Systems.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibrations of components.
5. Part number(s).

[FR Doc.74-29754 Filed 12-20-74;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

### [ 47 CFR Part 73 ]

[Docket No. 19828; RM-1910, RM-2282 and Docket No. 19823; RM-2233]

### FM BROADCAST STATIONS IN CERTAIN CITIES IN MISSOURI

### Order To Show Cause Table of Assignments

1. The Commission has under consideration comments and reply comments filed in response to the notice of proposed rulemaking issued in this proceeding.[1] In the notice the Commission proposed the substitution of Class C Channel 293 for Channel 292A which is licensed to KLEX, Inc. (KLEX), Lexington, Missouri. KLEX, the proponent of this proposal, stated in its comments of November 23, 1973, that it "waives the waiting period and hearing requirements of section 316 of the Communications Act and agrees to accept a modification of its license to specify operation of KBEK (FM) on Channel 293 in lieu of Channel 292A". S & M Investments, Inc. (S & M), Liberty, Missouri, submitted a counterproposal proposing assignment of Channel 293 to Liberty and assignment of Class C Channel 297 to Lexington. KLEX has objected to S & M's counterproposal.

2. S & M's counterproposal would also require channel changes at Eldorado Springs and Butler, Missouri. Daryl Fredine, licensee of Station KESM-FM, Eldorado Springs, has consented to this change on condition that he be reimbursed for the expenses involved. Daryl Fredine has indicated that S & M has advised him that it will reimburse him for reasonable and necessary costs of this modification. The grant of a construction permit to Bates County Broadcasting Co. (Bates), Butler, Missouri, was made subject to the condition that Bates accept any modification requiring use of a channel other than the one presently assigned as a result of whatever action the Commission may take in the instant proceeding. As such, KLEX remains the only licensee whose channel may be changed by the S & M counterproposal who is due a formal notification of this possibility and its rights in this respect.

3. Although it is well settled Commission policy that the licensee of a station whose channel of operation is being modified is entitled to reimbursement for the actual cost of this modification from the party benefiting from it, this policy will not apply to KLEX in this proceeding because KLEX has petitioned for a Class C channel, and S & M's proposal would provide one even though different from the one requested.

4. *Accordingly, it is ordered,* That pursuant to section 316 of the Communications Act of 1934, as amended, KLEX Inc., licensee of Station KBEK(FM), Lexington, Missouri, shall show cause why its license should not be modified to specify operation on Channel 297 instead of Channel 292A if the Commission in this proceeding finds it in the public interest to delete Channel 292A from Lexington and to substitute Channel 297 in its place, and to modify the license of station KBEK(FM). KLEX Inc. would be entitled to no reimbursement for this change.

5. Pursuant to § 1.87 of the Commission's rules and regulations, the licensee of Station KBEK(FM), KLEX Inc., may, not later than January 22, 1975, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, KLEX Inc., may, not later than January 22, 1975, file a written statement showing with particularity why its license should not be modified as proposed in this order to show cause. In this case, the Commission may call on KLEX Inc., to furnish additional information, designate the matter for hearing, or issue without further proceedings, an order modifying the license as provided in the order to show cause. If the right to request a hearing is waived and no written statement is filed by the date referred

[1] Notice of proposed rule making, adopted September 19, 1973 (FCC 73.981, 38 FR 27303). The Commission also has before it a petition for reconsideration of its decision assigning Channel 288A to Butler, Missouri (44 F.C.C. 2d 782) filed by S & M Investments, Inc.

to above, KLEX Inc. will be deemed to consent to modification as proposed in the order to show cause and a final order will be issued by the Commission if the channel changes mentioned above are found to be in the public interest.

6. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), 303(r), and 316 of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules and regulations.

7. It is directed, that the Secretary of the Commission send a copy of this order by certified mail, return receipt requested, to KLEX, Inc., Lexington, Missouri, the party to whom the order to show cause is directed.

Adopted: December 5, 1974.

Released: December 16, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
*Chief, Broadcast Bureau.*

[FR Doc.74-29813 Filed 12-20-74;8:45 am]

# notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF STATE

[Public Notice CM-5/2]

### U.S. ADVISORY COMMISSION ON INTERNATIONAL EDUCATIONAL AND CULTURAL AFFAIRS

#### Meeting

The United States Advisory Commission on International Educational and Cultural Affairs will meet in open session on Tuesday, January 21, 1975, in Room 1205 of the Main State Department Building, 2201 C Street, NW., from 9:30 a.m. to 12 noon.

The agenda will include reports on:

1. The East-West Center;
2. The Government Advisory Committee on International Book and Library Programs;
3. The December 17–18 meeting of the Board of Foreign Scholarships;
4. The status of budget request of the Bureau of Educational and Cultural Affairs;
5. Discussion of a possible Commission initiative in the field of U.S.-Latin American educational and cultural exchanges;
6. Consideration of the report of the Panel on International Information, Education and Cultural Relations;
7. Consideration of the U.S. role in UNESCO, particularly as it relates to the Bureau of Educational and Cultural Affairs;
8. Discussion on subjects to be included in the Commission's annual report to Congress; and
9. Such new business that is brought to the attention of members.

For purposes of fulfilling building security requirements, anyone wishing to attend the open session must advise the Staff Director by telephone in advance of the meeting. Telephone: (202) 632–2764. Members of the public will be accommodated up to the seating capacity of the meeting room.

Dated: December 18, 1974.

WILLIAM E. WELD, Jr.,
*Staff Director,*
*Commission Secretariat.*

[FR Doc.74-29851 Filed 12-20-74;8:45 am]

## DEPARTMENT OF THE TREASURY

### Customs Service

[T.D. 75-4]

### FOREIGN CURRENCIES

#### Certification of Rates

DECEMBER 13, 1974.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372 (c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 74-264 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Austria schilling:

| | |
|---|---|
| Dec. 4, 1974 | $0.0562 |
| Dec. 5, 1974 | .0565 |
| Dec. 6, 1974 | .0566 |

Belgium franc:

| | |
|---|---|
| Dec. 4, 1974 | 0.026850 |
| Dec. 5, 1974 | .026900 |
| Dec. 6, 1974 | .026875 |

Germany deutsche mark:

| | |
|---|---|
| Dec. 2, 1974 | 0.4002 |
| Dec. 3, 1974 | .4000 |
| Dec. 4, 1974 | .4035 |
| Dec. 5, 1974 | .4050 |
| Dec. 6, 1974 | .4030 |

Netherlands guilder:

| | |
|---|---|
| Dec. 4, 1974 | 0.3894 |
| Dec. 5, 1974 | .3902 |
| Dec. 6, 1974 | .3894 |

Switzerland franc:

| | |
|---|---|
| Dec. 2, 1974 | 0.3645 |
| Dec. 3, 1974 | .3675 |
| Dec. 4, 1974 | .3733 |
| Dec. 5, 1974 | .3772 |
| Dec. 6, 1974 | .3750 |

[SEAL] JAMES D. COLEMAN,
*Acting Director,*
*Duty Assessment Division.*

[FR Doc.74-29841 Filed 12-20-74;8:45 am]

### Office of the Secretary

### DEBT MANAGEMENT ADVISORY COMMITTEES

#### Meetings and Determination

Notice is hereby given, pursuant to section 10 of Pub. L. 92-463, that meetings will be held in Washington on January 21 and 22, 1975, of the following debt management advisory committees:

American Bankers Association, Government Borrowing Committee.
Securities Industry Association, Government Securities and Federal Agencies Committee.

The agenda for the meetings will include briefings for the advisory committees by Treasury staff on current debt management problems on January 21, separate deliberations by the two committees on January 21, and separate reports to the Secretary of the Treasury and Treasury staff on the morning of January 22.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Pub. L. 92-463, and vested in me by Treasury Department Order 190, revised, I hereby determine that these meetings are concerned with information exempt from disclosure under section 552(b)(4) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees are utilized by this Department at meetings called by representatives of this office. When so utilized they are recognized to be advisory committees under Pub. L. 92-463. The advice provided consists of commercial and financial information given and received in confidence in order to avoid adverse effects of premature disclosure on the financial markets and the economy. As such these debt management advisory committee activities concern matters which fall within the exemption covered by section 552(b)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential".

The Special Assistant to the Secretary (Debt Management) shall be responsible for maintaining records of the meetings of these committees and for providing annual reports setting forth a summary of their activities and such other matters as may be informative to the public consistent with the provisions of 5 U.S.C. 552(b)(4).

Dated: December 17, 1974.

[SEAL] JACK F. BENNETT,
*Under Secretary for*
*Monetary Affairs.*

[FR Doc.74-29831 Filed 12-20-74;8:45 am]

### RADIAL BALL BEARINGS FROM JAPAN

#### Antidumping Proceeding

On November 20, 1974, information was received in proper form pursuant to § 153.26 and § 153.27, Customs regulations (19 CFR 153.26, 153.27), indicating a possibility that radial ball bearings, ex-

cluding those with integral shafts, with an outer diameter of 9 mm and over, but not over 100 mm, from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.). Radial ball bearings are used in various industrial equipment, including alternators and generators for cars, lawnmowers, various mechanical power transmission devices, electric motors, exhaust fans, transmissions for all types of civilian and military self-propelled vehicles, and other equipment.

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

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

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

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs regulations (19 CFR 153.30).

Dated: December 19, 1974.

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

[FR Doc.74-29884 Filed 12-20-74;8:45 am]

## DEPARTMENT OF DEFENSE

### Department of the Army

### CONTROL OF STARLINGS AND OTHER BLACKBIRDS AT ARMY INSTALLATIONS

### Intent To Prepare Environmental Impact Statement

DECEMBER 16, 1974.

The previous notice in the FEDERAL REGISTER of October 21, 1974, (39 FR 37402 Oct. 21, 1974) concerning control of blackbirds, Fort Campbell, Kentucky, and Milan Army Ammunition Plant, Tennessee is hereby revoked. Although not regarded a major federal action having a significant impact on the environment under the provisions of the National Environmental Policy Act, the Department of the Army is proceeding with the preparation of a Draft Environmental Impact Statement (DEIS) due to the divergence of opinion expressed by various individuals and organizations on the proposed action. The DEIS is expected to be available about December 23, 1974.

The proposed control program involves large starling and blackbird roosts on Army installations. Various methods of control are being considered. The proposed control program should arrest damage to the local agricultural economy, help reduce a source of delibitating disease and improve aviation safety. Should it be concluded that an environmentally acceptable control measure is feasible and that such a measure should be employed prior to the blackbirds leaving their roosts for their spring migration, accelerated review of the DEIS will be requested from interested agencies and organizations.

Advance requests for copies of the DEIS and suggestions for consideration in preparing the statement may be sent to Mr. Henry L. T. Koren, Deputy Under Secretary of the Army, Department of the Army, Washington, D.C. 20310 prior to December 20, 1974.

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

[FR Doc.74-29808 Filed 12-20-74;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### ALASKAN NATURAL GAS TRANSPORTATION SYSTEMS

### Additional Meetings

Notice is hereby given that public meetings will be held to obtain suggestions and comments on impacts of proposed systems for transporting natural gas from Alaska North Slope to the lower United States. Information on impacts will be considered in preparing the environmental impact statement. These meetings are in addition to the meetings which were announced in the FEDERAL REGISTER on December 11, 1974.

These meetings will be conducted by the Joint Interagency Task Force which is responsible for preparing that statement and which is composed of the Department of the Interior and the staff of the Federal Power Commission.

*Background.* The transportation of natural gas resources from the Arctic regions of northeast Alaska to markets in the lower United States is an issue of increasing national importance. In this regard, applications for natural gas pipeline right-of-way permits across Federal lands and certificates of public convenience and necessity authorizing the construction of natural gas transmission facilities have been received by the Department of the Interior and the Federal Power Commission in connection with proposed systems to deliver gas from northeast Alaska to the lower United States.

The Alaskan Arctic Gas Pipeline Company requested Federal permits and certificates to construct a pipeline for transportation of natural gas from the Prudhoe Bay area of Alaska. The proposed pipeline would cross northeast Alaska through the Arctic National Wildlife Range before crossing the international border and going south through Canada. Additional certificate applications have been filed with the Federal Power Commission by Interstate Transmission Associations and Northern Border Pipeline Company requesting Commission approval of related natural gas transmission systems which may be required to distribute the Alaskan Arctic gas throughout the United States. In this regard, additional permit applications are expected to be filed with the Department of the Interior.

The proposed system will consist of a main trunk line of 48-inch diameter located generally from Prudhoe Bay, approximately 2,600 miles to Caroline, Alberta. The main trunk will fork in the vicinity of Caroline, with 42-inch fork lines going to the area of Kingsgate, British Columbia (to the west), and Monchy, Saskatchewan (to the east). From these points, pipelines are expected to be generally located as follows:

1. From Kingsgate through Idaho, Washington, Oregon, and California to San Francisco;
2. From Kingsgate through Idaho, Washington, Oregon, Nevada and California to Los Angeles; and
3. From northern Montana through North Dakota, South Dakota, Minnesota, Iowa, Illinois, Indiana, Ohio, West Virginia to Pennsylvania.

El Paso Natural Gas Company has filed for certificates of public convenience and necessity to construct a natural gas pipeline system from Prudhoe Bay across Alaska on a north-south route ultimately delivering gas to the lower United States by cryogenic oceangoing tankers. The system is a 42-inch diameter line that would run generally from Prudhoe Bay southward following the Alyeska oil pipeline corridor, but with a port location near Point Cravina rather than at Valdez. At the terminus, the gas is to be liquefied and transported by cryogenic tankers to the west coast of the lower United States.

In response to these applications, the Federal Power Commission has responsibility for the evaluation and jurisdiction for the certification of the proposed transportation systems. The FPC staff, with the assistance of the Department of the Interior and others, is required to conduct a detailed independent analysis and prepare a detailed environmental statement. Because any pipeline involved will cross the public lands and other areas of Department of the Interior jurisdiction, and because permits or concurrences will be required for such crossings, Interior is directly involved in the proposed action and required to prepare a detailed environmental impact statement. In view of these considerations, it was agreed (May 1974) that FPC and Interior will assume joint responsibility for preparation of an environmental impact statement in order to most effectively and expeditiously assess the impacts.

MEETINGS

Meetings will be conducted at 10–11:30 a.m., 1:30–4:30 p.m., and 7:30–9 p.m., local time in the following locations:

Spokane, Washington
Federal Building, Room 695
West 920 Riverside
January 13, 1975

Bismarck, North Dakota
Holiday Inn, Far West Room

Memorial Highway
January 15, 1975
Reno, Nevada
Pioneer Motor Inn
221 South Virginia Street
January 15, 1975

The meetings will be open to the public with any individual invited to present a statement directed at environmental impacts. All statements received will be considered in the analysis of the environmental impacts but written comments are encouraged. Since the meetings are "information seeking" rather than "debate of merits of the proposals," the presiding officer will not permit cross questioning at the meeting.

Formal applications for the proposed gas transportation facilities are available for public inspection at the Department of the Interior, Washington, D.C.; the Federal Power Commission, Washington, D.C.; Office of the Special Assistant to the Secretary of the Interior, Chicago, Illinois; or the Bureau of Land Management Eastern States Office, Silver Spring, Maryland; Bureau of Land Management District Office, West 920 Riverside, Spokane, Washington 99201; U.S. Fish and Wildlife Service, Room 316, Federal Building, Bismarck, North Dakota.

The applications are also on file at the Bureau of Land Management State Office in each of those states in which gas transportation facilities have been proposed and at the Alaskan Gas Transportation System—EIS Task Force Offices which are listed below:

ALASKA TEAM LEADER

Alaskan Gas Transportation System—EIS Task Force
U.S. Department of the Interior
Bureau of Land Management
555 Cordova Street
Anchorage, Alaska 99501
Phone: 206/442-0150
Ask for: 907/277-1561

CANADIAN TEAM LEADER

Alaskan Gas Transportation System—EIS Task Force
United States Geological Survey
National Center, Mail Stop 106
Reston, Virginia 22092
Phone: 703/860-7491

WEST COAST TEAM LEADER

Alaskan Gas Transportation System—EIS Task Force
U.S. Department of the Interior
Bureau of Land Management
729 N.E. Oregon Street
Room 100
Portland, Oregon 97208
Phone: 503/234-3361—Ext. 4024

NORTHERN BORDER TEAM LEADER

Alaskan Gas Transportation System—EIS Task Force
U.S. Department of the Interior
Bureau of Land Management
715 Kipling Street
Lakewood, Colorado 80215
Phone: 303/234-4888

PROJECT MANAGER—BLM (302)

Alaskan Gas Transportation System—EIS Task Force
U.S. Department of the Interior
Bureau of Land Management
18th & C Streets, NW.
Room 1540
Washington, D.C. 20240
Phone: 202/343-4917

CURT BERKLUND,
*Director, Bureau of Land Management.*

DECEMBER 18, 1974.

[FR Doc.74-29876 Filed 12-20-74;8:45 am]

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## Fish and Wildlife Service

## ENDANGERED SPECIES PERMIT

### Notice of Application; Correction

On November 13, 1974, a notice was published in the FEDERAL REGISTER (39 FR 40044-48) that an application had been filed with the Fish and Wildlife Service, U.S. Department of the Interior, by the Patuxent Wildlife Research Center, U.S. Fish and Wildlife Service, Laurel, Maryland, for a permit relative to studies of endangered species.

Notice is hereby given that all references to Manatee, West Indian (Florida), (*Trichechus manatus*), are hereby deleted from this application.

Dated: December 17, 1974.

C. R. BAVIN,
*Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.*

[FR Doc.74-29804 Filed 12-20-74;8:45 am]

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## 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:*

Dr. James R. Dixon, Professor
Mark A. Staton, Ph.D., Graduate Student
Department of Wildlife and Fisheries Sciences
Texas A & M University
College Station, Texas 77843

INFORMATION SHEET

(1) Name and address:
Dr. James R. Dixon
Department of Wildlife and Fisheries Sciences
Texas A & M University
College Station, Texas 77843

(2) Institutional affiliation:
Chief Curator, Texas Cooperative Wildlife Collections; and
Professor of Wildlife and Fisheries Sciences
Texas A & M University

(3) We presently hope to conduct our research at the Murphree Wildlife Management Area, located adjacent to the southwest city limits of Port Arthur, Jefferson County, Texas; and, the Welder Wildlife Refuge, located seven miles NE of Sinton, San Patricio County, Texas.

(4) We are applying for this permit under Section 10(2) (Exceptions; permits) of the Endangered Species Act of 1973 (Pub. L. 93-205, 93rd Congress) [Included in September 4, 1974 letter].

(5) As supporting documents from authorized authorities, we include a copy of our original grant proposal and a letter from the Endangered Species Office and International Affairs which shows that the grant has been funded by them.

(6) 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.

(7) Desired effective date of permit: March 1, 1975 to March 1, 1977.

(8) Dated: September 4, 1974.

(9) Signature: James R. Dixon.

INFORMATION SHEET

(1) Name and Address:
Mark A. Staton
Department of Wildlife and Fisheries Sciences
Texas A & M University
College Station, Texas 77843

(2) Institutional affiliation:
Ph.D. Graduate Student'
Texas A & M University
Department of Wildlife and Fisheries Sciences

(3) We presently hope to conduct our research at the Murphree Wildlife Management Area, located adjacent to the southwest city limits of Port Arthur, Jefferson County, Texas; and, the Welder Wildlife Refuge, located seven miles NE of Sinton, San Patricio County, Texas.

(4) We are applying for this permit under Section 20(2) (Exceptions; permits) of the Endangered Species Act of 1973 (Pub. L. 93-205, 93rd Congress) [Included in September 4, 1974 letter].

(5) As supporting documents from authorized authorities, we include a copy of our original grant proposal and a letter from the Endangered Species Office and International Affairs which shows that the grant has been funded by them.

(6) 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.

(7) Desired effective date of permit: March 1, 1975 to March 1, 1977.

(8) Date: September 4, 1974.

(9) Signature: Mark A. Staton.

### CONTRACTS FOR RESEARCH STUDIES ON SURVIVORSHIP OF ALLIGATORS THROUGH THEIR FIRST YEAR AND ONE-HALF OF LIFE

This contract entered into pursuant to the authority under the Federal Property and Administrative Services Act of 1949, as amended, section 302(c)(5) and the Fish and Wildlife Act of 1956, 70 Stat. 119 (16 U.S.C. 742 d and f), this 25th day of June 1974, between the United States of America, acting through the authorized Contracting Officer of the Fish and Wildlife Service, Department of the Interior (hereinafter called the Service) and the Texas A&M University (hereinafter called the Contractor).

Witnesseth: The Parties hereto do mutually agree to the conduct of the work pursuant to the General Provisions attached hereto and made a part hereof as follows:

1. *Description of Work.* The Contractor will undertake research studies on survivorship of Alligators through their first year and one-half of life, as more particularly set forth in the Contractor's proposal attached hereto and made a part hereof.

2. *Cost.* $12,684.
3. *Overhead.* (15%)
4. *Period of Performance.* June 26, 1974 through June 30, 1976.
5. *Project Officer.* Dr. Howard Campbell, National Fish and Wildlife Lab., 2820 East University Avenue, Gainesville, Florida.
6. *Equal Employment Opportunity.* The attached Form 3-176, entitled Equal Opportunity in Employment, is made a part of this contract.

In witness thereof, the Parties hereto have executed this contract as of the day and month and year first above written.

Texas Agricultural Experiment Station

TEXAS A&M UNIVERSITY

By: Williams.
Title: President.
Date: July 8, 1974.

THE UNITED STATES OF AMERICA

By: Leland H. Barrineau,
*Contracting Officer,*
*Fish and Wildlife Service.*

A PROPOSAL FOR A STUDY OF YOUNG ALLIGATORS

submitted to

Chief

Endangered Species Office and International Affairs

Washington, D.C.

proposed title:

SURVIVORSHIP OF ALLIGATORS THROUGH THEIR FIRST YEAR AND ONE-HALF OF LIFE

by

Dr. James R. Dixon

and

Mark A. Staton

*Main objectives.*

I. To determine the survivorship of young alligators through their first summer, first winter, and second summer of life;
II. To determine the overwintering habits of the first-year alligators.

*Historical summary of the problem.*

The American alligator, *Alligator mississipiensis,* is a rare and endangered species over most of its geographical range; this is so largely because of the commercial value of this reptile's hide, which has encouraged much poaching. Despite its commercial value, despite the fact that it is an endangered species, and despite the regrettable fact that it is among a small group of survivors of the subclass of reptiles that once ruled the face of the earth. Very little objective scientific information is available on the young of this animal to people who are trying to propagate this species and to prevent it from becoming extinct.

The literature available on alligators during their first year and one-half of life is confusing, clearly contradictory, and for all practical purposes, never quantitative. The food habits of the American alligator were studied by Kellogg (1929). However, the sample used by this researcher were severely biased since more than 95 percent of his animals were from the salt marshes of Louisiana where food is atypical for most other members of the species. Even more detrimental is the fact that no attention was paid to differential predation by size class; in addition, no attention was given to the fact that much of this food could have been secondarily ingested (Neill, 1971). Neill (1971) suggests crayfish as a food item for the young alligator, but does not volunteer other suggestions; needless to say, there is no quantitative information on the subject.

There is some useful information on predation on young alligators. Neill (1971) lists the great blue heron, raccoon, black bear, cottonmouth mocassin, and introduced wild hog as predators of the young alligator. Various hawks, eagles, snapping turtles, and frogs of the genus *Rana* were also mentioned by Neill as possible predators. LeBuff (1957) adds otters, skunks, and adult alligators from six to fourteen feet in length to this list. LeBuff states: "* * * undoubtedly the alligator should rank relatively high in the list of the hatchling's enemies." As will be noted below, this is in sharp contrast to what most other authors report. Undoubtedly, other predators of young alligators exist, such as largemouth bass, water snakes, and other carnivorous vertebrates.

LeBuff's statement concerning cannibalism by alligators is contrary to the reports of other authors that the adult alligator (usually considered to be the mother of the young) actually protects them; some authors claim this period of maternal care to be up to three years long. Protection by the mother or by any adult of the species would of course be a great positive factor in the survivorship of the alligator during its first year of life, a very critical period of the life history of this animal. It is at this stage that alligators are most likely to undergo heavy predation, and the environmental extremes in temperature (especially during winter) would place a great stress on the species. Thus adult (parental or nonparental) care in the form of protection from predators, or in the form of providing an overwintering den site, would contribute greatly to the survivorship of the young and to the survival of the species as a whole. However, the literature concerning this aspect of the life history of this animal is totally confusing and chaotic. The following quotes from the literature will suffice to demonstrate this point.

From McIlhenny's (1935) book on the life history of the alligator, we get the following information:

"As soon as the young are hatched, they are led by the mother to her den, which is usually in a secluded pool in the wet prairie or the head of some small bayou. The young remain with, and are guarded by, the mother from the time of hatching all through the winter, and until the next spring's mating season. At this time the female wanders off in search of a mate, and the young, being then about sixteen or eighteen inches in length and well able to take care of themselves, spread over the surrounding marshes and bayous."

Others, such as Goin and Goin (1971) and Oliver (1955) have apparently cited McIlhenny. Viosca (1960) feels that the maternal care is even more longlasting:

"Young alligators seem to stay in the feeding area guarded by their mother for as long as three and a half years. I have evidence of a mother, father, and three generations of young hibernating together in a single water hole. Similar reports from professional alligator hunters seem to bear this out. Most of the young will have wandered away by the fourth year, when their length is between three and a half and four feet."

However, Neill's (1971) observations on the alligator are quite the opposite of those of McIlhenny and Viosca. Neill agrees that the adult alligator does protect the young of the species; however, Neill asserts that any adult will protect young which happens to be in its territory, and therefore, the protection is not necessarily maternal. According to Neill, such protection is given when the young sounds its "distress call"; McIlhenny does not mention the distress call, saying that the adult will respond to the regular "umph" of the young which it sounds in case of danger. Neill states:

"The adult's reaction to the distress call is the only direct interaction between adult and juvenile alliagtors. Except when reacting to the distress call, the adults ignore the juveniles competely, as far as one can judge from overt responses of the adult."

In contrast to this are the following observations by McIlhenny and by Kushlan (1973).

"I have seen mother alligators catch large fish, large snakes, and turtles in their jaws and crush them to a pulp, holding them at the surface of the water between their jaws, so that the young could gather bits of food from the crushed flesh." (McIlhenny, 1935)

"On 18 August a number of juveniles still at the nest site were captured and used to test the response of the mother to the juvenile distress cry. While the female was floating in the water next to the roadbed, I held a juvenile 1 m above the ground and elicited distress cries by squeezing it. The mother moved quickly out of the water and climbed up the bank, a distance of 3 m. At this point I immediately released the juvenile. In direct and deliberate motions, the female then turned her head sideways, opened her jaws, picked up the juvenile with the side of her mouth, and with a jerk of her head positioned it on the bottom of her mouth in front of her tongue. The female remained on the roadbed for several minutes holding her mouth agape by about 3 cm and then backed down into the water. She remained there for several minutes more, then increased her gape slightly and the juvenile swam out." (Kushlan, 1973)

With regard to overwintering, Neill states that the adults do not provide an overwintering den site for the young. Instead,

"Dispersal takes place so soon after hatchling that, even in captivity, one rarely has a chance to see a brood while more than a few of its members are still together. * * * Ignoring aggregation that is forced by low water, in most areas the herpetologist will see an aggregation of hatchlings only if he is fortunate enough to be on hand in the first hour or two after hatching."

LeBuff (1957) agrees with Neill on this matter:

Upon emergence from their thin-shelled prison the young head directly toward the nearest water which is not a carefully planned "playground" but the shoreline of the pond, lake, or stream nearest their nest. They go immediately to the shallow waters bordering their possible future habitat.

However, Neill and LeBuff do not agree on the matter of predation by adults on young alligators.

Numerous other contradictions in the literature concerning the life history of these young alligators could be cited. The question of whether the female opens the nest for the young at the time of their emergence from that nest is a good example. Another serious fault of the information on young alligators is its total lack of quantitative data. Perhaps the most quantitative information available on any aspect of the life history of young alligators is the statement by Neill (1971) concerning survivorship:

"Studies in Georgia revealed that the number of hatchlings present in a lake or a sharply delimited expanse of low flatwoods was reduced by about nine-tenths between the end of the hatching season and the beginning of the following active season. These observations were made at fairly undisturbed localities, and at a time when hatchling alligators were not collected by man. The decimation of hatchlings was a result of natural hazards and perhaps innate defects."

Neill does not state if this information is published (and if so, where), and a rundown of the literature cited by Neill in this

particular part of his text is equally unrevealing as to its source. However, Neill surely does not expect this statement to be of any value in describing the demography of these young alligators since no idea of the sample size involved is given; in addition, the localities involved are not given (which would allow an evaluation of how "undisturbed" the localities were). In stating that the study was done at a time when there was no predation by man on the young, Neill almost implies that there might have been hunting of the adults by man. If there is much parental care given to the young as claimed by many other authors, then the hunting of the adults would certainly have been detrimental to the first-year alligators.

Thus information on the survivorship (or mortality) of alligators during their hatching year is virtually nonexistent, and a study of the matter is merited. Ted Joanen of the Louisiana Wild Life and Fisheries Commission, who has for over ten years been doing research on these animals in order to propagate the alligator in captivity and manage their populations, has assured me that information on mortality during their hatching year is needed and would prove useful in the management scheme (pers. comm., August, 1973).

Thus, we offer a preliminary outline of the proposed study herein.

*Methods and materials.* The site for the study has not been selected and will be dependent upon the amount allocated for transportation and supplies. Ideally, the study area would be inhabited by a population of alligators large enough so that young from a minimum of ten to twenty nests could be studied. It would also be worthwhile to have two study areas with as great a latitudinal difference in location as possible so that differences in the overwintering habits due to differences in the severity of the winter might be discovered; again, this would be dependent upon allocations for travel and supplies.

A. *Survivorship.* To determine survivorship of young in the alligator population (or populations) studied, the alligators will be marked in two ways—by toe clipping and by color-coded markers. Various combinations of toes clipped will allow for marking of many more animals than will actually be involved in the study. Combinations of two markers of different color (as many different colors as necessary could be used) will also allow for marking and later identification of nest mates. These markers would consist of small, soft plastic strips, which would not stand out conspicuously and thereby possibly increase natural predation on the animals; in addition, the animals could be identified without being handled. This is the main purpose for having two marking systems. Most authors agree that the behavior of crocodilians can be changed by man's intereference with their activities (for example see McIlhenny, 1935, Bustard, 1968, and Neill, 1971). Since toe clipping will necessarily involve handling the animals, the color-coded marker system will allow an evaluation of the effect of handling on their behavior and, consequently, even their survivorship. If more than one population is studied, then both systems would be used at each study area.

Sampling of the population at different intervals of the first year and one-half will help to determine the numbers of alligators present, thus giving an idea of when predation is highest and of the losses incurred over winter.

B. *Overwintering Habits.* The literature is totally contradictory about the overwintering habits of young alligators, and the first winter could be a negative influence on the survivorship of young alligators, thus an examination of its overwintering activities is necessary. This will involve many field observations. The methods we propose in this portion of the study are: (1) Radioactive transmitters (tantalum); (2) radio transmitters (sonar). Radio transmitters will be placed on various mother alligators shortly before the hibernation period begins, thus allowing us to trace them to their dens, and be able to monitor her activities during the winter. The radioactive tracers placed in selected young from different nests will allow the field worker to know if there are young denning up with the mother for the winter. If such is the case, examination of the den and identification of the young by its mark (color-coded marker or toes clipped) will allow the determination of the overwintering relationships between adults and young of the population. In addition, observations of winter basking by the young would indicate whether the young use the same den after basking, the distance from the den they might move, and if indeed an adult's den site is always, sometimes, or never used.

Although a determination of survivorship and overwintering behavior will be the main objectives of this study, the field work will undoubtedly result in other observations on the life history and demography of the young as well as the adult alligators. For example, den site of the young and seasonal variations in density will be calculated. Observational data on predation, feeding, and behavior will also be taken. Thus, this study would provide essential information about this unique endangered species of reptile which will be useful in preventing it from becoming extinct.

Budget:

| Item | 1st year | 2d year | Total |
|---|---|---|---|
| Salary for 1 MS Student ($350 per month) | $4,200.00 | $4,200.00 | $8,400.00 |
| Equipment [1] | 800.00 | 200.00 | 1,000.00 |
| Transportation (summer and winter trips to study area and other alligator localities) | 500.00 | 500.00 | 1,000.00 |
| Subtotal | 5,700.00 | 5,100.00 | 10,800.00 |
| Overhead (15 percent) | | | 1,670.00 |
| Total | | | 12,470.00 |

[1] Radio transmitters, receivers, and radioisotopes.

LITERATURE CITED


Bustard, H. R. 1968. Rapid learning in wild crocodiles. Herpetologica 24(2): 173–175.

Goin, C. J. and O. B. Goin. 1971. Introduction to herpetology. W. H. Freeman and Co., San Francisco.

Joanen, J. 1973. Personal communication (letter, August, 1973).

Kellogg, R. 1929. The habits and economic importance of alligators. U.S. Department of Agriculture, Technical Bulletin No. 147.

Kushlan, J. A. 1973. Observations on maternal behavior in the American alligator, *Alligator mississippiensis*. Herpetologica 29(3): 256–257.

LeBuff, C. R., Jr. 1957. Observations on captive and wild North American crocodilians. Herpetologica 13(1): 25–28.

McIlhenny, E. A. 1935. The alligator's life history. Christopher Publishing House, Boston.

Neill, W. T. 1971. The last of the ruling reptile, alligators, crocodiles, and their kin. Columbia Univ. Press, New York.

Oliver, J. A. 1955. The natural history of North American amphibians and reptiles. D. Van Nostrand Co., Princeton, N.J.

Viosca, P., Jr. 1960. The sun worshiper. Louisiana Conservationist, April, 1960.


NOTE: The literature cited section of Neill's 1971 book on the crocodilians is supposedly complete and was used in the preparation of this paper. In addition, the bibliographies of the many publications by Joanen and Albert M. Reese, as well as many other papers in our possession were used to search the literature for pertinent information. The Zoological Record and Biological Abstracts were also used. Therefore, we feel that the information herein is representative of the information available on the young of alligators and that the complete bibliography will yield only a minimum of additional information to that enclosed.

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 January 22, 1975, will be considered.

Dated: December 17, 1974.

C. R. BAVIN,
*Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.*

[FR Doc.74–29805 Filed 12–20–74;8:45 am]

## MARINE MAMMAL PERMIT

### Receipt of Application

Notice is hereby given that the following application for a permit has been received under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407).

*Applicant:*

Jack W. Lentfer
U.S. Fish and Wildlife Service
813 D Street
Anchorage, Alaska 99501

Date: November 7, 1974.

To: Director, U.S. Fish & Wildlife Service, Washington, D.C.

From: Leader, Polar Bear Project, Research Division, U.S. Fish and Wildlife Service, Anchorage, AK.

Subject: Permit Application.

Enclosed is an application for a polar bear research permit as required by the Marine Mammal Act.

JACK W. LENTFER.

APPLICATION FOR POLAR BEAR RESEARCH PERMIT AS REQUIRED BY MARINE MAMMAL PROTECTION ACT OF 1972

Information required by 50 CFR 13.12.

1. Applicant's name, address, and phone number: Jack W. Lentfer, U.S. Fish and Wildlife Service, 813 D Street, Anchorage, Alaska 99501, Phone 907–265–4898.

2. Date of birth: May 13, 1931. Height: 6'1". Weight: 170 lbs. Color of Hair: Light. Color of Eyes: Blue. Sex: Male. Affiliation: Leader, Polar Bear Project, U.S. Fish and Wildlife Service.

3. Agency Director: Lynn A. Greenwalt, Director, U.S. Fish and Wildlife Service, Washington, D.C.

4. Location of Activity: North and northwest Alaska coast, Beaufort and Chukchi Seas, and Wrangel Island.

5. Information required by 50 CFR 18.31 for marine mammal research permit:

(1) Purpose: To provide for immobilization of polar bears in order to examine for marks or mark, and obtain biological specimens and data.

Dates of taking: March 1, 1975 through February 28, 1978.

Location and manner of taking: Field operations will be conducted from Pt. Hope, Pt. Barrow, Oliktok, and Barter Island, Alaska; Wrangel Island, U.S.S.R.; and AID JEX drifting ice stations in the Beaufort Sea. Bears other than cubs will be immobilized by injecting 1.6 milligrams per kilogram body weight of the immobilizing drug Sernylan (phencyclidine hydrochloride) and .07–.11 milligram per kilogram body weight of the tranquilizing drug Acepromazine into a large rump muscle with a syringe gun. Cubs will be handled without drugs. Most bears will be immobilized from a helicopter; possibly a few will be immobilized from the ground. Bears become immobile within 7 to 20 minutes and remain immobile for 2 to 5 hours. Bears will be marked for long-term identification with ear tags and a lip tattoo and for short-term identification from a distance with a number dyed on the fur. A veterinary tooth extractor will be used to remove a rudimentary premolar tooth approximately 8 millimeters long. Vacutainer syringes will be used to obtain blood samples from the femoral vein. Milk will be obtained by manual extrusion of mammae. Techniques for immobilizing and handling animals are judged to be safe; the attempted temporary immobilization of 659 polar bears by Alaskan researchers has resulted in deaths of only 5 animals. Experience which has been gained will reduce the mortality rate in the future.

(2) Stocks, numbers and products to be taken, weights, ages, sizes, sex, and condition: Bears captured west and south of Point Lay, Alaska belong to one subpopulation, and bears captured north and east of Point Lay belong to another subpopulation. Relationships of these bears to Canadian and Siberian populations are not known. Sizes of Alaskan populations are not known. Up to 800 animals will be immobilized over a period of 3 years. A rudimentary premolar tooth and blood sample will be taken from most animals and a milk sample will be taken from lactating females. Both sexes and all age classes of bears will be immobilized. Ages will range from 4 months to 25 years. Weights will range from 15 to 1,400 pounds. No mortalities are expected, but to cover contingencies, authorization is requested to possess carcasses of any bears killed accidentally during immobilizing procedures.

(3) Methods of transport and holding: Not applicable.

(4) Description of research project: The Alaska polar bear research program includes studies of population discreteness, movement patterns, seasonal distribution and abundance, reproductive biology, and effects of human development on populations. Much of the information is obtained by immobilizing animals. Flights to locate animals for immobilization provide data on distribution and abundance of bears in relation to ice type and in relation to distribution of seals, their principal food. Examination of immobilized animals provides data on sex and age composition and reproductive biology. Marking and recovering animals provides data on movements. All studies contribute to a better understanding of life history and ecology and aid in evaluating effects of human development on populations. Studies are part of a cooperative program with Canada and Russia. The Alaska Department of Fish and Game and the U.S. Fish and Wildlife Service have now marked more than 650 bears. The Canadian Wildlife Service has marked approximately 300 bears adjacent to northwestern Canada, and the Russians are marking bears on Wrangel Island in northwestern Russia.

Cementum layering in premolar teeth will provide estimates of age for individual animals. Electrophoretic analysis of blood will aid in assessing population discreteness. Milk samples will aid in assessing population discreteness and determining levels of environmental contaminants in a top trophic level Arctic carnivore.

Data will be used for annual Department of Interior status reports required by the Marine Mammal Act, and for evaluation of a management program proposed by the State of Alaska. The studies are part of an international research effort coordinated by the Polar Bear Specialist Group associated with the International Union for the Conservation of Nature. Studies partially fulfill research obligations of the U.S.–U.S.S.R. Environmental Protection Agreement and the International Polar Bear Agreement prepared at Oslo, Norway in November 1973. Data will be made available to the Alaska Department of fish and game and polar bear management and research agencies in other countries.

6. Documentation for importation from foreign country: 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: March 1, 1975–February 28, 1978.

9. Date of application: November 7, 1974.

10. Signature of applicant:

JACK W. LENTFER.

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 January 22, 1975, will be considered.

Dated: December 17, 1974.

C. R. BAVIN,
*Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.*

[FR Doc.74-29806 Filed 12-20-74;8:45 am]

## National Park Service

### ISLE ROYALE SEAPLANE SERVICE

### Intention To Issue Concession Permit

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before January 22, 1975, the Department of the Interior, through the Superintendent, Isle Royale National Park, proposes to issue a concession permit to Clarence J. Grognet, doing business as Isle Royale Seaplane Service, authorizing it to provide air transportation of passengers and freight for the public, and to use certain Government-owned docks and fueling facilities located in Isle Royale National Park, for a period of five years from January 1, 1975 through December 31, 1979.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the human environment, and that it is not a major Federal action under the National Environmental Policy Act and the guidelines of the Council on Environmental Quality. The environmental assessment may be reviewed in the Midwest Regional Office, 1709 Jackson Street, Omaha, Nebraska 68102, and the Office of the Superintendent, 87 N. Ripley Street, Houghton, Michigan 49931.

The foregoing concessioner has performed its obligations under an existing permit to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the issuance of a new permit. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before January 22, 1975.

Interested parties should contact the Superintendent, Isle Royale National Park, 87 North Ripley Street, Houghton, Michigan 49931, for information as to the requirements of the proposed permit.

Dated: November 18, 1974.

HUGH P. BEATTIE,
*Superintendent.*

[FR Doc.74-29830 Filed 12-20-74;8:45 am]

### NOAH RECTOR AND PHILLIP MOSS

### Intention To Issue Concession Permit

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on January 22, 1975, the Department of the Interior, through the Superintendent, Ozark National Scenic Riverways, proposes to issue a concession permit to Noah Rector and Phillip Moss, authorizing them to provide concession facilities and service for the public at Ozark National Scenic Riverways for a period of two (2) years from December 31, 1974 through December 31, 1976.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the human environment, and that it is not a major Federal action under the National Environmental Policy Act and the guidelines of the Council on Environmental Quality. The environmental assessment may be reviewed in the Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebraska and the Headquarters of the Ozark National Scenic Riverways, Van Buren, Missouri.

The foregoing concessioner has performed its obligations under the expired permit to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be

given preference in the renewal of the permit and in negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before January 22, 1975.

Interested parties should contact the Superintendent, Ozark National Scenic Riverways, for information as to the requirements of the proposed permit.

RANDALL R. POPE,
*Superintendent.*

NOVEMBER 14, 1974.

[FR Doc.74-29829 Filed 12-20-74;8:45 am]

## INDEPENDENCE NATIONAL HISTORICAL PARK ADVISORY COMMISSION

### Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Independence National Historical Park Advisory Commission will be held at 10:30 a.m. on January 9, 1975, at 313 Walnut Street, Philadelphia, Pennsylvania.

The Commission was established by Pub. L. 80-795 to render advice on such matters relating to the park as may from time to time be referred to them for consideration.

The members of the Commission are as follows:

Mr. Arthur C. Kaufmann (Chairman)
Mr. John P. Bracken
Hon. Michael J. Bradley
Hon. James A. Byrne
Mr. Filindo B. Masino
Mr. Frank C. P. McGlinn
Mr. John B. O'Hara
Mr. Howard D. Rosengarten
Mr. Charles R. Tyson

The matters to be considered at this meeting include:

1. Chestnut Street Mall project.
2. Independence Mall planning for Bicentennial.
3. Memorial for the late Judge Edwin O. Lewis.
4. Area F.
5. Superintendent's Report.

The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed. Persons desiring further information concerning this meeting, or who wish to submit written statements, may contact Hobart G. Cawood, Superintendent, Independence National Historical Park, Philadelphia, Pennsylvania, at Area Code 215, 597-7120.

Minutes of the meeting shall be available for inspection two weeks after the meeting at the office of the Independence National Historical Park, 313 Walnut Street, Philadelphia, Pennsylvania.

Dated: December 10, 1974.

CHESTER L. BROOKS,
*Regional Director, Mid-Atlantic Region, National Park Service.*

[FR Doc.74-29757 Filed 12-20-74;8:45 am]

## WESTERN REGIONAL ADVISORY COMMITTEE

### Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a field trip and public meeting of the Western Regional Advisory Committee will be held in Hawaii. The field trip will begin on January 13, 1975 in Hilo, Hawaii and end on January 17, 1975 in Honolulu, Hawaii. A public meeting will be held at 9:00 a.m. HST on January 18, 1975 in the conference room of the Waikiki Beachcomber Hotel, 2300 Kalakaua Avenue, Honolulu, Hawaii.

The purpose of the Western Regional Advisory Committee is to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on programs and problems pertinent to the Western Region of the National Park Service.

The members of the Advisory Committee are as follows:

Lewis S. Eaton, Fresno, California (Chairman)
Ben Avery, Phoenix, Arizona
David W. Ballie, Jr., Lihue, Kauai, Hawaii
Ed Fike, Las Vegas, Nevada
Bernard Fontana, Tucson, Arizona
Jean Ford, Las Vegas, Nevada
James Hooper, Crescent City, California
Jack Walston, San Francisco, California
Todd Watkins, Bishop, California

The matters of general discussion by the public and the committee will be the four currently established National Park Service areas in Hawaii:

(1) City of Refuge National Historical Park.
(2) Haleakala National Park.
(3) Hawaii Volcanoes National Park.
(4) Puukohola Heiau National Historic Site.

Other general discussion items will be on park studies:

(1) Honokohau.
(2) U.S.S. Arizona Memorial.

The field trip will provide the committee with an onsite orientation of the programs and problems pertinent to the above listed areas.

The meeting will be open to the public. Any member of the public will also be able to file, with the committee, a written statement concerning the matters to be discussed.

Due to a lack of space, only the Advisory Committee members and associated National Park Service personnel will be provided transportation for the field trip.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact Ray C. Foust, Executive Assistant to the Regional Director, Western Regional Office at (415) 556-8227.

Minutes of the meeting will be available for public inspection eight weeks after the meeting at the Western Regional Office, National Park Service, 450 Golden Gate Avenue, San Francisco, California.

Dated: December 12, 1974.

HOWARD H. CHAPMAN,
*Regional Director, Western Region, National Park Service.*

[FR Doc.74-29758 Filed 12-20-74;8:45 am]

## Office of the Secretary

## FEDERAL METAL AND NONMETAL MINE SAFETY ADVISORY COMMITTEE

### Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the Federal Metal and Nonmetal Mine Safety Advisory Committee, authorized to be established under the Federal Metal and Nonmetallic Mine Safety Act (Pub. L. 89-577), will meet on Wednesday—January 29, Thursday—January 30, and Friday—January 31, 1975, starting at 8:30 a.m. each day until the Advisory Committee concludes its business, at the Braniff Place Tucson, 180 West Broadway, Tucson, Arizona 85701—Telephone Number: Area Code 602-624-8711.

The matters to be discussed at this meeting include suggested new and revised safety standards which are carried over from the October 30-31, 1974, and November 1, 1974, meeting of the Advisory Committee held in Denver, Colorado. These standards relate to the "second escapeway" standard, electricity, and gassy mines. A final review will be made of the actions taken by the Advisory Committee on safety standards relating to man hoisting and a definition and safety standard relating to kelly bars and the use of explosives. In addition the agenda will consist of suggested new and revised health and safety standards and definitions relating to fire prevention and control; air quality, ventilation, radiation and physical agents; personal protection; miscellaneous standards concerning housekeeping, protruding nails, caution signs and caution labels; and, the addition of a new section which will be designated "Sanitation" which includes four standards concerning change rooms, drinking water, food storage and receptacles, and expectorating. Copies of the agenda and the suggested standards are available for the public and may be obtained from or may be examined in the office of the Executive Secretary.

The meeting of the Advisory Committee is open to the public. Public attendance will be limited to seating available in the meeting room of the Braniff Place Tucson. Persons desiring to attend this meeting are requested to notify the Executive Secretary in writing of their intention to attend the meeting by Wednesday, January 22, 1975.

Written data, views or arguments concerning the subjects to be considered may be filed with the Executive Secretary by Wednesday, January 22, 1975. Any such submission, timely received, will be provided to the members of the Advisory Committee and will be included in the record of the meeting. Persons wishing to orally address the committee at the meeting should submit a written request to be heard to the Executive Secretary no later than Wednesday, January 22, 1975. The request must contain a short summary of the intended presentation and an estimate of the amount of time that will be needed. At the meeting the Chairman will announce whether oral presentations will be allowed and, if so, under what conditions.

All written notices and requests to the Executive Secretary should be addressed as follows:

Mr. Robin A. Van Meter
Executive Secretary
Federal Metal and Nonmetal Mine Safety Advisory Committee
Room 2517
U.S. Department of the Interior
Washington, D.C. 20240
Telephone Number: Area Code 202–343–4405

Dated: December 18, 1974.

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

[FR Doc.74–29962 Filed 12–20–74;8:45 am]

[INT FES 74–66]

## PROPOSED CRESCENT LAKE WILDERNESS AREA

### Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91–190, the Department of the Interior has prepared a Final Environmental Statement for the Proposed Crescent Lake Wilderness Area, Garden County, Nebraska.

The proposal recommends that approximately 24,502 acres of the Crescent Lake National Wildlife Refuge in Garden County, Nebraska be designated as wilderness within the National Wilderness Preservation System.

Copies of the Final Statement are available for inspection at the following locations:

Regional Director
Federal Building, Fort Snelling
Room 630
Twin Cities, Minnesota 55111

Refuge Manager
Star Route 69368
Ellsworth, Nebraska 69340

U.S. Fish and Wildlife Service
Office of Environmental Coordination
Department of the Interior
Room 2252
18th and C Streets, NW.
Washington, D.C. 20240

Single copies may be obtained by writing the Chief, Office of Environmental Coordination, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Dated: December 17, 1974.

STANLEY D. DOREMUS,
*Deputy Assistant Secretary of the Interior.*

[FR Doc.74–29834 Filed 12–20–74;8:45 am]

## PROPOSED VALENTINE WILDERNESS AREA

[INT FES 74–67]

### Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91–190, the Department of the Interior has prepared a Final Environmental Statement for the Proposed Valentine Wilderness Area, Cherry County, Nebraska.

The proposal recommends that approximately 16,317 acres of the Valentine National Wildlife Refuge in Cherry County, Nebraska be designated as wilderness within the National Wilderness Preservation System.

Copies of the Final Statement are available for inspection at the following locations:

Regional Director
Federal Building, Fort Snelling
Room 630
Twin Cities, Minnesota 55111

Refuge Manager
Hidden Timber Star Route
Valentine, Nebraska 69201

U.S. Fish and Wildlife Service
Office of Environmental Coordination
Department of the Interior
Room 2252
18th and C Streets, NW.
Washington, D.C. 20240

Single copies may be obtained by writing the Chief, Office of Environmental Coordination, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Dated: December 17, 1974.

STANLEY D. DOREMUS,
*Deputy Assistant Secretary of the Interior.*

[FR Doc.74–29833 Filed 12–20–74;8:45 am]

[INT FES 74–68]

## PROPOSED YUKON FLATS NATIONAL WILDLIFE REFUGE, ALASKA

### Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the proposed Yukon Flats National Wildlife Refuge in Alaska. The proposal is made in accordance with the Alaska Native Claims Settlement Act of 1971. The environmental statement considers the legislative establishment of the Yukon Flats National Wildlife Refuge and its management by the agency indicated below.

Proposal recommends that: Approximately 3.59 million acres of public lands and waters in northeast Alaska be designated by Congress as the Yukon Flats National Wildlife Refuge.

Management by: Fish and Wildlife Service.

The final environmental statement is available for inspection at the following locations:

North Atlantic Regional Office
National Park Service
150 Causeway Street
Boston, Massachusetts 02114

Southeast Regional Office
National Park Service
3401 Whipple Avenue
Atlanta, Georgia 30344

Rocky Mountain Regional Office
National Park Service
645–655 Parfet Avenue
Denver, Colorado 80215

Western Regional Office
National Park Service
450 Golden Gate Avenue
Box 36063
San Francisco, California 94102

Fish and Wildlife Service
1500 Plaza Building, Room 288
1500 NE. Irving Street
P.O. Box 3737
Portland, Oregon 97208

Fish and Wildlife Service
Federal Building—Fort Snelling
Room 630
Twin Cities, Minnesota 55111

Fish and Wildlife Service
John W. McCormack P.O. and Courthouse
Boston, Massachusetts 02109

U.S. Forest Service
Federal Building
Missoula, Montana 59801

U.S. Forest Service
Federal Building
517 Gold Avenue, SW.
Albuquerque, New Mexico 87101

U.S. Forest Service
630 Sansome Street
San Francisco, California 94111

Mid-Atlantic Regional Office
National Park Service
143 South Third Street
Philadelphia, Pennsylvania 19106

Midwest Regional Office
National Park Service
1709 Jackson Street
Omaha, Nebraska 68102

Southwest Regional Office
National Park Service
P.O. Box 728
Santa Fe, New Mexico 87501

Pacific Northwest Regional Office
National Park Service
Room 931, 4th and Pike Building
1424 Fourth Avenue
Seattle, Washington 98101

Fish and Wildlife Service
500 Gold Avenue, SW.
Room 9018
P.O. Box 1306
Albuquerque, New Mexico 87103

Fish and Wildlife Service
17 Executive Park Drive, NE.
Room 411
Atlanta, Georgia 30329

Fish and Wildlife Service
10597 West Sixth Avenue
Denver, Colorado 80215

U.S. Forest Service
Denver Federal Building
Denver, Colorado 80225

U.S. Forest Service
Federal Building
324 25th Street
Ogden, Utah 84401

U.S. Forest Service
319 SW. Pine Street
P.O. Box 3623
Portland, Oregon 97208

U.S. Forest Service
1720 Peachtree Road, NW.
Atlanta, Georgia 30309

Bureau of Land Management
1600 Broadway
Room 700
Denver, Colorado 80202

Bureau of Land Management
Federal Building
300 Booth Street
Reno, Nevada 89502

Bureau of Land Management
Federal Building, Room 398
550 W. Fort Street
Boise, Idaho 83702

Bureau of Land Management
2120 Capitol Avenue

P.O. Box 1828
Cheyenne, Wyoming 82001

Bureau of Land Management
Federal Building
316 North 26th Street
Billings, Montana 92301

Bureau of Land Management
Robin Building
7981 Eastern Avenue
Silver Spring, Maryland 20910

Southeast Regional Office
Bureau of Outdoor Recreation
148 Cain Street
Atlanta, Georgia 30303

Mid-Continent Regional Office
Bureau of Outdoor Recreation
Denver Federal Center
Building 41, P.O. Box 25387
Denver, Colorado 80225

Northwest Regional Office
Bureau of Outdoor Recreation
1000 2nd Avenue
Seattle, Washington 98104

U.S. Forest Service
633 W. Wisconsin Avenue
Milwaukee, Wisconsin 53203

Bureau of Land Management
Federal Building
125 South State Street
Salt Lake City, Utah 84111

Bureau of Land Management
Federal Building
Room 3022
Phoenix, Arizona 85025

Bureau of Land Management
Federal Building
P.O. Box 1449
Santa Fe, New Mexico 87501

Bureau of Land Management
2800 Cottage Way
Room E-2841
Sacramento, California 95825

Bureau of Land Management
729 Northeast Oregon Street
P.O. Box 2965
Portland, Oregon 97208

Northeast Regional Office
Bureau of Outdoor Recreation
Federal Office Building
600 Arch Street
Philadelphia, Pennsylvania 19106

Lake Central Regional Office
Bureau of Outdoor Recreation
3853 Research Park Drive
Ann Arbor, Michigan 48104

South Central Regional Office
Bureau of Outdoor Recreation
5000 Marble Avenue, NE.
Albuquerque, New Mexico 87110

Pacific Southwest Regional Office
Bureau of Outdoor Recreation
450 Golden Gate Avenue
San Francisco, California 94102

A limited number of single copies of the final environmental statement is available from the following:

Department of the Interior
Alaska Planning Group
Washington, D.C. 20240

Department of the Interior
National Park Service
524 W. Sixth Avenue
Room 201
Anchorage, Alaska 99501

Department of the Interior
Fish and Wildlife Service
813 D Street
Anchorage, Alaska 99501

Dated: DECEMBER 17, 1974.

STANLEY D. DOREMUS,
*Deputy Assistant Secretary of the Interior.*

[FR Doc.74-29787 Filed 12-20-74;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Forest Service

### DESCHUTES NATIONAL FOREST ADVISORY COMMITTEE

#### Meeting

The Deschutes National Forest Advisory Committee will meet at 6:30 p.m., January 9, 1975, for a no-host dinner at Tony's Poco Toro Restaurant, Bend, Oregon. The program will follow at 8:00 p.m.

The subject to be discussed at this meeting will be "Manpower Programs that the Forest Service can Participate in for Local Economy Stimulation."

The meeting will be open to the public.

Dated: December 16, 1974.

MALVIN C. ELDRED,
*Acting Forest Supervisor.*

[FR Doc.74-29832 Filed 12-20-74;8:45 am]

### Office of the Secretary

### NATIONAL ADVISORY COMMITTEE ON SAFETY IN AGRICULTURE

#### Meeting

A meeting of the National Advisory Committee on Safety in Agriculture will be held at 9 a.m., February 26 and 27, 1975, in Room 218 Administration Building, U.S. Department of Agriculture, Washington, D.C. The meeting will adjourn at 3 p.m., February 27, 1975.

The purpose of the committee is to advise the Secretary of Agriculture and other officials on the development of the Department's safety program and ways the Department can work most effectively in farm and rural safety programs with other government agencies, farm organizations, the National Safety Council, and others.

The purpose of the meeting is to review program progress, problems, and recommended actions in the areas of education, standards, information, research, and surveys.

The meeting is open to the public; however, space and facilities are limited. Written statements may be filed with the committee before or after the meeting. Any member of the public who wishes to file a statement or has further questions may contact Robert O. Gilden, Executive Secretary of the Committee, U.S. Department of Agriculture, Room 5529, South Building, Washington, D.C. 20250, telephone number (202) 447-4946.

Dated: December 18, 1974.

ROBERT O. GILDEN,
*Executive Secretary.*

[FR Doc.74-29797 Filed 12-20-74;8:45 am]

### NAVAJO INDIANS

#### Feed Grain Donations

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Navajo Indian Lands in Arizona, New Mexico and Utah, and the Acoma, Isleta, Jemez, Laguna, Mescalero, Santa Ana, Santa Domingo and Zia Indian Lands in New Mexico has been materially increased and become acute because of severe and prolonged drought creating a serious shortage of livestock feeds. These lands are reservations or other lands designated for Indian use and are utilized by members of the Indian tribes for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribes will not displace or interfere with normal marketing of agricultural commodities.

Based on the above determinations, I hereby declare the reservations and grazing lands of these tribes to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestockmen who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through the duration of the existing emergency or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C., on December 17, 1974.

EARL L. BUTZ,
*Secretary.*

[FR Doc.74-29848 Filed 12-20-74;8:45 am]

## DEPARTMENT OF COMMERCE

### Maritime Administration

### BULK CHEMICAL CARRIER CONSTRUCTION PROGRAM

#### Issuance of Order Regarding Requirements of the National Environmental Policy Act

Notice is hereby given that the Maritime Subsidy Board published and served on December 13, 1974 a Final Opinion and Order, identified as Docket No. A-93, regarding comformance of the Maritime Administration Bulk Chemical Carrier Construction Program to the requirements of the National Environmental Policy Act, 42 U.S.C. 4321 et seq.

The Final Opinion and Order in

Docket No. A-93 is available to interested persons through the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099-B, Department of Commerce Building, 14th and E Streets, NW., Washington, D.C. 20230.

Dated: December 16, 1974.

By order of the Maritime Subsidy Board/Maritime Administration.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.74-29853 Filed 12-20-74;8:45 am]

## NATIONAL BANK OF COMMERCE OF SEATTLE

### Change of Name of Approved Trustee

Notice is hereby given that effective January 1, 1975, the name of The National Bank of Commerce of Seattle will be changed to Rainier National Bank.

Dated: December 12, 1974.

BURT KYLE,
*Director, Office of Domestic Shipping.*

[FR Doc.74-29854 Filed 12-20-74;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### ADVISORY COMMITTEES

### Meetings

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776; 5 U.S.C. App.), the Food and Drug Administration announces the following public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act:

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 1. Anti-Infective Agents, Advisory Committee. | Jan. 27 and 28, 9 a.m., Conference Room B, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open—Mary K. Bruch (HFD-140), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4310. |

*Purpose.* Reviews and evaluates all available data on safety and effectiveness of presently marketed and new prescription drug products proposed for marketing for use in treating infectious diseases.

*Agenda.* "Pseudomembraneous Colitis as a Side Effect of Administration of Clindamycin"—presentation by Upjohn Co.; "Blood Levels of Erythromycin Salts"—presentation by Upjohn Co.; "Benefit/Risk Ratio of Cephalosporins with no Renal Toxicity"—presentation by FDA; and comments and presentations by interested persons.

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 2. Panel on Review of Cold, Cough, Allergy, Bronchodilator and Antiasthmatic Drugs. | Jan. 30 and 31, 9 a.m.; Room 1409, FB-8, 200 C St. SW., Washington, D.C. | Closed January 30, 9 a.m. to 3:30 p.m., open January 30 after 3:30 p.m., closed January 31. Thomas D. DeCillis (HFD-109), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960. |

*Purpose.* Reviews and evaluates available data on safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing cold, cough, allergy, bronchodilator, and antiasthmatic drug products.

*Agenda.* Closed session: Continuing review of over-the-counter cold, cough, allergy, bronchodilator, and antiasthmatic drug products under investigation. Open session: Comments and presentations by interested persons.

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 3. Panel on Review of Hemorrhoidal Drugs. | Jan. 31 and Feb. 1, 9 a.m., Conference Room K, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open January 31, 9 a.m. to 10 a.m., closed January 31 after 10 a.m., closed February 1. Thomas D. DeCillis (HFD-109), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960. |

*Purpose.* Reviews and evaluates available data on safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing hemorrhoidal drug products.

*Agenda.* Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter hemorrhoidal drug products under investigation.

Agenda items are subject to change as priorities dictate.

During the open sessions shown above, interested persons may present relevant information or views orally to any committee for its consideration. Information or views submitted to any committee in writing before or during a meeting shall also be considered by the committee.

A list of committee members and summary minutes of meetings may be obtained from the contact person for the committee both for meetings open to the public and those meetings closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act.

Most Food and Drug Administration advisory committees are created to advise the Commissioner of Food and Drugs on pending regulatory matters. Recommendations made by the committees on these matters are intended to result in action under the Federal Food, Drug, and Cosmetic Act, and these committees thus necessarily participate with the Commissioner in exercising his law enforcement responsibilities.

The Freedom of Information Act recognized that the premature disclosure of regulatory plans, or indeed internal discussions of alternative regulatory approaches to a specific problem, could have adverse effects upon both public and private interests. Congress recognized that such plans, even when finalized, may not be made fully available in advance of the effective date without damage to such interests, and therefore provided for this type of discussion to remain confidential. Thus, law enforcement activities have long been recognized as a legitimate subject for confidential consideration.

These committees often must consider trade secrets and other confidential information submitted by particular manufacturers which the Food and Drug Administration by law may not disclose, and which Congress has included within the exemptions from the Freedom of Information Act. Such information includes safety and effectiveness information, product formulation, and manufacturing methods and procedures, all of which are of substantial competitive importance.

In addition, to operate most effectively, the evaluation of specific drug or device products requires that members of committees considering such regulatory matters be free to engage in full and frank discussion. Members of committees have frequently agreed to serve and to provide their most candid advice on the understanding that the discussion would be private in nature. Many experts would be unwilling to engage in candid public discussion advocating regulatory action against a specific product. If the committees were not to engage in the deliberative portions of their work on a confidential basis, the consequent loss of frank and full discussion among committee members would severely hamper the value of these committees.

The Food and Drug Administration is relying heavily on the use of outside experts to assist in regulatory decisions. The Agency's regulatory actions uniquely affect the health and safety of every citizen, and it is imperative that the best advice be made available to it on a continuing basis in order that it may most effectively carry out its mission.

A determination to close part of an advisory committee meeting does not mean that the public should not have ready access to these advisory committees considering regulatory issues. A determination to close the meeting is subject to the following conditions: First, any interested person may submit written data or information to any committee, for its consideration. This information will be accepted and will be considered by the committee. Second, a portion of every committee meeting will be open to the public, so that interested persons may present any relevant information or views orally to the committee. The period for open discussion will be designated in any announcement of a committee meeting. Third, only the deliberative portion of a committee meeting, and the portion dealing with trade secret and confidential information, will be closed to the public. The portion of any meeting during which

nonconfidential information is made available to the committee will be open for public participation. Fourth, after the committee makes its recommendations and the Commissioner either accepts or rejects them, the public and the individuals affected by the regulatory decision involved will have an opportunity to express their views on the decision. If the decision results in promulgation of a regulation, for example, the proposed regulation will be published for public comment. Closing a committee meeting for deliberations on regulatory matters will therefore in no way preclude public access to the committee itself or full public comment with respect to the decisions made based upon the committee's recommendation.

The Commissioner has been delegated the authority under section 10(d) of the Federal Advisory Committee Act to issue a determination in writing, containing the reasons therefor, that any advisory committee meeting is concerned with matters listed in 5 U.S.C. 552(b), which contains the exemptions from the public disclosure requirements of the Freedom of Information Act. Pursuant to this authority, the Commissioner hereby determines, for the reasons set out above, that the portions of the advisory committee meetings designated in this notice as closed to the public involve discussion of existing documents falling within one of the exemptions set forth in 5 U.S.C. 552(b), or matters that, if in writing, would fall within 5 U.S.C. 552(b), and that it is essential to close such portions of such meetings to protect the free exchange of internal views and to avoid undue interference with Agency and committee operations. This determination shall apply only to the designated portions of such meetings which relate to trade secrets and confidential information or to committee deliberations.

Dated: December 17, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

[FR Doc.74-29788 Filed 12-20-74;8:45 am]

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[DESI 2811; Docket No. FDC-D-230; NDA 2-811]

## CHORIONIC GONADOTROPIN

### Follow-up Notice and Opportunity for Hearing

*Correction*

In FR Doc. 28409 appearing at page 42397 in the issue of Thursday, December 5, 1974, in the first line of the second paragraph in the first column on page 42402 the letters reading "HCC" should read "HCG".

## DEL MONTE CORP.

### Canned Peaches Deviating From Identity Standard; Extension of Temporary Permit for Market Testing

Pursuant to § 10.5 (21 CFR 10.5), concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated pursuant to section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), a temporary permit was issued to the Del Monte Corp., 215 Fremont St., PO Box 3575, San Francisco, CA 94119. Notice of this permit issuance was published in the FEDERAL REGISTER of October 18, 1973 (38 FR 28962). The permit covered limited interstate market tests of canned peaches of a style of pack designated "slices and pieces" that is not provided for by the standard of identity (21 CFR 27.2). The slices are more than 50 percent by weight of the product and the food is vacuum packed with a small amount of heavy sirup which is absorbed into the fruit.

The name "Yellow Cling Peaches" and the statements "Vacuum Packed" and "Slices and Pieces-Sweetened" are declared on the principal display panel of the label.

The Del Monte Corp. has submitted a petition, in conjunction with a request for extension of the temporary marketing permit, proposing to amend the standards of identity and quality for canned peaches to provide for the optional style of pack "slices and pieces." This petition is on file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, for review by interested persons.

Pursuant to the proposal published in the FEDERAL REGISTER of December 9, 1972 (37 FR 26340) to amend § 10.5 (21 CFR 10.5), the Commissioner concludes that it will be in the interest of consumers to extend the time period for market tests. As set forth in the proposed amendment to § 10.5, all interested persons may participate in the market tests under the conditions that apply to the Del Monte Corp., including the labeling requirements and the amount to be distributed (40,000 cases of 24/12½ oz. cans). The designated area of distribution does not necessarily apply to such interested persons. Any interested person who elects to participate in the extended market test shall notify the Commissioner in writing of that fact, the amount to be distributed, and the area of distribution. Along with such notification, he shall submit the labeling under which the food is to be distributed.

This permit, as issued to the Del Monte Corp. and such others who participate in accordance with the provisions set forth above, expires either on the effective date of an affirmative order ruling on the proposal to amend the standards of identity and quality for canned peaches or 30 days after a negative order ruling on the proposal, whichever comes first.

Dated: December 16, 1974.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.74-29789 Filed 12-20-74;8:45 am]

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## Health Resources Administration

## NATIONAL ADVISORY BODIES

### Announcement of Meetings

Pursuant to the Federal Advisory Act (Pub. L. 92-463), the Administrator, Health Resources Administration, announces the meeting dates and other required information for the following National Advisory bodies scheduled to assemble during the month of January 1975:

| Committee name | Date/time/place | Type of meeting and/or contact person |
|---|---|---|
| Long-Term Care for the Elderly Research Review and Advisory Committee. | Jan. 9 and 10, 1975—9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20852. | Open—January 9—9 to 9:30 a.m. and January 10—9 a.m. to 4 p.m. Closed—remainder of meeting. Contact: David McFall, room 15-29, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. Code 301-443-2930. or Martha O. Greenspan, room 11A-33, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. Code 301-443-3346. |

*Purpose.* The Committee serves to provide a coordinated professional technical review of proposals submitted to DHEW concerning long-term care for the elderly, to identify problems and issues and develop a tentative ordering of priorities in long-term care for consideration by the Division of Long-Term Care, Bureau of Health Services Research, Health Resources Administration.

*Agenda.* During the open portion of the meeting agenda items include administrative reports, minutes, establishment of future meeting dates, and discussion of other related general matters. During the closed session the committee will be reviewing project proposals concerning care for the elderly and therefore will not be open to the public, in accordance with the provisions set forth in section 552(b)(4), Title 5, U.S. Code and the Determination by the Administrator, Health Resources Administration pursuant to Pub. L. 92-463, section 10(d).

| Committee name | Date/time/place | Type of meeting and/or contact person |
|---|---|---|
| Health Services Research Study Section. | January 13 and 14, 1975—9 a.m., Roosevelt Hotel, Madison Room, Madison and 45th St., New York, N.Y. 10017. | Open—January 13—9 to 10 a.m. Closed—remainder of meeting. Contact: Michael J. Enright, room 15-19, Parklawn Bldg, 5600 Fishers Lane, Rockville, Md. Code 301-443-2920. |

*Purpose.* The Committee is charged with the review of grant applications for Federal assistance in the program areas administered by the Bureau of Health Services Research.

*Agenda.* During the open portion of the meeting agenda items include administrative reports, interim reports, and discussion of other general related items. During the closed session the committee will be reviewing grant applications and therefore will not be open to the public, in accordance with the provisions set forth in section 552(b)(4), Title 5, U.S. Code and the Determination by the Administrator, Health Resources Administration pursuant to Pub. L. 92–463, section 10(d).

| Committee name | Date/time/place | Type of meeting and/or contact person |
|---|---|---|
| Joint meeting of Health Services Research Study Section and Health Services Developmental Grants Study Section. | January 15, 1975—8:30 a.m., Roosevelt Hotel, Madison Room, Madison and 45th St., New York, N.Y. 10017. | Open—Contact: Michael J. Enright, room 15–19, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. Code 301–443–2920. or David McFall, room 15–29, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. Code 301–443–2930. |

*Purpose.* The Study Sections are charged with the review of grant applications for Federal assistance in the program areas administered by the Bureau of Health Services Research.

*Agenda.* The Study Sections will receive presentations from selected speakers under the theme "The methods of research in high density population areas and the use of the research product to inform policy development" and engage in topical discussions. Papers will be presented on Health Services Research in Urban Areas. Due to limited space available persons planning to attend should notify the contact person listed above.

| Committee name | Date/time/place | Type of meeting and/or contact person |
|---|---|---|
| Health Services Developmental Grants Study Section. | January 16 and 17, 1975—8:30 a.m. Roosevelt Hotel, Madison Room, Madison and 45th St., New York, N.Y. 10017. | Open—January 16—8:30 to 9. Closed—remainder of meeting. Contact: David McFall, room 15–29, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20852. Code: 301–443–2930. |

*Purpose.* The Study Section is charged with the review of grant applications for Federal assistance in the program areas administered by the Bureau of Health Services Research.

*Agenda.* During the open portion of the meeting agenda items include administrative reports, minutes, and discussion of other related general matters. During the closed session the committee will be reviewing grant applications and therefore will not be open to the public, in accordance with the provisions set forth in section 552(b)(4), Title 5 U.S. Code and the Determination by the Administrator, Health Resources Administration pursuant to Pub. L. 92–463, section 10(d).

| Committee name | Date/time/place | Type of meeting and/or contact person |
|---|---|---|
| Health Care Technology Study Section. | January 20 and 21, 1975—9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20852. | Open—January 20—9 to 10. Closed—remainder of meeting. Contact: John R. Hall, room 15–19, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. Code: 301–443–2920. |

*Purpose.* The Committee is charged with the review of grant applications for Federal assistance in the program areas administered by the Bureau of Health Services Research which relates to the use of systems analysis, operations research, management sciences, and computer sciences in the broad fields of community health services, hospital medicine and patient care.

*Agenda.* During the open session of the meeting agenda items include administrative reports, and discussion of other related general matters. During the closed session the committee will be reviewing grant applications and therefore will not be open to the public, in accordance with the provisions set forth in section 552(b)(4), Title 5 U.S. Code and the Determination by the Administrator, Health Resources Administration pursuant to Pub. L. 92–463, Section 10(d).

Agenda items are subject to change as priorities dictate.

Those portions of the meetings so indicated, are open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information, should contact the persons listed above.

Dated: December 13, 1974.

DANIEL F. WHITESIDE,
*Associate Administrator for Operations and Management, Health Resources Administration.*

[FR Doc.74–29619 Filed 12–20–74;8:45 am]

## Office of Education

## ADVISORY COUNCIL ON DEVELOPING INSTITUTIONS

### Public Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), that the next meeting of the Advisory Council on Developing Institutions will be held on January 26–27, 1975, from 9 a.m. to 4 p.m. in Room 3000, at the Office of Education, 400 Maryland Avenue, SW, Washington, D.C.

The Advisory Council on Developing Institutions was established by Title III of the Higher Education Act of 1965, as amended. The Council is governed by the provisions of Part D of the General Education Provisions Act and of the Federal Advisory Committee Act. (P.L. 92–463). The Council shall assist the Commissioner in identifying the characteristics of developing institutions through which the purpose of Title III may be achieved, and in establishing the priorities and criteria to be used in making grants under section 304(a) of the Title.

The meeting of the Council shall be open to the public. The meeting will focus on the staffing capability of the Division of Institutional Development and plans for the next Annual Report of the Council.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the Director of the College and University Unit, BPE, located in Room 4682, ROB III, 7th and D Streets, SW.

Signed at Washington, D.C., on December 18, 1974.

PRESTON VALIEN,
*Director, College and University Unit, BPE.*

[FR Doc.74–29822 Filed 12–20–74;8:45 am]

## NATIONAL ADVISORY COMMITTEE ON THE HANDICAPPED

### Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), that the next meeting of the National Advisory Committee on the Handicapped will be held on January 20–22, 1975, at 8:30 a.m., in Room 1134, Federal Office Building 6, 400 Maryland Avenue, SW., Washington, D.C.

The National Advisory Committee on the Handicapped is established under (20 U.S.C. 123g) Section 448(b) of the General Education Provisions Act. The Committee is established to review the administration and operation of programs for the handicapped in the Office of Education, and make recommendations for their improvement.

The meeting of the Committee shall be open to the public. The proposed agenda includes discussion with Bureau of Education for the Handicapped personnel in regards to Early Childhood and Vocational Education Programs; the status of legislation and the handicapped; subcommittee reports; and format for the 1975 Annual Report. Records shall be kept of all Committee proceedings and shall be available for public inspection at the Office of the Deputy Commissioner, Bureau of Education for the Handicapped, located in Room 2100, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. 20202.

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

EDWIN W. MARTIN,
*Acting Deputy Commissioner for the Handicapped, Bureau of Education for the Handicapped.*

[FR Doc.74-29821 Filed 12-20-74;8:45 am]

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### Office of the Secretary

### HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

#### Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the Health Insurance Benefits Advisory Council (HIBAC), established pursuant to section 1867 of the Social Security Act, as amended, which advises the Secretary of Health, Education, and Welfare on Medicare and Medicaid matters will meet on Friday, January 10, 1975, at 9:00 a.m. in Room 5051 of the Department of Health, Education, and Welfare's North Building, 330 Independence Avenue, SW., Washington, D.C. The Council will consider matters pertaining to the Medicare and Medicaid programs.

The Mental Health Subcommittee of HIBAC, which is considering expansion of coverage of mental health benefits under Medicare will meet on Thursday, January 9, 1975, at 1:00 p.m. in Room 5169 of Health, Education, and Welfare's North Building.

These meetings are open to the public.

Further information on the Council and the Committees may be obtained from Mr. Sherman Lazrus, Executive Secretary, Health Insurance Benefits Advisory Council, Room 17A-31, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone (301) 443-1185.

Dated: December 3, 1974.

SHERMAN LAZRUS,
*Executive Secretary, Health Insurance Benefits Advisory Council.*

[FR Doc.74-29838 Filed 12-20-74;8:45 am]

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### PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH NATIONAL COMMISSION

#### Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, in accordance with a schedule adopted on December 4, 1974, will meet on January 10 and 11, 1975, in Conference Room 6, Building 31, C Wing, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014. The meeting will convene at 9 a.m. and adjourn at 5 p.m. both days and will be open to the public, subject to the limitation of available space.

Issues relating to fetal research as covered by sections 202(b) and 213 of the National Research Act (Pub. L. 93-348) will comprise the agenda. Time permitting, other areas of the legislative mandate to the Commission will be discussed.

Members of the public will be given an opportunity to present their views on fetus research during the first day of the third meeting of the Commission, February 14, 1975. In accordance with procedures governing public participation at meetings of the Commission, any person wishing to speak at the third meeting must file a written request and receive prior approval from the Commission. Requests must include a detailed summary of the proposed presentation, which shall be limited to 10 minutes for each participant. In order to be considered for approval by the Commission at its next meeting, requests to speak at the February meeting must be received by the Commission not later than January 9, 1975. Requests should be addressed to: Staff Director, National Commission for the Protection of Human Subjects, Westwood Building, Room 125, 9000 Rockville Pike, Bethesda, Maryland 20014. Written materials of any length may be submitted to the Commission at any time.

Requests for information should be directed to Ms. Anne Ballard (301) 496-7526, Room 125, Westwood Building, 9000 Rockville Pike, Bethesda, Maryland 20014.

CHARLES U. LOWE,
*Executive Director, National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.*

DECEMBER 17, 1974.

[FR Doc.74-29837 Filed 12-20-74;8:45 am]

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## ATOMIC ENERGY COMMISSION

[Docket Nos. 50-463 and 50-464]

### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON FULTON GENERATING STATION

#### Notice of Meeting

DECEMBER 18, 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 the Fulton Generating Station will hold a meeting on January 7, 1975 at the Sheraton-Conestoga Village, U.S. Route 222, Lancaster, Pennsylvania 17604.

The purpose of this meeting will be to develop information for consideration by the ACRS in its review of the application by the Philadelphia Electric Company for a permit to construct the Fulton Generating Station, Units 1 and 2, located in Fulton and Drumore Townships, Lancaster County, Pennsylvania.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

TUESDAY, JANUARY 7, 1975, 9:00 A.M. UNTIL THE CONCLUSION OF BUSINESS (ABOUT 1:00 P.M.)

The Subcommittee will hear presentations by representatives of the Regulatory Staff and the Philadelphia Electric Company and will hold discussions with these groups pertinent to its review of matters related to the application for a construction permit for the Fulton 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 approximately 8:30 a.m. and at the end of the session to consider matters related to the above review. These will involve an exchange of opinions and discussion of preliminary views and recommendations of Subcommittee Members and internal deliberations for the purpose of formulating recommendations to the ACRS.

In addition to the Executive Sessions, the Subcommittee may hold one or more closed sessions with representatives of the Regulatory Staff and Applicant for the purpose of discussing privileged information relating to the matters under review, if necessary.

I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that the above-noted Executive Sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552 (b) and that closed sessions may be held, if necessary, to discuss certain documents and information which are privileged and fall within exemption (4) of 5 U.S.C. 552(b). Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views, to avoid undue interference with agency or Subcommittee operation, and to avoid public disclosure of proprietary information.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than December 31, 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 Lancaster County Library, 125 North Duke Street, Lancaster, Pennsylvania 17602.

(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 9:00 a.m. and 11:00 a.m. on January 7, 1975.

(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 January 3, 1975 to the Advisory Committee on Reactor Safeguards (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 January 9, 1975 at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545 and within approximately nine days at the Lancaster County Library, 125 North Duke Street, Lancaster, Pennsylvania 17602. 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 April 7, 1975. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
*Advisory Committee Management Officer.*

[FR Doc.74-29899 Filed 12-20-74;8:45 am]

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[Docket No. 50-482A]

## KANSAS GAS AND ELECTRIC CO. AND KANSAS CITY POWER & LIGHT CO.

### Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c. of the Atomic Energy Act of 1954, as amended, a letter of advice from the Attorney General of the United States, dated December 10, 1974, a copy of which it attached as Appendix A below.

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's rules of practice, 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by January 23, 1975 either (1) by delivery to the AEC Public Docketing and Service Section at 1717 H Street, NW., Washington, D.C., or (2) by mail or telegram addressed to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, ATTN: Docketing and Service Section.

For the Atomic Energy Commission.

ABRAHAM BRAITMAN,
*Chief, Office of Antitrust & Indemnity, Directorate of Licensing.*

APPENDIX A

[Docket No. 50-482A]

WOLF CREEK GENERATING STATION, UNIT 1

KANSAS GAS AND ELECTRIC COMPANY

KANSAS CITY POWER & LIGHT COMPANY

DECEMBER 10, 1974.

You have requested our advice pursuant to the provisions of Section 105 of the Atomic Energy Act, as amended, in regard to the above-cited application.

1. *The Facility involved.* The Wolf Creek Generating Station, Unit 1, will consist of one 1180 mw unit located approximately three and one-half miles northeast of the town of Burlington in Coffey County, Kansas. The plant will be owned jointly by two investor-owned utilities: Kansas Gas and Electric Company (50%) and Kansas City Power & Light Company (50%). The estimated cost of the unit at completion will be approximately $829 million. The unit is scheduled to go into operation between 1982 and 1983. Applicants intend to integrate the unit into their electric bulk power supply systems and to market the power therefrom as a portion of their respective system outputs. Kansas Gas and Electric Company has primary responsibility for construction and operation of the unit.

2. *The Applicants.* Kansas Gas and Electric Company ("KGE") is a privately-owned integrated electric utility which serves an 8100 square mile area in southeastern Kansas which has a population of approximately 587,000. KGE currently supplies the full bulk power requirements of twelve municipal systems and three rural electric cooperatives and the partial bulk power requirements of nine municipalities, five cooperatives and two investor-owned utilities. In 1973, KGE's total electric operating revenues were in excess of $79 million. Its 1973 peak load was 1201 mw; its generating capacity at that time was 1634 mw, consisting of 1564 mw of thermal generating capacity and 70 mw of net purchases. KGE maintains extra-high voltage interconnections with Kansas City Power & Light Company, Oklahoma Gas and Electric Company, Empire District Electric Company, Kansas Power and Light Company, Central Telephone and Utilities Corporation and Public Service Company of Oklahoma.

Kansas City Power & Light Company ("KCPL") is also a privately-owned integrated electric utility which serves a 5700 square mile area in northwest Missouri and northeast Kansas, including the Kansas City Metropolitan Area. KCPL provides the full bulk power requirements of six municipalities and one rural electric cooperative as well as the partial bulk power requirements of seven municipalities and two cooperatives. In 1973, KCPL had operating revenues in excess of $155 million. During the same year, KCPL had a peak load of 1757 mw and 2224 mw of the thermal generating capacity. KCPL has extra-high voltage interconnections with KGE, Kansas Power and Light Company, Union Electric Company, Iowa Power and Light Company, St. Joseph Light and Power Company, Missouri Public Service Company, the Southwestern Power Administration, and the municipal systems of Kansas City, Kansas, and Independence, Missouri.

Both Applicants are members of the Mo-Kan Power Pool which consists of seven companies in Kansas and western Missouri which engage in the coordinated development of generation and transmission facilities, reserve sharing and the interchange of power and energy. In addition, KGE and KCPL are partners in jointly-owned thermal generation.

3. *Competitive considerations.* In the course of the Department's review of this application, inquiries were made of all electric utilities smaller than the Applicants who were located in or adjacent to their service areas. These inquiries probed a wide range of competitive conduct by the Applicants and the market structure existing in their respective service areas.

In response to its initial inquiries, the Department received no complaints of serious anticompetitive conduct by KGE. Instead, the Department learned that, as early as January 1973, KGE had contacted neighboring utilities, informed them of the Wolf Creek project, and invited them to study the feasibility of joint participation in these facilities. Negotiations have progressed since then and, with the single exception discussed subsequently, no neighboring utility has complained of the contemplated terms or conditions of participation.

KGE's record of coordinated operation with neighboring utilities does not appear to reflect anticompetitive policies and practices. KGE has wheeled electric power and energy both to and between municipal utilities located within its service area; no occasion on

which the Company has refused to provide wheeling services has been disclosed. Similarly, the Company has entered into interconnection agreements with isolated utilities and has provided either full or partial bulk power requirements wholesale service upon request.[1]

Toward the end of its antitrust review of this application, the Department was contacted by Kansas Electric Cooperatives, Inc. ("KEC"), a nonprofit membership corporation authorized to plan and negotiate for long-range bulk power supplies for its members. KEC's membership consists of 37 rural electric cooperatives which distribute electricity at retail in Kansas, seven of which currently purchase power from KGE. (At an earlier date, KEC had indicated to the Department that it was not aware of any anticompetitive activity on the part of KGE but was then engaged in ongoing negotiations with the Company concerning participation in the Wolf Creek nuclear unit.) KEC alleged that it was being denied effective access to the Wolf Creek nuclear unit because KGE, after initially offering access, had refused to negotiate meaningfully concerning the terms and conditions which would be required to effectuate the offer.

In order to eliminate any possibility that KEC might be denied effective access to the Wolf Creek nuclear unit because of failure by KGE to enter into all necessary ancillary arrangements, the Department has secured from KGE the commitments set forth in the attached letter dated November 29, 1974. KGE has agreed that these commitments may be imposed as conditions on the Wolf Creek license.

Turning now to consideration of KCPL, we note that this Applicant has refused to enter into interconnection and coordination agreements with other utilities on reasonable terms and conditions. There have also been allegations that KCPL has repeatedly refused to wheel power on behalf of smaller utilities. In addition, some smaller utilities have maintained that they have been unable to secure any assurance of access to the Wolf Creek nuclear facilities on reasonable terms and conditions. Finally, KCPL's wholesale contracts appear to be unduly restrictive in that they contain restraints upon the end use of power purchased thereunder, and further restrict the purchaser from acquiring power from any alternative supplier. Such a range of anticompetitive activity, together with KCPL's dominance with respect to generation and transmission within its service area, would appear to constitute a *prima facie* indication of a "situation inconsistent with the antitrust laws."

While not admitting the validity of any of the allegations made to the Department, KCPL expressed a willingness to voluntarily accept the imposition of conditions on the Wolf Creek license which would guarantee the existence of an acceptable competitive atmosphere in its service area in the future. These conditions, which are set forth in a letter dated July 29, 1974, which is attached hereto, would compel KCPL to interconnect and coordinate operations with other electric utilities, purchase and sell bulk power in connection with coordinated planning of new facilities, offer access to Wolf Creek and any future nuclear generating facilities, wheel bulk power on behalf of others, and sell full and partial requirements bulk power at wholesale. In addition, KCPL has agreed to eliminate the restrictive provisions in its wholesale contracts.

[1] Our review indicated that KGE had included some potentially restrictive language in certain wholesale contracts. When this matter was raised by the Department, KGE agreed to delete the language.

Shortly after receipt of KCPL's July 29, 1974 letter, questions were raised whether acts by KCPL in purported implementation of the commitments might not, if fully implemented, frustrate the intent and substance of the conditions to which the Company had consented. This necessitated further lengthy discussions between the Department and KCPL. As a result of these discussions, KCPL substantially modified its course of conduct and agreed to accept the additional condition contained in the attached letter dated November 22, 1974.

4. *Conclusion.* The acceptance of the license conditions outlined above by KGE and KCPL, together with their elimination of restrictive provisions from their wholesale contracts, should go far toward assuring viable competition in their respective service areas. Under these circumstances, we conclude that an antitrust hearing concerning the Applicants' policies and practices will not be necessary if the requested license is conditioned in the manner agreed to by the Department and the Applicants.

[Docket No. 50-482A]

WOLF CREEK GENERATING STATION, UNIT 1

KANSAS GAS AND ELECTRIC COMPANY

KANSAS CITY POWER & LIGHT COMPANY

JULY 29, 1974.

Attached to this letter are Proposed Conditions which Kansas City Power & Light Company ("KCPL") agrees may be included as Conditions to the Construction Permit and Operating License to be issued by the Atomic Energy Commission ("AEC") in connection with the above referenced application. These Proposed Conditions are submitted with the understanding that the Department of Justice will advise the AEC that no antitrust hearing with reference to KCPL will be required.

These Conditions will be accepted by KCPL subject to the following understandings:

1. KCPL does not intend, by acceptance of these Conditions or by operations in accordance therewith, to become a common carrier or to hold itself out as a public utility ready, willing and able to sell electric power and energy at wholesale for resale to entities outside of its present or future service areas in Missouri and Kansas as defined in Section 1 (b) of the attached Proposed Conditions.

2. KCPL reserves all rights and protection as may be afforded to it by law with respect to any and all distribution and/or sale of retail electric service in its certificated service areas in Missouri and Kansas.

3. By acceptance of the attached Conditions, KCPL does not waive any, and hereby reserves all, rights that it may have to apply to any appropriate forum to seek such changes in the Conditions as may at the time be appropriate in accordance with the then existing laws and good industry practices.

4. All of KCPL's understandings and commitments, with the exception of commitments relating to the modification of language in KCPL's wholesale contracts, are contained in the attached Proposed Conditions and this cover letter.

5. Nothing herein or in any of the attached Proposed Conditions shall be construed as a waiver by KCPL of its rights to contest the application of any Condition to a particular factual situation.

Based on the above understandings, Kansas City Power & Light Company presently is willing to accept Conditions to the above referenced Construction Permit and Operating License, if and when issued by the AEC, which are identical to the Proposed Conditions attached to this cover letter.

WOLF CREEK, UNIT 1

PROPOSED CONDITIONS

1. As used herein:

(a) "Licensee" means Kansas City Power & Light Company.

(b) "Licensee's Service Area" means those portions of the States of Missouri and Kansas which are certificated to Licensee by the respective state regulatory commissions. An entity shall be deemed to be in the "Licensee's Service Area" if it has electric power generation, transmission or distribution facilities located in whole or in part in or adjacent to the above-described area or in counties served in part at retail by Licensees.

(c) "Bulk Power" means the electric power, and any attendant energy, supplied or made available at transmission or subtransmission voltage by one entity to another.

(d) "Entity" means person, a private or public corporation, a municipality, a cooperative, a joint stock association, business trust or a lawful association of any of the foregoing constituting a separate legal entity owning, operating or proposing to own or operate equipment or facilities for the generation, transmission or distribution of electricity, provided that, except for municipalities and cooperatives, an "entity" is restricted to those which are or will be a public utility under the laws of the state in which the entity transacts business or under the Federal Power Act and are or will be providing electric service under a contract or rate schedule on file with and subject to the regulation of a state regulatory commission or the Federal Power Commission.

(e) "Cost" means any and all operating, maintenance, general and administrative expenses, together with any and all ownership costs, which are reasonably allocable to the transaction consistent with industry practices. Cost shall include a reasonable return on Licensee's investment. The sale of a portion of the capacity of a generating unit shall be upon the basis of a rate that will recover to the seller the pro rata part of the fixed costs and operating, maintenance, general and administrative expenses of the unit, provided that, in circumstances in which Licensee and one or more entities in Licensee's Service Area each takes an undivided interest in a unit in fee, construction costs and operation, maintenance, general and administrative expenses shall be paid pro rata.

2. (a) Licensee shall interconnect with and coordinate operations (by means of reserve sharing and the sale and purchase of emergency and/or scheduled maintenance and/or other classes of bulk power) with any entity(ies) in Licensee's Service Area engaging in or proposing to engage in electric bulk power supply on terms that will fully compensate Licensee for its costs in connection therewith. Such coordination arrangements will allow the other party(ies) full access to the benefits of coordination.

(b) Emergency and/or scehduled maintenance bulk power service shall be provided by each party to the extent required by the system in need, and be furnished to the fullest extent available from the supplying system. Licensee and each party(ies) shall provide to the other emergency and/or scheduled maintenance bulk power service if and when available from its own generation and from generation of others to the extent it can do so without impairing service to its customers including other electric systems to whom it has firm commitments and the receiving party shall fully compensate the other party for its costs in connection therewith.

(c) Licensee and the other party(ies) to an interconnection and reserve sharing arrangement shall from time to time jointly establish the minimum reserves to be in-

stalled and/or provided under contractual arrangements as necessary to maintain in total a reserve margin sufficient to provide adequate reliability of power supply of the interconnected systems of the parties. Unless otherwise agreed upon, minimum reserves shall be calculated as a percentage of estimated peak load responsibility. No party to the arrangement shall be required to maintain greater reserves than such minimum, provided that, if the reserve requirements of a party are increased over the amount such party would be required to maintain or have available without such interconnection, then the other party(ies) to such interconnection shall be required to carry or provide for, in addition to such minimum reserves, the full amount in kilowatts of such increase. If in addition to sharing reserves, one party sells capacity to another in order for that other to meet its reserve responsibility, the seller shall be appropriately compensated for such sale in accordance with applicable filed rates.

(d) The parties to such a reserve sharing arrangement each shall provide such amounts of operating (ready and spinning) reserve capacity as may be adequate to avoid the imposition of unreasonable demands on the other in meeting the normal contingencies of operating its system. However, in no circumstances shall a party's operating reserve requirement exceed its minimum installed reserve requirement as determined in 2(c).

(e) Interconnections will not be limited to low voltages when higher voltages are available from Licensee's installed facilities in the area where interconnection is appropriate, if and when the proposed arrangement is found to be technically and economically feasible. Control and telemetering facilities shall be provided as required for safe and prudent operation of the interconnected systems.

(f) Interconnection and coordination agreements shall not embody any unreasonably restrictive provisions pertaining to intersystem coordination. Good industry practice as developed in the area from time to time (if not unreasonably restrictive) will satisfy this provision.

3. Licensee will sell bulk power from new generating capacity planned or under construction at its cost or purchase bulk power from any other entity(ies) in Licensee's Service Area engaging in or proposing to engage in generation of electric power when such transaction would serve to reduce the overall costs of new bulk power supply for itself or for the owner party(ies) to the transaction. This refers specifically to the opportunity to coordinate in the planning of new generation, transmission and related facilities. This provision shall not be construed to require Licensee to purchase or sell bulk power if it finds such purchase or sale infeasible or its costs in connection with such purchase or sale would exceed its benefits therefrom.

4. Licensee and any successor in title shall offer an opportunity to participate in Wolf Creek Nuclear Unit 1 to any entity(ies) in Licensee's Service Area which shall indicate its interest therein in writing delivered to Licensee prior to October 31, 1974, and in any other nuclear generating unit(s) which they or either of them, may construct, own and operate severally or jointly, during the term of the instant license, or any extension or renewal thereof, by either a reasonable ownership interest in such unit(s), or by a contractual rights to purchase a reasonable portion of the output of such unit(s) at the cost thereof if the entity(ies) so elects. Upon timely offer by Licensee, notice of intention to participate in future nuclear units must be given to Licensee in writing prior to the placement of orders for major equipment. In connection with such access, licensee will also offer transmission service as may be required for delivery of such power to such entity(ies) on a basis that will fully compensate Licensee for its cost.

5. (a) Licensee shall facilitate the exchange of bulk power by transmission over its transmission facilities to, from, between or among any entities in Licensee's Service Area with which it is at any time interconnected, and between any such interconnected entity(ies) and any other entity(ies) engaging in bulk power supply outside Licensee's Service Area between whose facilities Licensee's transmission lines and the transmission lines of others would form a continuous electrical path, provided that (1) the necessary rights to utilize such other transmission lines have been obtained, (2) the reliability of Licensee's bulk power system is not thereby impaired, and (3) the arrangements reasonably can be accommodated from a functional and technical standpoint. Such transmission shall be on terms that fully compensate Licensee for its cost, including transmission losses associated therewith. Any entity(ies) requesting such transmission arrangements shall give reasonable advance notice to Licensee of its (their) schedule and requirements for bulk power to be scheduled by Licensee over Licensee's transmission facilities.

(b) Licensee shall include in its planning and construction of facilities to be owned by Licensee sufficient transmission capacity as may be contractually reserved for the type of transactions referred to in subparagraph (a) of this paragraph, provided that the entity(ies) in Licensee's Service Area give Licensee sufficient advance notice as may be necessary to accommodate its (their) requirements from a functional and technical standpoint and provided that such entity (ies) fully compensates Licensee for the contractual reservation by Licensee of capacity in its transmission facilities.

6. Licensee will sell power for resale to any entity(ies) in Licensee's Service Area now engaging in or proposing to engage in retail distribution of electric power under contracts for its (their) full or partial requirements at Licensee's applicable filed rates to the extent Licensee can do so without impairing service to its retail customers.

7. The foregoing conditions shall be implemented in a manner not inconsistent with the provisions of, and as provided under, the Federal Power Act and all other applicable Federal and State laws and all rates, charges and practices in connection therewith are to be subject to the approval of regulatory agencies having jurisdiction over them.

[Docket No. 50-482A]

WOLF CREEK GENERATING STATION, UNIT 1

KANSAS GAS AND ELECTRIC COMPANY

KANSAS CITY POWER & LIGHT COMPANY

NOVEMBER 22, 1974.

Reference is made to my July 29, 1974, letter to you with respect to Proposed Conditions which Kansas City Power & Light Company (KCPL) agrees may be included as Conditions to the Construction Permit and Operating License to be issued by the Atomic Energy Commission (AEC) in connection with the above referenced application.

Pursuant to subsequent discussions between representatives of KCPL and Department of Justice, please be advised that KCPL hereby agrees to accept the following amendment and supplement to the Proposed Conditions as submitted with KCPL's cover letter dated July 29, 1974:

A. Amend section 4 of the Proposed Conditions by deleting the date "October 31, 1974" and substituting therefor the date "March 1, 1975".

B. Supplement section 7 of the Proposed Conditions by adding the following thereto at the end thereof:

"With respect to any initial rate schedule (including an initial contract submission) associated with these license conditions which Licensee files with any such regulatory agency having jurisdiction, Licensee shall include a provision that (1) if within thirty (30) days after such filing by the Licensee a protest or complaint with respect thereto is filed with such regulatory agency, and (2) if the submitted rates become effective prior to the resolution of any contested issues set forth in such protest or complaint, and (3) if such submitted rates are thereafter reduced in accordance with regulatory proceedings and findings, then, within thirty (30) days after issuance of a final and nonappealable order effecting such reduction, the Licensee shall make appropriate refunds (including interest) to retroactively reflect such reductions".

Except as amended and supplemented by the above, the Proposed Conditions and the understandings set forth in KCPL's cover letter dated July 29, 1974, remain unchanged.

[Docket No. 50-482A]

WOLF CREEK GENERATING STATION, UNIT 1

KANSAS GAS AND ELECTRIC COMPANY

KANSAS CITY POWER & LIGHT COMPANY

NOVEMBER 29, 1974.

Attached to this letter are Proposed Conditions which Kansas Gas and Electric Company (KG&E) agrees may be included as Conditions to the Construction Permit and Operating License to be issued by the Atomic Energy Commission (AEC) in connection with the above referenced application. These Proposed Conditions are submitted with the understanding that the Department of Justice will advise the AEC that no antitrust hearing with reference to KG&E will be required.

These Conditions will be accepted by KG&E subject to the following understandings:

1. KG&E does not intend, by acceptance of these Conditions or by operations in accordance therewith, to become a common carrier or to hold itself out as a public utility ready, willing and able to sell electric power and energy at wholesale for resale to entities outside of its present or future service areas in Kansas as defined in section 1(b) of the attached Proposed Conditions.

2. KG&E reserves all rights and protection as may be afforded to it by law with respect to any and all distribution and/or sale of retail electric service in its certificated service areas in Kansas.

3. By acceptance of the attached Conditions, KG&E does not waive any, and hereby reserves all, rights that it may have to apply to any appropriate forum to seek such changes in the Conditions as may at the time be appropriate in accordance with the then existing law and good industry practices.

4. All of KG&E's understandings and commitments are contained in the attached Proposed Conditions and this cover letter.

5. Nothing herein or in any of the attached Proposed Conditions shall be construed as a waiver by KG&E of its rights to contest the application of any Condition to a particular factual situation.

6. It is understood that if the parties to a reserve coordination agreement referred to in paragraph 4 cannot agree upon a minimum reserve requirement, the participating entities' minimum reserve requirement shall be neither less than nor greater than

Licensee's minimum system reserve requirement.

7. We further agree, predicated upon the above and referenced conditions, to not impose nor attempt to enforce any resale restrictions in both the municipal and cooperative wholesale contracts all within conditions and limitations imposed by regulatory authority.

Based on the above understandings, Kansas Gas and Electric Company presently is willing to accept Conditions to the above referenced Construction Permit and Operating License, if and when issued by the AEC, which are identical to the Proposed Conditions attached to this cover letter.

WOLF CREEK, UNIT 1

PROPOSED CONDITIONS FOR KANSAS GAS AND ELECTRIC COMPANY

1. As used herein:

(a) "Licensee" means Kansas Gas and Electric Company.

(b) "Licensee's Service Area" means those counties located in whole or in part within the area certificated to Licensee by the appropriate state regulatory commission.

(c) "Bulk Power" means the electric power, and any attendant energy, supplied or made available at transmission or subtransmission voltage by one entity to another.

(d) "Emergency support" is capacity and energy as available from one system, and as needed by another system to replace capacity and energy made unavailable due to forced outages of generating equipment or transmission facilities.

(e) "Maintenance support" is capacity and energy planned by one system to be made available to another system to replace capacity and energy made unavailable due to maintenance of generating equipment or transmission facilities.

(f) "Entity" means a financially responsible private or public corporation, governmental agency or authority, municipality, cooperative, or lawful association of any of the foregoing, owning, contractually controlling, or operating, or in good faith proposing to own, contractually control, or operate, facilities for the generation and transmission of electricity for bulk power supply which meets each of the following criteria: (1) Its existing or proposed facilities are technically feasible of interconnection with those of Licensee; (2) with the exception of municipalities, cooperatives, government agencies or authorities it is, or upon commencement of operations will be, a public utility subject to regulation with respect to rates and services under the laws of Kansas.

(g) "Participating entity" is an "entity" participating in the ownership of or power output from Wolf Creek Unit 1.

2. Licensee shall offer an opportunity to participate in the Wolf Creek Nuclear Unit Number 1 and any other nuclear generating unit(s) which it may construct, own and operate severally or jointly, during the term of the instant license or an extension or renewal thereof, to any entity(ies) in Licensee's Service Area. Such participation shall be in reasonable amounts, by an ownership interest, or at the option of the entity, by a contractual right to purchase a portion of the output of such units, or on any other mutually agreeable basis.

3. Licensee shall interconnect with any participating entity in Licensee's Service Area which requests such interconnection and provide for the following:

(a) Maintaining and coordinating of reserves, including, where applicable, the purchase and sale of reserve capacity and energy,

(b) Emergency support,

(c) Maintenance support,

(d) Delivery of "unit power" or other participation power out of Wolf Creek Unit 1 from the Licensee,

(e) transmission services for the above and as described subsequently.

4. (a) Licensee and the participating entities in Licensee's Service Area having a reserve coordination arrangement shall from time to time jointly establish the minimum reserve requirements to be installed and/or provided under contractual arrangements as necessary to maintain in total a reserve margin sufficient to provide adequate reliability of power supply to the interconnected systems of the parties. To have reserve coordination rights, other than reserves for Wolf Creek, with the Licensee, a participating entity must own or have contractual rights to generating capacity other than of Wolf Creek Nuclear Unit Number 1. Unless otherwise agreed upon, the minimum reserve requirement shall be calculated as a percentage of the projected annual peak load, adjusted for purchases and sales of firm power, including partial requirements firm power. The parties to such a reserve coordinating arrangement shall provide such amounts of operating (ready and spinning) reserve capacity as may be adequate to avoid the imposition of unreasonable demands on the others in meeting the normal contingencies of operating their systems. However, in no circumstances shall any party's spinning or operating reserve requirement exceed the minimum reserve requirement as provided above.

(b) Emergency and/or scheduled maintenance bulk power service shall be provided by each party to the extent required by the system in need, and be furnished to the fullest extent available from the supplying system. Licensee and each party(ies) within Licensee's Service Area shall provide to the other emergency and/or scheduled maintenance bulk power service if and when available from its own generation to the extent it can do so without impairing service to its customers including other electric systems to whom it has firm commitments.

5. (a) Licensee shall transmit the power from a participating entity's share of Wolf Creek Nuclear Unit Number 1 to the participating entity, or for the account of such participating entity, to delivery or interconnection points on Licensee's system and in amounts as specified by the participating entity. Such deliveries shall be reasonable as to the number of points, system adequacy and frequency of schedule changes.

(b) Licensee shall transmit power from an entity(ies) outside Licensee's Service Area to a participating entity within Licensee's Service Area in an amount at least equal to the share of Wolf Creek Nuclear Unit Number 1 of a participating entity within Licensee's Service Area when the output of this unit is reduced or unavailable because of maintenance or for other reasons.

(c) If capacity and energy from a participating entity's(ies') portion of Wolf Creek Nuclear Unit Number 1 are delivered to other entities, Licensee shall also provide transmission for a later scheduled return of such energy within the same calendar year, in an equal amount of mwhrs, from these other entities to the delivery point of the participating entity within Licensee's Service Area, provided that such transmission arrangements can be reasonably accommodated from a functional and technical standpoint.

6. Licensee shall sell power at its filed and effective rates (for total or partial requirements) to any entity in Licensee's Service Area now engaging or proposing to engage in the wholesale or retail sale of electric power.

[FR Doc.74-29791 Filed 12-20-74;8:45 am]

[Docket No. 50-214]

## LOS ANGELES DEPARTMENT OF WATER AND POWER

### Withdrawal of Application for Utilization Facility License

Take notice that the Atomic Energy Commission, by Order dated July 18, 1974, has granted the request dated October 23, 1973, of the Department of Water and Power of the City of Los Angeles, 111 North Hope Sreet, Los Angeles, California 90051, for withdrawal of its application for license to construct and operate the Malibu Nuclear Plant, Unit 1, a pressurized water nuclear reactor at a site in Corral Canyon, Los Angeles County, California. A copy of the request for withdrawal is available for inspection at the AEC's Public Document Room, 1717 H Street, NW., Washington, D.C.

Notice of receipt of the application was published in the FEDERAL REGISTER on March 6, 1964, 29 FR 3114.

For the Atomic Energy Commission.

Dated at Bethesda, Md., this 16th day of December 1974.

KARL KNIEL,
*Chief, Light Water Reactors Branch 2-2, Directorate of Licensing.*

[FR Doc.74-29794 Filed 12-20-74;8:45 am]

## REGULATORY GUIDE

### Issuance and Availability

The Atomic Energy Commission has issued four new guides in its Regulatory Guide series. This series has been developed to describe and make available to the public methods acceptable to the AEC regulatory staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.70.11, "Information for Safety Analysis Reports—Quality Assurance During Operations Phase;" Regulatory Guide 1.70.12, "Information for Safety Analysis Reports—Reactor Materials;" Regulatory Guide 1.70.13, "Information for Safety Analysis Reports—Code Cases Applicable to Reactor Coolant Pressure Boundary Components;" and Regulatory Guide 1.70.14, "Information for Safety Analysis Reports—Emergency Planning," identify information that is needed in safety analysis reports at the construction permit and operating license stages of review.

These guides are four of a number being issued in the 1.70.X series to identify information that has often been missing from applicants' safety analysis reports or to present revisions necessary to make a portion of the "Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants," Revision 1, October 1972 (Regulatory

Guide 1.70), consistent with the appropriate Standard Review Plan. Standard Review Plans (SRPs) are being prepared by the Regulatory staff for the guidance of staff reviewers who perform the detailed safety review of applications to construct or operate nuclear power plants. A primary purpose of SRPs is to improve the quality and uniformity of staff reviews and to provide a well-defined base from which to evaluate proposed changes in the scope and requirements of reviews. A complete Revision 2 of the Standard Format incorporating the changes presented in this 1.70.X series will be issued following completion of publication of the SRPs.

Comments and suggestions in connection with improvements in all published guides are encouraged at any time. Public comments on Regulatory Guides 1.70.11, 1.70.12, 1.70.13, and 1.70.14 will, however, be particularly useful in developing the forthcoming revision of the Standard Format if received by February 24, 1975.

Comments should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Docketing and Service Section.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 522(a))

Dated at Rockville, Md., this 12th day of December 1974.

For the Atomic Energy Commission.

LESTER ROGERS,
*Director of Regulatory Standards.*

[FR Doc.74-29793 Filed 12-20-74;8:45 am]

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[Docket Nos. STN 50-483, STN 50-486]

## UNION ELECTRIC CO.

### Special Prehearing Conference

The Atomic Safety and Licensing Board, after an inquiry respecting the convenience and availability of the parties for a special prehearing conference, has determined that January 16, 1975 in Saint Louis, Missouri is a convenient date and place.

*Wherefore, it is ordered,* In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, particularly § 2.751(a) thereof, that a special prehearing conference shall convene at 9:30 a.m. on Thursday, January 16, 1975 in U.S. District Court, First Floor, Judge Harper's Courtroom, at the U.S. Courthouse and Customhouse, 1114 Market Street, Saint Louis, Missouri 63101.

Issued: December 17, 1974, Germantown, Maryland.

ATOMIC SAFETY AND LICENSING BOARD,

SAMUEL W. JENSCH,
*Chairman.*

[FR Doc.74-29795 Filed 12-20-74;8:45 am]

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[Docket Nos. 50-514, 50-515]

## PORTLAND GENERAL ELECTRIC CO.

### Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report: Time for Submission of Views on Antitrust Matters

Portland General Electric Company (the applicant), pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, which was docketed August 6, 1974 for authorization to construct and operate two generating units utilizing two pressurized water reactors. The Environmental Report and Site Suitability Report were tendered on June 7, 1974. Following a preliminary review for completeness, the Environmental Report and Site Suitability Report were, on August 6, 1974, found to be acceptable for docketing. The applicant submitted the PSAR August 6, 1974 and it was found to be acceptable on October 18, 1974. Docket Nos. 50-514 and 50-515 have been assigned to the application and should be referenced in any correspondence relating to the application.

The proposed nuclear facilities, designated by the applicant as the Pebble Springs Nuclear Plant, Units 1 and 2 are located in Gilliam County, Oregon. Each unit is designed for initial operation at 3600 megawatts (thermal), with a net electrical output of 1260 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust matters of the application presented to the Attorney General for consideration should submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before February 7, 1975. The request should be filed in connection with Docket Nos. 50-514-A and 50-515-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and at the Arlington Public School, District 3, P.O. Box 10, Arlington, Oregon 97812.

The applicant has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, an environmental report dated June 7, 1974. The report, which discusses environmental considerations related to the construction and operation of the proposed facility is being made available for public inspection at the aforementioned locations and at the Federal Aid Coordination Section, Local Government Relations Division, Executive Department, 301 Public Service Building, Salem, Oregon 97310 and the East Central Oregon Association of Counties, Umatilla County Court House, Pendleton, Oregon 97801.

After the environmental report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission's Regulatory staff. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER, a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Md., this 22d day of November 1974.

For the Atomic Energy Commission.

A. SCHWENCER,
*Chief, Light Water Reactors Branch 2-3, Directorate of Licensing.*

[FR Doc.74-28371 Filed 12-6-74;8:45 am]

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# CIVIL AERONAUTICS BOARD

[Docket No. 25513, Agreement C.A.B. 24596, R-6; Docket No. 25280, Agreement C.A.B. 24597, R-8; Order 74-12-23]

## INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Increased Fuel Costs

*Correction*

In FR Doc. 74-28859 appearing at page 43244 in the issue of Wednesday, December 11, 1974 in the table at the top of page 43245 the C.A.B. agreement number 24597 should be inserted between the R-6 and R-8 entries.

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# CONSUMER PRODUCT SAFETY COMMISSION

## PEDAL-POWERED VEHICLES

### Denial of Petition

Section 10 of the Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1217; 15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance of a consumer product safety rule. Section 10 of the Act also provides that if the Commission denies such petition, it shall publish in the FEDERAL REGISTER its reasons for such denial.

On November 29, 1973, Consumers Union of the United States, Inc. peti-

tioned the Consumer Product Safety Commission to begin a proceeding under the Consumer Product Safety Act to develop a consumer product safety standard applicable to pedal-powered vehicles. In this petition, Consumers Union described the design and performance characteristics of one specific pedal-powered vehicle, and expressed the opinion that the vehicle in question was unsuitable for use on public roads and demonstrated the need for a consumer product safety standard applicable to such vehicles.

Among defects alleged in the petition were an inadequate low gear which severely limited the ability of the vehicle to climb hills; the absence of a reverse gear; slippage and breakage of the transmission chain; inadequate brakes; and instability during sharp turns. The petition requested the Commission to promulgate a consumer product safety standard to improve safety-related performance characteristics of pedal-powered vehicles and to require labeling of those vehicles to indicate that they are not suitable for use on public roads.

At a public meeting with members of the Commission staff on June 13, 1974, attorneys representing Environmental Vehicles, Inc. of Sterling Heights, Michigan, manufacturer of the vehicle described in the petition, presented data and information to support the contention that pedal-powered vehicles do not pose an "unreasonable risk of injury," and therefore a proceeding under section 7 of the Consumer Product Safety Act to develop a consumer product safety standard applicable to pedal-powered vehicles is not warranted.

In a poll of 129 owners of pedal-powered vehicles, one injury was reported to an occupant of a pedal-powered vehicle who suffered a scraped shoulder when the vehicle overturned while making a sharp left turn. This injury and a statement in the petition that an unspecified number of persons on the Consumers Union staff suffered "skinned limbs" when a pedal-powered vehicle overturned on "several occasions" and "had their feet painfully trapped under the vehicle's pedals" are the only injuries associated with pedal-powered vehicles known to the Commission staff.

In the evaluation of this petition, members of the Commission staff inspected and operated a pedal-powered vehicle manufactured by Environmental Vehicles, Inc.

Information available to the Commission staff indicates that Environmental Vehicles, Inc. is the principal manufacturer of pedal-powered vehicles. An attorney representing that company at the public meeting of June 13, 1974, stated that the firm had sold more than 17,000 units during the preceding eighteen months. Other manufacturers of pedal-powered vehicles known to the Commission staff are Pedal Powered Inc., which reported sales of 100 units as of June 5, 1974; and Pedicar Inc., which reported that it had sold no vehicles to the public as of June 5, 1974.

After consideration of the allegations contained in the petition and the information developed by the Commission staff in this matter, the Consumer Product Safety Commission denies the petition because it finds that the limited number of reported injuries associated with pedal-powered vehicles and the small number of pedal-powered vehicles sold to consumers to date or likely to be sold to consumers in the foreseeable future do not constitute an unreasonable risk. The action taken by the Commission to deny the petition for a proceeding to develop a consumer product safety standard applicable to pedal-powered vehicles does not affect or limit the obligations of any manufacturer of pedal-powered vehicles to comply with provisions of section 15 of the Consumer Product Safety Act (15 U.S.C. 2064) applicable to reporting and correction of product defects which create a substantial risk of injury to the public.

Therefore, pursuant to section 10(d) of the Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1217; 15 U.S.C. 2059(d)), notice is hereby given of the Commission's denial of the above-described Consumers Union petition.

A copy of the petition may be seen during working hours, Monday through Friday, in the Office of the Secretary, Consumer Product Safety Commission, 1750 K Street NW., Washington, D.C.

Dated: December 18, 1974.

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

[FR Doc.74-29823 Filed 12-20-74;8:45 am]

## COUNCIL ON ENVIRONMENTAL QUALITY

### ENVIRONMENTAL IMPACT STATEMENTS

#### Receipt

Environmental impact statements received by the Council on Environmental Quality from December 9 through December 13, 1974. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the *minimum* period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (February 3, 1975) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available at cost, from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fred H. Tschirley, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331-E, Administration Building, Washington, D.C. 20250, (202) 447-3965.

AGRICULTURAL RESEARCH SERVICE

*Final*

Sewage Treatment, Agri. Research Center, Prince Georges County, Maryland, December 9: The statement refers to the proposed provision of tertiary treatment for two existing sewage disposal plants at the Beltsville Agricultural Research Center, by the use of the land treatment approach of tertiary lagoons and spray irrigation. The overall effect of the action is to be the provision of adequate tertiary sewage treatment in order to eliminate sources of pollution for Beaver Dam Creek and Little Paint Branch. (20 pages). Comments made by: EPA, State and local agencies. (ELR Order No. 41837.)

FOREST SERVICE

*Draft*

Timber Management, Rio Grande N.F., Colorado, December 9: The statement refers to the proposed revision of the 1962 Timber Management Plan for the Rio Grande National Forest. Revision is for the ten years of 1975-1984. Annually, 9,500 acres, or 1.1% of the available commercial forest land will receive various timber management activities. Adverse impact are degradation of air quality, temporary increases in soil movement and stream sedimentation, and erosion of wilderness values on inventoried roadless areas not selected as new study areas. (ELR Order No. 41842.)

Bear Valley Planning Unit Land Use Plan, Idaho, December 9: The statement discusses the Bear Valley Planning Unit Land Use Plan. The Bear Valley Planning Unit contains a gross area of 192,965 acres, with 149,311 acres within the Boise National Forest and 41,304 acres within the Challis National Forest. In developing the plan, the planning unit was divided into six management areas. Of the inventoried roadless and undeveloped areas, 46,730 acres will remain roadless, with the remaining 84,041 acres being developed as the need arises. There will be temporary sedimentation and short periods of air pollution. (ELR Order No. 41843.)

Hebgen Lake Planning Unit, Gallatin N.F., Montana, December 9: The action consists of implementing land use allocations for 118,655 acres of National Forest lands and waters in the Hebgen Lake land use planning unit. The plan provides a reasonable mix of uses related to the land suitability. The mix of uses range from a wilderness resource to a highly developed recreation resource and mixtures of silvicultural opportunities. Additional roads would be constructed. Adverse impacts include the loss of some timber areas, possible change of the natural physical, social, cultural and economic environment of the area, loss of wildlife habitat, short-term degradation of water quality and soil disturbance due to construction operations. (ELR Order No. 41838.)

*Final*

Kaniksu National Forest, Washington, Montana, and Idaho, December 9: The statement refers to the implementation of the 10-year Timber Management Plan for the Forest. The plan involves the construction of roads and the harvesting of timber in the 1,600,000 acre Forest. Adverse impact will include effects upon soil, air and water, aesthetics, and wildlife (225 pages). Comments made by: DOI, State agencies. (ELR Order No. 41832.)

SOIL CONSERVATION SERVICE

*Draft*

Upper Muddy Boggy Creek Watershed, several counties, Oklahoma, December 9: The Upper Muddy Boggy Creek Watershed work plan proposes a project for watershed protection and flood prevention. The project measures include accelerated application of land treatment measures for the protection of 94,809 acres of agricultural upland and the installation of 36 floodwater structures for the reduction of floodwater, sediment,

and erosion damages on 8,876 acres of floodplain land in Pontotoc, Hughes, Coal, and Pittsburgh Counties. Adverse impacts are the inundation of land, decreased woody habitat, disruption of fish and wildlife, and short term increase in erosion, and turbidity (40 pages). (ELR Order No. 41846.)

ATOMIC ENERGY COMMISSION

Contact: For Non-Regulatory Matters: Mr. W. Herbert Pennington, Office of Assistant General Manager, E–201, AEC, Washington, D.C. 20545, (301) 973–4241. For Regulatory Matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, P–722, AEC, Washington, D.C. 20545, (301) 973–7373.

*Final*

Seabrook Station, Units 1 and 2, Rockingham County, New Hampshire, December 11: The statement refers to the proposed granting of construction permits to the Public Service Company of New Hampshire. The Seabrook Station will employ identical pressurized-water reactors to produce 3411 MWt and 1194 MWe (net) each; future outputs of 3570 MWt and 1250 MWe are anticipated. Exhaust steam will be cooled by a once-through flow of water from the Gulf of Maine. The construction site is largely wooded; 1545 acres will be required for transmission line right-of-way. Marine biota will be adversely affected by thermal and mechanical shock. Comments made by: AMP, USDA, COF, DOC, EPA, FPC, HEW, HUD, DOI, USCG, State and local agencies, and concerned citizens. (ELR Order No. 41860.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN–PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, (202) 693–7168.

*Draft*

Duplicate Locks, Illinois Waterway, December 9: The proposed project involves the construction of supplemental locks at Lockport, Dresden Island, Marseilles, Starve Rock, Peoria, and LaGrange. Several lift bridges in Joliet will be replaced with fixed bridges, and a new fixed bridge will be constructed at Caton Farm Rd. replacing 16th Street Bridge in Lockport. Adverse impacts include: temporary degradation of water, noise, and air quality during construction; disturbance to one historic site; change in land use patterns; some relocations; and the creation of spoil deposition sites (Chicago District). (ELR Order No. 41844.)

Missouri River Levee System, Mills and Pottawattamie Counties, Iowa, December 11: The proposed project will provide for the construction of levee unit L–611–614, the total length of which is 27.7 mile with 18.8 miles along the Missouri River and the remainder on tieback levees. Flood prevention has been designed to provide 1.3 times a 100-year period. Adverse impacts are the commitment of 302 acres of land, increased potential for damage within the minimum 3,000 ft. floodway, emissions, noise, and soil erosion during construction, and disturbance of fish and wildlife habitat (Omaha District). (ELR Order No. 41850.)

Ontanagon Harbor, Operation and Maintenance, Michigan, December 12: The action involves operation and maintenance of Ontonagon Harbor, Lake Superior, Michigan. Principal activities include breakwater repair, dredging, and dredge material disposal. Adverse impacts are increased turbidity, increased noise and congestion in the harbor, and land use alterations due to on-land placement of dredge material (St. Paul District) (35 pages). (ELR Order No. 41864.)

Cattaraugus Creek Harbor, Flood Control, Chautauqua and Erie Counties, New York, December 9: The statement refers to the proposed plan for navigation, flood control and related purposes in Cattaraugus Creek Harbor at Chautauqua and Erie Counties, NY. The plan calls for: breakwaters in southern Lake Erie; a bern extending from the inner end of the north breakwater northerly to high ground; a channel from deep water in the lake upstream to a maneuvering area; a maneuvering area about 300 ft. by 600 ft. with a depth of 6 ft.; and, 2 levees on the left bank. Adverse impacts include: temporary noise and dust during construction; permanent loss of approximately 13 acres of bottom habitat; and, land use changes caused by shoreline development (Buffalo District). (ELR Order No. 41834.)

Mud Creek Local Protection Project, Oklahoma, December 12: The statement refers to the construction of the Mud Creek Local Protection Project, Idabel, Oklahoma. The project involves the widening and straightening of 8,950 ft. of channel, removal of 10 bridges, and replacement of modification of 6 additional bridges. Adverse impacts include the acquisition of 16.4 acres of land, displacement of 14 houses, disturbance to flora and fauna, and increased dust and noise pollution due to construction (Tulsa District). (ELR Order No. 41866.)

Double Bayou, Maintenance Dredging, Chambers County, Texas, December 13: The statement refers to the maintenance dredging of Double Bayou in Chambers County, Texas. Maintenance will be accomplished by hydraulic pipeline dredge with dredged materials disposed of in open water and on land disposal areas. Adverse impacts include disturbance to swimming and bottom dwelling organisms, destruction of vegetation at disposal sites, degradation of water quality, and objectionable odors caused by proposed land disposal operations (Galveston District). (ELR Order No. 41867.)

Ashland Harbor, Operation and Maintenance, Wisconsin, December 9: The statement refers to the proposed operation and maintenance activities within Ashland Harbor, Lake Superior to maintain authorized channel and basin depths. Polluted material dredged from the harbor will be placed in an on-land disposal site. Adverse impacts are minor harbor congestion, air and water contamination, disturbance of bottom sediments and organic matter, and increased turbidity (St. Paul District). (ELR Order No. 41836.)

*Final*

Talofofo Bay, Guam, December 11: Proposed is a shore protection plan which would provide 900 feet of revetment between the right bank of the Talofofo River mouth and the existing revetment at Gayloup Point. There will be temporary water turbidity from construction, access to the shoreline would be impaired by the structure (Honolulu District) (42 pages). Comments made by: DOI, EPA, HEW, USCG, Guam agencies. (ELR Order No. 41857.)

Fly Creek, Baldwin County, Alabama, December 9: The proposed project is the maintenance dredging of the Fly Creek navigation channel to its authorized dimensions. Increased turbidity and siltation will occur in the vicinity of the dredge intake and spoil discharge area. Adverse impacts include loss of vegetation and wildlife on four land disposal areas and one open water disposal area; loss of benthic habitat; and disruption of approximately five acres of channel bottom (Mobile District) (37 pages). Comments made by: EPA, DOI, DOC, HUD, DOT, USDA, State agencies. (ELR Order No. 41839.)

Dauphin Island Bay, Alabama, December 9: The proposed project is the continuation of maintenance dredging of a two channel navigation project to its authorized dimensions. Adverse effects are reduction in water quality and disruption of 140 acres of bay bottom and 10 acres of grass dunes (36 pages). Comments made by: EPA, DOI, DOC, HEW, DOT, HUD, USDA, State agencies. (ELR Order No. 41840.)

Ouachita and Black Rivers, a 9-foot Navigation Project, Arkansas and Louisiana, December 11: The statement refers to a proposed navigation project which will include: completion of a channel with a minimum depth of 9 feet and a minimum bottom width of 100 feet, on the Ouachita River from the mouth of the Black River to Camden, Arkansas; the construction of new locks and dams at Felsenthal and Calion; the realignment of river bends; and the establishment of 2 National Wildlife Refuges, one of 65,000 acres in connection with the Felsenthal Lock and one of 18,000 acres in connection with the Columbia Lock. Adverse impact will include the inundation of 16,000 acres of lowland forest and wildlife habitat. There will be project induced navigation activity and industrial growth (117 p.). Comments made by: EPA, DOI, USDA, HEW, HUD, DOT, State and local agencies. (ELR Order No. 41856.)

Carters Dam and Lake, Murray, Gilmer, and Gordon Counties, Georgia, December 11: The statement refers to the complete construction and operation of a multipurpose (flood control, hydroelectric power, and recreation) reservoir project on the Coosawattee River. Approximately 8,000 acres have been acquired for the project. Of that amount 4,250 acres (mostly forest and agricultural lands), will be inundated (70 pages). Comments made by: DOI, USDA, DOT, HUD, EPA, State agencies. (ELR Order No. 41855.)

Rock Island Local Protection Project, Rock Island County, Illinois, December 12: The statement refers to a proposed local flood protection project for Rock Island. Project measures will include a earthen levee, floodwall with removable steel top section, access ramps, pumping stations and landscaping. The project would protect the city from a 200 year frequency flooding of the Mississippi. The project will adversely affect wildlife by acting as a barrier to river access (Rock Island District) (42 pages). Comments made by: EPA, DOI, DOT, State and local agencies. (ELR Order No. 41865.)

Paint Creek Lake, Ross and Highland Counties, Ohio, December 11: The statement refers to the on-going construction and operation of a dam, reservoir and other facilities, for purposes of flood control, water supply and quality control, fish and wildlife enhancement, and recreation. Adverse impacts of the project include the loss of agricultural land and historic and archeological sites (Huntington District). Comments made by: USCG, USDA, EPA, FPC, HUD, DOI, State agencies. (ELR Order No. 41859.)

*Final*

Colleton River, Dredging and Pier Construction, Beaufort County, South Carolina, December 9: The statement refers to the proposed dredging of the river and the construction of a pier and six dolphins on the north shore of Colleton Neck at Victoria Bluff. The action will provide needed facilities for the construction of a metal plate assembly yard which will produce large aluminum tanks for use in the shipboard transportation of liquified natural gas. Adverse impact of the project includes: the loss of 100 acres of wooded upland and 25 acres of bog; an increase in air pollution; and possible harm to three endangered species (Charleston District). Comments made by: DOC, DOI, USDA, HEW, DOT, State and local agencies, and concerned citizens. (ELR Order No. 41833.)

Waterway Dredging, Virginia, December 9: Proposed is the maintenance dredging of Waterway on the coast of Virginia between the barrier islands and the peninsula of the Eastern Shore. An inland channel 6' deep by 60' wide will be dredged for a distance of 85 miles. There will be adverse impact to marine biota (66 pages). Comments made by: EPA, DOC, DOI, State agencies. (ELR Order No. 41841.)

East Lynn Lake, Twelvepole Creek, Wayne County, West Virginia, December 11: The statement refers to the operation and maintenance of a dam and management of a 1,005-acre multiple-purpose lake (23,921 acres of land) and other facilities for flood-control, recreation, fish and wildlife conservation, and incidental redevelopment benefits. The project is located in the East Fork of Twelvepole Creek, about 6 miles southeast of the city of Wayne. Adverse impacts include the loss of land; conversion of natural stream reach with associated aquatic and terrestrial habitat to a lake environment; period fluctuation of pool levels; loss of nutrient recharge on lands previously flooded downstream; and, the disruption of the lives of the people living on the acquired land. Comments made by: EPA, DOI, USDA, USCG, DOT, State and local agencies. (ELR Order No. 41858.)

Red River Lake, Kentucky, December 9: This response has been prepared as the result of the questions and comments made by the Council on Environmental Quality, and consists of clarification, amplification, and response to such comments. This submission to the Council on Environmental Quality is made in accordance with current Corps of Engineers Policy and Guidelines (Paragraph 7c., Engineer Regulation No. 1105-2-507, 15 April 1974). No further administrative action will be taken by the Army in regard to this Project sooner than thirty (30) days after publication of this notice, in order to allow for agency and public review. Comments on this document should be sent during this period to the District Engineer, U.S. Army Corps of Engineers, P.O. Box 59, Louisville, Ky. 40201. (ELR Order No. 1847FS.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director of Environmental Affairs, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, (202) 343-4161.

*Draft*

Interagency Motor Pool, Dallas, Texas, December 10: The proposed action consists of leasing space for the GSA Interagency Motor Pool which will most likely result in new construction. The facility will consist of 3,500 sq. ft. of net usable office and storage for 8 employees, and 166,000 sq. ft. of net usable parking area or 550 parking spaces. The facility will provide a service area which will include two 10,000 gallon underground gasoline tanks and an automatic drive-through carwash. There will be short-term construction inconveniences caused by the project (96 pages). (ELR Order No. 41849.)

*Final*

Oxnard AFB, Camarillo, Ventura County, California, December 9: Proposed is the disposal of Oxnard Air Force Base by GSA. Included would be: the conveyance of 633 acres and 45 buildings to Ventura Co. for commercial airport use; the assignment of 16 acres and 15 buildings to HEW for conveyance to Regional Occupational Program School; assignment of 9 acres and 8 buildings to HEW for conveyance to Oxnard High School; assignment of 40 acres, 1 building to HEW for conveyance to Ventura Co. Commun. College; assignment of 36 acres and 18 buildings to BOR, DOI, for conveyance to local recreational entities; sale of the chapel to a religious organization; and conveyance of 1 building to Justice Dept. There will be local impact from airport operations. Comments made by: HEW, DOT, HUD, DOI, EPA, State and local agencies, and concerned citizens. (ELR Order No. 41845.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Acting Director, Office of Community and Environmental Standards, Room 7206, 451 7th Street SW., Washington, D.C. 20410, (202) 755-5980.

*Final*

"The Seasons", Washington, D.C., December 10: Proposed is the construction of a ten story highrise apartment building at 1755 Que St. NW., Washington; Federal insurance has been applied for under Section 221(d)(4) of the National Housing Act. There will be visual impact from the project. The project may adversely affect (by blocking sun and air) adjacent Victorian-era townhouses. (150 pages). Comments made by: AHP, DOI, EPA, local agencies, and concerned citizens. (ELR Order No. 41848.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

BUREAU OF RECLAMATION

*Draft*

Coal Gasification Project, Navajo Mine, San Juan County, New Mexico, December 11: The Western Gasification Company proposes to construct and operate 4 gasification plants and the necessary support facilities in northwestern New Mexico on the Navajo Indian Reservation 35 miles southwest of Farmington. On an annual average the first plant would have an initial output of 250 million cu. ft. per day (MMCED) of substitute natural gas (SNG) and would become operational in late 1977 or early 1978. The total production of 1,000 MMCED would be achieved when all 4 plants become operational in 1983. Adverse impacts include emissions of sulphur dioxide, nitrogen oxides, and particulate degradation of water quality, use of 28,000 acres of land, and the displacement of 9 families. (ELR Order No. 41861.)

NATIONAL PARK SERVICE

*Draft*

Bandelier National Monument, Los Alamos, Sandoval, and Santa Fe Counties, New Mexico, December 11: The statement refers to a conceptual master plan for Bandelier National Monument in the counties of Los Alamos, Sandoval, and Santa Fe. The plan will set the development patterns and goals for administration of the area for at least 5 years. Also, proposed is a boundary adjustment involving the acquisition of private and state lands totaling approximately 7,310 acres both north and south of the existing boundaries. Master plan proposals will increase the propensity for minor human impact on vegetation in localized areas of the monument. (ELR Order No. 41854.)

INTERSTATE COMMERCE COMMISSION

*Draft*

Abingdon Branch Abandonment, Virginia and North Carolina, December 12: The Norfolk and Western Railway Company (N&W) proposes to abandon and completely dismantle their Abingdon Branch between Abingdon, Va. and West Jefferson, N.C., a distance of approximately 56.04 miles, all within Washington and Grayson Counties, Va., and Ashe County, N.C. Abandonment of rail service will increase the use of cars in the area. (ELR Order No. 41863.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20500, (202) 426-4357.

FEDERAL HIGHWAY ADMINISTRATION

*Draft*

Taylor Highway, Alaska, December 9: The proposed project involves the reconstruction of the existing Taylor Highway from Tetlin Junction to the Eagle turnoff and the spur road from the turnoff to the Canadian Border. The facility will be a 2-lane, unpaved road designed to meet present and future recreation and commercial development over a 20-year period. Six bridges will be replaced. There will be disruptions normally associated with construction (147 pages). (ELR Order No. 41831.)

57th St. Improvement, Kansas City, Wyandotte County, Kansas, December 9: The proposed project requires the construction of 1.8 miles of 4-lane minor arterial roadway (57th Street) from Kew Drive to Parallel Drive, all within Kansas City, Kansas. Adverse impacts are the acquisition of right-of-way, displacement of 1 family and 1 church, and increased air and noise pollution (58 pages). (ELR Order No. 41835.)

FAS 426, Marion County, December 12: The statement refers to the improvement of 0.208 miles of FAS Route 426 in Marion County. The project includes a bridge and channel change. Lands required for right-of-way will be taken from agricultural production and wildlife habitat. (ELR Order No. 41862.)

U.S. 285, Rio Arriba County, New Mexico, December 9: The statement refers to the proposed construction of U.S. 285 in Rio Arriba County. The length of the new facility will be 7.2 miles. Adverse impacts are temporary noise and air pollution during construction, and the acquisition of land (mostly undeveloped rangeland) for right-of-way. (ELR Order No. 41829.)

Northwest County Highway, Shelby County, Tennessee, December 9: The proposed project involves the construction of Northwest County Highway between Millington and Arlington in north Shelby County, Tennessee. The project length is approximately 18 miles. Adverse impacts include the displacement of residences and businesses, loss of farmland and wildlife habitat, increased air and noise pollution, and temporary soil erosion and siltation during construction. (ELR Order No. 41828.)

*Final*

Iowa Freeway 561, Scott and Clinton Counties, Iowa, December 11: The proposed project is the construction of 14.6 miles of Freeway 561. The project will displace an unspecified number of families, businesses and amount of land acreage, primarily agricultural and timber. Major adverse effects will include loss and disruption of wildlife habitats, and increases in noise, air and water pollution (124 pages). Comments made by: HEW, HUD, USDA, DOI, EPA, COE, State and local agencies. (ELR Order No. 41851.)

Legislative Route 1033, Section A02, Mifflin and Juniata Counties, Pennsylvania, December 11: The statement refers to the proposed reconstruction of a section of existing 3-lane L.R. 1033 into a four lane limited access highway. Length of project is 6.4 miles. An unspecified number of businesses and low income families will be displaced. Temporary sedimentation and siltation of the Juniata River, dust and increased noise levels will occur during construction. Comments made by: USDA, DOI, EPA, HEW, State and local agencies, and concerned citizens. (ELR Order No. 41852.)

U.S. WATER RESOURCES COUNCIL

Contact: Mr. Don Maughan, Director, 2120 L Street NW., 8th Floor, Washington, D.C. 20037, (202) 254–6303.

*Draft*

Great Lakes Basin Framework Study, The Great Lakes Basin Comprehensive Framework Study evaluates the water and related land resources of the Great Lakes Basin, in an attempt to obtain a concensus among involved States and Federal agencies on the general rate at which future development of these resources should proceed, which types of development should be encouraged or discouraged, and which geographic areas should receive special consideration for development or preservation. (ELR Order No. 41830.)

On December 6, 1974, CEQ published notice of a final environmental impact statement for the Williams Creek and Cougar Bluffs Roadless Areas, Umpqua Creek National Forest. It has come to the attention of the Council that the summary which was included with the notice was incorrect.

The correct Final EIS summary concerns a proposal for management direction of two Roadless Areas within the Umpqua National Forest, Douglas County. This proposal is to manage the areas for a combination of resource values including water, wildlife and fish habitat, timber and outdoor recreation. Comments made by: COE, DOI, HUD, DPA, USDA, State and local agencies. (ELR Order No. 41784.)

The commenting period on this statement began on November 29, 1974 and will continue for a minimum of thirty (30) days.

In the December 6, 1974 issue of the FEDERAL REGISTER, CEQ published a notice of availability concerning the Relocation of New Hampshire Route 111, Rockingham County, New Hampshire. In the summary the statement is referred to as a revised draft. It has come to the attention of the Council that the statement is actually a Final Environmental Statement.

The commenting period for this EIS started on the date the statement was received by CEQ (November 27, 1974) and will continue for a minimum of thirty (30) days.

GARY L. WIDMAN,
*General Counsel.*

[FR Doc.74–29846 Filed 12–20–74;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 307–7; OPP–32000/158]

### RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

#### Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB–31, East Tower, 401 M Street SW., Washington, D.C. 20460.

On or before February 21, 1975, any person who (a) is or has been applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH–569), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after February 21, 1975.

APPLICATIONS RECEIVED

EPA File Symbol 11515–LO. ABC Chemical Corp., 17000 W. Eight Mile Rd., Southfield MI 48075. ABC CHEMICAL CORPORATION SUPERKILL PLUS 2,4–D CRAB GRASS KILLER. Active Ingredients: Dodecyl Ammonium Methanearsonate 8.00%; Octyl Ammonium Methanearsonate 8.00%; Octyl Ammonium Salt of 2,4-Dichlorophenoxyacetic Acid 5.44%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 6233–RE. Amador Chemical Corp., 1640 N. Broadway St., Stockton CA 95205. FLAG GERMICIDE CLEANER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.8%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.8%; Sodium Metasilicate 2.4%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 8866–RI. Arco Chemical Corp., 4871 N. 119th St., Milwaukee WI 53225. ARCO CHEMICAL CORP. GRANULAR SHOCK, SHOCK TREATMENT. Active Ingredients: Calcium Hypochlorite 65%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4313–UT. Carroll Co., 2900 W. Kingsley Rd., Garland TX 75041. WEED-GO WITH DRIFT CONTROL. Active Ingredients: Petroleum oil 94.94%; 2,4-Dichlorophenoxyacetic acid, isooctyl ester 1.09%; Bromacil (5-bromo-3-sec-butyl-6-methyluracil 0.98%; Pentachlorophenol 0.80%; Other cholorophenols 0.09%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 498–RNL. Chase Products Co., 19th & Gardner Rd., Broadview IL 60153. LEMON GLYCOLIZED AIR SANITIZER DEODORIZER NO. 2. Active Ingredients: Triethyl Glycol 6.00%; Isopropyl Alcohol 10.00%; Methyl Dodecyl Benzyl Trimethyl Ammonium Chloride 0.008%; Methyl Dodecyl Xylene bis (Trimethyl ammonium chloride) 0.002%; Essential Oils 0.20%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 644–RNN. Exxon Chemical Co., PO Box 3272, Houston TX 77001. RUST-BAN VY 6547 ANTI-FOULING PROTECTIVE COATING. Active Ingredients: Cuprous Oxide 66.8%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34911–I. Hi-Yield Chemical Co., PO Box 460, Bonham TX 75418. HI-YIELD BUG BAIT. Active Ingredients: Carbaryl (1-Napthyl N-Methylcarbamate) 4%; Metaldehyde 1%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34911–0. Hi-Yield Chemical Co. HI-YIELD LAWN WEED KILLER. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 9.45%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34911–A. Hi-Yield Chemical Co. HI-YIELD 5% SEVIN DUST. Active Ingredients: Carbaryl (1-naphthyl N-methylcarbamate) 5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34911–L. Hi-Yield Chemical Co. HI-YIELD 5% SEVIN SQUEEZE DUSTER. Active Ingredients: Carbaryl (1-naphthyl N-methylcarbamate) 5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34911–T. Hi-Yield Chemical Co. HI-YIELD GARDEN INSECT SPRAY. Active Ingredients: Methoxychlor, Technical 15%; Malathion 12%; Aromatic Petroleum Derivative Solvent 62%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4972–RI. Protexall Chemicals, Inc., 5576 S. Ridgewood (Harbor Oak), Daytona Beach FL 32019. DON'S D–K READY MIX ROACH–ANT BUG KILLER. Active Ingredients: Pyrethrins 0.050%; Piperonyl butoxide, technical 0.100%; N-octyl bicycloheptene dicarboximide 0.166%; Chlorpyrifos [0,0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothioate 0.500%; Aromatic petroleum distillate 0.290%; Petroleum distillate 6.609%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 70–ENU. Rigo Co., 1200 Ft. Wayne Natl. Bank Bldg., Buckner KY 40010. KILL–KO SEVIN 50–W CARBARYL INSECTICIDE. Active Ingredients: Carbaryl (1-naphthyl methylcarbamate) 50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 70–ENG. Rigo Co., 1200 Ft. Wayne Natl. Bank Bldg., Buckner KY 40010. KILL–KO RAT BLUES–F THRO PAC. Active Ingredients: 3-(alpha-Acetonylfurfuryl) - 4 - Hydroxy coumarin 0.025%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 148–212. Thompson-Hayward Chemical Co., 5200 Speaker Rd., Kansas City KS 66106. T–H DED–WEED LV–6

BRUSH KIL LOW VOLATILE ESTER. Active Ingredients: 2,4,5-trichlorophenoxyacetic acid isooctyl ester 64.0%. Method of Support: Application proceeds under 2(c) of interim policy.

Dated: December 10, 1974.

JOHN B. RITCH, Jr.,
*Director, Registration Division.*

[FR Doc.74-29248 Filed 12-20-74;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 20256, 20257]

### ALFA LEASING CORP. AND ISO AERO SERVICE INC.

#### Order Designating Applications for Consolidated Hearing on Stated Issues

In regards to applications of Alfa Leasing Corporation, Kinston, North Carolina, Docket No. 20256, File No. 49-A-L-74; ISO Aero Service, Inc., Kinston, North Carolina, Docket No. 20257, File No. 47-A-L-74; for an aeronautical advisory station to serve Stallings Field, Kinston, North Carolina.

1. Alfa Leasing Corporation (hereinafter called Alfa) has filed an application for a new aeronautical advisory station license at Stallings Field, North Carolina, and ISO Aero Service, Inc. (hereinafter called ISO) has also filed an application for new aeronautical advisory facilities at the same airport.[1] Section 87.251(a) of the Commission's rules provides that only one aeronautical advisory station may be authorized to operate at a landing area and, therefore, the above-captioned applications are mutually exclusive. Accordingly, it is necessary to designate the applications for a comparative hearing in order to determine which application should be granted. Except for the issues specified herein, each applicant is otherwise qualified.

2. By letter, dated August 21, 1974, Alfa has alleged that ISO has been operating an aeronautical advisory station at Stallings Field for the past two years without a valid Commission license for such facilities.

3. In view of the foregoing: *It is ordered*, That, pursuant to the provisions of § 309(e) of the Communications Act of 1934, as amended, and § 0.331 (b)(21) of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order on the following issues: (a) To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications;

(5) Ability to provide information pertaining to primary and secondary communications as specified in Section 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other fixed-base operators;

(b) To determine whether ISO has operated, and under what circumstances, an aeronautical advisory radio station at Stallings Field without proper authorization from the Commission and, if so, the effect of such operation on ISO's qualifications to be a Commission licensee; and

(c) To determine in light of the evidence adduced on the foregoing issues which, if either, of the applications should be granted.

4. *It is further ordered*, That the burden of proof and the burden of proceeding with the introduction of evidence on issue (b) is on Alfa and on all other issues, the burdens are on each applicant with respect to its application except issue (c) which is conclusory.

5. *It is further ordered*, That to avail themselves of an opportunity to be heard, Alfa and ISO, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this Order file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

Adopted, December 2, 1974.

Released, December 10, 1974.

[SEAL] CHARLES A. HIGGINBOTHAM,
*Chief, Safety and Special Radio Services Bureau.*

[FR Doc.74-29817 Filed 12-20-74;8:45 am]

[1] ISO was the licensee of aeronautical advisory station KIK3 at Stallings Field, which expired on October 5, 1972, and the subject application was received by the Commission on July 8, 1974. Accordingly, a timely renewal was not filed, and the application is essentially a new application seeking reinstatement of its previously held authorization.

### KOREA

#### International Amateur Third Party Radio Communications

DECEMBER 11, 1974.

Information has been received by the Commission indicating the Government of the Republic of Korea has authorized Amateur radio stations with call sign prefix HL9 to conduct third party communications with U.S. Amateur radio station licensees on a temporary basis for the period beginning December 22, 1974, 1500 G.m.t. and ending January 4, 1975, 1500 G.m.t.

Accordingly, the Commission has no objections to Amateur radio stations licensed by the Commission conducting Amateur third party radio communications with Republic of Korea Amateur radio stations (call sign prefix HL9) during the aforementioned time period.

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

[FR Doc.74-29814 Filed 12-20-74;8:45 am]

### RADIO TECHNICAL COMMISSION FOR AERONAUTICS

#### Meeting

As a matter of public notice, members of the Executive Committee of the Radio Technical Commission for Aeronautics will meet on administrative matters on January 3, 1975, at the Goose Creek Country Club, Leesburg Pike, between Vienna and Leesburg, Virginia, commencing at 1:30 p.m.

The Agenda for the meeting is:

1. Approval of the Minutes of the November 1, 1974, meeting.
2. Special Committee Activities Report for November-December, 1974.
3. Chairman's Report of RTCA Activities.
4. Report of ad hoc Group on the William E. Jackson Memorial Award.
5. Other Business.
6. Date of next meeting.

The meeting is open to the public on a space available basis. Any members of the public may file a written statement with the Commission either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Commission prior to the meeting.

Those desiring to attend the meeting or more specific information should contact the RTCA Secretariat, Suite 655, 1717 H Street, NW., Washington, D.C. 20006, or phone area code 202/296-0484.

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

[FR Doc.74-29810 Filed 12-20-74;8:45 am]

### RADIO TECHNICAL COMMISSION FOR AERONAUTICS

#### Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Radio Technical Commission for Aeronautics Special Committee 122—Planning for 50 Kilohertz VOR/ILS Channeling. It is to be held on January 8-9, 1975, in Conference Room 8 ABC, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C., commencing at 9 a.m.

The Agenda is as follows:

1. Opening comments and introduction.
2. Review of the Minutes of the previous meeting.
3. Technical discussion:

a. (1) Examination of the need for modifications to airborne equipment and procedures in order to preclude degradation of safety as a result of erroneous course information which may be displayed during inadvertent mistuning.

(2) Examination of the need for reduction of VOR harmonic radiation levels at additional facilities.

(3) Examine the potential of further (harmonic) reduction below the levels in ICAO Annex 10.

b. Development of recommendations concerning the steps necessary to insure that the airborne equipment utilized in a given area is capable of safe operation in the environment provided by the particular interference protection criteria applied in that area.

c. Development of proposals for amendments/revisions to the VOR/DME and ILS Minimum Performance Standards and Minimum Operational Characteristics as necessary, for airborne equipment designed to operate in a 50 kHz/Y channel environment.

4. New Business.

5. Assignment of Tasks.

The meeting is open to the public on a space available basis. Any members of the public may file a written statement with the Commission either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Commission prior to the meeting.

Those desiring to attend the meeting or more specific information should contact the RTCA Secretariat, Suite 655, 1717 H Street, NW., Washington, D.C., 20006, or phone area code 202/296-0484.

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

[FR Doc.74-29811 Filed 12-20-74;8:45 am]

## RADIO TECHNICAL COMMISSION FOR AERONAUTICS

### Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Radio Technical Commission for Aeronautics International Coordination Group 12—Airborne LORAN Receivers. It is to be held on January 16, 1975 in RTCA Conference Room 261, 1717 H Street, NW., Washington, D.C. 20006, commencing at 9 a.m.

A formal Agenda has not been published. The group will review work accomplished since its previous meeting on January 21, 1974. It will consider for formalization its Second Draft Report, Minimum Performance Standards—Airborne LORAN Receiving Equipment. The Document will update RTCA Document D0-92 for LORAN-A equipment issued in 1958 and additionally will incorporate Minimum Performance Standards for LORAN-C receivers.

The meeting is open to the public on a space available basis. Any member of the public may file a written statement with the Commission either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Commission prior to the meeting.

Those desiring to attend the meeting or more specific information should contact the RTCA Secretariat, Suite 655, 1717 H Street, NW., Washington, D.C. 20006, or phone area code 202/296-0484.

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

[FR Doc.74-29809 Filed 12-20-74;8:45 am]

## TARIFF TRANSMITTAL LETTER

### Notification to Carriers of Supporting Material

DECEMBER 9, 1974.

In letters to communications common carriers that make frequent tariff filings with the Commission pursuant to section 203 of the Communications Act and Part 61 of the Commission's Rules, the Common Carrier Bureau is reminding common carriers that the material required to support changes or new tariff offerings pursuant to § 61.38 of the rules must be submitted as an attachment to the tariff transmittal letter rather than being submitted under separate cover at later dates. This notification is being made in order to assure that such material will be available to the Commission staff and other interested persons to allow review thereof on a timely basis. Failure to furnish this material at the time of filing the tariff revisions will subject the filing to rejection.

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

[FR Doc.74-29815 Filed 12-20-74;8:45 am]

# FEDERAL MARITIME COMMISSION

## AGENCIA MARITIMA INTERMARES LTDA.

### Issuance of Certificate [Casualty]

Security for the protection of the public financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Agencia Maritima Intermares Ltda.
Brasilio De Gama 52
Sao Paulo
Brazil

Dated: December 18, 1974.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.74-29874 Filed 12-20-74;8:45 am]

## AGENCIA MARITIMA INTERMARES LTDA.

### Issuance of Certificate [Performance]

Security for the protection of the public indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 C.F.R. Part 540):

Agencia Maritima Intermares Ltda.
Brasilio De Gama 52
Sao Paulo
Brazil

Dated: December 18, 1974.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.74-29875 Filed 12-20-74;8:45 am]

## INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, ET AL.

### 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).

Notice of agreement filed by:

Thomas W. Gleason, Counsel
International Longshoremen's Association
17 Battery Place
New York, New York 10004
and
C. P. Lambos, Counsel
New York Shipping Association, Inc.
Lorenz, Finn, Giardino & Lambos
25 Broadway
New York, New York 10004

Agreement No. T-3017-2, between the International Longshoremen's Association, AFL-CIO (ILA) the New York Shipping Association, Inc. (NYSA), Sea-Land Service, Inc., Seatrain Lines, Inc., and Transamerican Trailer Transport, Inc. (Carriers), modifies the parties, basic agreement providing for the settlement of the parties' litigation in and the withdrawal of the Carriers from FMC Dockets Nos. 69-57 and 73-34. The purpose of the modification is to move the date by which the basic agreement must receive Commission approval or by its terms become null and void from December 15, 1974 to January 15, 1975.

Notice of the filing of Agreement No. T-3017 appeared in the FEDERAL REGISTER on November 8, 1974 (FR Doc. 74-26248, 39 FR 39602) and eleven days were granted for comments. Inasmuch as Agreement No. T-3017-2 only changes the date by which the Commission must approve Agreement No. T-3017 and does not in any way change the agreement's substance, no further time will be granted for comments. Comments filed in connection with Agreement No. T-3017 will, however, be taken into account by the Commission in its consideration of Agreement No. T-3017-2.

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Mari-

time 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.

Dated: December 17, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.74-29873 Filed 12-20-74;8:45 am]

## JAPAN/KOREA-ATLANTIC AND GULF FREIGHT 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 January 13, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Charles F. Warren, Esq.
1100 Connecticut Avenue, NW.
Washington, D.C. 20036

Agreement No. 3103-56 is an application on behalf of the member lines of the Japan/Korea-Atlantic and Gulf Freight Conference to extend the presently approved intermodal authority, as set forth in Article 1 of the conference agreement, for a period of eighteen (18) months beyond January 23, 1975. The presently approved intermodal authority expires July 22, 1975. Under the extended authority applied for, it is provided that if the conference does not exercise the intermodal tariff publishing authority granted within the first twelve (12) months of the said extended period, the member lines may publish their own intermodal tariffs. However, should the conference file its own intermodal tariff after the elapse of said twelve month period and the member lines do likewise, the conference tariff would supersede the member lines' intermodal tariffs only to the extent that origins, destinations and tariff commodity descriptions are the same.

Dated: December 16, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.74-29872 Filed 12-20-74;8:45 am]

## PORT OF SEATTLE AND AMERICAN PRESIDENT LINE, LTD.

### 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 January 13, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Ms. Rosie Smith
Rental Management Specialist
Port of Seattle
P.O. Box 1209
Seattle, Washington 98111

Agreement No. T-2640-5, between the Port of Seattle (Port) and American President Line, Ltd. (APL), modifies the basic agreement between the parties providing for the 5-year lease to APL (formerly American Mail Line, Ltd.) of Terminal 25, Seattle, Washington. The purpose of Agreement No. T-2640-5 is to adjust rental payments in accordance with actual construction costs and amend the bonding provisions.

Dated: December 13, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.74-29871 Filed 12-20-74;8:45 am]

# FEDERAL POWER COMMISSION

[Docket No. RM75-11]

## CHANGE IN ANNUAL CHARGES FOR USE OF GOVERNMENT LANDS

### Further Extension of Time

DECEMBER 16, 1974.

On November 29, 1974, Montana Power Company, Pacific Gas and Electric Co., Pacific Power and Light Co., Puget Sound Power and Light Co., Southern California Edison Co., Virginia Electric and Power Co. and Washington Water Power Co. jointly filed a motion to extend the procedural dates fixed by notice issued October 30, 1974, as most recently modified by notice issued December 2, 1974, in the above-designated matter.

Upon consideration, notice is hereby given that the time for filing comments in the above matter is extended to and including February 3, 1975.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-29786 Filed 12-20-74;8:45 am]

## COORDINATING COMMITTEE, TRANSMISSION-TECHNICAL ADVISORY COMMITTEE, AND TRANSMISSION-TECHNICAL ADVISORY TASK FORCES

### Designation of Member

DECEMBER 16, 1974.

By Orders issued May 10, 1971, 36 FR 8910, December 21, 1971, 36 FR 25183, and December 28, 1973, 39 FR 1482, the Federal Power Commission established and renewed the Coordinating Committee, Transmission-Technical Advisory Committee and Transmission-Technical Advisory Task Forces of the National Gas Survey.

1. *Membership.* A new member to the Coordinating Committee, and the replacement of a member to the Transmission-Technical Advisory Committee and Transmission-Technical Advisory Task Forces-Economics, Facilities, Operations, and Regulation and Legislation, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Edwin D. Goebel, Technical Director, National Gas Survey, Bureau of Natural Gas, Federal Power Commission.

The appointment of Dr. Goebel to the Coordinating Committee represents an additional member to that Committee. He is being added to the other aforementioned Committees to fill the vacancies created thereon by the resignation of Thomas H. Jenkins, former Director,

National Gas Survey, Federal Power Commission.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-29785 Filed 12-20-74;8:45 am]

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[Docket No. RP75-6-1]

## CITIES SERVICE GAS CO. AND CUSTOM RESINS, INC.

### Application and Order Providing Hearing and Establishing Procedures

DECEMBER 12, 1974.

On July 23, 1974, Custom Resins, Inc. (Custom Resins) filed a petition for extraordinary relief pursuant to § 1.7(b) of the Commission's rules of practice and procedure and § 2.78 of the Commission's regulations. Custom Resins requested emergency relief from the curtailment plan of Cities Service Gas Co. (CITCO). Custom Resins is a manufacturing firm which produces various chemicals. It stated it had executed a letter of intent with Gulf Oil Company (Gulf) to acquire part of the Jayhawk Petrochemical plant near Columbus, Kansas, and to modify and modernize the plant for the production of ammonia to be used solely as fertilizer.

Custom Resins stated that the plant in the past utilized approximately 50,000 Mcf per day of natural gas, but that in recent years production had been cut back and that natural gas consumption only averaged 4000 Mcf per day, gas supplied to Gulf on an interruptible basis. Custom Resins planned to produce 70,000 tons of ammonia per year and stated a need for 8000 Mcf per day approximately ⅓ to be used for process purposes and the remaining ⅔ as feedstock.

By letter order dated August 9, 1974, the Commission dismissed the petition for extraordinary relief on the ground that the petition was actually a petition for certificate authorization and that the proper procedure would be an application under section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity.

On September 9, 1974, Custom Resins filed an application for rehearing alleging essentially that Custom Resins is the successor in interest to Gulf which in turn was a successor in interest to prior owners of the plant dating back to a "grandfather" certificate issued in Docket No. G-298, 4 FPC 471 (1943).

The Commission issued an order on October 4, 1974, granting a rehearing for the purpose of reconsideration and requiring a response by CITCO. The Order contained detailed questions to be answered by CITCO concerning the amount of gas it had supplied to Gulf and to Gulf's predecessors in interest at the Jayhawk plant.

On November 4, 1974, CITCO filed an answer to the petition for extraordinary relief and application for rehearing of Custom Resins. CITCO's answer denied that Custom Resins a successor in interest to Gulf for the reason that the Jayhawk plant has not been sold by Gulf, nor is there a contract requiring its sales, but only a letter of intent. As required by the Commission's order CITCO detailed the amount of gas it had supplied Gulf and other predecessors through the years. CITCO detailed its critical gas curtailment program and questioned whether the service requested by Custom Resins is within the jurisdiction of the Commission or in the public interest. CITCO also noted that notice of filing of Custom Resins petition has not been published in the FEDERAL REGISTER, and suggested that due to the nature of the requested relief and CITCO's supply shortage, many of its customers may have an interest which may be directly affected by the Commission's action in this proceeding, and who therefore are entitled to be permitted to intervene under section 1.8 of the rules of practice and procedure.

It appears that CITCO is correct in its contention that other parties affected are entitled to public notice and the right to intervene. It also appears that the question of whether or not Custom Resins is a successor in interest or an applicant for new service is both a legal and factual question which would be more fully explored in a formal hearing.

Therefore any person desiring to be heard to make any protest with reference to the said application should on or before December 19, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

An examination of the application and of the data submitted in support thereof and of the response of CITCO presents a question of whether the application is in the public interest. Therefore, we deem a hearing to be in the public interest.

*The Commission orders.* (A) Pursuant to the authority of the Natural Gas Act, a public hearing will be held commencing January 9, 1975, at 10:00 a.m., e.s.t., in a hearing room to be designated at the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(B) A presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(C) All parties desiring to testify in this proceeding shall file their direct testimony and evidence on or before December 27, 1974.

By the Commission.

[SEAL] MARY B. KIDD, *Acting Secretary.*

[FR Doc.74-29777 Filed 12-20-74;8:45 am]

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[Docket No. E-7984]

## CONSUMERS POWER CO. AND DETROIT EDISON CO.

### Order Approving Settlement Agreement and Terminating Proceeding

DECEMBER 16, 1974.

On December 27, 1971 and March 6, 1972, Consumers Power Company (Consumers) and the Detroit Edison Company (Detroit) tendered for filing, two similar June 1, 1971 initial Sales Agreements, as amended August 15, 1971, with Commonwealth Edison Co. (Commonwealth) entitling Commonwealth to purchase up to ⅓ of the initial output of the Ludington Pumped Storage Plant for the first ten years of operation, and up to 1/6 of plant output for five years thereafter. The Ludington Pumped Storage Plant is a jointly-owned project of Consumers and Detroit, comprising six units of 312 MW generating and 323 MW pumping capacity each upon completion in 1974.

By order issued August 28, 1973, the Commission instituted a section 206 investigation and hearing herein to determine the justness and reasonableness of the terms of the filings in general, and the derivation of the return component of the proposed annual fixed charge factor in particular. Subsequent discussion among the parties resulted in the preparation and offer of a proposed settlement herein, which with the concurrence of all parties was offered and transcribed in the October 12, 1973 prehearing conference record and certified to the Commission by the Presiding Administrative Law Judge on October 12, 1973 along with a Staff Motion to accordingly terminate the proceeding. Written notice of the certification was issued by the Commission on October 23, 1974 (39 FR 38723), stating that any person desiring to make comments or suggestions thereupon should submit them in writing on or before November 1, 1974. No comments or suggestions have been received.

The offer of settlement tendered by Consumers, Detroit and Commonwealth explains that (1) the proposed compensation formula initially submitted excludes consideration of an additional investment of $33,234,000 for the construction of necessary transmission facilities within the State of Michigan apart from the capital costs of the Ludington Plant itself, and (2) inclusion of the additional transmission facilities investment in calculating the fixed charge level produced by the tendered compensation formula reduces the resultant annual fixed charge rate from 15.77 percent to 13.89 percent, and reduces the rate of return component from 10.32 percent to 9.05 percent.

Based upon our review of the offer of settlement certified to us by the Presiding Administrative Law Judge on October 12, 1973, as well as the entire record in this proceeding, we find that the offer of settlement provides a reasonable and appropriate resolution of the issues in this proceeding, and that the offer of settlement should be accepted for filing, approved and made effective as hereinafter ordered and conditioned. In light of this action, Staff's motion to terminate the proceedings is granted.

*The Commission finds.* The offer of settlement certified to the Commission on October 12, 1973, in this docket should be accepted for filing, approved, and made effective as hereinafter ordered and conditioned.

*The Commission orders.* (A) The offer of settlement certified to the Commission on October 12, 1973, is hereby accepted for filing, incorporated herein by reference, approved and made effective.

(B) Staff's motion to terminate the proceedings is hereby granted.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-29778 Filed 12-20-74;8:45 am]

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[Docket No. ID-1744]

## EBERT E. FOURNACE

### Supplemental Application

DECEMBER 12, 1974.

Take notice that on November 19, 1974, Ebert E. Fournace (Applicant) filed a supplemental application with the Federal Power Commission. Pursuant to section 305(b) of the Federal Power Act, Applicant seeks authority to hold the following position:

Vice President, Ohio Electric Company, Public Utility.

Ohio Electric Company, whose principal office is located at 301 Cleveland Avenue, SW., Canton, Ohio 44702 owns and operates the General James M. Gavin Plant at Gallipolis, Ohio which, when completed, will have two 1300 megawatt generating units. All of Ohio Electric Company's available electrical energy is sold to Ohio Power Co., of which it is a wholly owned subsidiary.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 31, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-29779 Filed 12-20-74;8:45 am]

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[Docket Nos. CP74-322, CP75-3, CI74-738]

## MICHIGAN GAS STORAGE CO. ET AL.

### Order Setting Hearing, Prescribing Procedures, Granting Interventions and Consolidating Proceedings

DECEMBER 13, 1974.

Northern Michigan Exploration Company (NOMECO) proposes in Docket No. CI74-738 to sell natural gas to Consumers Power Company (Consumers) for resale from its working interest in leases from Offshore Louisiana to be transported through the facilities of Stingray Pipeline Company (Stingray), Natural Gas Pipeline Company of America (Natural), Trunkline Gas Company (Trunkline) and Michigan Gas Storage Company (MGS), and ultimately to Consumers in the State of Michigan.

NOMECO, a wholly owned subsidiary of Consumers is one of the working interest owners in Vermillion Block 320. East Cameron Block 338, and West Cameron Block 639 in the Federal Domain Offshore Louisiana, and proposes herein to sell 40,000 Mcf per day of natural gas from the above leases.

Trunkline seeks certificate authorization to transport NOMECO's gas on a firm basis up to 41,500 Mcf per day, less fuel used by Trunkline, from the point of production to the Consumers-Trunkline interconnection on the Indiana-Michigan border near Elkhart, Indiana. NOMECO's gas will be taken and measured by Trunkline in a common stream with gas purchased by Trunkline from other producers owning interests in the same leases, wells and platforms. The subject gas will be initially transported through the facilities of Stingray to the facilities of Natural which would transport the gas for a distance of approximately 54 miles, to Trunkline's facilities for delivery to Consumers for the credit of NOMECO. Michigan Gas Storage Company, a subsidiary of Consumers, in Docket No. CP74-322 seeks authority from the Commission to transport the gas within the State of Michigan on behalf of Consumers. No new facilities are proposed to be constructed. Transportation agreements between Stingray and Natural, it is stated, have been designed to accommodate the full wellhead streams of offshore production, including the volumes attributable here to NOMECO. A transportation contract dated October 2, 1973, between Stingray, Trunkline and Natural provides that Trunkline and Natural have the right to assign or otherwise permit the use of a portion of its share of capacity of Stingray's facilities, with the consent of the other, and Natural by letter dated June 21, 1974, has consented to allowing Trunkline to utilize a portion of its capacity for the transportation of the gas of NOMECO. Trunkline states that it has unutilized mainline capacity, even if it had a full supply of gas to serve its present contract demands, due to a cessation of transportation service for Tennessee Gas Pipeline Company.

On June 14, 1974, NOMECO requested issuance of a certificate pursuant to § 2.75 of the rules (Optional Procedure) authorizing long-term sales of gas (20 year primary terms) to Consumers from three fields in the Offshore Louisiana, Federal Domain, at an initial rate of 45.0¢ per Mcf at 15.025 psia. On July 24, 1974, NOMECO amended its application to request authorization to make the proposed sales at the national rate established in Opinion No. 699 (43.0¢ at 14.73 psia subject to upward and downward Btu adjustment from a base of 1,000) plus transportation charges based on cost-of-service.

NOMECO owns a 12½ percent working interest in Block 320, Vermilion Area, Block 338, East Cameron Area, and Block 639, West Cameron Area, and has dedicated such interests to a June 12, 1974, contract with Consumers. The contract provides that NOMECO will sell and arrange for the transportation and delivery to Consumers of up to 40,000 Mcf per day. In addition, the contract provides that Consumers will pay a transportation charge which is equal to the transportation charges paid by NOMECO to Trunkline. It is noted that Consumers is also required to pay MGS a transportation charge based on MGS' cost-of-service.

The application of NOMECO indicates that Consumers will use the additional gas to serve its market in the State of Michigan. Data filed in Docket No. CI74-738 indicates that Consumers has currently in effect a gas allocation plan for new customers approved by the Michigan Public Service Commission (MPSC), and Consumers is currently accepting new customers in its Priority 1 and 2 Categories, which are residential, commercial and industrial customers requiring not more than 6,600 cubic feet of gas per hour. Consumers' projected ability to serve a limited amount of new load is premised on assumptions that curtailment from Trunkline and Panhandle Eastern Pipe Line Company will not increase, exploration and development within the State of Michigan will continue, feedstock shortages and other problems will not limit Consumers' Marysville SNG plant operation, and the subject NOMECO offshore supply project will be certificated. Consumers does not curtail firm load but has interrupted seasonal firm customers 60 days this year. Consumers has pending before the MPSC a program for curtailment should the need arise. Such curtailment plan is based on end-use concepts, the first usage curtailed would be large boiler fuel loads. Notices of these applications were issued on July 30, 1974, in Trunkline (39 FR 28327, August 6, 1974); on July 9, 1974, in MGS (39 FR 26066, July 16, 1974); and on July 9 and August 7, 1974, in NOMECO (39 FR 26067, 29234, July 10 and August 14, 1974).

Petitions to intervene were filed by Central Illinois Public Service Company,

Columbia Gas Transmission Company, Consumers Power Company, Laclede Gas Company, Michigan Gas Storage Company, Michigan Gas Utilities Company, Mississippi River Transmission Corporation, and Northern Michigan Exploration Company. A notice of intervention was filed by the Michigan Public Service Commission. No party requests a formal hearing; however, the Commission has determined that the applications for certificates for the sale of gas and transportation from Offshore Louisiana in the Federal domain to distribution companies, such as Consumers, should be the subject of formal hearing to determine inter alia whether the end-use of the subject gas under present and projected circumstances is required by public convenience and necessity in view of the severe shortage of natural gas. In Opinion No. 668 and Opinion No. 668–A, "Northern Michigan Exploration Company, et al.", October 23, and December 7, 1973, the Commission found, among other things, that the record developed therein on the issue of vertical integration was insufficient as a bar to the proposed transportation there proposed. However, that proposal did not involve the movement of reserves from the offshore federal domain. Considering the circumstances of the present severe shortage of natural gas a formal hearing will be convened to examine all public interest issues associated with the movement of volumes from the offshore federal domain under the circumstances herein proposed inclusive of such issues and evidence relating to present and projected end-use of all gas supply available to Consumers, including the proposed NOMECO gas supply. The matter of "vertical integration" having been resolved in Opinion No. 668–A, no evidence or argument on this issue need be submitted.

The Commission's policy on utilization and conservation of natural resources, relevant to this proceeding, § 2.78 of the General Policy and Interpretations, states, 18 CFR 2.78(a)(1):

Section 2.78 *Utilization and Conservation of Natural Resources—Natural Gas.* (a)(i) The national interests in the development and utilization of natural gas resources throughout the United States will be served by recognition and implementation of the following priority-of-service categories for use during periods of curtailed deliveries by jurisdictional pipeline companies:

(1) Residential, small commercial (less than 50 Mcf on a peak day).

(2) Large commercial requirements (50 Mcf or more on a peak day), firm industrial requirements for plant protection, feedstock and process needs, and pipeline customer storage injection.

(3) All industrial requirements not specified in (2), (4), (5), (6), (7), (8) or (9).

(4) Firm industrial requirements for boiler fuel use at less than 3,000 Mcf per day, but more than 1,500 Mcf per day, where alternate fuel capabilities can meet such requirements.

(5) Firm industrial requirements for large volume (3,000 Mcf or more per day) boiler fuel use where alternate fuel capabilities can meet such requirements.

(6) Interruptible requirements of more than 300 Mcf per day, but less than 1,500 Mcf per day, where alternate fuel capabilities can meet such requirements.

(7) Interruptible requirements of intermediate volumes (from 1,500 Mcf per day through 3,000 Mcf per day), where alternate fuel capabilities can meet such requirements.

(8) Interruptible requirements of more than 3,000 Mcf per day, but less than 10,000 Mcf per day, where alternate fuel capabilities can meet such requirements.

(9) Interruptible requirements of more than 10,000 Mcf per day, where alternate fuel capabilities can meet such requirements.

The above list of priorities requires the full curtailment of the lower priority category volumes to be accomplished before curtailment of any higher priority volumes is commenced.

Consumers and MGS (jointly or separately) shall submit a complete statement of total gas supply, market, and storage field data for one full year of actual operation and three full years of projected operations, with and without the proposed NOMECO supply. Consumers will make a submission of any present and projected customer conversions from any other fuel to natural gas, the number of such customers, the volumes of natural gas, and the cost of fuel displaced on an equivalent Btu basis.

Gas storage field data shall include the type, capacity and location of each natural gas storage field, or facility, or other similar plant or facility attached to Consumers' and MGS' systems. For each present and projected storage field, details of the actual and projected operation shall include a study of each gas storage field showing: Location; geology; original and present reserves for each reservoir; original and present pressure of each reservoir; proposed top and base storage pressures; proposed top and base gas volumes to be stored; a deliverability study, including daily and annual injection and withdrawal rates and pressures; and maximum daily deliverability and maximum storage capacity under any proposed plan of development.

A statement of the total gas supply committed to, controlled by, or possessed by Consumers, MGS and NOMECO which is or will be available within three years shall be presented together with:

(i) The estimated total volume of proven reserves in place for each reservoir in each field from which they take natural gas, giving names and location of fields (state, county, or parish).

(ii) The estimated total volumes of proven reserves available by fee or under lease, segregated by gas fields and reservoirs thereof, giving names and locations of fields (state, county, or parish).

(iii) The names and addresses of persons with whom they have gas purchase contracts, the effective dates and remaining terms in years of such contracts.

(iv) A study, showing the daily volumes of natural gas which can and are proposed to be obtained each year from each source of supply.

(v) Estimate of the Btu content of the available gas.

Consumers shall also present a similar study of all alternate sources of SNG, LNG, etc.

Market data will show the number and annual and seasonal consumption of residential, commercial, firm industrial, interruptible industrial, residential spaceheating, commercial spaceheating, and other types of customers; total annual and peak day gas requirements by classification of service as set forth above in the nine priorities; total past and expected curtailments of service all to be listed by the classifications of service as indicated above; an explanation of basic factors used in estimating future requirements, including, for example: Peak day and annual degree day deficiencies, annual load factors of deliveries to proposed customers; derivation of numbers of customers proposed to be served; individual consumer peak day and annual consumption factors for each class of consumers, with supporting historical data; forecasted saturation of spaceheating as related to past experience; and full detail as to all other sources of gas supply available including manufacturing facilities and liquid petroleum gas; a full description of all facilities, other than transmission facilities, necessary to provide service in any new communities to be served; and a copy of each market survey made within the past 3 years for new markets proposed to be served.

In the event Consumers' data shows a gas supply deficiency, the following shall be submitted. The estimated peak day and monthly volumes of natural gas which would be available with and without the certificates requested.

A full description of Consumers currently effective curtailment program and details regarding any flexibility which may be available by effectuating additional curtailment to its existing industrial customers including Consumers' use of gas. Consumers should also provide a breakdown of the estimated disposition of its natural gas estimated to be available by nine priorities established above for the 3 year forecast period.

A breakdown of all natural gas requirements on peak day and monthly bases at the individual plant site by specific end-uses. The specific end-uses to which the natural gas requested will be utilized and should also reflect the scheduling within each particular end-use with and without the certificates requested. A description of existing alternate fuel capabilities on peak day and monthly bases broken down by nine end-uses as shown herein. For the alternate fuels shown above, provide a description of the existing storage facilities and the amount of present fuel inventory, names and addresses of existing alternate fuel suppliers, and anticipated delivery schedules for the period for which certificates is sought; and the current price per million Btu for natural gas supplies and alternate fuels supplies.

A description of efforts to secure local natural gas and alternate fuels, including documentation of contacts with the

Federal Energy Administration and any state or local fuel allocation agencies or public utility commission.

A description of all fuel conservation activities undertaken by the utility and its customers.

The Commission finds. (A) The above-named petitioners should be granted intervention in the above-described proceeding.

(B) The above proceedings should be consolidated for hearing and decision.

The Commission orders. (A) Pursuant to the authority conferred on the Federal Power Commission by the Natural Gas Act and the Commission's Regulations under the Natural Gas Act and the public hearing will commence on January 21, 1975, at 10:00 a.m. e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 respecting the issues set forth above and as contained in the applications above.

(B) The petitioners named above are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission, provided that the participation of such interveners shall be limited to matters affecting the rights and interests specifically set forth in their petitions to intervene, and that the admission of such interveners shall not be construed as recognition by the Commission that they or any of them might be aggrieved, because of any order issued by the Commission in this ceeding.

(C) Applicants and intervenors shall serve prepared direct testimony in support of their positions on issues in this proceeding, including prepared testimony of witnesses and exhibits, on the Office of the Administrative Law Judges, the Commission Staff and every party to this proceeding on or before January 13, 1975.

(D) An Administrative Law Judge to be hereinafter designated by the Chief Administrative Law Judge shall preside at the hearing and, in his discretion shall control the proceedings hereafter.

(E) The proceedings in Docket Nos. CP74-322, CP75-3 and CI74-738 are hereby consolidated for hearing and decision.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-29780 Filed 12-20-74;8:45 am]

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[Docket No. RP75-38]

## MISSISSIPPI RIVER TRANSMISSION CORP.

### Petition To Change Method of Accounting for Storage Gas Withdrawals

DECEMBER 13, 1974.

Take notice that on November 18, 1974 Mississippi River Transmission Corporation For Approval To Change To Last-In-First-Out (LIFO) Method Of Accounting For Storage Gas Withdrawals. MRT's Petition requests the Commission approval of a change from the first-in-first-out (FIFO) to the last-in-first-out (LIFO) method of accounting for storage gas withdrawals commencing with the year 1974.

MRT states that it has been utilizing FIFO in connection with the pricing of storage gas withdrawals since it began withdrawing gas from St. Jacob Storage Field in 1966 and that continued application of the FIFO method would cause a significant and unacceptable distortion in MRT's reported net income and its financial statements for 1974 and subsequent years. MRT further states that this distortion is particularly severe when, as in the case with MRT's storage gas inventories under the FIFO method, revenues received for the sale of a commodity currently are being retailed to prices paid for that commodity in a much earlier period. Finally, MRT states that the proposed switch from the FIFO to LIFO method of accounting as to storage inventories would reduce MRT's 1974 net earnings by approximately $1.6 million.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR §§ 1.8, 1.10). All such petitions or protests should be filed on or before December 30, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-29781 Filed 12-20-74;8:45 am]

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[Docket Nos. E-8756, E-8757, E-8758, E-8781]

## NORTHEAST UTILITIES COS.

### Order Amending Prior Order and Terminating Proceedings

DECEMBER 16, 1974.

By order issued July 22, 1974, in the above captioned proceeding, we accepted for filing certain unit sales contracts filed by the Northeast Utilities Cos. (Connecticut Light and Power Co. (CL&P), Hartford Electric Light Co. (HELCO), and Western Massachusetts Electric Co. (WMECO)), subject to the outcome of the proceedings in Connecticut Light and Power Co., Docket Nos. E-8105, et al. Footnote 1 of that order, which listed the sales contracts filed by NU, was erroneous. The correct designations of these contracts are as follows:

CL&P's Rate Schedule No. FPC 94; HELCO Rate Schedule No. FPC 77; CL&P Rate Schedule No. FPC 92; and HELCO Rate Schedule No. FPC 76 and WMECO Rate Schedule No. FPC 92, both concurring in CL&P Rate Schedule No. FPC 92.

We shall amend our order of July 22, 1974, to reflect the correct rate schedule designations.

Additionally, these contracts were accepted for filing subject to the outcome of the proceeding in Connecticut Light and Power Company, Docket Nos. E-8105, et al. In Opinion No. 701, issued July 22, 1974, we affirmed and adopted the Initial Decision of the Presiding Administrative Law Judge in that proceeding with regard to rate of return on short term unit sales contracts. Since the contracts herein conform to the outcome in that case, we shall lift the refund obligation imposed by our order in these dockets and terminate these proceedings.

*The Commission finds.* (1) Good cause exists to amend our order of July 22, 1974 to reflect the correct rate schedule designations as set out below.

(2) Good cause exists to lift the refund obligation previously imposed and to terminate the proceedings in these dockets.

*The Commission orders.* (A) Footnote 1 of our order of July 22, 1974, is hereby amended to read:

CL&P's Rate Schedule No. FPC 94; HELCO Rate Schedule No. FPC 77; CL&P Rate Schedule No. FPC 92; and HELCO Rate Schedule No. FPC 76 and WMECO Rate Schedule No. FPC 92, both concurring in CL&P Rate Schedule No. FPC 92.

(B) The refund obligation previously imposed in these dockets is hereby lifted and the proceedings in this docket are hereby terminated.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD, *Acting Secretary.*

[FR Doc.74-29782 Filed 12-20-74;8:45 am]

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[Dockets Nos. G-9279, G-20270, RP66-2]

## PAN AMERICAN PETROLEUM CORP., ET AL. AND UNITED FUEL GAS CO.[1]

### Petition for Order Releasing Producer Refunds and Permitting Retention of Supplier Refunds

DECEMBER 16, 1974.

Columbia Gas Transmission Corp. (Petitioner), an affiliate of Columbia Gas System, Inc., as legal successor to United Fuel Gas Company (United Fuel), on December 2, 1974, filed a petition requesting an order of the Commission releasing certain supplier refunds (including interest) held by Pan American Petroleum Corporation (Pan Am) pursuant to an order issued September 11, 1967. Petitioner also requests that the requested order permit it to retain the refund amounts and interest paid by Pan Am, without obligation to flow-through such refunds to Petitioner's jurisdictional customers. Petitioner states that Pan Am, pursuant to the 1967 order, holds in escrow the sum of $2,572,229.77 plus interest accruing from December 31, 1965.

[1] United Fuel Gas Company, a predecessor in interest to Columbia Gas Transmission Corporation, was an affiliate of Columbia Gas System, Inc.

Petitioner asserts that the terms of its predecessor's rate settlement agreement in Docket No. G–20270, as approved by the Commission, contemplate its retention of supplier refunds resulting from producer rate increases effective after June 1, 1961, and that the $2,572,229.77 amount of refunds is applicable to its purchases of gas from Pan Am during the period July 1, 1962 through March 31, 1966.

Petitioner states that copies of the petition have been served upon specifically listed jurisdictional customers, intervenors in Docket No. G–20270, and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR §§ 1.8, 1.10). All such petitions or protests should be filed on or before December 23, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74–29783 Filed 12–20–74;8:45 am]

[Docket No. RP72–99]

## TRANSCONTINENTAL GAS PIPE LINE CORP.

### Tariff Filing

DECEMBER 13, 1974.

Take notice that Transcontinental Gas Pipe Line Corp. (Transco) on November 29, 1974 tendered for filing revised tariff sheets to its FPC Gas Tariff First Revised Volume No. 1, as follows:

Second Substitute Eleventh Revised Sheet No. 5
Third Substitute Seventh Revised Sheet No. 6
Original Sheet No. 159–A
Original Sheet No. 159–B

Transco states that the purposes of this filing are (1) to reinstate the Section 20 collection procedures for credits net of debits granted to customers under Transco's curtailment plan which expired on November 15, 1974, and (2) to "track" the net costs thereof incurred by Transco through October 31, 1974.

Transco states that its presently effective curtailment plan provides for an across-the-board tracking procedure for demand charge adjustments, which method was agreed to by the parties, whereas the previously effective "pro rata" plan provided for a collection method which recognized zone rate differentials—again by agreement of all parties. Because the tracking demand charge adjustments made under the "pro rata" plan is the principal purpose of its filing, Transco proposes to reinstitute, commencing January 1, 1975, the tracking method under the "pro rata" plan until all credits net of debits under such plan have been recouped. In the alternative, Transco has submitted sheets providing for the recoupment of such credits under the method contained in the presently effective plan, although Transco states that it does not believe that this method reflects the intent of the parties.

The Company states that copies of the filing have been mailed to each of the company's jurisdictional customers and interested State Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR §§ 1.8 and 1.10). All such petitions or protests should be filed on or before December 30, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74–29784 Filed 12–20–74;8:45 am]

[Docket No. G–16139, etc.]

## Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

### Applications

DECEMBER 11, 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 December 30, 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.*

[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 |
|---|---|---|---|---|
| G–16139 D 9–16–74 | Gulf Oil Corp., P.O. Box 1589, Tulsa, Okla. 74102. | Transwestern Pipeline Co., acreage in Hansford County, Tex. | (1) | |
| CI63–145 E 11–14–74 | Mitchell Energy Corp. (successor to A. H. Wadsworth, Jr.), 3900 One Shell Plaza, Houston, Tex. 77002. | Tennessee Gas Pipeline Co., a division of Tenneco, Inc., Nada Field, Colorado County, Tex. | 25.0 | 14.65 |
| CI63–575 D 11–30–72 | Exxon Corp., P.O. Box 2180, Houston, Tex. 77001. | Michigan Wisconsin Pipe Line Co., Woodward Area, Major County, Okla. | Depleted | |
| CI66–639 C 11–20–74 | Ashland Oil, Inc., P.O. Box 1503, Houston, Tex. 77001. | Cities Service Gas Co., Northeast Waynoka Field, Woods and Woodward Counties, Okla. | [2] 15.0 | 14.65 |
| CI66–698 D 11–25–74 | The California Co., a division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, La. 70112. | Texas Eastern Transmission Corp., North Carlton Field, Ouachita and Union Parishes, La. | Nonproductive | |
| CI67–119 D 12–14–72 | Pioneer Production Corp., P.O. Box 2542, Amarillo, Tex. 79105. | Panhandle Eastern Pipe Line Co., acreage in Ellis County, Okla. | (3) | |
| CI72–519 D 11–22–74 | Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102. | El Paso Natural Gas Co., Washington Ranch Pool, Eddy County, N. Mex. | (4) | |
| CI75–174 A 9–23–74 [5] | Texaco Inc., P.O. Box 60252, New Orleans, La. 70160. | Transcontinental Gas Pipe Line Corp., Vermilion Block 57 Field, offshore Louisiana. | [5] [6] 46.0<br>.4 | 15.025<br>.3 |

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.

| Docket No. and date filed | Applicant | Purchaser and location | Price per Mcf | Pressure base |
|---|---|---|---|---|
| CI75-321 (G-20464) F 11-15-74 | American Natural Gas Production Co. (successor to Phillips Petroleum Co.), One Woodward Ave., Detroit, Mich. 48226. | Transwestern Pipeline Co., Cree Flowers Field, Roberts County, Tex. | [2] 21.5 | 14.73 |
| CI75-322 (CI61-737) F 11-15-74 | American Natural Gas Production Co. (successor to Shell Oil Co.). | do | [7] 23.30<br>[8] 23.78 | 14.65<br>14.65 |
| CI75-324 (CS71-51) F 11-15-74 | Sun Calvert Co. (successor to Calvert Exploration Co.), P.O. Box 2880, Dallas, Tex. 75221. | Arkansas Louisiana Gas Co., Arkoma Area, Haskell, Latimer, LeFlore, and Pittsburg Counties, Okla. | [9] 45.690<br>[10] 20.323<br>[11] 17.278 | 14.65<br>14.65<br>14.65 |
| CI75-325 (CI66-1086) B 11-15-74 | Earlsboro Oil and Gas Co., Inc. et al., 1380 First National Bldg., Oklahoma City, Okla. 73102. | Panhandle Eastern Pipe Line Co., Northeast Waynoka Field, Woods County, Okla. | Depleted | |
| CI75-327 A 11-18-74 | Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102. | United Gas Pipe Line Co., Block 587, West Cameron Area, offshore Louisiana. | [2] 80.0 | 15.025 |
| CI75-328 A 11-18-74 | Petroleum, Inc., 300 West Douglas, Wichita, Kans. 67202. | Kansas-Nebraska Natural Gas Co., Inc., acreage in Weld County, Colo. | [12] 42.7665 | 14.65 |
| CI75-329 (CS71-51) F 11-14-74 | Sun Calvert Co. (successor to Calvert Exploration Co.). | Transwestern Pipeline Co., Worsham Field, Reeves County, Tex. | [2] 35.0 | 14.65 |
| CI75-330 A 11-21-74 | Pennzoil Offshore Gas Operators, Inc., 3000 One Shell Plaza, Houston, Tex. 77002. | United Gas Pipe Line Co., Block 587, West Cameron Area, offshore Louisiana. | [13] [14] 87.2 | 15.025 |
| CI75-331 (CI65-207) B 11-22-74 | CRA International, Inc., P.O. Box 2329, Tulsa, Okla. 74101. | Texas Eastern Transmission Corp., Englehart Field, Colorado County, Tex. | Depleted | |
| CI75-332 (CI61-130) B 11-22-74 | Terra Resources, Inc., P.O. Box 2329, Tulsa, Okla. 74101. | Natural Gas Pipeline Co. of America, Panhandle Field, Carson County, Tex. | [15] | |
| CI75-333 A 11-22-74 | Clinton Oil Co., P.O. Box 1201, Wichita, Kans. 67201. | Colorado Interstate Gas Co., a division of Colorado Interstate Corp., acreage in Morton County, Kans. | [2] 42.7664 | 14.65 |
| CI75-347 (G-2894) F 11-25-74 | Millard Deck Oil Co., (successor to Atlantic Richfield Co.), P.O. Box 1047, Eunice, N. Mex. 88231. | El Paso Natural Gas Co., Eumont Field, Lea County, N. Mex. | [16] 17.9023 | 14.65 |

[1] No deliveries ever made due to water content in gas.
[2] Subject to upward and downward Btu adjustment.
[3] Acreage is incapable of gas production in accordance with sales contract.
[4] Acreage assigned to Black River Corporation.
[5] Being renoticed, because by amendment to application filed 11-15-74, Applicant requests a higher price.
[6] Rate which is effective January 1, 1975. Applicant is willing to accept a certificate in accordance with Opinion No. 699.
[7] Rate for gas from the well on North tract; includes 3.30¢ per Mcf upward Btu adjustment.
[8] Rate for gas from the well on South tract; includes 3.78¢ per Mcf upward Btu adjustment.
[9] Rate for gas from the varnum Lease (all Sands except Spiro).
[10] Rate for gas from the Young Ranch 1-28, Young Ranch 1-27, Arnwine Unit and Diamond Unit.
[11] Rate for gas from all other units.
[12] Subject to upward and downward Btu adjustment and subject to a 1.0¢ per Mcf gathering charge.
[13] Includes 7.2¢ per Mcf upward Btu adjustment.
[14] Applicant is willing to accept a certificate in accordance with Opinion No. 699.
[15] Acreage sold to Service Drilling Company.
[16] Subject to upward Btu adjustment; estimated adjustment is 1.0¢ per Mcf.

[FR Doc.74-29554 Filed 12-20-74;8:45 am]

[Docket No. CS75-222, etc.]

## "SMALL PRODUCER" CERTIFICATES [1]

### Applications

DECEMBER 12, 1974.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 3, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

| Docket No. | Date filed | Applicant |
|---|---|---|
| CS75-222 | Nov. 7, 1974 | Mrs. Louise Van Denbosch Barnwell, 901 Lincoln Dr., Shreveport, La. 71107. |
| CS75-223 | do | R. S. Barnwell, Sr. |
| CS75-224 | Nov. 11, 1974 | Joseph Oil Corp., 55 Broad St., New York, New York 10004. |
| CS75-226 | Nov. 12, 1974 | Thomas G. Vessels, 600 South Cherry St., Suite 1220, Denver, Colo. 80222. |
| CS75-227 | Nov. 13, 1974 | B. W. Whittington, P.O. Box 568, Portland, Tex. 78374. |
| CS75-228 | Nov. 14, 1974 | H. G. Worsham, d.b.a. Worsham Consultants, 1405 Federal Blvd., Denver, Colo. 80204. |
| CS75-229 | Nov. 15, 1974 | Champlin Exploration, Inc., 1974 Petroleum Partnership, P.O. Box 1066, Enid, Okla. 73701. |
| CS75-230 | Nov. 18, 1974 | Howard W. Jennings, 2401 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102. |
| CS75-231 | do | Marsh Oil Associates, Suite 1000, 595 Madison Ave., New York, N.Y. 10022. |
| CS75-232 | Nov. 20, 1974 | Susanna P. Kelly, Cameron, Mont. 59720. |
| CS75-233 | do | Fourth Enterprises, Inc., 732 The Main Bldg., Houston, Tex. 77002. |
| CS75-234 | do | H. A. Stuart, P.O. Box 1757, Victoria, Tex., 77901. |
| CS75-235 | Nov. 19, 1974 | T. F. Hodge, 2907 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102. |
| CS75-236 | Nov. 21, 1974 | Lightning Productions, Inc., 2010 Republic National Bank Bldg., Dallas, Tex. 75201. |
| CS75-237 | do | Robert E. Miller, 115 Stone Mountain Dr., Conroe, Tex. 77301. |
| CS75-238 | Nov. 1, 1974 | Trust under the Will of Thomas K. Boyd, The First National Bank of Chicago, One First National Plaza, Chicago, Ill. 60670. |
| CS75-239 | Nov. 20, 1974 | Eugene F. Fullen, Box 53802, Lafayette, La. 70501. |

[FR Doc.74-29577 Filed 12-20-74;8:45 am]

[Docket No. E-9161]

## MONONGAHELA POWER CO., ET AL.

### Filing of Rates and Charges for New Service

DECEMBER 18, 1974.

Take notice that Allegheny Power Service Corporation (APSC) on December 9, 1974, tendered for filing on behalf of its affiliates, Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (the APS Companies) an Agreement between the APS Companies and UGI Corporation (UGI) for the sale by the APS Companies and the purchase by UGI of 50,000 kw of electric power and energy to be sold from the APS Companies' Harrison Station (Harrison Power) for a period of six years commencing January 1, 1975. The Agreement provides, among other things, that Harrison Power will be sold to UGI at a rate of $3.95 per kw per month plus 110 percent of the out-of-pocket cost of energy delivered, including losses. Deliveries of energy to UGI will be scheduled for as many hours as UGI

desires but not to exceed 50,000 kwh per hour, and such deliveries shall be made unless: (1) None of the three units of the Harrison Station is operating; (2) the APS Companies have received an order from an appropriate governmental body to curtail or for any other reason have curtailed the output of the Harrison Station as a result of a shortage of fuel; or (3) transmission of the energy is made impossible.

Applicants estimate that for the twelve months ended December 31, 1975 the demand charges will total $2,370,000 ($197,500 per month). Further, Applicants state that energy charges cannot be estimated at the present time since the cost of producing energy will vary and the number of kwh that UGI will take will vary from month to month.

Applicants state that no facilities need be constructed or acquired in connection with the sale and purchase of Harrison Power.

Applicants have requested the Commission to accept the Agreement for filing, to be effective on or before January 1, 1975, as they intend to commence the sale and purchase of Harrison Power as of that date. Accordingly, Applicants have requested waiver of any requirements of the Commission's rules and regulations deemed necessary and desirable by the Commission to grant the requested effective date.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure on or before December 30, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-29886 Filed 12-20-74;8:45 am]

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[Docket Nos. RP71-119, RP74-31-24]

## PANHANDLE EASTERN PIPE LINE CO.

### Petition for Extraordinary Relief

DECEMBER 18, 1974.

Take notice that on December 12, 1974, Anchor Hocking Corporation ("Anchor Hocking") filed a petition for permanent extraordinary relief from the natural gas curtailments imposed by Panhandle Eastern Pipe Line Company ("Panhandle") on Anchor Hocking's glass container plant located at Winchester, Indiana. Anchor Hocking, a direct sale customer of Panhandle, states that due to unexpected additional curtailments being imposed this winter season by Panhandle, Anchor Hocking could effectively lose delivery of the required 790 Mcf per average day necessary to fuel the feeders and annealing lehrs at the Winchester plant. If the minimum 790 Mcf of process gas per average day is curtailed, Anchor Hocking will not have sufficient gas to maintain full production and will as a result suffer irreparable injury. Without relief, the Winchester plant will have to shut down, at least in part. This will create a significant loss of employment in the town of Winchester, in which Anchor Hocking is by far the largest employer. Irreparable injury will also occur to Anchor Hocking itself and to its customers.

Accordingly, Anchor Hocking has moved for permanent extraordinary relief from curtailment through a Commission order requiring Panhandle to deliver to the Winchester plant 790 Mcf per average day, with a peak day of 875 Mcf. Any volumes delivered pursuant to such extraordinary relief in excess of entitlements under the effective Panhandle curtailment plan would be subject to payback out of subsequent daily entitlements in excess of 790 Mcf per average day.

In order to avoid irreparable injury pending hearings on its request for permanent relief, Anchor Hocking has also moved for immediate temporary relief identical with the permanent relief requested. In this connection, Anchor Hocking requested and Panhandle has agreed to a grant of emergency relief from curtailments during the months of December and January.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to protest said petition should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10) on or before December 27, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules. This filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-29887 Filed 12-20-74;8:45 am]

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# FEDERAL RESERVE SYSTEM

## ASSOCIATED BANK CORP.

### Acquisition of Bank

Associated Bank Corporation, Iowa City, Iowa, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Community State Bank of Clear Lake, Clear Lake, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 14, 1975.

Board of Governors of the Federal Reserve System, December 13, 1974.

[SEAL] GRIFFITH L. GARWOOD,
*Assistant Secretary of the Board.*

[FR Doc.74-29762 Filed 12-20-74;8:45 am]

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## NATIONAL CITY CORP.

### Acquisition of Bank

National City Corporation, Cleveland, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of Third National Bank of Sandusky, Sandusky, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 14, 1975.

Board of Governors of the Federal Reserve System, December 13, 1974.

[SEAL] GRIFFITH L. GARWOOD,
*Assistant Secretary of the Board.*

[FR Doc.74-29763 Filed 12-20-74;8:45 am]

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## W. J. YOUNG & CO.

### Order Approving Exemption of Nonbanking Activities of Bank Holding Company

W. J. Young & Co., Clinton, Iowa, a bank holding company within the meaning of the Bank Holding Company Act by virtue of its ownership of over 63 per cent of the voting shares of The Clinton National Bank, Clinton, Iowa ("Bank"), has applied to the Board of Governors, pursuant to section 4(d) of the Act (12 U.S.C. 1843(d)), for an exemption from the prohibitions of section 4 of the Act (relating to nonbanking activities of, and acquisitions by, a bank holding company).

Notice of receipt of the application was published in the FEDERAL REGISTER on October 10, 1974 (39 FR 36512), providing an opportunity for interested persons to submit comments and views with respect to the application. Time for filing comments and views has expired and all those received have been considered. No request for a hearing has been received.

Section 4(d) of the Act provides that, to the extent such action would not be

substantially at variance with the purposes of the Act and subject to such conditions as the Board considers necessary to protect the public interest, the Board may grant an exemption from the prohibitions in section 4 of the Act to a bank holding company that controlled one bank prior to July 1, 1968, and has not thereafter acquired the control of any other bank, in order (1) to avoid disrupting business relationships that have existed over a long period of years without adversely affecting the banks or communities involved, (2) to avoid forced sales of small locally owned banks to purchasers not similarly representative of community interests, or (3) to allow retention of banks that are so small in relation to the holding company's total interests and so small in relation to the banking market to be served as to minimize the likelihood that the bank's powers to grant or deny credit may be influenced by a desire to further the holding company's other interests.

The Board has considered the application in light of the factors set forth in section 4(d) of the Act, and finds that:

Applicant was incorporated in 1882 for the purpose of holding the interests of the W. J. Young family. At the present time, the Young family interests consist of sole ownership of the Clinton Herald Co., publisher of the "Clinton Herald," a six-day per week evening newspaper of general circulation in Clinton, and a company that is engaged in commercial printing; ownership of less than five per cent of the stock in Newmont Mining, a company listed on the New York Stock Exchange; and ownership of over 63 per cent of the outstanding voting stock in Bank.

W. J. Young & Co. acquired a significant ownership interest (43.9 per cent) in Bank in 1924; however, the Young family's contact with that Bank began at the time of Bank's organization in 1865, when W. J. Young sat as a member of the board of directors of Bank. In addition, Clinton Savings Bank, which was organized in 1875 by the Young family for the purpose of providing a depository for the earnings of W. J. Young lumber mill employees, was merged with Clinton Bank in 1945. Accordingly, it appears that Applicant or its predecessors have controlled Bank since 1924 and members of the Young family have been directly associated with Clinton Bank since 1865. Furthermore, the record indicates that over the last ten years Applicant has maintained an average demand deposit balance of approximately $150,000 to $200,000 with Bank. Bank appears to be in satisfactory financial condition, and the record contains nothing to suggest that Applicant has abused its relationship with Bank or misused Bank's resources for the benefit of Applicant's other interests. There is no reason to believe that permitting Applicant's relationship with Clinton Bank to continue would adversely affect Bank or the communities involved.

Furthermore, the Board notes that at the present time over 90 per cent of Bank's stock is owned either by Applicant or the residents of Clinton and its environs. Forced sale of Bank could result in a loss of such local control, and could detract from the bank's involvement in the local community. In this regard, it is noted that Bank has a loan to deposit ratio of 71 per cent and, furthermore, it has exhibited an active interest in various community projects.

Bank is the second largest banking institution in the Clinton RMA (the relevant banking market) with 27.6 percent of market deposits.[1] As of year-end 1973, Bank had total deposits of $33.7 million and total assets of $38.2 million. Applicant, on an unconsolidated basis, had assets of $3.9 million. On a net income basis, Bank accounted for 41.3 percent of Applicant's total net income for the 1973 calendar year. Thus, the facts presented do not meet the standards for exemption set forth in section 4(d)(3) of the Act, although the record does not contain any evidence that Bank has used its powers to grant or deny credit to further Applicant's other interests.

Based on the foregoing and other considerations reflected in the record, the Board has concluded, pursuant to the tests set forth in sections 4(d)(1) and 4(d)(2) that an exemption is warranted to avoid disrupting a business relationship that has existed over a long period of years without adversely affecting the banks or communities involved, and that forced sale of Bank could result in sale of Bank to purchasers not similarly representative of community interests. In addition, granting an exemption to Applicant would not be substantially at variance with the purposes of the Act nor adverse to the public interest; and an exemption is warranted under the provisions of section 4(d) of the Act. Accordingly, an exemption pursuant to section 4(d) of the Act is hereby granted subject to the condition that this determination may be revoked if the facts upon which it is based change in any material respect. Further, the provisions of any credit, property, or service by Applicant or any subsidiary thereof shall not be subject to any condition which, if imposed by a bank, would constitute an unlawful tie-in arrangement under § 106 of the Bank Holding Company Act Amendments of 1970. The determination herein is subject to the Board's authority to require modification or termination of the activities of Applicant or any of its nonbanking subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasions thereof.

By order of the Board of Governors,[2] effective December 12, 1974.

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

[FR Doc.74-29766 Filed 12-20-74;8:45 am]

[1] The Clinton RMA is comprised of the incorporated areas of Clinton and Camanche and the section of Hampshire township in Clinton County, all in Iowa; in Illinois, it includes Fulton, Fulton Township, one quarter of Garden Plain Township and the small northern portion of Albany Township in which Albany City is located.

[2] Voting for this action: Governors Sheehan, Bucher, Holland, Wallich and Coldwell. Absent and not voting: Chairman Burns and Governor Mitchell.

## WYOMING BANCORPORATION

### Acquisition of Bank

Wyoming Bancorporation, Cheyenne, Wyoming, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of Bank of Wyoming, Hanna, Wyoming, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 14, 1975.

Board of Governors of the Federal Reserve System, December 13, 1974.

[SEAL] GRIFFITH L. GARWOOD,
*Assistant Secretary of the Board.*

[FR Doc.74-29764 Filed 12-20-74;8:45 am]

## WYOMING BANCORP.

### Order Approving Acquisition of Bank

Wyoming Bancorporation, Cheyenne, Wyoming, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of The First National Bank of Kemmerer, Kemmerer, Wyoming ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest banking organization in Wyoming, controls thirteen subsidiary banks with aggregate deposits of $202.8 million, representing 16 per

cent of the total commercial bank deposits in the State.[1] The acquisition of Bank ($21.8 million deposits) would increase Applicant's share of State deposits by 1.7 percentage points and would not result in any significant increase in the concentration of banking resources in Wyoming.

Bank is the only bank located in Kemmerer (population of about 2,300)[2]. Applicant's subsidiary bank nearest to Bank is located in Evanston, 50 miles southwest of Bank. Bank is located 85 miles northwest of Rock Springs where Applicant has received approval to acquire a *de novo* bank. In view of the fact that Kemmerer, Evanston, and Rock Springs are distinct market areas, no significant existing competition would be eliminated by consummation of the proposed acquisition. Furthermore, from the facts of record, it appears unlikely that any significant competition will develop between Applicant's subsidiary banks and Bank in the future. Although Applicant has the resources to enter the market *de novo*, it does not appear from the record that the area is particularly attractive for such an alternative means of entry at this time or that Applicant would attempt such entry.[2] Accordingly, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant and its subsidiaries are regarded as satisfactory and consistent with approval of the application. The same factors are satisfactory with regard to Bank, particularly in view of Applicant's commitment to inject $300,000 in equity capital into Bank. Factors relating to the convenience and needs of the community to be served are also consistent with approval. Affiliation with Applicant will enable Bank to introduce longer term certificates of deposit and extend the weekday banking hours; and Applicant will provide additional management expertise in the lending and investment functions of Bank. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record,[3] the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[4] effective December 12, 1974.

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

[FR Doc.74-29765 Filed 12-20-74;8:45 am]

[1] All banking data are as of December 31, 1973. Applicant has also received approval to acquire Bank of Wyoming, N.A., Rock Springs, Wyoming, and Bank of Wyoming, N.A., Sheridan, Wyoming, proposed new banks.

[2] It is noted that an application has been filed by a group of individuals with the Regional Administrator of National Banks for a charter for a national bank to be located in Kemmerer.

[3] Dissenting Statement of Governor Holland filed as part of the original document. Copies are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Kansas City.

[4] Voting for this action: Vice Chairman Mitchell, Governors Sheehan, Bucher, Wallich, and Coldwell. Voting against this action: Governor Holland. Absent and not voting: Chairman Burns.

## GENERAL ACCOUNTING OFFICE

### ATOMIC ENERGY COMMISSION

#### Receipt of Regulatory Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on December 13, 1974. See 44 U.S.C. 3512(c) & (d). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

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; and the frequency with which the information is proposed to be collected.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

ATOMIC ENERGY COMMISSION

Request for clearance of application, reporting, and recordkeeping requirements contained in 10 CFR 55.10, 55.33, 55.41, and Appendix A of Part 55 of the Commission's regulations pertaining to the qualification of licensed operators; frequency of each requirement is biennial or on occasion; potential respondents are applicants for operator licenses; respondent burden varies greatly depending on the requirement and is estimated at 636 total man-hours annually.

NORMAN F. HEYL,
*Regulatory Reports Review Officer.*

[FR Doc.74-29826 Filed 12-20-74;8:45 am]

### FEDERAL MARITIME COMMISSION

#### Receipt of Regulatory Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on December 16, 1974. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

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; and the frequency with which the information is proposed to be collected.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

FEDERAL MARTIME COMMISSION

Request for review and clearance of an extension without change of FMC reporting requirement under 46 U.S.C. 816, 820, 841a and FMC General Order 15. Approximately 550 marine terminal operators will be required to file with the Commission a schedule of tariffs showing all its rates, charges, rules, and regulations relating to or connected with the receiving, handling, storing, and/or delivering of property at its terminal facilities. The respondents must file 11 times annually. The respondent burden per filing varies considerably depending on the size of the operator. No estimate of the average number of man-hours can be made.

NORMAN F. HEYL,
*Regulatory Reports Review Officer.*

[FR Doc.74-29827 Filed 12-20-74;8:45 am]

## GENERAL SERVICES ADMINISTRATION

[Federal Property Management Reg.; Temporary Reg. F-315]

### SECRETARY OF DEFENSE

#### Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government in intrastate rate proceedings.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Tennessee Public Service Commission involving the application of the South Central Bell Telephone Company for increases in its intrastate rates and charges.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ARTHUR F. SAMPSON,
*Administrator of General Services.*

DECEMBER 12, 1974.

[FR Doc.74-29828 Filed 12-20-74;8:45 am]

## NATIONAL ENDOWMENT FOR THE HUMANITIES

### ADVISORY COMMITTEE EDUCATION PANEL

#### Meeting

DECEMBER 13, 1974.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) notice is hereby given that a meeting of the Education Panel will meet at Washington, D.C., on January 10, 16 and 17, 1975.

The purpose of the meeting is to review Planning Grant Program applications submitted to the National Endowment for the Humanities for grants to educational institutions and non-profit organizations.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 532(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation on the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202–382–2031.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.74–29750 Filed 12–20–74;8:45 am]

### ADVISORY COMMITTEE EDUCATION PANEL

#### Meeting

DECEMBER 17, 1974.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) notice is hereby given that a meeting of the Education Panel will meet at Washington, D.C., on January 20, 1975.

The purpose of the meeting is to review Development Grant Program applications submitted to the National Endowment for the Humanities for grants to educational institutions and nonprofit organizations.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation on the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–382–2031.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.74–29751 Filed 12–20–74;8:45 am]

### ADVISORY COMMITTEE PLANNING PANEL

#### Meeting

DECEMBER 16, 1974.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub L. 92–463) notice is hereby given that a meeting of the Planning Panel will be held at Washington, D.C., on January 16 and 17, 1975.

The purpose of the meeting is to review Youthgrants in the Humanities applications submitted to the National Endowment for the Humanities for project grant awards.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Panel.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202–382–2031.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.74–29752 Filed 12–20–74;8:45 am]

## OFFICE OF MANAGEMENT AND BUDGET

### CLEARANCE OF REPORTS

#### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on December 18, 1974 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), 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 thru 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 AGRICULTURE

Not assigned as of 10/74, Plant Introduction Evalulation Report, CR 46, on occasion, farms, Evinger, S. K., 395–3648.

DEPARTMENT OF DEFENSE

Department of the Army (excl. Office of Civil Defense):
- Army Advertising Awareness and Attitudinal Survey REMAS–1, 51264, single-time, males and fathers aged 17 to 21, Hall, George, 395–4697.
- Student/Educator Survey REMAS–3, 0, single-time, high school educators and youth, Hall, George, 395–4697.
- Recruiting Advertisement Survey REMAS–4, 0, single-time, NPS males—14 to 21 years of age, Hall, George, 395–4697.

Departmental and other, Survey for Distribution of Military Training Route Chart, 0, single-time, civil airports, Lowry, R. L., 395–3772.

Department of the Army (excl. Office of Civil Defense):
- Survey Instrument for High School Students, 0, single-time, urban, suburban, and rural high school students, Hall, George, 395–4697.
- Survey Instrument for College Students, 0, single-time, ROTC and non-ROTC students, Hall, George, 395–4697.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration: Mailing List Maintenance Card, FD 2509, annually, business firms, Caywood, D.P., 395–3443.

National Institutes of Health:
- Can-Dial Evaluation, NIH–CA–21, single-time, individuals, Reese, B. F., 395–5630.
- Laboratory Survey, NIH–ND–6, single-time, research scientists, Ellett, C. A., 395–6172.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development: Community Development Block Grant—Discretionary Funds Preapplication for Federal Assistance, 0, annually, local governments, Community & Veterans Affairs Division, 395–3532.

DEPARTMENT OF LABOR

Bureau of Labor Statistics: Survey of Occupational Wages in Westchester County, New York, and Stamford, Conn., BLS 2751A, annually, business firms, Strasser, A., 395–3880.

REVISIONS

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis:
- International Receipts and Payments or Royalties, Licensing Fees, Rentals, etc., BEA–93, annually, business firms, Hulett, D.T., 395–4730.
- Foreign Personal Remittances (bank report), AL remittances, BE 579, monthly, financial institutions, Hulett, D.T., 395–4730.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation: Federal Crop Insurance Regulations * * *, on occasion, farms with crop insurance, Evinger, S.K., 395–3648.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control: Trade Name Request Forms for NOHS (National Occupational Hazard Survey), NIOSHI5, on occasion, chemical manufacturers, Ellett, C.A., 395–6172.

PHILIP D. LARSEN,
*Budget and Management Officer.*

[FR Doc.74–28835 Filed 12–20–74;8:45 am]

## CLEARANCE OF REPORTS

### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 12/17/74 (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(s), 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 thru 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 AGRICULTURE

Agricultural Stabilization and Conservation Service:
- Request for Long-Term Agreement—Rural Environmental Conservation, RE–310, on occasion, farmers, Lowry, R.L., 395–3772.
- Request for Cost-Sharing—Rural Environmental Conservation, RE–245, annually, farmers, Lowry, R.L., 395–3772.
- CMS Purchase Order—Rural Environmental Conservation, RE–250, on occasion, farmers and vendors, Lowry, R.L., 395–3772.

DEPARTMENT OF COMMERCE

Maritime Administration: Operating-Differential Subsidy for Bulk Cargo Vessels Engaged on World-Wide Services, 0, monthly, business firms, Caywood, D.P., 395–3443.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration: Activity Analysis of House Officers and Teaching Physicians, SSA–9765, single-time interns, residents, fellows, and teaching physicians, Collins, L., 395–3756.

Health Resources Administration: Spanish-Surnamed Physician and Medical Student Study in the U.S., 0, single-time, Spanish-surnamed physicians and medical students, Collins, L., 395–3756.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research: Administrative Agency Experiment—Third Staff Survey, 0, single-time, current and former employees of EHAP agencies, Lowry, R. L., 395–3772.

Office of the Secretary: Development Fund Certified Non-Buyer Questionnaire, 0, single-time, development fund program participants in Bay area, Lowry, R. L., 395–3772.

Policy Development and Research: Metro-Jobs Project Applicant's Form, 0, annually, individuals, community and Veterans Affairs Division, 395–3532.

DEPARTMENT OF JUSTICE

Departmental and Other Applicant's Environmental Evaluation, 4550, on occasion, applicants, economics and General Government Division, 395–3451.

DEPARTMENT OF THE INTERIOR

Bureau of land management: Cadastral Surveyor Questionnaire, 9180–37, on occasion, private surveying and engineering firms, Lowry, R. L., 395–3772.

NATIONAL SCIENCE FOUNDATION

Characteristics of Highly Cited Papers in the Engineering Sciences, 0, Single-time, primarily faculty of academic institutions, Lowry, R. L., 395–3772.

VETERANS ADMINISTRATION

Application for Education Loan, 22–8725, on occasion, veterans, Lowry, R. L., 395–3772.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control: The Relationship of Nutritional Status and Immunity Levels to Socioeconomic Stratification, CDC BSS 0521, single-time, households, Reese, B. F., 395–5630.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration:
- Authorization by Accredited Hospitals to Disclose the AOA Accreditation survey, SSA–2672, on occasion, Evinger, S. K., 395–3648.
- Authorization by Accredited Hospitals to Disclose the JCAH Accreditation Survey, SSA 2674, on occasion, Evinger, S.K., 395–3648.
- Hospitals With a Distinct Part Extended Care Facility Computing Reimbursable Costs on Combination Method, SSA–9555, annually, Evinger, S.K., 395–3648.
- Hospital With a Distinct Part Extended Care Facility, Computing Reimbursable Cost on Gross RCCAC Basis, SSA–9556, annually, Evinger, S.K., 395–3648.
- Hospital and Hospital Based Extended Care Facility Statement of Reimbursable Costs, SSA 9554, annually, Evinger, S.K., 395–3648.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management: Operating Budget Forms and Summary Budget, HUD–52564, annually, Community and Veterans Affairs Division, 395–3532.

PHILIP D. LARSEN,
*Budget and Management Officer.*

[FR Doc.74–29836 Filed 12–20–74;8:45 am]

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[V–74–59]

### PHILADELPHIA COKE DIVISION OF EASTERN ASSOCIATED COAL CORP.

### Application for Variance and Interim Order; Grant of Interim Order

I. *Notice of application.* Notice is hereby given that Philadelphia Coke Division of Eastern Associated Coal Corporation, 4501 Richmond St., Philadelphia, Pa. 19137 has made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596) 29 CFR 1905.11 for a variance and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.23(c)(1) concerning the Protection of Open-sided floors, platforms, and runways.

The address of the place of employment that will be affected by the application is as follows:

Philadelphia Coke Division of Eastern Associated Coal Corporation
4501 Richmond Street
Philadelphia, Pa. 19137

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application the applicant contends that it is providing a place of employment as safe as that required by § 1910.23(c)(1) which requires that every open-sided floor or platform 4 feet or more above adjacent floor or ground level shall be guarded by a standard railing on all open sides.

The applicant contends that as the major element of its operation are two contiguous coke oven batteries of 37 ovens each. These batteries are operated as a unit. The coke ovens were built in 1928 and have been in continuous operation since February 1, 1929. The cost of replacing these batteries with batteries which would permit compliance with § 1910.23(c)(1) is estimated to be $20 million.

The operation is a series of batch operations, so arranged and operated as to effect a continuous distillation of bituminous coal. Each of the 74 ovens is approximately 3½ feet wide, and has a door at either end. The coal is charged into each oven unit from the top and at the appropriate time the oven is opened at each end, with the residue coke pushed from one side out the other side into a "hot car."

The applicant alleges that removal of the residue coke from the oven is accomplished as follows. On each side of the ovens there is a "bench" a few inches below the oven floor level. This bench is six feet, ten inches wide and runs the length of the 74 ovens (approximately 260 feet). The bench is 11 feet above the adjacent track level. About four feet above ground level a set of tracks (similar to railroad tracks) run parallel to the bench along the length of the bench (track level). Along these tracks, on the west side of the ovens ("pusher side"), travels a large machine called a "pusher" which protrudes over the bench to the oven doors. The pusher is operated by an employee from a cab in the upper portion of the pusher. There is also another machine, called a "clay carrier," on the

pusher side of the ovens, which travels along the surface of the bench on overhead rails, but does not extend beyond the edge of the bench. The function of the clay carrier and its operator is to seal the oven doors with clay after the residue coke has been pushed out and the door replaced in order that the oven be prepared for the next charge of coal.

The applicant further contends that on the east side of the oven batteries ("coke side"), two machines travel along the surface of the bench on tracks. The first of these is a combination door opener and coke guide, which is operated by one employee from a cab in the machine. This machine is positioned by its operator in front of the appropriate oven and removes the oven door. It is then positioned in such a way as to set the coke guide (which is equal in height and width to the oven itself) immediately in front of the oven. As the coke is pushed through the oven from the other side by the pusher, it is forced through the coke guide and into a "hot car" which is positioned on track level below the bench. After the hot coke has been pushed out of the oven into the hot car, the door opener replaces the door on the oven. The other machine on the coke side of the batteries is a clay carrier which seals the oven door after it has been replaced. The clay carrier is operated by one employee from a cab in the machine. Both of these machines occupy the full width of the bench, and casual passage around them is impossible.

The applicant alleges that there are seven employees involved in this operation. They are: a pusher operator, clay carrier operators (one on either side), door opener operator, hot car operator, heater helper, and an oven foreman. These employees do on occasion walk along the bench, but are never required to approach the edge of the bench. The applicant further states that other than for maintenance and repair work, no other employees work on or below the bench area.

The applicant states that because of the nature of the operation, it is impossible to install a standard guardrail. The pusher which travels the length of the pusher side bench does protrude over the full width of the bench. The portion of the pusher which protrudes over the bench is a mere 1 inch above the bench. Were a railing or a toeboard to be erected along the edge of the bench, it would necessarily prohibit the pusher from travelling along the bench from oven to oven as it must do. Likewise, the coke guide on the coke side bench extends beyond the bench by 10⅞ inches. Thus, erection of a railing on the edge of the coke side bench would prohibit the necessary movement of the door opener along the bench.

The applicant states that in the past 32 years there have been only two incidents of an employee falling from the bench. In each case only minor injuries were sustained by the employee.

The applicant states that in lieu of a standard guardrail the following procedures will be established:

(a) A regulation will be adopted prohibiting unauthorized personnel, including those who might attempt to use the benches as a passageway for transit, from entering upon the benches, and barricades will be erected at the ends thereof with signs giving notice that only authorized personnel are permitted to enter the area.

(b) Safety rules for the six job classifications (pusher operator, luterman, door machine operator, hot car operator, heater helper, and oven foreman) will be prescribed, and mandatory safety classes will be instituted for all employees who work on the oven benches.

(c) The present regulation prohibiting employees from attempting to walk or crawl around the outside of the movable rail-mounted equipment on the benches would remain in force.

(d) Sufficient lifebelts and safety lines will be provided so that all employees can meet the requirements under item (e) below. The lifebelt will be a harness or belt manufactured or provided by a recognized supplier of safety equipment suitable for the purpose. The lifebelt will have a six-foot lanyard attached; a bar, shackle, or other device, will be affixed to the end of the lanyard so it can be securely hooked to the oven buckstays along the benches. The buckstays will be modified, if necessary, to permit such attachment, by the addition of welded rings or other fixtures enabling quick and safe connection.

(e) A yellow, or other high visibility, stripe will be painted along the benches at a distance of one foot from the edge, and warning signs will be posted at appropriate locations reading as follows: "Caution. Oven Bench is Unprotected with Handrail. Stay Within Painted Stripe on Outside of Bench. Work on or Outside of Stripe Requires Lifebelt and Safety Line."

The applicant contends that these additional safety measures will virtually eliminate any risk of employee injury and result in a situation as safe and healthful as that which would exist were the applicant to install the railings and toeboards required by § 1910.23(c)(1).

A copy of the application will be made available for inspection and copying upon request at the Office of Compliance Programming, U.S. Department of Labor, 1726 M Street NW., Room 210, Washington, D.C. 20210, and at the following Regional and Area Offices:

U.S. Department of Labor
Occupational Safety and Health Administration
Gateway Building—Suite 15220
3535 Market Street
Philadelphia, Pennsylvania 19104

U.S. Department of Labor
Occupational Safety and Health Administration
Room 4456
William J. Green, Jr., Federal Building
600 Arch Street
Philadelphia, Pennsylvania 19106

All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for a variance are invited to submit written data, views and arguments relating to the pertinent application no later than January 22, 1975. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than January 22, 1975, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Compliance Programming, at the above address.

II. *Interim Order.* It appears from the application for a variance and interim order, that an interim order is necessary to prevent undue hardship to the applicant and its employees pending a decision on the variance application. Therefore it is ordered pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 and 29 CFR 1905.11(c) that the Philadelphia Coke Division of Eastern Associated Coal Corporation be, and is

hereby, authorized to operate its 74 coke ovens provided the following conditions are met:

1. Warning signs shall be posted in pertinent areas, emphasizing the necessity of avoiding the edge of the benches and the danger inherent in the absence of a handrail. These signs will be posted at every way of access to the benches as well as on the benches themselves.

2. Safety classes are instituted for the employees who work in the bench area.

3. Unauthorized personnel are prohibited from the bench area.

4. Approved lifebelts and safety lines as specified in the variance application shall be provided and used by all employees working in the bench area.

5. A yellow or other high visibility stripe will be painted along the oven benches at a distance of one foot from the edge.

Philadelphia Coke Division of Eastern Associated Coal Corporation shall give notice of this interim order to employees affected thereby, by the same means required to be used to inform them of the application for a variance.

*Effective date.* This interim order shall be effective as of December 23, 1974, and shall remain in effect until a decision is rendered on the application for variance.

Signed at Washington, D.C., this 16th day of December 1974.

JOHN STENDER,
*Assistant Secretary of Labor.*

[FR Doc.74-29844 Filed 12-20-74;8:45 am]

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## Office of the Secretary

### MT. VERNON, OHIO PLANT OF PPG INDUSTRIES, INC., PITTSBURGH, PENNSYLVANIA

### Worker Request for Certification of Eligibility To Apply for Adjustment Assistance; Investigation

A petition requesting certification of eligibility to apply for adjustment assistance has been filed on December 13, 1974, with the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, by the United Glass and Ceramic Workers of North America, AFL-CIO, and the Window Glass Cutters League of America, AFL-CIO, on behalf of workers and former workers of the Mt. Vernon, Ohio plant of PPG Industries, Inc., Pittsburgh, Pennsylvania. The request for certification is made under Proclamation 3967 (Adjustment of Duties on Certain Sheet Glass) of February 27, 1970. In that Proclamation the President, among other things, acted to provide under section 302(a)(3) with respect to the sheet glass industry that its workers may request the Secretary of Labor for certifications of eligibility to apply for adjustment assistance, under Chapter 3, Title III, of the Trade Expansion Act of 1962.

The Act, section 302(b)(2), provides that the Secretary of Labor shall certify as eligible to apply for adjustment assistance under Chapter 3 any group of workers in an industry with respect to which the President has acted under section 302(a)(3), upon a showing by such group of workers to the satisfaction of the Secretary of Labor that the increased imports (which the Tariff Commission has determined to result from concessions granted under trade agreements) have caused or threatened to cause unemployment or underemployment of a significant number or proportion of workers of such workers' firm or subdivision thereof.

In view of the petition and the responsibilities of the Secretary of Labor, the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.11. The investigation relates, as above indicated, to the determination of whether any of the group of workers covered by the request should be certified as eligible to apply for adjustment assistance, including the determinations of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and the subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart C of 29 CFR Part 90.

Interested persons should submit written data, views or arguments relating to the subjects of investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C. 20210, on or before December 30, 1974.

Signed at Washington, D.C. this 13th day of December 1974.

GLORIA G. VERNON,
*Director, Office of Foreign Economic Policy.*

[FR Doc.74-29803 Filed 12-20-74;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice 659]

### ASSIGNMENT OF HEARINGS

DECEMBER 18, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after December 23, 1974.

MC 129350 (Sub-No. 45), Charles E. Wolfe, DBA Evergreen Express, now assigned January 13, 1975, at Helena, Mont., is cancelled and reassigned January 13, 1975, at Billings, Mont., in Room 246, U.S. Post Office Building, 26th and First Ave., North. MC 119738 Sub 3, Haggard Heavy Hauling, Inc., now assigned January 15, 1975, at St. Louis, Mo., is cancelled and the application is dismissed.

MC 51146 Sub 374, Schneider Transport, Inc., now assigned January 14, 1975, at Indianapolis, Indiana is cancelled and transferred to Modified Procedure. MC 134139 Sub 11, B. L. T. Corporation, now being assigned January 21, 1975 (2 days) at New York, N.Y. in Room F-2220, 26 Federal Plaza.

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

[FR Doc.74-29863 Filed 12-20-74;8:45 am]

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[AB 46 (Sub-No. 3)]

### CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

**Abandonment Between Fairbury and Ruskin in Jefferson and Nuckolls Counties, Nebraska**

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding, because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. § 4321, et seq.; and good cause appearing therefor:

*It is ordered,* That applicant be, and it is hereby directed to publish the appended notice in newspapers of general circulation in Jefferson, Thayer and Nuckolls Counties, Nebr., on or before December 31, 1974, and certify to the Commission that this has been accomplished.

*And it is further ordered,* That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 13th day of December 1974.

By the Commission, Commissioner Tuggle.

[SEAL] JOSEPH M. HARRINGTON,
*Acting Secretary.*

[AB 46 (Sub-No. 3)]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY

ABANDONMENT BETWEEN FAIRBURY AND RUSKIN IN JEFFERSON AND NUCKOLLS COUNTIES, NEBRASKA

The Interstate Commerce Commission hereby gives notice that by order dated December 13, 1974, it has been determined that the proposed abandonment by the Chicago, Rock Island and Pacific Railroad of its line of railroad between Fairbury and Ruskin in Jefferson, Thayer, and Nuckolls Counties, Nebr., a distance of approximately 39.39 miles, if approved by the Commission does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental effects of the proposed action are considered insignificant because rail traffic over the line has been embargoed since March 1973 and, prior to the embargo, traffic over the line was low. Substantial use was being made of motor carrier movement despite the availability of direct rail access. Permanent diversion of traffic to motor carrier and the associated environmental effects, i.e. increase in energy consumption and deterioration of air quality, will be minimal. Alternate rail service also exists in the area over several lines, all within 8 miles of each affected station. The abandonment and subsequent sale of the right-of-way may result in the destruction of the few remaining wildlife habitats in the area. Sale of the abandoned right-of-way to governmental agencies for public use may mitigate this impact.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-2086.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before January 17, 1975.

This negative environmental determination shall become final unless good and sufficient reason is filed to demonstrate why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.74-29862 Filed 12-20-74;8:45 am]

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### FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 18, 1974.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before January 7, 1975.

FSA No. 42917—*Liquefied Petroleum Gas Within and From Western States.* Filed by Western Trunk Line Committee, Agent, (No. A-2712), for and on behalf of carriers parties to schedule listed below. Rates on liquefied petroleum gas, in tank-carloads, as described in the application, from specified points in Wyoming, to points in western trunk-line territory.

Grounds for relief—Market competition, modified short-line distance formula and grouping.

Tariff—Supplement 2 to Western Trunk Line Committee, Agent, tariff W-200-E, ICC A-4936. Rates are published to become effective on January 20, 1975.

By the Commission.

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

[FR Doc.74-29855 Filed 12-20-74;8:45 am]

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### FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 18, 1974.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR § 1100.40) and filed on or before January 7, 1975.

FSA No. 42918—*Joint Water-Rail Container Rates—Seatrain International.* Filed by Seatrain International, S.A., (No. 13), for and on behalf of itself and carriers parties to its tariffs Nos. 704, 710-A, and 715, I.C.C. Nos. 3, 16, and 17, respectively, and its tariff No. 705, I.C.C. No. 2 (Seatrain Pacific, S.A., Series). Rates on general commodities, between specified United States rail terminals, on the one hand, and ports in the United Kingdom, Continental Europe, and the Far East, on the other.

Grounds for relief—Water competition.

Tariffs—As set forth above. Rates are published to become effective on January 15, 1975.

By the Commission.

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

[FR Doc.74-29856 Filed 12-20-74;8:45 am]

## FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 18, 1974.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR § 1100.40) and filed on or before January 7, 1975.

FSA No. 42919—*Commodity Rates—Louisiana Midland Railway Company.* Filed by Southwestern Freight Bureau, Agent, (No. B-508), for and on behalf of carriers parties to Uniform Classification Committee, Agent, tariff 11, ICC 7. Rates on property moving on point-to-point commodity rates, between Louisiana Midland Railway Company stations, Packton to Vidalia, Louisiana, on the one hand, and points in the United States and Canada, on the other.

Grounds for relief—New stations.

By the Commission.

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

[FR Doc.74-29857 Filed 12-20-74;8:45 am]

[Notice 206]

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before January 13, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75525. By order of December 9, 1974 the Motor Carrier Board approved the transfer to Paper Transportation Specialists, Inc., Portland, Oreg., of the operating rights in Permit No. MC-135241 (Sub-No. 1) issued September 7, 1972 to Kenneth M. Allison, doing business as Allison Trucking, Portland, Oreg., authorizing the transportation of various commodities from and to specified points and areas in Washington, Oregon and California. Nick I. Goyak, 404 Oregon National Bldg., 610 S.W. Adler St., Portland, Oreg., 97205, attorney for applicants.

No. MC-FC-75547. By order of December 9, 1974 the Motor Carrier Board approved the transfer to Bennie Elmquist and Gerald Elmquist, a partnership, doing business as Elk Horn Elevator, Elk Horn, Iowa, 51531, of the operating rights in Certificate No. MC-44839 issued December 31, 1940 to Bennie Elmquist, Elk Horn, Iowa, 51531, authorizing the transportation of various commodities from and to specified points and areas in Iowa and Nebraska.

No. MC-FC-75549. By order entered 12-9-74 the Motor Carrier Board approved the transfer to R-M, Inc., Lynn, Mass., of the operating rights set forth in Certificate of Registration No. MC-120943 (Sub-No. 1), issued January 28, 1964, to A. Francis, Inc., Swampscott, Mass., evidencing a right to engage in transportation, in interstate or foreign commerce, of general commodities, anywhere within the Commonwealth of Massachusetts. Frank J. Weiner, 15 Court Square, Boston, Mass. 02108, attorney for transferee and Arnold J. Levin, 10 Lowell St., Peabody, Mass. 01960, attorney for transferor.

No. MC-FC-75552. By order entered 12-9-74 the Motor Carrier Board approved the transfer to Emanual J. Werner, doing business as Rego Park Moving & Storage Co., Middle Village, N.Y., of the operating rights set forth in Certificate No. MC-21551, issued by the Commission March 2, 1953, to Arthur Werner and Emanuel Werner, a partnership, doing business as Werner Bros. & Co., Middle Village N.Y., authorizing the transportation of household goods, as defined by the Commission, between New York, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia. John P. Tynan, 65-12 69th Place, Middle Village, N.Y. 11379, attorney for applicants.

No. MC-FC-75559. By order of December 9, 1974 the Motor Carrier Board approved the transfer to John P. Hoover and Ronald J. Hoover, a partnership, doing business as Phillipsburg Truck Line, Route 3, Phillipsburg, Kansas, 67661, of the operating rights in Permits No. 33964 and MC-33964 (Sub-No. 1) issued December 19, 1963 and November 25, 1966 respectively to Ralph Cox and John Hoover, a partnership, doing business as Phillipsburg Truck Line, Route 3, Phillipsburg, Kansas, 67661, authorizing the transportation of various commodities from and to specified points and areas in Missouri, Kansas, and Colorado.

No. MC-FC-75573. By order entered December 9, 1974 the Motor Carrier Board approved the transfer to Functional Marketing System, Inc., Jamaica, N.Y., of the operating rights set forth in Permits Nos. MC-129973 (Sub-No. 6) and MC-129973 (Sub-No. 10), and a portion of the operating rights set forth in Permit No. MC-129973 (Sub-No. 9), issued by the Commission February 26, 1973, July 31, 1974, and September 27, 1974, respectively, to Field Marketing Services, Inc., New York, N.Y., authorizing the transportation of books, and educational materials, equipment and supplies, between points in New Jersey, on the one hand, and, on the other, specified counties in New York; between specified counties in New Jersey and New York, N.Y., on the one hand, and, on the other specified points in Delaware, Pennsylvania, New York, and New Jersey; and business and trade directories, registers and guides, credit reference books, and related publications, and business materials and supplies, between specified counties in New York and New Jersey. Larsh B. Mewhinney, 235 Mamaroneck Ave., White Plains, N.Y. 10605, attorney for transferee and William J. Lippman, 1819 H St. NW., Washington, D.C. 20006, attorney for transferor.

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

[FR Doc.74-29861 Filed 12-20-74;8:45 am]

[Notice 168]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 17, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, on or before January 7, 1975. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the

Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 40830 (Sub-No. 9 TA), filed December 11, 1974. Applicant: VIRGINIA FURNITURE CARRIERS, INC., P.O. Box 369, Bassett, Va. 24055. Applicant's representative: Frank B. Hand, Jr., P.O. Box 446, Winchester, Va. 22601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Bassett, Va., to points in Virginia, restricted to traffic having a prior movement by railroad, for 180 days. Supporting shipper: Bassett Furniture Industries, Inc., Bassett, Va. Send protests to: Danny R. Beeler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, Va. 24011.

No. MC 95350 (Sub-No. 5 TA), filed December 9, 1974. Applicant: R. W. JONES TRUCKING COMPANY, P.O. Drawer T, Vernal, Utah 84078. Applicant's representative: Harry D. Pugsley, Suite 400, 315 East 2nd South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, materials, equipment, supplies, and facilities* used in, or incidental to, or in connection with the discovery, development, production, extraction, and preservation of oil shales, natural gas, and petroleum and the construction, dismantling, repair, servicing, and maintenance of facilities for the storage, operations, processing, repressuring, and blending of oil shale, natural gas, gasoline, and petroleum, between points in Emery, Grand, Duchesne, and Uintah Counties, Utah, on the one hand, and, on the other, points in Wyoming and Colorado, for 180 days. Supporting shippers: There are approximately 11 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 107403 (Sub-No. 926 TA), filed December 10, 1974. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Methyl chloride*, in bulk, in tank vehicles, from Institute, W. Va., to Chattanooga, Tenn., for 180 days. Supporting shipper: G. Frederic Stunkard, Manager of Transportation, Velsicol Chemical Corporation, 341 E. Ohio Street, Chicago, Ill. 60611. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 111729 (Sub-No. 485 TA), filed December 11, 1974. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Radiopharmaceuticals, radioactive drugs, and medical isotopes*, and *related supplies and accessories*, between Arlington Heights, Ill., on the one hand, and, on the other, points in Alabama, Florida, North Carolina, and South Carolina, for 180 days. Supporting shipper: Amersham/Searle Corporation, 2636 S. Clearbrook Drive, Arlington Hts., Ill. 60005. Send protests to: Anthony Giaimo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, Room 1807, New York, N.Y. 10007.

No. MC 113024 (Sub-No. 133 TA) (Correction), filed November 26, 1974, published in the FEDERAL REGISTER issue of December 9, 1974, and republished as corrected this issue. Applicant: ARLINGTON J. WILLIAMS, INC., R.D. 2, S. Dupont Highway, Smyrna, Del. 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carbon black*, in bags, from Evangeline Parish, La., to McCook, Nebr. and Wilmington, Del., for the account of Electric Hose & Rubber Company, Wilmington, Del., for 180 days.

NOTE.—The purpose of this republication is to change the origin to Evangeline Parish, La., in lieu of Seagraves, Tex., which was published in the FEDERAL REGISTER in error. The rest of the application will remain the same.

No. MC 117765 (Sub-No. 180 TA), filed December 10, 1974. Applicant: HAHN TRUCK LINE, INC., 5315 Northwest 5th Street, Oklahoma City, Okla. 73112. Applicant's representative: R. E. Hagan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Carpet, carpet padding*, from the plantsite of Sequoyah Industries, Inc., and facilities, Anadarko, Okla., to points in Delaware, Florida, Georgia, Maryland, New Jersey, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia; and (B) *Materials and supplies* used in manufacture (except commodities in bulk), installation and/or distribution of carpet, from Calhoun, Dalton, Hazelhurst, Jasper, and Savannah, Ga.; Anderson, Columbia and Greenwood, S.C.; Chattanooga, Tenn. and Longview, Tex., to Anadarko and Watonga, Okla., for 180 days. Supporting shipper: Sequoyah Industries, Inc., Joseph Allen, T.M., P.O. Box 369, Anadarko, Okla. 73005. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240-Old P.O. Bldg., 215 N.W. Third, Oklahoma, City, Okla. 73102.

No. MC 118468 (Sub-No. 42 TA), filed December 10, 1974. Applicant: UMTHUN TRUCKING CO., a Corporation, 910 South Jackson, P.O. Box 166, Eagle Grove, Iowa 50533. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum*, granular, ground, or pulverized, in bulk, from the warehouse facilities of the United States Gypsum Company at or near Winona, Minn., to points in the Upper Peninsula of Michigan and Wisconsin, under contract with United States Gypsum Company, for 180 days. Supporting shipper: United States Gypsum Company, 101 South Wacker Drive, Chicago, Ill. 60606. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 119789 (Sub-No. 231 TA), filed December 9, 1974. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulators, electric wire or wiring, pottery or pottery and iron combined, and parts*, from Sandersville, Ga., to points in Arizona, California, Colorado, Nevada, New Mexico, Texas, and Utah, for 180 days. Supporting shipper: Interpace Corp. (Lapp Insulator Corp.), P.O. Box 776, Sandersville, Ga. Send protests to: District Supervisor Gerald T. Holland, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 123502 (Sub-No. 45 TA), filed December 10, 1974. Applicant: FREE STATE TRUCK SERVICE, INC., Route 3, P.O. Box 760, Glen Burnie, Md. 21061. Applicant's representative: W. Wilson Corroum (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude rubber*, in bulk, in dump vehicles, from Belle Mead and Somerville, N.J., to Baltimore, Md., for 180 days. Supporting shipper: Edwin W. Burchess, Exec. Vice President, International Briquetting Corp., 2805 Light Street, Baltimore, Md. 21230. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814–B Federal Building, Baltimore, Md. 21201.

No. MC 124579 (Sub-No. 13 TA), filed December 11, 1974. Applicant: WIKEL BULK EXPRESS, INC., R.D. #2, Huron, Ohio 44839. Applicant's representative: Robert E. Wikel (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats, incidental materials and supplies* when moved on same trailer, from points in

Erie County, Ohio, to points in Michigan, Indiana, Kentucky, Illinois, New York, Pennsylvania, and West Virginia, for 180 days. Supporting shipper: Everett Fiberglass, Inc., 1305 Huron Avery Road, Huron, Ohio 44839. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 125161 (Sub-No. 18 TA), filed December 6, 1974. Applicant: UNITED FREIGHTWAYS, INC., 671 Chestnut Street, North Andover, Mass. 01845. Applicant's representative: George C. O'Brien, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Limestone*, in bulk, in specially designed pneumatic self-unloading tank vehicles, from Adams, Mass., to North Leeds, Maine, for 180 days. Supporting shipper: Boston Feed Supply Corporation, 177 Milk Street, Boston, Mass. 02109. Send protests to: District Supervisor Max Gorenstein, Interstate Commerce Commission, Bureau of Operations, 150 Causeway Street, Boston, Mass. 02114.

No. MC 128607 (Sub-No. 7 TA), filed December 11, 1974. Applicant: BOYD TRUCKING CO., P.O. Box 577, Cottonwood, Calif. 96022. Applicant's representative: Marvin Handler, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and forest products*, between points in California except those in Butte and Inyo Counties, subject to the following restrictions: (1) No shipments shall be transported which originate at or are destined to points south of Woodland, Calif., except that shipments may be transported which originate at and are destined to points north and east of Stockton, Calif., including Stockton; (2) No service shall be performed between Montague, Callahan, and intermediate points; (3) No service shall be performed between points on U.S. Highway 101 north of Alton, on the one hand, and, on the other, points in San Francisco Bay; and (4) Carrier shall not transport any shipments of sawdust, wood shavings, wood chips, and wood pieces except when shipments thereof have a prior or subsequent movement by for-hire rail, motor, or water carrier, for 180 days.

NOTE.—Applicant will be available to interline with other carriers at any points served by it.

Supporting shipper: There are no supporting shippers. Send protests to: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 26004, San Francisco, Calif. 94102.

No. MC 128831 (Sub-No. 7TA), filed December 10, 1974. Applicant: DIXON RAPID TRANSFER, INC., East River Road, Dixon, Ill. 61021. Applicant's representative: Robert H. Levy, 29 South LaSalle, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and duct* used in heating, cooling, air conditioning and exhaust systems, and *materials and supplies* used in the installation thereof and *building construction wall sections and accessories and parts* used in the installation thereof, from the plant site of United Sheet Metal, Division of United McGill Corp. at Westerville, Ohio, to points in Nebraska, Indiana, and Iowa, for 180 days. Supporting shipper: United Sheet Metal Division of United McGill Corp, 200 E. Broadway, Westerville, Ohio 43081. Send protests to: District Supervisor Charles R. Nesmith, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 135245 (Sub-No. 3TA), filed December 9, 1974. Applicant: BURGER'S EXPRESS, INC., doing business as BOULDER VALLEY TRANSFER, INC., P.O. Box 1365, Boulder, Colo. 80302. Applicant's representative: Ross F. Robbins (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cosmetics, toilet preparations, toilet articles;* and (2) *Equipment and supplies* used in connection with the commodities described in (1) under continuing contract with Avon Products, Inc, from points in Boulder County, Colo., to points in Colorado, for 180 days. Supporting shipper: Avon Products, Inc., 83rd & College, Kansas City, Mo. 64141. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, 1961 Stout Street, Denver, Colo. 80202.

No. MC 136023 (Sub-No. 3 TA), filed December 12, 1974. Applicant: WILLIAM L. SMITH, doing business as CIRCLE S. TRUCKING, 1308 S.W. Gamma Court, Pendleton, Oreg. 97801. Applicant's representative: Russell M. Allen, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood residuals*, from points in Grant, Union and Umatilla Counties, Oreg., to points in Cowlitz County, Wash., for 180 days. Supporting shipper: Wakny, Inc., 5470 S.W. Arrowood Lane, Portland, Oreg. 97225. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 139112 (Sub-No. 6 TA), filed December 6, 1974. Applicant: CALEX EXPRESS, INC., 149 Warden Avenue, Trucksville, Pa. 18708. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionery, and related advertising matter*, in vehicles equipped with mechanical refrigerations, from Humboldt Industrial Park, Hazle Township, Pa., to Detroit, Mich.; Chicago, Ill.; Seattle, Wash.; and Los Angeles and Emeryville, Calif., for 150 days. Supporting shipper: Cadbury Corporation, P.O. Box 340, Humboldt Industrial Park, Hazleton, Pa. 18201. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 140429 (Sub-No. 1 TA), filed December 11, 1974. Applicant: WILLIAM F. HOOPS, INC., 440 North Keyser Avenue, Deshler, Ohio 43516. Applicant's representative: A. Charles Tell, 100 E. Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Anti-freeze and windshield washer fluid*, from Pandora, Ohio, to points in Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, Pennsylvania, Tennessee, Virginia, and West Virginia; and (B) *Materials* used in packaging the commodities specified in (A) above, from Chicago, Elgin and Momence, Ill.; St. Louis, Mo.; Morristown and North Bergen, N.J.; Brockway and Philadelphia, Pa.; and Lansing, Mich., to Pandora, Ohio, for 180 days. Restriction: Restricted to service performed under a continuing contract with Konalrad Products, Inc. of Pandora, Ohio. Supporting shipper: Konalrad Products, Inc., 501 Basinger Road, Pandora, Ohio. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Bldg., 234 Summit Street, Toledo, Ohio 43604.

No. MC 140461 TA filed December 12, 1974. Applicant: ELECTROMATIC, INC., 6110 N.E. Union Avenue, Portland, Oreg. 97211. Applicant's representative: Thomas E. Maddocks (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Television sets and combination television-radio phonograph sets and stereo sets* for the account of S. S. Kresge Company, doing business as K Mart, (1) from points in Clark County, Wash., to points in Multnomah, Clackamas, Columbia, and Washington Counties, Oreg.; and (2) from points in Washington County, Oreg., to points in Cowlitz, Clark and Skamania Counties, Wash., for 180 days. Supporting shipper: S. S. Kresge Co., 13750 S. E. Johnson, Portland, Oreg. 97222. Send protests to: District Supervisor Huetig, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, Portland, Oreg. 97204.

By The Commission.

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

[FR Doc.74-29864 Field 12-20-74;8:45 am]

## IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

### Elimination of Gateway Letter Notices

DECEMBER 18, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination* rules (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before January 2, 1975. 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 43867 (Sub-No. E1), (Correction), filed May 6, 1974, published in the FEDERAL REGISTER November 26, 1974. Applicant: McALISTER TRUCKING COMPANY, P.O. Box 2214, 1610 East Scott St., Wichita Falls, Tex. 76307. Applicant's representative: Hardy McAlister (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (3) *Machinery, equipment, materials, and supplies*, used in or in connection with, the drilling of water wells, (b) between points in Texas, Oklahoma, Louisiana and points in New Mexico on, south, and east of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 56 to Springer, thence along U.S. Highway 85 to its intersection with the northern boundary of Mora County, thence along the northern boundary of Mora County to its intersection with the eastern boundary of Santa Fe County, thence along the eastern, northern, and western boundary of Santa Fe County to its intersection with Interstate Highway 25, thence along Interstate Highway 25 to its intersection with the northern boundary of Dona Ana County, thence along the western boundary of Dona Ana County to its intersection with the northern boundary of Luna County, thence along the northern and western boundary of Luna County to the intersection of the International Boundary line between the United States and Mexico and points in Kansas on, south or east of a line beginning at the Kansas-Oklahoma State line and extending along U.S. Highway 56 to junction U.S. Highway 154, thence along U.S. Highway 154 to junction U.S. Highway 54, thence along U.S. Highway 54 to the junction Kansas Highway 96, thence along Kansas Highway 96 to junction Kansas Highway 39, thence along Kansas Highway 39 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Kansas Highway 57, thence along Kansas Highway 57 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 160, thence along U.S. Highway 160 to the Kansas-Missouri State line, on the one hand, and, on the other, points in Montana (points in Texas)*; (c) between points in Illinois, Indiana, and Kentucky on the one hand, and, on the other, St. Louis, Missouri, and points in Kansas, Oklahoma, New Mexico, Texas, Arizona, Colorado, Utah, and Wyoming (points in Kansas, Oklahoma, and Texas)*; and (d) between points in Texas, Oklahoma, Louisiana, New Mexico, and Kansas (points in Texas and Oklahoma); (9) *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; (b) between points in Texas, Oklahoma, Louisiana, and points in New Mexico on, south, and east of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 56 to Springer, thence along U.S. Highway 85 to the northern boundary of Mora County, thence along the northern boundary of Mora County to its intersection with the eastern boundary of Santa Fe County, thence along the eastern, northern, and western boundary of Santa Fe County to its intersection with Interstate Highway 25, thence along Interstate Highway 25 to the northern boundary of Dona Ana County, thence along the western boundary of Dona Ana County to its intersection with the northern boundary of Luna County, thence along the northern and western boundary of Luna County to the International Boundary line between the United States and Mexico, and points in Kansas on, south, and east of a line beginning at the Kansas-Oklahoma State line and extending along U.S. Highway 56 to junction U.S. Highway 154, thence along U.S. Highway 154 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction Kansas Highway 96, thence along Kansas Highway 96 to junction Kansas Highway 39, thence along Kansas Highway 39 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Kansas Highway 57, thence along Kansas 57 to junction U.S. Highway 69 to junction U.S. Highway 160, thence along U.S. Highway 160 to the Kansas-Missouri State line, on the one hand, and, on the other, points in Montana (points in Texas)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above. The purpose of this correction is to clarify the territorial description in (3)(b) above, correct the gateways in (3)(c) above, include (3)(d), and to correct a destination highway number in (9)(b) above.

No. MC 52953 (Sub-No. E2) (Correction), filed May 3, 1974, published in the FEDERAL REGISTER November 27, 1974. Applicant: ET & WNC TRANSPORTATION CO., 132 Legion St., Johnson City, Tenn. 37601. Applicant's representative: H. M. Cook (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, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in Delaware, New Jersey, and Pennsylvania within 35 miles of Philadelphia, Pa., and points in New Jersey within 35 miles of the New York, N.Y., commercial zone, on the one hand, and, on the other, points in Burke, Cleveland, McDowell, Polk, and Rutherford Counties, N.C., points in Gaston County, N.C., on and west of U.S. Highway 321, points in that part of Catawba County, N.Y., on and west of a line beginning at the northern Catawba County line and extending along North Carolina Highway 127 to junction North Carolina Highway 10, thence along North Carolina Highway 10 to the southern Catawba County line, and points in Caldwell County, N.C., on and west of a line beginning at the southern Caldwell County line and extending along U.S. Highway 321 to junction North Carolina Highway 18, thence along North Carolina Highway 18 to the western Caldwell County line. The purpose of this filing is to eliminate the gateways af Asheville and Swannanoa, N.C. The purpose of this correction is to clarify the destination territories.

No. MC 61403 (Sub-No. E46), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, (1) between points in Arkansas, on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, North Carolina, and Virginia, (2) from points in Arkansas to points in Connecticut, Maine, New Hampshire, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn.

No. MC 61403 (Sub-No. E2), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting. *Chemicals*, in bulk, in tank vehicles, (1) between points in Alabama, on the

one hand, and, on the other, points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, and West Virginia; and (2) from points in Alabama to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn.

No. MC 61403 (Sub-No. E17), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in bulk, in tank vehicles, between points in Virginia on and south of U.S. Highway 250 beginning at the Virginia-West Virginia State line, thence to junction Interstate Highway 64, thence along Interstate Highway 64 to and including Newport News, on the one hand, and, on the other, points in Wisconsin (Kingsport, Tenn.)*; and (2) *Liquid chemicals*, in bulk, in tank vehicles, from points in Virginia to points in Oklahoma, points in North Dakota on and west of U.S. Highway 281 and on and east of U.S. Highway 85, and South Dakota on and east of U.S. Highway 85, Nebraska and Kansas (Kingsport, Tenn., Sheffield, Ala., and Marshall, Ill.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 61403 (Sub-No. E18), filed May 31, 1974. Applicant: The MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, (1) between points in Texas, on the one hand, and, on the other, points in Virginia and West Virginia, and (2) from points in Texas to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn.

No. MC 61403 (Sub-No. E19), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in bulk, in tank vehicles, between points in Delaware, on the one hand, and, on the other, points in Indiana on and south of Indiana Highway 64, points in North Carolina on and west of U.S. Highway 221, points in South Carolina on and west of a line beginning at the South Carolina-North Carolina State line and extending along South Carolina Highway 18 to junction U.S. Highway 176, thence along U.S. Highway 176 to junction South Carolina Highway 121, thence along South Carolina Highway 121 to junction U.S. Highway 25, thence along U.S. Highway 25 to the South Carolina-Georgia State line (Kingsport, Tenn)*; and (2) *Chemicals* (except naval stores to Pensacola, Fla.), in bulk, in tank vehicles, from points in Delaware to points in Florida on and west of U.S. Highway 231, and Oklahoma (Kingsport, Tenn., and Sheffield, Ala.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 61403 (Sub-No. E22), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, (1) between points in Illinois on and south of U.S. Highway 36, on the one hand, and, on the other, points in Virginia, (2) between points in Illinois north of U.S. Highway 36, on the one hand, and, on the other, points in Virginia on, south, and east of a line beginning at the Virginia-West Virginia State line and extending along U.S. Highway 33 to Harrisonburg, thence along U.S. Highway 11 to New Market, thence along U.S. Highway 211 to the Virginia State line-Washington, D.C. District line, and (3) between points in Illinois north of U.S. Highway 460, on the one hand, and, on the other, points in Tennessee on and east of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 25E to Newport, thence along U.S. Highway 411 to Sevierville, thence along U.S. Highway 441 to the Tennessee-North Carolina State line. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn.

No. MC 61403 (Sub-No. E34), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in bulk, in tank vehicles, (a) between points in Tennessee on, north, and east of a line beginning at the Kentucky-Tennessee State line and extending along Interstate Highway 75 to Knoxville, thence along U.S. Highway 70 to the North Carolina-Tennessee State line, on the one hand, and, on the other, points in Texas (Kingsport, Tenn.)*, (b) between points in Tennessee east of a line beginning at the Tennessee-Kentucky State line and extending along Interstate Highway 75 to Knoxville, thence along U.S. Highway 11 to Athens, thence along Tennessee Highway 39 to Englewood, thence along U.S. Highway 411 to Madisonville, thence along Tennessee Highway 68 to the Tennessee-Georgia State line, on the one hand, and, on the other, points in Wisconsin (Kingsport, Tenn.)*, (c) from points in Tennessee to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont (Kingsport, Tenn.)*, and (d) from points in Tennessee on and east of a line beginning at the Tennessee-Virginia State line and extending along U.S. Highway 25E to Newport, thence along U.S. Highway 25 to the Tennessee-North Carolina State line, to points in Oklahoma (Kingsport, Tenn., and Sheffield, Ala.)*; and (2) *Liquid chemicals*, in bulk, in tank vehicles, (a) from points in Tennessee on and east of U.S. Highway 27, to points in North Dakota on and east of U.S. Highway 85, and points in South Dakota, on and east of U.S. Highway 27 (Kingsport, Tenn., and Marshall, Ill.)*, and (b) from points in Tennessee on, east, and north of a line beginning at the Tennessee-Kentucky State line and extending along Interstate Highway 75 to Knoxville, thence along U.S. Highway 70 to the Tennessee-North Carolina State line, to points in Colorado east of U.S. Highway 85, points in Iowa, Kansas, and Nebraska (Kingsport, Tenn., and Marshall, Ill.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 61403 (Sub-No. E37), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except muriatic acid, caustic soda, and caustic potash), in bulk, in tank vehicles, (a) from points in North Carolina on and east of U.S. Highway 21 to points on and west of a line beginning at the Tennessee-Mississippi State line and extending along Tennessee Highway 22 to Union City, thence along Tennessee Highway 21 to the Tennessee-Kentucky State line, and (b) from points in that part of North Carolina bounded by a line beginning at the North Carolina-Tennessee State line and extending along U.S. Highway 23 to the North Carolina-Georgia State line, thence along the North Carolina-Georgia State line to U.S. Highway 21, thence along U.S. Highway 21 to the North Carolina-Virginia State line, thence along the North Carolina-Virginia State line to the point of beginning to points in Shelby County, Tenn. The purpose of this filing is to eliminate the gateways of Kingsport, Tenn., and Sheffield, Ala.

No. MC 61403 (Sub-No. E38), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Dry plastics*, in bulk, in tank and hopper-type vehicles, from the plant site of Foster Grant Co., at Peru, Ill., to points in Florida, Georgia, North Carolina, and South Carolina. The purpose of this filing is to eliminate the gateway of Jeffersonville, Ind.

No. MC 61403 (Sub-No. E41), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O.

Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from points in Illinois on and south of a line beginning at the Indiana-Illinois State line and extending along U.S. Highway 50 to Sandoval, thence along U.S. Highway 185 to Hillsboro, thence along Illinois Highway 16 to Litchfield, thence along U.S. Highway 66 to junction Illinois Highway 108, thence along Illinois Highway 108 to Kampsville, thence along Illinois Highway 96 to Hamburg, to points in Connecticut, Maine, Massachusetts, New Hampshire, and Rhode Island. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn.

No. MC 61403 (Sub-No. E44), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from points in Mississippi, to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn.

No. MC 61403 (Sub-No. E39), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except muriatic acid, caustic soda, and caustic potash), in bulk, in tank vehicles, from points in Virginia, to points in that part of Tennessee bounded by a line beginning at the Tennessee-Mississippi State line, and extending along Tennessee Highway 22 to Union City, thence along Tennessee Highway 21 to the Tennessee-Kentucky State line, thence along the Tennessee-Kentucky State line to the Tennessee-Mississippi State line, thence along the Tennessee-Mississippi State line to the point of beginning. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn., and Sheffield, Ala.

No. MC 61403 (Sub-No. 140), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from the plant site of Ashland Chemical Company, Division of Ashland Oil & Refining Company at or near Mapleton, Ill., to points in Louisiana south of a line beginning at the Louisiana-Texas State line and extending along U.S. Highway 190 to junction U.S. Highway 90, thence along U.S. Highway 90 to the Louisiana-Mississippi State line, and points in Texas on, east, and south of a line beginning at the Texas-Louisiana State line and extending along U.S. Highway 190 to Livingston, thence along U.S. Highway 59 to the International Boundary line between the United States and Mexico. Restricted against the transportation of (1) naval stores to De Quincy, La., (2) caustic potash and caustic soda to points in Louisiana. The purpose of this filing is to eliminate the gateway of Sheffield, Ala.

No. MC 83745 (Sub-No. E15), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. 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: *Machinery and such commodities* generally requiring rigging, special equipment, or specialized handling (except articles requiring special vehicular equipment for over-the-road movements), between Zelienople, Pa., on the one hand, and, on the other, points in Ohio (except Mahoning County). The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E16), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. 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: *Machinery and such commodities* generally requiring rigging, special equipment, or specialized handling (except articles requiring special vehicular equipment), for over-the-road movement between Butler, Pa., on the one hand, and, on the other, points in Ohio beginning at the Ohio-Michigan State line and extending along Interstate Highway 75 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction Ohio Highway 31, thence along Ohio Highway 31 to junction Ohio Highway 736, thence along Ohio Highway 736 to junction Ohio Highway 161, thence along Ohio Highway 161 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Ohio Highway 60 to the Ohio-West Virginia State line. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 95540 (Sub-No. E803), filed November 25, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Georgia 30301. Applicant's representative: Jerome F. Marks (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, and frozen vegetables*, from those points in North Carolina on and east of a line beginning at the North Carolina-Tennessee State line and extending along U.S. Highway 25/70 to its junction with U.S. Highway 25, thence along U.S. Highway 25 to the North Carolina-South Carolina State line, to points in California. The purpose of this filing is to eliminate the gateways of points in California.

No. MC 95540 (Sub-No. E805), filed November 25, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Washington Court House, Ohio, to points in California and Arizona, and those points in New Mexico on and west of a line beginning at the New Mexico-Texas State line and extending along Interstate Highway 25 to its junction with New Mexico Highway 44, thence along New Mexico Highway 44 to its junction with U.S. Highway 550, thence along U.S. Highway 550 to the New Mexico-Colorado State line. The purpose of this filing is to eliminate the gateway of Washington, Pa.

No. MC 95540 (Sub-No. E806), filed November 29, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, and meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from South Edmeston, N.Y., to points in Mississippi on and south of a line beginning at the Mississippi-Alabama State line and extending along U.S. Highway 78 to its junction with Mississippi Highway 6, thence along Mississippi Highway 6 to its junction with Mississippi Highway 9, thence along Mississippi Highway 9 to its junction with Mississippi Highway 330, thence along Mississippi Highway 330 to its junction with Mississippi Highway 32, thence along Mississippi Highway 32 to its junction with Mississippi Highway 1, thence along Mississippi Highway 1 to the Mississippi-Arkansas State line. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC 95540 (Sub-No. E807), filed November 29, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Charlotte and Concord, N.C., to points in Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyomining. The purpose of this filing is to eliminate the gateways of Gainesville, Ga., and points in Tennessee.

No. MC 95540 (Sub-No. E808), filed November 29, 1974. Applicant: WATKINS

MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Charlotte, and Concord, N.C., to those points in Tennessee on and west of a line beginning at the Tennessee-Georgia State line and extending along U.S. Highway 411 to its junction with Tennessee Highway 30, thence along Tennessee Highway 30 to its junction with Tennessee Highway 111, thence along Tennessee Highway 111 to its junction with U.S. Highway 70, thence along U.S. Highway 70 to its junction with Tennessee Highway 56, thence along Tennessee Highway 56 to the Tennessee-Kentucky State line. The purpose of this filing is to eliminate the gateway of Gainesville, Ga.

No. MC 95540 (Sub-No. E809), filed November 29, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, and meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from South Edmeston, N.Y., to those points in Texas on and south of a line beginning at the Texas-Arkansas State line and extending along U.S. Highway 82 to its junction with Interstate Highway 35, thence along Interstate Highway 35 to its junction with U.S. Highway 380, thence along U.S. Highway 380 to its junction with Texas Highway 199, thence along Texas Highway 199 to its junction with U.S. Highway 82, thence along U.S. Highway 82 to the Texas-New Mexico State line. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC 106398 (Sub-No. E83), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings, complete, knocked down, or in sections and component parts, materials, supplies, and fixtures*, to points in Pennsylvania, Ohio, Indiana, Missouri, Kentucky, West Virginia, Virginia, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, and Arkansas, to points in Minnesota. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

No. MC 107515 (Sub-No. E287), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fresh and cured meats* (except liquid commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, (1) from points in North Carolina to points in Texas, that part of Arkansas on and south of a line beginning at the Arkansas-Mississippi State line, thence along U.S. Highway 82 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 270, thence along U.S. Highway 270 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 271, thence along U.S. Highway 271 to the Arkansas-Oklahoma State line, that part of Oklahoma on and south of a line beginning at the Oklahoma-Arkansas State line, thence along U.S. Highway 271 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction Muskogee Turnpike, thence along Muskogee Turnpike to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Interstate Highway 35, thence along Interstate Highway 35 to the Kansas-Oklahoma State line, and that part of Kansas on and south of a line beginning at the Oklahoma-Kansas State line, thence along Interstate Highway 35 to Wichita, thence along Interstate Highway 35W to Salina, thence along U.S. Highway 81 to the Kansas-Missouri State line, (2) from points in that part of North Carolina on and south of U.S. Highway 29, to points in Oklahoma, (3) from points in that part of North Carolina on and east of U.S. Highway 15, to points in Arkansas, and (4) from points in that part of North Carolina on and east of North Carolina Highway 49, to points in that part of Kansas on and north of Interstate Highway 70, restricted against the transportation of traffic originating in points in Florida. The purpose of this filing is to eliminate the gateways of (1) any point that is both within 10 miles of Atlanta, Ga., and within the Atlanta Commercial Zone, as defined by the Commission (except Atlanta), and (2) Montgomery, Ala.

No. MC 107515 (Sub-No. E299), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen edible meats and frozen edible meat products*, from Covington, Ky., to points in that part of Mississippi on and south of U.S. Highway 84, that part of Louisiana on and south of a line beginning at the Louisiana-Mississippi State line, thence along U.S. Highway 84 to junction Louisiana Highway 28, thence along Louisiana Highway 28 to Alexandria, thence along U.S. Highway 165 to Lake Charles, thence along Interstate Highway 10 to the Louisiana-Texas State line, and that part of Texas on and south of a line beginning at the Texas-Louisiana State line, thence along Interstate Highway 10 to Houston, thence along U.S. Highway 290 to junction Interstate Highway 10, thence along Interstate Highway 10 to the Texas-New Mexico State line. The purpose of this filing is to eliminate the gateway of Gainesville, Ga.

No. MC 119774 (Sub-No. E302), filed November 11, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). 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; and (2) *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 Wyoming, on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateways of Oklahoma and Arkansas.

No. MC 107515 (Sub-No. E301), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fresh and cured meats*, as described in the report in *Modification of Permits—Packinghouse Products*, 46 M.C.C. 23, from Covington, Ky., to points in that part of Alabama on and south of Interstate Highway 59, that part of Mississippi on and south of a line beginning at the Mississippi-Alabama State line, thence along Interstate Highway 59 to Jackson, thence along Interstate Highway 55 to junction U.S. Highway 98, thence along U.S. Highways 98/84 to the Mississippi-Louisiana State line, that part of Louisiana on and south of a line beginning at the Louisiana-Mississippi State line, thence along U.S. Highway 84 to junction Louisiana Highway 28, thence along Louisiana Highway 28 to Alexandria, thence along Louisiana Highway 8 to the Louisiana-Texas State line. The

purpose of this filing is to eliminate the gateway of Atlanta, Ga.

No. MC 107515 (Sub-No. E302), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen edible meats and frozen edible meat products* (except commodities in bulk, in tank vehicles), from Adairsville, Ky., to the District of Columbia, and points in Connecticut, Massachusetts, New Jersey, that part of Virginia on and east of Interstate Highway 95, that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, thence along Interstate Highway 83 to York, thence along U.S. Highway 30 to Lancaster, thence along U.S. Highway 30 to junction Pennsylvania Highway 10, thence along Pennsylvania Highway 10 to Reading, thence along U.S. Highway 222 to junction Pennsylvania Turnpike, thence along Pennsylvania Turnpike to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line, that part of New York on and east of a line beginning at the New Jersey-New York State line, thence along U.S. Highway 209 to junction Interstate Highway 87, thence along Interstate Highway 87 to junction Pennsylvania Highway 74, thence along Pennsylvania Highway 74 to the New York-Vermont State line, restricted against transportation of traffic originating at Nashville, Tenn. The purpose of this filing is to eliminate the gateway of Rocky Mount, N.C.

No. MC 107515 (Sub-No. E313), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen meats and meat products* (except commodities in bulk, in tank vehicles), from the plant site of Iowa Beef Packers at or near Emporia, Kans., to points in Rhode Island, that part of Virginia on and east of a line beginning at the North Carolina-Virginia State line, thence along Interstate Highway 85 to junction Interstate Highway 95, thence along Interstate Highway 95 to the Virginia-District of Columbia Boundary line, that part of Connecticut on and east of a line beginning at Long Island Sound, thence along Connecticut Highway 9 to junction Interstate Highway 91, thence along Interstate Highway 91 to the Connecticut-Massachusetts State line, that part of Massachusetts on and east of a line beginning at the Connecticut-Massachusetts State line, thence along Interstate Highway 91 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction Interstate Highway 495, thence along Interstate Highway 495 to junction U.S. Highway 3, thence along U.S. Highway 3 to the Massachusetts-New Hampshire State line, that part of New Hampshire on and east of a line beginning at the New Hampshire-Massachusetts State line, thence along U.S. Highway 3 to junction Interstate Highway 93, thence along Interstate Highway 93 to junction New Hampshire Highway 101, thence along New Hampshire Highway 101 to junction Interstate Highway 95, thence along Interstate Highway 95 to the New Hampshire-Maine State line, and that part of Maine on and east of Interstate Highway 95. The purpose of this filing is to eliminate the gateway of Gatesville, N.C.

No. MC 107515 (Sub-No. E361), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., 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 that part of Ohio on and north of a line beginning at Lake Erie, thence along U.S. Highway 6 to junction Interstate Highway 80/90, thence along Interstate Highway 80/90 to the Ohio-Indiana State line, to points in that part of Alabama on and south of a line beginning at the Georgia-Alabama State line, thence along U.S. Highway 80 to Montgomery, thence along Interstate Highway 82 to the Alabama-Mississippi State line, that part of Mississippi on and south of a line beginning at the Mississippi River, thence along Mississippi Highway 16 to junction Mississippi Highway 15, thence along Mississippi Highway 15 to junction Interstate Highway 20, thence along Interstate Highway 20 to the Mississippi-Louisiana State line, and that part of Louisiana on and south of Interstate Highway 20. The purpose of this filing is to eliminate the gateways of (1) Detroit, Mich., and (2) Columbus, Ohio.

No. MC 107515 (Sub-No. E362), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., 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 Cleveland, Ohio, to points in that part of Louisiana on and south of a line beginning at the Gulf of Mexico, thence along Interstate Highway 10 to junction U.S. Highway 190, thence along U.S. Highway 190 to junction U.S. Highway 71, thence along U.S. Highway 71 to Shreveport, thence along Interstate Highway 20 to the Louisiana-Texas State line, that part of Texas on and south of a line beginning at the Louisiana-Texas State line, thence along Interstate Highway 20 to Dallas, thence along Interstate Highway 35E to junction Interstate Highway 35, thence along Interstate Highway 35 to the Texas-Oklahoma State line, and that part of Oklahoma on and west of Interstate Highway 35. The purpose of this filing is to eliminate the gateways of (1) Detroit, Mich., and (2) Columbus, Ohio.

No. MC 107515 (Sub-No. E363), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd., NE., 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 that part of Ohio on and north of a line beginning at the Pennsylvania-Ohio State line, thence along Interstate Highway 90 to Cleveland, thence along Ohio Highway 8 to Akron, thence along Interstate Highway 76 to junction U.S. Highway 42, thence along U.S. Highway 42 to Mansfield, thence along U.S. Highway 30N to junction U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-Indiana State line, to points in that part of Florida on and south of a line beginning at the Atlantic Ocean, thence along Florida Highway 827 to Lake Okeechobee, thence along U.S. Highway 27 to junction Florida Highway 80, thence along Florida Highway 80 to junction Florida Highway 833, thence along Florida Highway 833 to junction Florida Highway 846, thence along Florida Highway 846 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateways of (1) Detroit, Mich., and (2) Columbus, Ohio.

No. MC 107515 (Sub-No. E365), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, from points in that part of Ohio on and north of a line beginning at the Ohio-Indiana State line, thence along U.S. Highway 36 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction U.S. Highway 30N, thence along U.S. Highway 30N to junction Ohio Highway 67, thence along Ohio Highway 67 to junction Ohio Highway 53, thence along Ohio Highway 53 to junction Ohio Highway 587, thence along Ohio Highway 587 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Ohio Highway 420, thence along Ohio Highway 420 to junction U.S. Highway 280, thence along U.S. Highway 280 to Lake Erie, to Buffalo, Rochester, and Syracuse, and points in Connecticut, Rhode Island, and Massachusetts. The purpose of this filing is to eliminate the gateway of Detroit, Mich.

No. MC 107515 (Sub-No. E367), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats and edible meat products* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Carey and New Riegel, Ohio, to points in that part of Mississippi on and south of a line beginning at the Alabama-Mississippi State line, thence along Mississippi Highway 16 to junction Mississippi Highway 492, thence along Mississippi Highway 492 to junction Mississippi Highway 15, thence along Mississippi Highway 15 to junction Interstate Highway 20, thence along Interstate Highway 20 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Louisiana-Mississippi State line, and that part of Louisiana on and south of a line beginning at the Louisiana-Mississippi State line, thence along Interstate Highway 20 to junction Louisiana Highway 888, thence along Louisiana Highway 888 to junction Louisiana Highway 4, thence along Louisiana Highway 4 to junction Louisiana Highway 155, thence along Louisiana Highway 155 to junction U.S. Highway 84, thence along U.S. Highway 84 to the Texas-Louisiana State line, restricted to the transportation of traffic originating at the plant site and warehourse facilities of Riegel Provisions Co., at New Riegel and Carey, Ohio. The purpose of this filing is to eliminate the gateway of plant site of Commercial Code Storage, Inc., located at or near Doraville, Ga.

No. MC 107515 (Sub-No. E368), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, in vehicles equipped with mechanical refrigeration, from Cleveland, Ohio, to points in that part of Minnesota on and north of a line beginning at the Wisconsin-Minnesota State line, thence along Minnesota Highway 70 to junction Minnesota Highway 107, thence along Minnesota Highway 107 to junction Minnesota Highway 23, thence along Minnesota Highway 23 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Minnesota Highway 27, thence along Minnesota Highway 27 to junction Minnesota Highway 10, thence along Minnesota Highway 10 to the Minnesota-South Dakota State line, that part of Wisconsin on and north of a line beginning at the Michigan-Wisconsin State line, thence along U.S. Highway 41 to junction Wisconsin Highway 22, thence along Wisconsin Highway 22 to junction Wisconsin Highway 55, thence along Wisconsin Highway 55 to junction Wisconsin Highway 47, thence along Wisconsin Highway 47 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction U.S. Highway 8, thence along U.S. Highway 8 to junction U.S. Highway 53, thence along U.S. Highway 53 to junction Wisconsin Highway 70, thence along Wisconsin Highway 70 to the Minnesota-Wisconsin State line, and that part of Colorado on and west of a line beginning at the Colorado-Wyoming State line, thence along Colorado Highway 13 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Colorado Highway 65, thence along Colorado Highway 65 to junction Colorado Highway 92, thence along Colorado Highway 92 to junction U.S. Highway 550, thence along U.S. Highway 550 to the New Mexico-Colorado State line. The purpose of this filing is to eliminate the gateway of the plant site of Chef-Pierre, Inc., at Traverse City, Mich.

No. MC 107515 (Sub-No. E369), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except frozen fruits, frozen berries, and frozen vegetables), from points in that part of Ohio on and north of a line beginning at the Ohio-Michigan State line, thence along U.S. Highway 23 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Ohio Highway 18, thence along Ohio Highway 18 to Akron, thence along Interstate Highway 77 to Canton, thence along U.S. Highway 30 to the Ohio-Pennsylvania State line, to points in Oklahoma, Texas, and that part of Missouri on and north of a line beginning at the Missouri-Illinois State line, thence along U.S. Highway 54 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Missouri-Arkansas State line. The purpose of this filing is to eliminate the gateways of (1) Detroit, Mich., and (2) the plant site of Holloway House, Inc., at Lafayette, Ind.

No. MC 107515 (Sub-No. E371), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., 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 that part of Ohio on and north of a line beginning at the Pennsylvania-Ohio State line, thence along Interstate Highway 90 to Cleveland, thence along Interstate Highway 71 to junction Ohio Highway 95, thence along Ohio Highway 95 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Interstate Highway 75, thence along Interstate Highway 75 to the Ohio-Michigan State line, that part of Texas on and south of a line beginning at the Louisiana-Texas State line, thence along Interstate Highway 10 to Houston, thence along U.S. Highway 290 to junction with Interstate Highway 10, thence along Interstate Highway 10/U.S. Highway 290 to the International Boundary line between the United States and Mexico. The purpose of this filing is to eliminate the gateways of (1) Detroit, Mich., and (2) Columbus, Ohio.

No. MC 107515 (Sub-No. E372), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, in vehicles equipped with mechanical refrigeration, from Toledo, Ohio, to points in Florida, Louisiana, that part of North Carolina on and east of Interstate Highway 85, 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 Interstate Highway 20, thence along Interstate Highway 20 to the South Carolina-Georgia State line, that part of Georgia on and south of Interstate Highway 20, that part of Alabama on and south of a line beginning at the Georgia-Alabama State line, thence along Interstate Highway 20 to junction U.S. Highway 78, thence along U.S. Highway 78 to Birmingham, thence along Interstate Highway 20/159 to Tuscaloosa, thence along U.S. Highway 82 to the Alabama-Mississippi State line, that part of Mississippi on and south of U.S. Highway 82, that part of Arkansas on and south of a line beginning at the Mississippi-Arkansas State line, thence along U.S. Highway 82 to junction U.S. Highway 65, thence along U.S. Highway 65 to Little Rock, thence along Interstate Highway 40 to the Arkansas-Oklahoma State line, that part of Oklahoma on and south of Interstate Highway 40, and that part of Texas on and south of Interstate Highway 40, and (2) *Meats, meat products and meat by-products, dairy products, and articles distributed by meat packinghouses*, as described in the appendix to the report in *Modification of Permits—Packinghouse Products*, 46 M.C.C. 23, 48 M.C.C. 628 (except canned goods not requiring refrigeration), from Toledo, Ohio, to points in Georgia, Alabama, North Carolina, and South Carolina. The purpose of this filing is to eliminate the gateways of (1) Detroit, Mich., and (2) Columbus, Ohio.

No. MC 107515 (Sub-No. E429), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta,

Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products and dairy products*, as described in the Appendix to the report in *Modification of Permits—Packinghouse Products*, 46 M.C.C. 23, 48 M.C.C. 628, in vehicles equipped with mechanical refrigeration (except canned goods not requiring refrigeration), (a) from points in that part of Michigan on and east of a line beginning at the Michigan-Ohio State line, thence along U.S. Highway 23 to junction Interstate Highway 75, thence along Interstate Highway 75 to the International Boundary line between the United States and Canada, to points in that part of Mississippi on and south of Interstate Highway 20; and (b) from points in that part of Michigan on and east of a line beginning at the Michigan-Ohio State line, thence along U.S. Highway 127 to Lansing, thence along U.S. Highway 27 to junction Interstate Highway 75, thence along Interstate Highway 75 to the International Boundary line between the United States and Canada, to points in that part of Louisiana on and south of a line beginning at the Louisiana-Mississippi State line, thence along U.S. Highway 61 to Baton Rouge, thence along Interstate Highway 10 to Lafayette, thence along U.S. Highway 90 to the Mississippi-Louisiana State line. The purpose of this filing is to eliminate the gateways of (1) Columbus, Ohio, and (2) Atlanta, Ga.

No. MC 107515 (Sub-No. E430), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Atlanta, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except frozen fruits, frozen berries, and frozen vegetables); (a) from points in the Lower Peninsula of Michigan, to points in Missouri, Oklahoma, Texas, and points in that part of Kentucky on and north of a line beginning at the Kentucky-Indiana State line, thence along Interstate Highway 65 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Missouri-Kentucky State line; and (b) from points in that part of Michigan on and north of a line beginning at the Michigan-Indiana State line, thence along Interstate Highway 94 to junction U.S. Highway 27, thence along U.S. Highway 27 to Lansing, thence along Michigan Highway 78/21 to Flint, thence along Michigan Highway 78/21 to Lake Huron, to points in that part of Kentucky on and west of a line beginning at the Kentucky-Indiana State line, thence along U.S. Highway 150 to Danville, thence along U.S. Highway 127 to the Kentucky-Tennessee State line, restricted to the transportation of traffic destined to the destination specified. The purpose of this filing is to eliminate the gateway of the plant site of Holloway House, Inc., at Lafayette, Ind.

No. MC 107515 (Sub-No. E431), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration; (a) from points in Michigan to points in Louisiana, that part of Tennessee on and east of U.S. Highway 127, that part of Mississippi on and south of a line beginning at the Mississippi-Alabama State line, thence along Mississippi Highway 12 to junction U.S. Highway 51, thence along U.S. Highway 51 to Jackson, thence along Interstate Highway 20 to the Mississippi-Louisiana State line; (b) from points in that part of Michigan on and east of a line beginning at the Michigan-Ohio State line, thence along U.S. Highway 127 to Lansing, thence along Interstate Highway 75 to the International Boundary line between the United States and Canada, to points in Tennessee and Arkansas; and (c) from points in that part of Michigan on and east of a line beginning at the Michigan-Indiana State line, thence along Michigan Highway 66 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Interstate Highway 75, thence along Interstate Highway 75 to the International Boundary line between the United States and Canada, to points in Mississippi. The purpose of this filing is to eliminate the gateway of Columbus, Ohio.

No. MC 107515 (Sub-No. E435), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree, Rd., NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from South Hutchison, Kans., to the District of Columbia, and to points in Connecticut, Massachusetts, Ohio, Rhode Island, that part of Michigan on and east of a line beginning at the International Boundary line between the United States and Canada, thence along Interstate Highway 75 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Indiana-Michigan State line, and that part of Indiana on and east of a line beginning at the Indiana-Michigan State line, thence along Indiana Highway 15 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 31, thence along U.S. Highway 31 to Indianapolis, thence along Indiana Highway 37 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 150, thence along U.S. Highway 50/150 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Indiana-Kentucky State line, restricted (1) against the transportation of traffic destined to the facilities of Lorillard, a Division of Loew's Theatres, Inc., or its affiliates, and (2) to the transportation of traffic originating at South Hutchinson, Kans. The purpose of this filing is to eliminate the gateway of the plant site of Food Specialties of Kentucky, Division of Oscar Ewing, Inc., in Jefferson County, Ky.

No. MC 107515 (Sub-No. E439), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd., NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen meats and meat products* (except hides and commodities in bulk), from Wichita, Kans., to points in Maine, and that part of New Hampshire east of a line beginning at the Massachusetts-New Hampshire State line, thence along New Hampshire Highway 10 to Keene, thence along New Hampshire Highway 9 to Concord, thence along Interstate Highway 93 to junction New Hampshire Highway 104, thence along New Hampshire Highway 104 to junction New Hampshire Highway 25, thence along New Hampshire Highway 25 to the New Hampshire-Maine State line, restricted to the transportation of traffic originating at Wichita, Kans. The purpose of this filing is to eliminate the gateway of Gatesville, N.C.

No. MC 107515 (Sub-No. E440), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd., NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Arkansas City, Kans., to points in that part of South Carolina on and south of a line beginning at the Georgia-South Carolina State line, thence along Interstate Highway 20 to junction Interstate Highway 95, thence along Interstate Highway 95 to the North Carolina-South Carolina State line, and that part of North Carolina on and south of a line beginning at the North Carolina-South Carolina State line, thence along Interstate Highway 95 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction U.S. Highway 64, thence along U.S. Highway 64 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Tifton, Ala.

No. MC 107515 (Sub-No. E44), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen meats and meat products* (except

commodities in bulk, in tank vehicles), from the plant site of Farmland Foods, Inc., near Garden City, Kans., to the District of Columbia, and to points in Delaware, Rhode Island, Connecticut, New Hampshire, Maine, that part of Virginia on and east of a line beginning at the District of Columbia-Virginia Boundary line, thence along U.S. Highway 29 to Danville, thence along U.S. Highway 58 to South Boston, thence along U.S. Highway 360 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Virginia Highway 45, thence along Virginia Highway 45 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction U.S. Highway 15, thence along U.S. Highway 15 to Culpepper, thence along U.S. Highway 29/211 to the Virginia-District of Columbia Boundary line, that part of Maryland on and east of Interstate Highway 94, that part of Pennsylvania on and east of U.S. Highway 1, that part of New Jersey on and east of a line beginning at the Delaware River, thence along U.S. Highway 1 to junction New Jersey Highway 18, thence along New Jersey Highway 18 to junction Interstate Highway 287, thence along Interstate Highway 287 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction New Jersey Highway 511, thence along New Jersey Highway 511 to the New Jersey-New York State line, that part of New York on and east of a line beginning at the New Jersey-New York State line, thence along Interstate Highway 87 to junction Interstate Highway 90, thence along Interstate Highway 90 to the New York-Massachusetts State line, and that part of Massachusetts on and east of U.S. Highway 70 and on and north of Interstate Highway 90, restricted to traffic originating the main plant site. The purpose of this filing is to eliminate the gateway of Gatesville, N.C.

No. MC 107515 (Sub-No. E442), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from Kansas City, Kans. (except points in the Missouri portion of the Kansas City, Kans.-Kansas City, Mo., commercial zone, as defined by the Commission), to points in that part of Virginia on and east of a line beginning at the North Carolina-Virginia State line, thence along U.S. Highway 220 to Roanoke, thence along U.S. Highway 221/460 to Bedford, thence along U.S. Highway 221 to Lynchburg, thence along U.S. Highway 29 to Warrenton, thence along U.S. Highway 29/211 to the District of Columbia-Virginia Boundary line, restricted against the transportation of traffic originating at points in the Missouri portion of the Kansas City, Mo.-Kansas City, Kans., commercial zone, as defined by the Commission. The purpose of this filing is to eliminate the gateway of the plant sites of Family Foods Inc., and Ambrosia Chocolate Company, Division of W. R. Grace & Co., at Charlotte, N.C.

No. MC 107515 (Sub-No. E454), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd., NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Kansas City, Mo., to points in that part of Louisiana on and south of a line beginning at the Gulf of Mexico, thence along Louisiana Highway 1 to junction U.S. Highway 90, thence along U.S. Highway 90 to junction Interstate Highway 10, thence along Interstate Highway 10 to junction U.S. Highway 190, thence along U.S. Highway 190 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Louisiana-Mississippi State line, that part of Mississippi on and south of a line beginning at the Mississippi-Louisiana State line, thence along U.S. Highway 51 to junction U.S. Highway 98, thence along U.S. Highway 98 to junction Mississippi Highway 42, thence along Mississippi Highway 42 to the Mississippi-Alabama State line, that part of Alabama on and south of a line beginning at the Alabama-Mississippi State line, thence along Alabama Highway 56 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Alabama Highway 52, thence along Alabama Highway 52 to junction Alabama Highway 27, thence along Alabama Highway 27 to the Alabama-Florida State line, and that part of Florida on and south of a line beginning at the Alabama-Florida State line, thence along Florida Highway 81 to junction Florida Highway 20, thence along Florida Highway 20 to junction U.S. Highway 331, thence along U.S. Highway 331 to junction U.S. Highway 98, thence along U.S. Highway 98 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateway of New Orleans, La.

No. MC 107515 (Sub-No. E455), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Unfrozen meat and meat products, from* Phelps City, Mo., to points in that part of Maryland on and south of a line beginning at the Chesapeake Bay, thence along Maryland Highway 16 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Maryland Highway 18, thence along Maryland Highway 18 to junction Maryland Highway 313, thence along Maryland Highway 313 to the Maryland-Delaware State line, and that part of Delaware on and south of a line beginning at the Maryland-Delaware State line, thence along Delaware Highway 11 to junction Delaware Highway 6, thence along Delaware Highway 6 to the Delaware Bay. The purpose of this filing is to eliminate the gateway of Gatesville, N.C.

No. MC 107515 (Sub-No. E456), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, (a) from Kansas City, and St. Joseph, Mo., to points in Florida and that part of Tennessee (except Memphis, Tenn., and points in the Memphis commercial zone as defined by the Commission), on and south of a line beginning at the Tennessee-Alabama State line, thence along Interstate Highway 65 to junction Tennessee Highway 96, thence along Tennessee Highway 96 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Tennessee-Kentucky State line; and (b) from St. Joseph, Mo., to Nashville, Tenn. The purpose of this filing is to eliminate the gateway of Booneville, Miss.

No. MC 107515 (Sub-No. E457), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen meats and meat products*, from Kansas City, Mo., to points in those parts of New Hampshire and Maine on and east of Interstate Highway 95, and that part of Massachusetts on and east of a line beginning at the Massachusetts-Rhode Island State line, thence along Massachusetts Highway 126 to junction Interstate Highway 495, thence along Interstate Highway 495 to junction Interstate Highway 95, thence along Interstate Highway 95 to the Massachusetts-New Hampshire State line. The purpose of this filing is to eliminate the gateway of Gatesville, N.C.

No. MC 107515 (Sub-No. E463), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen, fresh, and cured meats*, from points in Louisiana, to the District of Columbia

and points in Delaware, New Jersey, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, Maine, that part of Virginia on and east of a line beginning at the Virginia-North Carolina State line, thence along U.S. Highway 29 to Lynchburg, thence along U.S. Highway 501 to junction Interstate Highway 81, thence along Interstate Highway 81 to the Virginia-Maryland State line, that part of Maryland on and east of Interstate Highway 81, and that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, thence along U.S. Highway 220 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line, and that part of New York on and east of New York Highway 14. The purpose of this filing is to eliminate the gateways of (1) any point that is both within 10 miles of Atlanta, Ga., and within the Atlanta, commercial zone as defined by the Commission (except Atlanta), and (2) Gatesville, N.C.

No. MC 107515 (Sub-No. E469), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, in containers, from New Orleans, La., to the District of Columbia, and to points in Vermont, New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Maryland, Maine, New Jersey, Delaware, that part of Virginia on and east of a line beginning at the Virginia-North Carolina State line, thence along U.S. Highway 15 to junction U.S. Highway 522, thence along U.S. Highway 522 to the Virginia-West Virginia State line, and that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, thence along U.S. Highway 219 to junction Pennsylvania Highway 56, thence along Pennsylvania Highway 56 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction Interstate Highway 79, thence along Interstate Highway 79 to Lake Erie. The purpose of this filing is to eliminate the gateways of (1) Atlanta, Ga., and (2) Gatesville, N.C.

No. MC 107515 (Sub-No. E470), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk, in tank vehicles), from points in that part of Louisiana on and south of a line beginning at the Texas-Louisiana State line, thence along Louisiana Highway 8 to junction Louisiana Highway 28, thence along Louisiana Highway 28 to junction U.S. Highway 84, thence along U.S. Highway 84 to the Louisiana-Mississippi State line, to points in that part of South Carolina on and east of a line beginning at the Georgia-South Carolina State line, thence along Interstate Highway 20 to Columbia, thence along U.S. Highway 21 to the South Carolina-North Carolina State line, and that part of North Carolina on and east of U.S. Highway 21. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC 110420 (Sub-No. E160), 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: Glycerin, soap stock, liquid soap and fatty acids, in bulk, in tank vehicles, from the plant site of Armour Company near Aurora, Ill., (1) to points in Minnesota, that part of Kansas in and west of Norton, Graham, Trego, Ness, Hodgeman, Eswards, Kiowa, and Comanche Counties, and that part of Iowa in and west of Winnebago, Hancock, Wright, Hamilton, Greene, and Audubon Counties (Milwaukee, Wis.)*; (2) to Baltimore, Md., and points in New Jersey, and Delaware (Janesville, Wis.)*; (3) to points in Colorado, Idaho, Montana, Utah, Wyoming, and that part of Nebraska on and west of U.S. Highway 281 (Janesville, Wis.)*; (4) to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut (Milwaukee, Wis., and Carpentersville, Ill.)*; (5) to points in Texas (Milwaukee, Wis., and Kankakee, Ill.)*; (6) to New Orleans, La. (Milwaukee, Wis)*; (7) to points in South Carolina, that part of North Carolina in and east of Ashe, Wataug, Caldwell, Burke, and Cleveland Counties, that part of Virginia in and east of Augusta, Rockbridge, Bedford, Franklin, and Patrick Counties, that part of New York in and east of Wayne, Cayuga, Tompkins, and Chemung Counties, and that part of Pennsylvania in and east of Bradford, Sullivan, Columbia, Schuylkill, Dauphin, and York Counties (Janesville, Wis., and Carpentersville, Ill.)*; and (8) to points in that part of Georgia in and south of Toccoa, Homer, Jackson, Gwinnett, Rosewell, DeKalb, Coweta, Heard, and Smyrna Counties (Janesville, Wis.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 113843 (Sub-No. E814), (Correction), filed May 19, 1974, published in the FEDERAL REGISTER September 24, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Marysville, Pa., to that portion of New Hampshire on and north of a line beginning at the New Hampshire-Vermont State line and extending along U.S. Highway 4 to junction New Hampshire Highway 118, thence along New Hampshire Highway 118 to junction New Hampshire Highway 25, thence along New Hampshire Highway 25 to the New Hampshire-Maine State line. The purpose of this filing is to eliminate the gateway of Syracuse, N.Y. The purpose of this correction is to correct a typographical error.

No. MC 113843 (Sub-No. E517), (Correction), filed May 23, 1974, published in the FEDERAL REGISTER August 5, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Moosic, Pa., to points in Oklahoma. The purpose of this filing is to eliminate the gateway of Dundee, N.Y. The purpose of this correction is to correct a typographical error.

No. MC 113843 (Sub-No. E524), (Correction), filed May 23, 1974, published in the FEDERAL REGISTER August 5, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Moosic, Pa., to points in Wisconsin. The purpose of this filing is to eliminate the gateway of LeRoy, N.Y. The purpose of this correction is to correct a typographical error.

No. MC 113843 (Sub-No. E518), (Correction), filed May 23, 1974, published in the FEDERAL REGISTER August 5, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Moosic, Pa., to points in Illinois. The purpose of this filing is to eliminate the gateway of Elmira, N.Y. The purpose of this correction is to correct a typographical error.

No. MC 113843 (Sub-No. E839), (Correction), filed June 4, 1974, published in the FEDERAL REGISTER October 8, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Marysville, Pa., to points in that portion of Vermont on and north of a line beginning at the Vermont-New Hampshire State line and extending along Interstate Highway 89 to junction Vermont Highway 107, thence along Vermont Highway 107 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 73, thence along Vermont Highway 73 to junction

Vermont Highway 73A, thence along Vermont Highway 73A to Lake Champlain. The purpose of this filing is to eliminate the gateway of Syracuse, N.Y. The purpose of this correction is to correct a typographical error.

No. MC 113843 (Sub-No. E912), (Correction), filed June 4, 1974, published in the FEDERAL REGISTER November 4, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, between points in that part of Michigan on, and south, and east of a line beginning at the Detroit River and extending along Michigan Highway 39 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction Michigan Highway 60, thence along Michigan Highway 60 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Michigan-Ohio State line, on the one hand, and, on the other, points in Salem County, N.J. The purpose of this filing is to eliminate the gateway of Elmira, N.Y. The purpose of this correction is to indicate complete destination territory.

No. MC 115331 (Sub-No. E13) (Correction), filed May 6, 1974, published in the FEDERAL REGISTER November 21, 1974. Applicant: TRUCK TRANSPORT INC., 230 St. Clair Ave., East St. Louis, Ill. 62201. 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: *Lime*, in bulk (except lime used for agricultural purposes), from Limedale, Ark., to points in Florida, Georgia, North Carolina, and South Carolina. The purpose of this filing is to eliminate the gateways of St. Genevieve, St. Louis, Kansas City, and Hannibal, Mo., and Adams County, Ill. The purpose of this correction is to clarify the destination territories.

No. MC 115603 (Sub-No. E6), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). 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, materials, equipment, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof (except the stringing or picking up of pipe in connection with main or trunk pipelines); (2) *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; and (3) Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Kansas, on the one hand, and, on the other, points in Mississippi. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E7), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., PO. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, materials, supplies, and equipment* incidental to, or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum; and (2) 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 Colorado, on the one hand, and, on the other, points in Texas on and east of a line beginning at the New Mexico-Texas State line and extending along Texas Highway 2290 to its junction with Texas Highway 214, thence along Texas Highway 214 to its junction with Texas Highway 145, thence along Texas Highway 145 to its junction with U.S. Highway 385, thence along U.S. Highway 385 to its junction with Texas Highway 305, thence along Texas Highway 305 to its junction with U.S. Highway 290, thence along U.S. Highway 290 to its junction with Texas Highway 163, thence along Texas Highway 163 to its junction with US. Highway 90, thence along U.S. Highway 90 to its junction with U.S. Highway 277, thence along U.S. Highway 277 to the United States-Mexico International Boundary line. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E8), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). 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, materials, equipment, and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; (2) *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; and (3) Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Texas, on the one hand, and, on the other, points in Wyoming. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E9), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Oklahoma 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, (1) between points in Texas, on the one hand, and, on the other, points in Arkansas on and north of a line beginning at the Arkansas-Oklahoma State line and extending along Arkansas Highway 32 to its junction with U.S. Highway 71, thence along U.S. Highway 71 to its junction with Arkansas Highway 27, thence along Arkansas

Highway 27 to its junction with Arkansas Highway 26, thence along Arkansas Highway 26 to its junction with Arkansas Highway 8, thence along Arkansas Highway 8 to its junction with Arkansas Highway 46, thence along Arkansas Highway 46 to its junction with U.S. Highway 270, thence along U.S. Highway 79 to its junction with U.S. Highway 49, thence along U.S. Highway 49 to the Arkansas-Mississippi State line, (2) between points in Arkansas, on the one hand, and, on the other, points in Texas on and west of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 259 to its junction with U.S. Highway 82, thence along U.S. Highway 82 to its junction with Texas Highway 24, thence along Texas Highway 24 to its junction with U.S. Highway 380, thence along U.S. Highway 380 to its junction with U.S. Highway 75, thence along U.S. Highway 75 to its junction with Interstate Highway 635, thence along Interstate Highway 635 to its junction with Interstate Highway 35E, thence along Interstate Highway 35E to its junction with Interstate Highway 35, thence along Interstate Highway 35 to its junction with U.S. Highway 84, thence along U.S. Highway 84 to its junction with Texas Highway 116, thence along Texas Highway 116 to its junction with U.S. Highway 190, thence along U.S. Highway 190 to its junction with U.S. Highway 281, thence along U.S. Highway 281 to its junction with Texas Highway 29, thence along Texas Highway 29 to its junction with Texas Highway 16, thence along Texas Highway 16 to its junction with Texas Highway 27, thence along Texas Highway 27 to its junction with Texas Highway 41, thence along Texas Highway 41 to its junction with U.S. Highway 83, thence along U.S. Highway 83 to its junction with U.S. Highway 57, thence along U.S. Highway 57 to the United States-Mexico International Boundary line. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E11), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Oklahoma 73109. Applicant's representative: Jack E. Turner (same as above). 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, materials, equipment, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, except the stringing or picking up of pipe in connection with main or trunk pipelines; (2) *Machinery, equipment, materials*, and *supplies*, used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; and (3) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in New Mexico, on the one hand, and, on the other, points in Illinois. The purpose of this filing is to eliminate the gateways of points in Texas, Oklahoma, and Kansas.

No. MC 119988 (Sub-No. E26), filed June 3, 1974. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, Tex. 75902. Applicant's representative: Joe E. Kinard, 201 W. Commerce St., Dallas, Tex. 75208. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Printed advertising matter*, and (2) *newspaper supplements* otherwise exempt from economic regulation under Section 203(b)(7) of the Act when transported in mixed loads with printed advertising matter, from the facilities of the Oklahoma Publishing Co., Web Offset Division, at or near Oklahoma City, Okla., to points in California (except San Francisco), north of a line beginning at the California-Arizona State line, and thence along Interstate Highway 40 to junction California Highway 58, thence along California Highway 58 to junction California Highway 99, thence along California Highway 99 to junction California Highway 46, thence along California Highway 46 to the Pacific Ocean. The purpose of this filing is to eliminate the gateway of Ringgold, Calif.

By the Commission.

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

[FR Doc.74-29865 Filed 12-20-74;8:45 am]

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PART II

# ENVIRONMENTAL PROTECTION AGENCY

■

# CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLE ENGINES

## Recall Procedures

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 273-2]

## PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

### Subpart S—Recall Regulations

On March 25, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER, (39 FR 11103), concerning the proposal to establish a new Subpart (S) in Part 85 of Title 40 to provide procedures for conducting recalls pursuant to section 207(c)(1) of the Clean Air Act. Interested persons were given until May 24, 1974, to submit written comments on the proposal and such comments were received from American Motors, Chrysler, Ford, General Motors, International Harvester, Volkswagen, Volvo, Fiat, White, Motor Vehicle Manufacturers Association, Engine Manufacturers Association, Motor and Equipment Manufacturers Association, Specialty Equipment Manufacturers Association, Caterpillar Tractor, Cummins Engine, Mack Truck, Automobile Importers of America, Public Interest Research Group, State of Maryland, and Western Union.

*Explanatory statement.* Section 207(c)(1) of the Clean Air Act provides that "if the Administrator determines that a substantial number of any class or category of vehicles or engines, although properly maintained and used, do not conform to the regulations prescribed under section 202, when in actual use throughout their useful life * * * he shall require the manufacturer to submit a plan for remedying the nonconformity * * *." The manufacturer may request a public hearing to contest the Administrator's determination of nonconformity. Unless, as a result of such hearing, the determination is withdrawn, the manufacturer must give dealers, ultimate purchasers, and subsequent purchasers notice of the nonconformity. Section 207(c)(2) authorizes the Administrator to promulgate regulations to prescribe the content of the notification and the manner in which it is given. Section 208(a) authorizes the Administrator to require the manufacturer to establish and maintain such records and to make such reports as are necessary to ensure that the manufacturer is in compliance with Title II, Part A of the Act and applicable regulations thereunder.

Without an adequate regulatory scheme, the effectiveness of any recall will be diminished by the delays which accompany *ad hoc* decision and policy making. These delays are contrary to the interest of the public, the environment, and the Agency and should be avoided. To this end, I am promulgating the following regulations to implement the statutory requirements of the Clean Air Act. These regulations are contained in six major sections:

1. Section 85.1802 describes the notification to be sent by the Administrator to a manufacturer of vehicles or engines against whom a determination of nonconformity has been lodged. The notification will include a description of each class or category of vehicles or engines subject to the determination of nonconformity as well as the factual basis for the determination. Finally the manufacturer will be given a date by which he is to submit a plan to remedy the nonconformity.

2. Section 85.1803 describes the Remedial Plan. The regulations require the manufacturer, upon notification by the Administrator that a nonconformity exists, to submit descriptions of the proposed repairs, alterations, or modifications he intends to use to correct the nonconformity, the method by which owners of the nonconforming vehicles or engines will be identified, and the procedure which owners must follow to have their vehicles remedied. The regulations further require the manufacturer to describe any conditions upon which eligibility for repair is premised.

The regulations also address the obligations of a manufacturer subject to a recall in regard to the notification of purchasers. Notification of vehicle or engine owners will usually be by first class mail. A copy of the notification must be included in the plan. To increase the efficiency of the notification process, a manufacturer must use all reasonable means necessary to locate ultimate and subsequent purchasers.

Under the regulations, each vehicle or engine which participates in the recall campaign (i.e., inspection for repair followed by repair if necessary or repair without inspection), will have a decal affixed in the engine compartment in proximity to the emission label or in such other location as approved by the Administrator.

3. Section 85.1804 provides for the approval of the remedial plan by the Administrator and for the implementation of the plan by the manufacturer. Under the regulations, the manufacturer will receive written notice that the remedial plan has been approved or disapproved. Upon receipt of notice that the plan has been approved the manufacturer is to commence implementation of the plan.

One aspect of implementation is the notification of vehicle or engine owners. The regulations provide that when no public hearing is requested to challenge the determination of nonconformity, consumer notification is to commence within 15 working days of the receipt of the Administrator's approval of the remedial plan. If a hearing is held, unless the Administrator withdraws his determination of nonconformity, the Administrator will, within 60 days of the completion of the hearing, order the manufacturer to commence prompt notification of vehicle and engine owners.

4. Section 85.1805 describes the contents of the notification to be sent to vehicle or engine owners. The section requires the manufacturer to explain to the vehicle or engine owner most of what is contained in the remedial plan. Besides describing the procedural aspects of obtaining correction of the nonconformity, the notification will inform the vehicle or engine owner of the adverse effects, if any, that an uncorrected nonconformity may have on performance, driveability, and the functioning of other engine components. Owners will be warned that failure to correct the nonconformity may cause vehicles to fail an emission inspection, if required by State or local law. In addition, a vehicle or engine owner will be cautioned that by not participating in the recall campaign, he may have failed to have properly maintained his vehicle or engine which could cause him to be ineligible for free repair under his emissions warranty or a future recall campaign.

These warnings are designed to improve the response to the recall campaign by encouraging vehicle and engine owners to seek correction of the nonconformity as well as to give vehicle and engine owners important information concerning the mechanical condition of their vehicles or engines and the legal impact of the failure to obtain correction of the nonconformity.

5. Section 85.1806 describes the records which a manufacturer must keep and the reports he must make of the recall campaign. From this data, the Administrator will be able to evaluate the success of the recall campaign and determine whether a subsequent notification will be required.

6. Section 85.1807 describes the procedures which will be followed in the event that the manufacturer requests a public hearing to contest the Administrator's finding of nonconformity. The hearing is designed to conform with the requirements of the Administrative Procedure Act, 5 U.S.C. 551–9, and 701–6, as amended. Under the regulations, party status is afforded the contesting manufacturer, the Agency, and interveners. Any member of the public may petition to intervene. If the presiding officer determines that certain criteria are met, the petition will be granted. The criteria are designed to test the petitioner's interest in the proceeding. In this manner, effective public participation can be provided without sacrificing the concomitant public interest in an expedited hearing.

*Comments received.* (In the discussion to follow, section numbers are referenced to the proposed regulations unless otherwise noted.)

#### I. ISSUES

##### A. ISSUES RAISED IN ORIGINAL PROPOSAL

In the preamble to the proposed regulations, two major concerns were indentified: (1) The formality required by the public hearing requirement of section 207(c)(1) of the Act; and, (2) the viability of the decal and certificate program to be implemented as part of the remedial plan.

1. *Public hearings.* The question of the nature of the public hearing required by the recall provisions of the Act was resolved in favor of formal hearings to be governed by the requirements of the Administrative Procedure Act (herein,

APA), 5 U.S.C. 554 et seq (1970). Although comments were received concerning the content of the procedures (discussed below), the conclusion that section 207(c)(1) should be read to require a formal APA hearing was not challenged and the formal nature of the proceedings has been retained for final promulgation.

2. *Decal and certificate programs.* Under the proposed regulations, each vehicle brought to a repair facility in response to notification would have a decal affixed to one of the non-movable inside glass surfaces. In addition vehicle owners would receive a recall campaign certificate. Some owners of recalled vehicles may not be eligible for free remedial repair (e.g., the vehicle was not properly maintained and used) but the decal and certificate would still be issued if the vehicle were brought to the appropriate repair facility.

The purpose of the decal and certificate programs was to complement state inspection programs by allowing identification of those vehicles which had complied with the recall notification and those which had not. As proposed, every vehicle presented for repair would have a decal applied and the vehicle owner would have received a certificate regardless of whether any remedial action had been taken. The conditioning of the issuance of the decal and certificate on actual repair was rejected in the original proposal on the basis that to do so might deter some states from utilizing them.

The force of the criticism was directed at two points: (a) The decal should be conditioned on actual participation in the recall campaign (i.e., inspection for repair followed by repair if necessary or repair without inspection); and (b) the certificate should be dropped as it was redundant and served no independent function.

In view of the lack of response from states concerning the program (only Maryland commented), and in consideration of the comments of vehicle manufacturers, the final regulations reflect the substance of these comments. The certificate provision has been dropped altogether. The decal, as suggested, will be affixed only to those vehicles or engines actually receiving remedial action. It should be noted that remedial action is constituted either of remedial repair or merely inspection for repair if no repair is needed. As the decal provision is intended to aid state inspection programs, those vehicles or engines inspected for repair but not requiring repair must be distinguished from those which were not involved in the recall campaign in any way.

The regulations provide for the issuance of a decal only upon actual participation in the recall campaign. Where an owner is found ineligible for the remedial action because of a failure to properly maintain or use his vehicle or engine, no decal would be issued. States which utilize the decal for inspection programs may desire to establish procedures by which those who are ineligible for remedial action and who obtain the proper service at their own expense can demonstrate effective compliance with the recall campaign for inspection purposes.

Additional comments were directed at the location of the decal itself and the majority favored locating the decal in the engine compartment. The location of the decal on the glass surface, it was suggested, would risk removal by owners and loss due to glass breakage, and was complicated by state laws regulating window obstructions. The location of the decal in the engine compartment, on the other hand, would not subject the decal to the same degree of risk of destruction and is not regulated by state law.

As part of the arguments to drop the certificate, several manufacturers suggested that the VIN number could be included in the decal to insure that decals are not transferred.

The final regulations thus require the decal to contain the vehicle or engine identification number and provide for installation in the engine compartment.

### B. OTHER ISSUES RAISED BY PUBLIC COMMENTS

The comments to the proposed regulations raised three major issues not previously addressed in the regulations themselves or the supporting documents: (1) The division of responsibility for the recall plan and the subsequent recall campaign of heavy duty vehicles when the engine and the vehicle in which it is installed are produced by different manufacturers (i.e., the multiple manufacturer problem); (2) the impact of the recall regulations on aftermarket part manufacturers and independent service facilities; and (3) the ability of foreign manufacturers to comply with the time limits specified in various sections of the regulations. A fourth class of comments demonstrated concern over the lack of definitions for the terms "substantial number" and "class or category."

1. *Multiple manufacturers.* Analysis of the issues surrounding the recall of heavy duty vehicles when the engine and vehicle manufacturer are not the same has lead EPA to the conclusion that the burden of the recall campaign must be with the manufacturer (vehicle or engine) at fault. Thus, the issuance of the notification of nonconformity to a manufacturer would implicitly allege that the manufacturer is responsible as the sole cause of the nonconformity. The other manufacturer(s) would not be liable in any way to EPA for correcting the nonconformity and any necessary assistance would be a matter for agreement between the parties.

The heavy duty manufacturers urged that the final regulations delineate the lines of responsibility between vehicle and engine manufacturers. To determine the duties of each manufacturer in advance of an actual recall would, however, ignore the general principle that liability should be based in fault. No formalized demarcation of the responsibilities of the various manufacturers in a recall of a vehicle not produced by a single manufacturer could be fair in all cases. The most equitable solution to this problem is to handle each case on its own merits. For these reasons, no attempt has been made to define the roles of vehicle and engine manufacturers in the regulations.

2. *Impact on the aftermarket parts and independent service industries.* The comments also raised the question of the anticompetitive impact of the regulations on the aftermarket parts and independent service industries.

Section 85.1803(a)(4) requires a manufacturer against whom a recall order is lodged to describe "the proper maintenance and use, if any, upon which the manufacturer conditions eligibility for repair under the remedial plan, * * * (provided that no) such condition may be imposed unless it is, in the judgment of the Administrator, demonstrably related to preventing the nonconformity." It was suggested that the provision be modified to ensure that use of aftermarket parts could not be used to deny eligibility for remedial action per se. Although it is unlikely that a blanket prohibition of the use of aftermarket parts could satisfy the proviso of the condition (quoted above), the suggested modification serves to avoid any future argument over this issue and has therefore been adopted in the final regulations. It should be noted that the owner notification letter (as described in § 85.1805 sections (a)(3) contains a statement as to the proper maintenance requirements to be imposed on vehicle or engine owners. The language of this provision has also been changed in response to the comments of the aftermarket parts industry.

It was also contended that § 85.1803 (a)(5) was anti-competitive in that it restricts the performance of the repair to agents of the manufacturer. It was argued that unless special knowledge is needed to perform the repair, a vehicle or engine owner should be allowed to have the nonconformity corrected at any facility of their choice. The difficulty with this argument is that the Act requires a manufacturer to remedy the nonconformity. The legislative history provides no basis for requiring the vehicle or engine manufacturer to pay for recall work done by service facilities in general as opposed to franchised dealers or authorized agents. Of course, if the unlikely circumstance arose that special service not available from agents of the manufacturer was necessary to remedy the nonconformity, the Agency could require the manufacturer to utilize such service. However, the manufacturer will be able to remedy the vast majority of the recalls through his own agents. Since manufacturers have traditionally been allowed to specify who would perform recall (and warranty) work, no adequate justification exists for changing the status quo.

3. *Foreign manufacturers.* Another issue raised by the comments not originally addressed by the proposed regulations concerns the ability of foreign manufacturers to comply with the various time limits specified in the regulations. The major deadlines are: (a) The date for

submission of the remedial plan; (b) the date by which notification of owners should commence; (c) the dates for submission of quarterly reports; and (d) the time allowed for a request for a public hearing. All of these provisions allow for the exercise of discretion on the part of the Administrator (either in setting the date or in extending it). The concern of foreign manufacturers is understandable but the flexibility of the regulations would seem to answer these concerns and no changes in regard to these comments have been made.

4. *Need for definitions.* Manufacturers also criticized the policy decisions not to define "substantial number" and "class or catgeory" as those phrases are used in section 207(c)(1) of the Act. The definition of these terms is not necessary to the exercise of the recall authority granted by the Clean Air Act. Although it may be argued that formal definitions could simplify the issues of any recall hearing (and thereby expedite the hearing), until the full impact of such definitions on other programs is understood, rulemaking in these areas should be postponed.

## II. Specific Provisions

### A. Notice to the Manufacturer

Section 85.1802 of the proposed regulations was designed to afford a manufacturer notice that a determination of nonconformity had been lodged against him and to provide the manufacturer the basis for the determination. A manufacturer was also to be given at least 30 days in which to submit a remedial plan.

Criticism of this provision was aimed at the lack of specificity as to the information to be given a manufacturer concerning the determination of nonconformity and the 30 day period allowed for submission of a remedial plan.

The detail of the explanation of the factual basis of the Administrator's recall decision to be given to a manufacturer is, of course, an important consideration. A manufacturer will probably base his decision to request a public hearing in large part on the data provided by the EPA. It is in the interest of the agency to avoid such hearings when possible and it is therefore in the Agency's interest to provide sufficient information to a manufacturer to convince him that the determination is sound. The general statement of § 85.1802 that the manufacturer will be given the factual basis for the determination of nonconformity encompasses any statistical analysis and data used in making the determination (not previously provided the manufacturer by the EPA). For this reason, the general language of the provision has not been changed.

The provision also called for the submission of a remedial plan on or before a date designated by the Administrator which date was to be no sooner than thirty days after the receipt by the manufacturer of the notice of nonconformity. Section 85.1803(c) allowed the manufacturer to obtain an extension upon good cause shown. The objections of the manufacturers to the thirty days language was that thirty days is not sufficient time in which to devise a remedy to the nonconformity and prepare a remedial plan. The thirty day period was intended to be a minimum period. The actual deadline for the submission of the remedial plan would be determined only after evaluation of the particular cause of the nonconformity, the technological problems involved in remedying the nonconformity, and the time needed for devising a workable plan to apply the remedy to vehicles or engines in the field. The time imposed on foreign manufacturers would also reflect any delay expected because of overseas mail service. Furthermore, a manufacturer could request an extension if the time allocated for the remedial plan is not sufficient.

Despite the obvious flexibility of the provision, the 30 day period has been extended to 45 days in order to make the remedial plan deadline consistent with the amended provision governing requests for public hearings.

### B. Remedial Plan

Section 85.1803 describes the Remedial Plan. The proposed regulations would require the manufacturer, upon notification by the Administrator that a nonconformity exists, to submit descriptions of the repairs, alterations, or modifications he intends to use to correct the nonconformity, the method by which owners of the nonconforming vehicles or engines would be identified, and the procedure which owners must follow to have their vehicles remedied. The proposed regulations would also require the manufacturer to describe any conditions upon which eligibility for repair was premised.

Section 85.1803 also addressed the obligations of a manufacturer subject to a recall in regard to the notification of purchasers. Notification to ultimate and subsequent purchasers was required to be in writing and a copy of the notification was to be included in the plan. The decal and certificate programs (discussed above) were also described in the section.

The comments to the requirements of § 85.1803 can be grouped into four general classifications: (1) Those aimed at the provisions concerning the design and testing of the remedial repair; (2) those aimed at the notification of vehicle or engine owners; (3) those directed to the actual conduct of the campaign; and (4) the comments aimed at the information needed by the EPA to evaluate the manufacturer's plan.

1. *Remedial repair.* The proposed regulations, pursuant to subparagraph (a)(2) of § 85.1803, required a manufacturer to submit "a description of the specific modification, alterations, repairs, (etc) * * *" to be used to remedy the nonconformity and a summary of technical information which supports the decision to use the particular remedy. Section 85.1803(a)(8) required the remedial plan to include a statement "that an adequate supply of parts would be available to perform" the remedial repair. Paragraph (f) of this section allowed the Administrator to require the manufacturer to conduct tests incorporating the remedial repair according to procedures specified by the Administrator.

The comments reflect a concern on the part of manufacturers that these provisions could be burdensome in application, especially when (under § 85.1802) a manufacturer might be given only 30 days in which to submit the remedial plan.

Because the factors of each recall determination will not be the same, the regulations provide the Administrator with flexibility in determining the time allowed a manufacturer to submit a remedial plan (some of the considerations involved in determining this deadline are discussed above). Although the potential for abuse can be said to exist, the regulations themselves are not inherently burdensome and the possibility of unfairness in their application is justified by the flexibility they provide the Agency to deal with the variables of recall.

As part of the evaluation of the remedial plan, it is important to know how the manufacturer will ensure that the parts to conduct the remedial repair will be available. As proposed, the regulations did not require notice of the date by which parts would be available but only a statement that they would be available. The analysis of the criticism of this provision revealed further deficiences in its scope. For this reason, the final regulations require not only a description of when parts will be available but information concerning the quantity of parts designated for initial shipment and the method to be used to ensure that the supply of parts is both adequate and responsive to owner demand.

Concern was also expressed with the broad authority of the Administrator to require testing of the manufacturer's remedy pursuant to § 85.1803(f). It should be pointed out that the testing under this provision would not always be required and in any case would not interfere with the initial submission of the remedial plan. The question here is the extent to which the discretion granted by the provision is necessary to the purpose of the provision. As the authority reflected by paragraph (f) would be exercised when doubt exists as to the effectiveness of the remedy, it is the need for data which is the essence of the requirement. In response to these comments, the provision has been modified to limit the discretion of the Administrator in this case to requiring tests "reasonably designed to demonstrate" the effectiveness of a remedy.

2. *Consumer notification.* The second classification of comments identified above represents those aimed at consumer notification. As a matter of editorial comment, it was pointed out that the phrase "ultimate and subsequent purchasers (if known)" was confusing in that the phrase taken literally would include the owner of record and the original purchaser (who may no longer be the owner of record). In order to avoid this confusion, it was suggested that the phrase "vehicle or engine owner" be used in its place. This suggestion has been

adopted. It should be emphasized that this change cannot be interpreted to relieve the manufacturer of taking positive action to identify and notify subsequent purchasers.

The substantive objections were made in regard to paragraph (b) of § 85.1803 which required: (1) Notification of owners to be made in writing and "by certified mail or such other means as approved by the Administrator" and (2), that a manufacturer use all reasonable means necessary to locate owners "provided that the Administrator may require the manufacturer to use motor vehicle registration lists as available from state or commercial sources * * *." These comments raised questions concerning the effectiveness of certified mail and commercial and state sources for owner notification purposes. Although much of this reaction can be viewed as economic in origin, there is merit in the criticisms, especially that directed toward vehicle registration lists.

Presently, safety related notifications handled by the NHTSA are made by certified mail as required by statute. The NHTSA experience would appear to oppose the manufacturers' argument that certified mail is "ineffective" but the data that is available tends to support the contention that first class mail is at least as effective as certified mail in reaching owners. The requirement that the initial notification always be made by certified mail has therefore been dropped. Certified mail may, however, be required when warranted by good cause.

The possible use of registration lists to locate vehicle or engine owners was emphatically denounced. A number of manufacturers described the inadequacies and costs of such sources in detail. It should be noted that § 85.1804 (describing the owner notification) requires a manufacturer to include a card in the owner notification letter on which the letter recipient can note that the vehicle or engine has been sold and the address of the purchaser. In response to these comments, the discretion of the Administrator to require the use of such lists is restricted to "good cause" in the final regulations.

Paragraph (g) of the proposed regulations would have allowed the Administrator to order subsequent notifications "by reasonable and appropriate means." For the reasons discussed above, this provision has been changed to allow subsequent notifications to be made by first class mail (or other reasonable means) and reserves certified mail to circumstances where good cause can be demonstrated.

3. *Conduct of the campaign.* The third classification of comments concerns those provisions dealing with actual conduct of the recall campaign. (A discussion of the criticism made with regard to the impact of the requirements of the provisions on the aftermarket and independent service industries appears above). Specific attention was given by maunfacturers to the requirement that "repair shall be completed within 60 days from the date the owner first tenders the vehicle or engine * * *" It was pointed out that, as written, an owner could present his vehicle or engine for repair prior to the date on which parts would be available to dealers. Also, the 60 day period was needlessly inflexible. The language of this provision in the final regulations has been changed to require the repair to be completed within a reasonable time from the date an owner tenders his vehicle or engine (measured after the date designated by the manufacturer as the date after which the repair could be obtained). The "reasonable time" would be designated the Administrator upon review and approval of the plan.

Section 85.1803(a)(6) required a manufacturer to give specific information concerning those persons, other than dealers who were to perform the remedial repair. One manufacturer objected strenuously to this requirement as burdensome and argued that it effectively limited the class of those who could perform the repair to his dealers. In evaluating these comments, the purpose of the provision must be kept in mind. The EPA has an interest to see that the repair is done correctly and according to all the requirements of the recall plan. To the extent that the manufacturer has delegated his duties under the plan to persons outside his corporate umbrella, the EPA can demand certain assurances that the recall campaign will not suffer as a result of this delegation. The assurances should not, however, be so stringent as to deny a manufacturer the option of designating nondealers as facilities for performing the remedial repair (e.g., authorized warranty agents).

For these reasons, the requirements of § 85.1803(a)(6) have been changed to require a manufacturer to provide, as a part of the plan, a description of the class of persons, (other than dealers or authorized warranty agents), if any, who will perform the remedial repair and a statement that participating members will be properly equipped to perform it.

4. *Evaluation of the Remedial Plan.* The final group of comments were directed at various provisions requesting, or allowing for the Administrator to request, information concerning the proposed remedy and the remedial plan. The objections were largely editorial and are reflected in minor language changes in the final regulation. An objection was raised to the broad discretion of the Administrator to request additional information with regard to the plan. The final regulations limit this authority to other information which the Administrator may "reasonably determine is necessary to evaluate the remedial plan." This language is in substantial conformity with Section 208 (a) of the Act.

C. APPROVAL OF PLAN; IMPLEMENTATION

Section 85.1804 provides for the approval of the remedial plan by the Administrator for the implementation of the plan by the manufacturer. Under the proposed provisions, the manufacturer would receive written notice that the remedial plan has been approved. Upon receipt of this notice the manufacturer is to commence implementation of the plan.

One aspect of implementation is the notification of ultimate and subsequent purchases. The proposed regulations provide that when no public hearing was requested to challenge the determination of nonconformity, consumer notification would commence within 15 days of the receipt of the Administrator's approval of the remedial plan. If a hearing was held, unless the Administrator withdraws his determination of nonconformity, the Administrator would, within 60 days of the completion of the hearing, order the manufacturer to commence prompt notification of vehicle and engine owners.

Criticism was also directed at the 15 day period allowed for implementation of the plan following notice of its approval by the Administrator. This criticism ignores the fact that the provision also allows the Administrator to specify a time other than the 15 day period in which notification is to commence and that the approval of the plan is made in full view of the manufacturer's statements regarding parts availability and the date on or after which an owner could receive the remedial repair. Again, the period specified is a minimum period and the provision is sufficiently flexible to handle any difficulties which might arise.

In response to additional comments and in order to clarify the provision, the 15 day period has been changed to "15 working days." Other than this clarification, the notification requirement has not been changed in the final regulations.

D. NOTIFICATION TO VEHICLE OR ENGINE OWNERS

Section 85.1805 describes the content of the notification to be sent to owners of recalled vehicles and engines. The section would require the manufacturer to explain to the vehicle or engine owner most of what is contained in the remedial plan. Besides describing the procedural aspects of obtaining correction of the nonconformity, the notification would inform the vehicle or engine owner of the adverse effects, if any, that an uncorrected nonconformity may have on performance, driveability, and the functioning of other engine components. In addition, owners would be warned that failure to correct the nonconformity could cause vehicles to fail an emission inspection, if required by State or local law, and could jeopardize the warranty made applicable to engines and vehicles by section 207 of the Act. These warnings were designed to improve the response to the recall campaign by encouraging vehicle and engine owners to seek correction of the nonconformity as well as to give vehicle and engine owners important information concerning the mechanical condi-

tion of their vehicles or engines and the legal impact of the failure to obtain correction of the nonconformity.

The bulk of the comments concerned the content of the notification letter itself. Particular attention was given to those warnings described above. The crux of the criticism was that these statements would not always be true (e.g., a nonconforming vehicle might not fail a state inspection test) and therefore should be deleted. The express qualification of these warnings, however, emphasizes their function as warnings and not statements of inevitable result. A consumer whose vehicle or engine is subject to a recall campaign should be fully informed of the potential consequences of failing to participate in the campaign.

A number of comments were directed specifically at the requirement that the notification letter include the statement that failure to comply with a recall campaign could jeopardize an owner's emissions warranty. The difficulty with the required statement is that it raises more questions than it may answer. It was pointed out in the comments that nonparticipation in a recall campaign could more accurately be found to be a lack of proper maintenance and could thereby cause a vehicle or engine owner to be ineligible for free repair under the emissions warranty or, in the event a class of vehicles or engines was recalled a second time, to be ineligible for repair under a recall campaign. It was also noted that the first clause of the emissions warranty covers a vehicle or engine which fails to meet certain standards at the time of sale. Since the condition of a vehicle or engine at the time of sale cannot be affected by future treatment by its owner, the admonition in question cannot be said to apply to this part of the emissions warranty. In order to clarify these and other issues concerning the implications of a failure to participate in a campaign, the language of the warning has been modified to incorporate the view that what an owner risks by nonparticipation is a later finding that he has not properly maintained his vehicle or engine which could cause him to be ineligible for free repair under the warranty provisions or in a future recall campaign.

Finally it was urged that the Administrator's discretion to impose further requirements in regard to notification as "are necessary to fulfill the intent of the law" was too broad. In response to these comments, the provision has been changed to allow for additional requirements "which the Administrator has determined are reasonable and necessary to ensure the effectiveness of the recall campaign."

E. RECORDS AND REPORTS

Section 85.1806 describes the records which a manufacturer must keep and the reports he must make of the recall campaign. From this data, the Administrator would be able to evaluate the success of the recall campaign and determine whether a subsequent notification will be required.

In response to the comments received this section has been redrafted to conform more substantially with the regulations of the NHTSA concerning safety-related defects, 49 CFR 573.1 et seq (1973). The regulations were originally intended to parallel the NHTSA requirements but grew more complex as the proposal was developed. In redrafting this section, the particular information needed to evaluate the effectiveness of an emissions recall must be kept in mind. These can be listed as follows:

(1) The number of vehicles or engines which are affected by the nonconformity.

(2) The number of vehicles or engines which the manufacturer will recall. This may be larger than the figure given in (1) above as the manufacturer may have to recall a large number of vehicles or engines to insure the remedy of a smaller number of nonconforming vehicles or engines.

(3) The number of owners to whom notification was sent. From this figure, the number of owners who cannot be identified can be calculated.

(4) The number of vehicles or engines inspected under the recall campaign.

(5) The number of inspected vehicles or engines found to contain the nonconformity.

(6) The number of vehicles or engines actually receiving corrective action under the remedial plan.

The special requirements of the Clean Air Act make some additional information (not required in safety-related recalls) necessary. Thus, when eligibility for the remedial repair is conditioned on proper maintenance, it is important to know the number of vehicles and engines which did not qualify for remedial service and the names and addresses of their owners in order to monitor the application of the condition and to prevent abuses.

Because the NHTSA reporting requirements would substantially provide the information outlined above and in view of the cost savings for manufacturers of utilizing existing administrative machinery, the final regulations follow the NHTSA reporting requirements more closely.

F. PUBLIC HEARINGS

Section 85.1807 describes the procedures which would be followed in the event the manufacturer requested a public hearing to contest the Administrators finding of nonconformity. As discussed above, the hearing is formal and conforms to the requirements of the APA. The substantive comments concerned the following aspects of the procedures:

(1) Public participation.

(2) Protection of trade secrets or other "proprietary" information.

(3) Request for a public hearing.

(4) Oral testimony and cross examination.

(5) Other comments.

1. *Public participation.* The question of public participation and the role the public should play in a recall hearing made up the bulk of the comments received concerning the proposed hearing procedures. It was argued that due to the adversary nature of the hearing, little was to be gained by allowing the public to participate in the status of a party. The fear was expressed that the Agency might lose control of the proceedings and it was urged that a manufacturer's rights would be prejudiced if it were exposed to the challenges of various "private attorney general" interveners.

It was suggested that the hearings could best be administered by creating two public intervener classifications—one granting full party status to those with financial and other interests and the other for those whose interests were more general and providing for less than party status. (This distinction becomes more important as other rights are defined in terms of the status of the participants. For example, the right to attend pre-hearing conferences and to present oral testimony would belong to full parties only.)

Section 207(c)(1) of the Clean Air Act provides that when a manufacturer requests a public hearing, interested persons shall have "an opportunity to present their views and evidence in support thereof" at such a hearing. The hearing procedures were designed to provide meaningful public participation without sacrificing the Agency's ability to control the direction of the proceedings. It was determined that the best approach to this end was to allow interested persons to participate as parties and to provide safeguards to ensure that the proceedings were orderly and that the issues were resolved expeditiously. Before a potential intervener would be admitted as a party, it was required to be demonstrated that his participation would contribute to the resolution of the contested issues. A direct economic interest was not required. In addition, the procedures as proposed granted broad discretion to the presiding officer to control the direction of the hearing and to determine the need for oral testimony, direct and cross examination, prehearing conferences, and the use of various discovery devices.

The appropriateness of the approach described above is emphasized by the position taken by the Administrative Law Conference of the United States in regard to public participation in administrative hearings. The Conference noted in its recommendation that:

> Each agency has a prime responsibility to reexamine its rules and practices to make public participation meaningful and effective without impairing the agency's performance of its statutory obligations.

1 CFR 305.71–6 (1974).

As to the scope of the participation, the Conference concluded that a:

> Public intervener generally should be allowed all the rights of any other party * * *. Where the intervener focuses on only one aspect of the proceeding or does not seek to controvert adjudicative facts, consideration should be given to limiting its participation to particular issues, written evidence, argument or the like. Agencies should be cautious in advance of actual experience in anticipating that intervention will cause undue delays. Id.

Although the basic approach of the comments has been rejected, they did focus attention on the degree of public participation to be allowed after intervention had been granted. Because the issues raised at such proceedings may be diverse and since a public participant's ability to contribute to the proceeding may be limited to only a portion of those issues, it is logical that the intervention itself should be so limited. The regulations have been modified, therefore, to allow the presiding officer to limit the participation of an intervener to the issue or issues of the hearing which are within the scope of his interest as reflected in his petition to intervene. This change will serve to expedite the proceedings and allow for the development of the issues in a more orderly fashion.

The suggestion that copies of petitions to intervene be served upon all parties has been adopted. Objections to such petitions, if any, may be filed with the presiding officer who must consider any objections in determining whether or not to grant a petition to intervene.

2. *Protective orders.* Comments were also made regarding the protection of proprietary, trade secret, or confidential information from disclosure through the discovery or service provisions of the hearing procedures.

Section 85.1807(m) of the regulations allows discovery upon determination of the presiding officer that the information is not otherwise available and has significant probative value. Furthermore, a motion for discovery must set forth the circumstances warranting discovery and the information expected to be discovered. These requirements appear to adequately protect a manufacturer from any form of "fishing expedition" which might be launched by an over zealous party.

As for trade secrets, though Section 208(b) of the Act allows them to be disclosed in a proceeding such as this one, it also restates Congressional policy that trade secrets be protected where this can be done consistent with EPA's discharge of its responsibilities. Accordingly, the hearing procedures have been modified to allow the presiding officer to subject such secrets, even where they are relevant to the hearing, to protective orders designed to prevent their public disclosure.

It was also pointed out that the regulations provide for broad discovery of the identity and expected testimony of witnesses. In unusual circumstances, it may be desirable to limit or defer this discovery in order to protect a witness from harassment or other forms of pressure or influence. The final regulations therefore allow the presiding officer to restrict or defer from disclosure, upon good cause shown, the name of a witness or a summary of his expected testimony.

3. *Request for a public hearing.* It was also argued that the allowance of only 30 days after notice of a recall order for a manufacturer to request a public hearing in conjunction with the proviso that failure to request a hearing within that time period would constitute a waiver of his right to a hearing was unfair and inflexible. It was suggested that the manufacturer should be given sixty days in which to request a hearing as a matter of right and thereafter, he could request a hearing upon good cause shown.

The suggestion itself admits the authority of the agency to qualify the right of a manufacturer to a hearing under section 207(c)(1) of the Act. The issue does not, therefore, focus on the power to qualify the statutory right to a hearing but whether the qualification imposed is reasonable. The thirty day period for hearing request was not challenged as being unlawful but, in view of several hypothetical situations, as being insufficient.

In order to balance these competing interests, the period to request a public hearing has been extended to forty-five days in the final regulations. It should be pointed out that the Administrator possesses discretion to provide a period longer than forty-five days to request a hearing and to extend the deadline imposed in a recall order. In addition, after the period to request a hearing as of right has expired, the Administrator may, in his discretion and upon good cause shown, grant a manufacturer a hearing to contest the nonconformity.

4. *Oral testimony and examination of witnesses.* It was urged that a manufacturer's right of due process required that a manufacturer be granted the right to present evidence in oral form and to examine and cross examine witnesses. The regulations as proposed granted the presiding officer broad discretion to determine the extent to which oral testimony and examination would be allowed. The parties are not, therefore, denied the use of these procedures but they must demonstrate that such testimony or examination is necessary for a full and true disclosure of the facts. The ability of the presiding officer to determine which issues and what evidence are best presented in written versus oral form is crucial to the orderly and expeditious conduct of the proceedings. As the manufacturer has been denied no substantive right, no changes to the final regulations were made in response to these comments.

5. *Other comments.* Exception was taken to the content of the request for a public hearing. The proposed regulations required the request to enumerate the issues to be raised at the hearing by the manufacturer and to provide a summary of the evidence which supported the manufacturer's position on each issue. Because a request must be filed within 30 days of the receipt of a notice of nonconformity, a manufacturer would have to prepare his case well in advance of a hearing which could not be held sooner than 30 days from the date of the request. This, it was argued, is unfair and, in view of the substantial discovery provisions of the regulations, unnecesary.

The Agency, of course, has a need to know the issues a manufacturer intends to raise at a hearing in order that the Agency may prepare its case. Also the notice of the hearing must contain sufficient information to allow interested persons to determine whether or not to participate and to draft petitions which reflect a meaningful interest. A mere listing of the issues which a manufacturer intends to raise at a hearing would not adequately serve these needs. The summary of evidence is, on the other hand, potentially burdensome. The final regulations require, therefore, a brief discussion of the reasons why the manufacturer believes he should prevail on each issue. Although the manufacturer's reasons may be primarily opinions and not evidence, the statements will be helpful in determining which claims have merit and which do not and should also sufficiently define the scope and direction of the hearing to allow interested persons to define their interests in the petitions to intervene.

The remainder of the comments received were substantially editorial in nature and will not be individually discussed.

Internal review of the proposed procedures revealed a deficiency which the final regulations have corrected. As proposed, no procedures were established for summary judgment. The final regulations include a provision allowing for an accelerated decision on motion of any party or on the presiding officer's own motion at any time it appears that there has been a failure to state a claim upon which relief may be granted, there is no issue of fact and a party is entitled to judgment as a matter of law, or in the event a party falls to obey a procedural order of the presiding officer.

They shall take effect on January 22, 1975.

JOHN QUARLES,
*Acting Administrator.*

DECEMBER 16, 1974.

**Subpart S—Recall Regulations**

Sec.
85.1801 Definitions.
85.1802 Notice to manufacturer of nonconformity; submission of Remedial Plan.
85.1803 Remedial Plan.
85.1804 Approval of Plan; Implementation.
85.1805 Notification to vehicle or engine owners.
85.1806 Records and reports.
85.1807 Public hearings.

AUTHORITY: Sec. 301(a), Clean Air Act, 81 Stat. 504, as amended by sec. 15(c), 84 Stat. 1713 (42 U.S.C. 1857g(a)). The regulations implement sec. 207(c)(1)–(2), Clean Air Act, 84 Stat. 1697 (42 U.S.C. 1847f–5a(c)(1)–(2)); sec. 208(a), Clean Air Act, 81 Stat. 501, as renumbered by sec. 8(a), 84 Stat. 1694 (42 U.S.C. 1857f–6(a))

## Subpart S—Recall Regulations

### § 85.1801 Definitions.

For the purposes of this Subpart, except as otherwise provided, words shall be defined as provided for by sections 214 and 302 of the Clean Air Act, 42 U.S.C. 1857, as amended.

(1) "Act" shall mean the Clean Air Act, 42 U.S.C. 1857, as amended.

(2) "Days" shall mean calendar days.

§ 85.1802 Notice to manufacturer of nonconformity; submission of Remedial Plan.

(a) A manufacturer will be notified whenever the Administrator has determined that a substantial number of a class or category of vehicles or engines produced by that manufacturer, although properly maintained and used, do not conform to the regulations prescribed under section 202 of the Act. The notification will include a description of each class or category of vehicles or engines encompassed by the determination of nonconformity, will give the factual basis for the determination of nonconformity (except information previously provided the manufacturer by the Agency), and will designate a date, no sooner than 45 days from the date of receipt of such notification, by which the manufacturer shall have submitted a plan to remedy the nonconformity.

(b) Unless a hearing is requested pursuant to § 85.1807, the remedial plan shall be submitted to the Administrator within the time limit specified in the Administrator's notification, provided that the Administrator may grant the manufacturer an extension upon good cause shown.

(c) If a manufacturer requests a public hearing pursuant to § 85.1807, unless as a result of such hearing the Administrator withdraws his determination of nonconformity, the manufacturer shall submit the remedial plan within 30 days of the end of such hearing.

§ 85.1803 Remedial Plan.

(a) When any manufacturer is notified by the Administrator that a substantial number of any class or category of vehicles or engines, although properly maintained and used, do not conform to the regulations (including emission standards) promulgated under section 202 of the Act, the manufacturer shall submit a plan to the Administrator to remedy such nonconformity. The plan shall contain the following:

(1) A description of each class or category of vehicle or engine to be recalled including the model year, the make, the model, and such other information as may be required to identify the vehicles or engines to be recalled.

(2) A description of the specific modifications, alterations, repairs, corrections, adjustments or other changes to be made to bring the vehicles or engines into conformity including a brief summary of the data and technical studies which support the manufacturer's decision as to the particular remedial changes to be used in correcting the nonconformity.

(3) A description of the method by which the manufacturer will determine the names and addresses of vehicle or engine owners.

(4) A description of the proper maintenance or use, if any, upon which the manufacturer conditions eligibility for repair under the remedial plan, an explanation of the manufacturer's reasons for imposing any such condition, and a description of the proof to be required of a vehicle or engine owner to demonstrate compliance with any such condition. Eligibility may not be denied solely on the basis that the vehicle or engine owner used parts not manufactured by the original equipment vehicle manufacturer, or had repairs performed by outlets other than the vehicle manufacturer's franchised dealers. No maintenance or use condition may be imposed unless it is, in the judgement of the Administrator, demonstrably related to preventing the nonconformity.

(5) A description of the procedure to be followed by vehicle or engine owners to obtain correction of the nonconformity. This shall include designation of the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor required to correct the nonconformity, and the designation of facilities at which the nonconformity can be remedied: *Provided,* That repair shall be completed within a reasonable time designated by the Administrator from the date the owner first tenders his vehicle or engine after the date designated by the manufacturer as the date on or after which the owner can have the nonconformity remedied.

(6) If some or all of the nonconforming vehicles or engines are to be remedied by persons other than dealers or authorized warranty agents of the manufacturer, a description of the class of persons other than dealers and authorized warranty agents of the manufacturer who will remedy the nonconformity, and a statement indicating that the participating members of the class will be properly equipped to perform such remedial action.

(7) Three copies of the letters of notification to be sent to vehicle or engine owners.

(8) A description of the system by which the manufacturer will assure that an adequate supply of parts will be available to perform the repair under the remedial plan including the date by which an adequate supply of parts will be available to initiate the repair campaign, the percentage of the total parts requirement of each person who is to perform the repair under the remedial plan to be shipped to initiate the campaign, and the method to be used to assure the supply remains both adequate and responsive to owner demand.

(9) Three copies of all necessary instructions to be sent to those persons who are to perform the repair under the remedial plan.

(10) A description of the impact of the proposed changes on fuel consumption, driveability, and safety of each class or category of vehicles or engines to be recalled and a brief summary of the data, technical studies, or engineering evaluations which support these conclusions.

(11) Any other information, reports or data which the Administrator may reasonably determine is necessary to evaluate the remedial plan.

(b) (1) Notification to vehicle or engine owners shall be made by first class mail or by such means as approved by the Administrator: *Provided,* That for good cause, the Administrator may require the use of certified mail to ensure an effective notification.

(2) The manufacture shall use all reasonable means necessary to locate vehicle or engine owners: *Provided,* That for good cause, the Administrator may require the manufacturer to use motor vehicle registration lists as available from State or commercial sources to obtain the names and addresses of vehicle or engine owners to ensure an effective notification.

(3) The Administrator reserves the right to require the manufacturer to send by first class mail or other reasonable means subsequent notification to vehicle or engine owners: *Provided,* That for good cause, the Administrator may require the use of certified mail to ensure an effective notification.

(c) (1) The manufacturer shall require those who perform the repair under the remedial plan to affix a permanent decal to each vehicle repaired or, when required, inspected under the remedial plan.

(2) The decal shall be placed in the engine compartment near the emission label or in such other location as approved by the Administrator.

(3) The decal shall:

(i) Contain the recall campaign number as designated by the manufacturer.

(ii) Designate the facility at which the vehicle or engine was repaired or inspected for repair.

(iii) Contain the vehicle or engine identification number.

(d) The Administrator may require the manufacturer to conduct tests on components and vehicles or engines incorporating a proposed change, repair, or modification reasonably designed and necessary to demonstrate the effectiveness of the change, repair, or modification.

§ 85.1804 Approval of Plan: Implementation.

(a) If the Administrator finds that the remedial plan is designed and effective to correct the nonconformity, he will so notify the manufacturer in writing. If the remedial plan is not approved, the Administrator will provide the manufacturer notice of the disapproval and the reasons for the disapproval in writing.

(b) Upon receipt of notice from the Administrator that the remedial plan has been approved, the manufacturer shall commence implementation of the approved plan. Notification of vehicle or engine owners shall be in accordance with requirements of this subpart and shall proceed as follows:

(1) when no public hearing as described in § 85.1807 is requested by the manufacturer, notification of vehicles or engine owners shall commence within 15 working days of the receipt by the manufacturer of the Administrator's approval unless otherwise specified by the Administrator.

(2) when a public hearing as described in § 85.1807 is held, unless as a result of such hearing the Administrator

withdraws the determination of nonconformity, the Administrator shall, within 60 days after the completion of such hearing, order the manufacturer to provide prompt notification of such nonconformity.

### § 85.1805 Notification to vehicle or engine owners.

(a) The notification of vehicle or engine owners shall contain the following:

(1) The statement: "The Administrator of the U.S. Environmental Protection Agency has determined that your vehicle orengine may be emitting pollutants in excess of the Federal emission standards. These standards were established to protect the public health or welfare from the dangers of air pollution."

(2) A statement that the nonconformity of any such vehicles or engines which have been, if required by the remedial plan, properly maintained and used, will be remedied at the expense of the manufacturer.

(3) A description of the proper maintenance or use, if any, upon which the manufacturer conditions eligibility for repair under the remedial plan and a description of the proof to be required of a vehicle or engine owner to demonstrate compliance with such condition. Eligibility may not be denied solely on the basis that the vehicle or engine owner used parts not manufactured by the original equipment vehicle manufacturer, or had repairs performed by outlets other than the vehicle manufacturer's franchised dealers.

(4) A clear description of the components which will be affected by the remedy and a general statement of the measures to be taken to correct the nonconformity.

(5) A statement that such nonconformity if not repaired may cause the vehicle or engine to fail an emission inspection test when such tests are required under State or local law.

(6) A description of the adverse affects, if any, that an uncorrected nonconformity would have on the performance or driveability of the vehicle or engine.

(7) A description of the adverse affects, if any, that such nonconformity would have on the function of other engine components.

(8) A description of the procedure which the vehicle or engine owner should follow to obtain correction of the nonconformity. This shall include designation of the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor required to correct the nonconformity, and the designation of facilities at which the nonconformity can be remedied.

(9) A card to be used by a vehicle or engine owner in the event the vehicle or engine to be recalled has been sold. Such card should be addressed to the manufacturer and shall provide a space in which the owner may indicate the name and address of the person to whom the vehicle or engine was sold.

(10) The statement: "In order to ensure your full protection under the emission warranty made applicable to your (vehicle or engine) by Federal law, and your right to participate in future recalls, it is recommended that you have (vehicle or engine) serviced as soon as possible. Failure to do so could legally be determined to be a lack of proper maintenance of your (vehicle or engine)."

(b) No notice sent pursuant to paragraph (a) of this section nor any other contemporaneous communication sent to vehicle or engine owners or dealers shall contain any statement or implication that the nonconformity does not exist or that the nonconformity will not degrade air quality.

(c) The manufacturer shall be informed of any other requirements pertaining to the notification under this section which the Administrator has determined are reasonable and necessary to ensure the effectiveness of the recall campaign.

### § 85.1806 Records and reports.

(a) The manufacturer shall provide to the Administrator a copy of all communications which relate to the remedial plan directed to dealers and other persons who are to perform the repair under the remedial plan. Such copies shall be mailed to the Administrator contemporaneously with their transmission to dealers and other persons who are to perform the repair under the remedial plan.

(b) The manufacturer shall provide for the establishment and maintenance of records to enable the Administrator to conduct a continuing analysis of the adequacy of the recall campaign. The records shall include, for each class or category of vehicle or engine, but need not be limited to, the following:

(1) Recall campaign number as designated by the manufacturer.

(2) Date owner notification was begun, and date completed.

(3) Number of vehicles or engines involved in the recall campaign.

(4) Number of vehicles or engines known or estimated to be affected by the nonconformity.

(5) Number of vehicles or engines inspected pursuant to the remedial plan. found to be affected by the nonconformity.

(7) Number of vehicles actually receiving repair under the remedial plan.

(8) Number of vehicles determined to be unavailable for inspection or repair under the remedial plan due to exportation, theft, scrapping or for other reasons (specify).

(9) Number of vehicles or engines determined to be ineligible for remedial action due to a failure to properly maintain or use such vehicles or engines.

(c) If the manufacturer determines that the original answers for paragraphs (b) (3) and (4) of this section are incorrect, revised figures and an explanatory note shall be submitted. Answers to paragraphs (b) (5), (6), (7), and (8), and (9) of this section shall be cumulative totals.

(d) Unless otherwise directed by the Administrator, the information specified in paragraph (b) of this section shall be included in quarterly reports, with respect to each recall campaign, for six consecutive quarters beginning with the quarter in which the notification of owners was initiated, or until all nonconforming vehicles or engines involved in the campaign have been remedied, whichever occurs sooner. Such reports shall be submitted no later than 25 working days after the close of each calendar quarter.

(e) The manufacturer shall maintain in a form suitable for inspection, such as computer information storage devices or card files, lists of the names and addresses of vehicles or engine owners.

(1) To whom notification was given;

(2) Who received remedial repair or inspection under the remedial plan; and

(3) When eligibility for repair is conditioned on proper maintenance or use, that were determined not to qualify for such remedial action.

(f) The records described in paragraph (e) of this section shall be made available to the Administrator upon request.

(g) The records and reports required by this section shall be retained for not less than 5 years.

### § 85.1807 Public hearings.

(a) *Definitions.* The following definitions shall be applicable to this section:

(1) "Hearing Clerk" shall mean the Hearing Clerk of the Environmental Protection Agency.

(2) "Intervener" shall mean a person who files a petition to be made an intervener pursuant to paragraph (g) of this section and whose petition is approved.

(3) "Manufacturer" refers to a manufacturer contesting a recall order directed at that manufacturer.

(4) "Party" shall include the Environmental Protection Agency, the manufacturer, and any interveners.

(5) "Presiding Officer" shall mean an Administrative Law Judge appointed pursuant to 5 U.S.C. 3105 (see also 5 CFR Part 930 as amended).

(6) "Judicial Officer" shall mean an officer or employee of the Agency appointed as a Judicial Officer by the Administrator pursuant to this section who shall meet the qualifications and perform functions as follows:

(i) *Officer.* There may be designated for the purposes of this section one or more Judicial Officers. As work requires, there may be a Judicial Officer designated to act for the purposes of a particular case.

(ii) *Qualifications.* A Judicial Officer may be a permanent or temporary employee of the Agency who performs other duties for the Agency. Such Judicial Officer shall not be employed by the Office of Enforcement and General Counsel or the Mobile Source Enforcement Division or have any connection with the prep-

aration or presentation of evidence for a hearing held pursuant to this subpart.

(iii) *Functions.* The Administrator may consult with a Judicial Officer or delegate all or part of his authority to act in a given case under this Section to a Judicial Officer: *Provided*, That this delegation shall not preclude the Judicial Officer from referring any motion or case to the Administrator when the Judicial Officer determines such referral to be appropriate.

(b) *Request for public hearing.* (1) If the manufacturer disagrees with the Administrator's finding of nonconformity he may request a public hearing as described in this section. Requests for such a hearing shall be filed with the Administrator not later than 45 days after the receipt of the Administrator's notification of nonconformity unless otherwise specified by the Administrator. Two copies of such request shall simultaneously be served upon the Director of the Mobile Source Enforcement Division and two copies filed with the Hearing Clerk. Failure of the manufacturer to request a hearing within the time provided shall constitute a waiver of his right to such a hearing. In such a case, the manufacturer shall carry out the recall order as required by § 85.1803–6. (i) Subsequent to the expiration of the period for requesting a hearing as of right, the Administrator may, in his discretion and for good cause shown, grant the manufacturer a hearing to contest the nonconformity.

(2) The request for a public hearing shall contain:

(i) A statement as to which classes or categories of vehicles or engines are to be the subject of the hearing;

(ii) A concise statement of the issues to be raised by the manufacturer at the hearing for each class or category of engine or vehicle for which the manufacturer has requested the hearing; and

(iii) A statement as to reasons the manufacturer believes he will prevail on the merits on each of the issues so raised.

(3) A copy of all requests for public hearings shall be kept on file in the Office of the Hearing Clerk and shall be made available to the public during Agency business hours.

(c) *Filing and service.* (1) An original and two copies of all documents or papers required or permitted to be filed pursuant to this section shall be filed with the Hearing Clerk. Filing shall be deemed timely if mailed, as determined by the postmark, to the Hearing Clerk within the time allowed by this section. If filing is to be accomplished by mailing, the documents shall be sent to the address set forth in the notice of public hearing as described in paragraph (f) of this section.

(2) Except for requests to commence a hearing, at the same time a party files with the Hearing Clerk any additional issues for consideration at the hearing or any written testimony, documents, papers, exhibits, or materials, proposed to be introduced into evidence or papers filed in connection with any appeal, it shall serve upon all other parties copies thereof. A certificate of service shall be provided on or accompany each document or paper filed with the Hearing Clerk. Documents to be served upon the Director of the Mobile Source Enforcement Division shall be mailed to: Director, Mobile Source Enforcement Division, U.S. Environmental Protection Agency (EG–340), 401 M Street SW, WSM, Washington, D.C. 20460. Service by mail is complete upon mailing.

(d) *Time.* (1) In computing any period of time prescribed or allowed by this section, except as otherwise: *Provided*, The day of the act or event from which the designated period of time begins to run shall not be included. Saturdays, Sundays, and Federal legal holidays shall be included in computing any such period allowed for the filing of any document or paper, except that when such period expires on a Saturday, Sunday, or Federal legal holiday, such period shall be extended to include the next following business day.

(2) A prescribed period of time within which a party is required or permitted to do an act shall be computed from the time of service, except that when service is accomplished by mail, three days shall be added to the prescribed period.

(e) *Consolidation.* The Administrator or the Presiding Officer in his discretion may consolidate two or more proceedings to be held under this section for the purpose of resolving one or more issues whenever it appears that such consolidation will expedite or simplify consideration of such issues. Consolidation shall not affect the right of any party to raise issues that could have been raised if consolidation had not occurred.

(f) *Notice of public hearings.* (1) Notice of a public hearing under this section shall be given by publication in the FEDERAL REGISTER. Notice will be given at least 30 days prior to the commencement of such hearings.

(2) The notice of a public hearing shall include the following information:

(i) The purpose of the hearing and the legal authority under which the hearing is to be held.

(ii) A brief summary of the Administrator's determination of nonconformity;

(iii) A brief summary of the manufacturer's basis for contesting the Administrator's determination of nonconformity;

(iv) Information regarding the time and location of the hearing and the address to which all documents required or permitted to be filed should be sent;

(v) The address of the Hearing Clerk to whom all inquiries should be directed and with whom documents are required to be filed.

(vi) A statement that all petitions to be made an intervener must be filed with the Hearing Clerk within 25 days from the date of the notice of public hearing and must conform to the requirements of paragraph (g) of this section.

(3) The notice of public hearing shall be issued by the Assistant Administrator for Enforcement and General Counsel.

(g) *Interveners.* (1) Any person desiring to intervene in a hearing to be held under section 207(c)(1) of the Act shall file a petition setting forth the facts and reasons why he thinks he should be permitted to intervene.

(2) In passing upon a petition to intervene, the following factors, among other things, shall be considered by the Presiding Officer:

(i) The nature of the petitioner's interest including the nature and the extent of the property, financial, environmental protection, or other interest of the petitioner;

(ii) The effect of the order which may be entered in the proceeding on petitioner's interest;

(iii) The extent to which the petitioner's interest will be represented by existing parties or may be protected by other means;

(iv) The extent to which petitioner's participation may reasonably be expected to assist materially in the development of a complete record;

(v) The effect of the intervention on the Agency's statutory mandate.

(3) A petition to intervene must be filed within 25 days following the notice of public hearing under section 207(c)(1) of the Act and shall be served on all parties. Any opposition to such petition must be filed within five days of such service.

(4) All petitions to be made an intervener shall be reviewed by the Presiding Officer using the criteria set forth in subparagraph (2) of this paragraph and considering any oppositions to such petition. Where the petition demonstrates that the petitioner's interest is limited to particular issues, the Presiding Officer may, in granting such petition, limit petitioner's participation to those particular issues only.

(5) If the Presiding Officer grants the petition with respect to any or all issues, he shall so notify, or direct the Hearing Clerk to notify, the petitioner and all parties. If the Presiding Officer denies the petition he shall so notify, or direct the Hearing Clerk to notify, the petitioner and all parties and shall briefly state the reasons why the petition was denied.

(6) All petitions to be made an intervener shall include an agreement by the petitioner, and any person represented by the petitioner, to be subject to examination and cross-examination and to make any supporting and relevant records available at its own expense upon the request of the Presiding Officer, on his own motion or the motion of any party or other intervener. If the intervener fails to comply with any such request, the Presiding Officer may in his discretion, terminate his status as an intervener.

(h) *Intervention by motion.* Following the expiration of the time prescribed in paragraph (g) of this section for the submission of petitions to intervene in a hearing, any person may file a motion

with the Presiding Officer to intervene in a hearing. Such a motion must contain the information and commitments required by subparagraphs (2) and (6) of paragraph (g) of this section, and, in addition, must show that there is good cause for granting the motion and must contain a statement that the intervener shall be bound by agreements, arrangements, and other determinations which may have been made in the proceeding.

(i) *Amicus Curiae.* Persons not parties to the proceedings wishing to file briefs may do so by leave of the Presiding Officer granted on motion. A motion for leave shall identify the interest of the applicant and shall state the reasons why the proposed amicus brief is desirable.

(j) *Presiding Officer.* The Presiding Officer shall have the duty to conduct a fair and impartial hearing in accordance with 5 U.S.C. sections 554, 556 and 557, to take all necessary action to avoid delay in the disposition of the proceedings and to maintain order. He shall have all power consistent with Agency rule and with the Administrative Procedure Act necessary to this end, including the following:

(1) To administer oaths and affirmations;

(2) To rule upon offers of proof and receive relevant evidence;

(3) To regulate the course of the hearings and the conduct of the parties and their counsel therein;

(4) To hold conferences for simplification of the issues or any other proper purpose;

(5) To consider and rule upon all procedural and other motions appropriate in such proceedings;

(6) To require the submission of direct testimony in written form with or without affidavit whenever, in the opinion of the Presiding Officer, oral testimony is not necessary for full and true disclosure of the facts. Testimony concerning the conduct and results of tests and inspections may be submitted in written form.

(7) To enforce agreements and orders requiring access as authorized by law;

(8) To require the filing of briefs on any matter on which he is required to rule;

(9) To require any party or any witness, during the course of the hearing, to state his position on any issue;

(10) To take or cause depositions to be taken whenever the ends of justice would be served thereby;

(11) To make decisions or recommend decisions to resolve the disputed issues on the record of the hearing.

(12) To issue, upon good cause shown, protective orders as described in paragraph (n) of this section.

(k) *Conferences.* (1) At the discretion of the Presiding Officer, conferences may be held prior to or during any hearing. The Presiding Officer shall direct the Hearing Clerk to notify all parties and interveners of the time and location of any such conference. At the discretion of the Presiding Officer, persons other than parties may attend. At a conference the Presiding Officer may:

(i) Obtain stipulations and admissions, receive requests and order depositions to be taken, identify disputed issues of fact and law, and require or allow the submission of written testimony from any witness or party;

(ii) Set a hearing schedule for as many of the following as are deemed necessary by the Presiding Officer:

(A) Oral and written statements;

(B) Submission of written direct testimony as required or authorized by the Presiding Officer;

(C) Oral direct and cross-examination of a witness where necessary as prescribed in paragraph (p) of this section;

(D) Oral argument, if appropriate.

(iii) Identify matters of which official notice may be taken;

(iv) Consider limitation of the number of expert and other witnesses;

(v) Consider the procedure to be followed at the hearing; and

(vi) Consider any other matter that may expedite the hearing or aid in the disposition of the issue.

(2) The results of any conference including all stipulations shall, if not transcribed, be summarized in writing by the Presiding Officer and made part of the record.

(l) *Primary discovery (exchange of witness lists and documents).* (1) At a prehearing conference or within some reasonable time set by the Presiding Officer prior to the hearing, each party shall make available to the other parties the names of the expert and other witnesses the party expects to call, together with a brief summary of their expected testimony and a list of all documents and exhibits which the party expects to introduce into evidence. Thereafter, witnesses, documents, or exhibits may be added and summaries of expected testimony amended upon motion by a party.

(2) The Presiding Officer, may, upon motion by a party or other person, and for good cause shown, by order (i) restrict or defer disclosure by a party of the name of a witness or a narrative summary of the expected testimony of a witness, and (ii) prescribe other appropriate measures to protect a witness. Any party affected by any such action shall have an adequate opportunity, once he learns the name of a witness and obtains the narrative summary of his expected testimony, to prepare for the presentation of his case.

(m) *Other discovery.* (1) Except as so provided by paragraph (l) of this section, further discovery, under this paragraph, shall be permitted only upon determination by the Presiding Officer:

(i) That such discovery will not in any way unreasonably delay the proceeding;

(ii) That the information to be obtained is not obtainable voluntarily; and

(iii) That such information has significant probative value. The Presiding Officer shall be guided by the procedures set forth in the Federal Rules of Civil Procedure, where practicable, and the precedents thereunder, except that no discovery shall be undertaken except upon order of the Presiding Officer or upon agreement of the parties.

(2) The Presiding Officer shall order depositions upon oral questions only upon a showing of good cause and upon a finding that:

(i) The information sought cannot be obtained by alternative methods; or

(ii) There is a substantial reason to believe that relevant and probative evidence may otherwise not be preserved for presentation by a witness at the hearing.

(3) Any party to the proceeding desiring an order of discovery shall make a motion or motions therefor. Such a motion shall set forth:

(i) The circumstances warranting the taking of the discovery;

(ii) The nature of the information expected to be discovered; and

(iii) The proposed time and place where it will be taken. If the Presiding Officer determines the motion should be granted, he shall issue an order for the taking of such discovery together with the conditions and terms thereof.

(4) Failure to comply with an order issued pursuant to this paragraph may lead to the inference that the information to be discovered would be adverse to the person or party from whom the information was sought.

(n) *Protective orders: in camera proceedings.* (1) Upon motion by a party or by the person from whom discovery is sought, and upon a showing by the movant that the disclosure of the information to be discovered, or a particular part thereof, (other than emission data) would result in methods or processes entitled to protection as trade secrets of such person being divulged, the Presiding Officer may enter a protective order with respect to such material. Any protective order shall contain such terms governing the treatment of the information as may be appropriate under the circumstances to prevent disclosure outside the hearing: *Provided,* That the order shall state that the material shall be filed separately from other evidence and exhibits in the hearing. Disclosure shall be limited to parties to the hearing, their counsel and relevant technical consultants, and authorized representatives of the United States concerned with carrying out the Act. Except in the case of the government, disclosure may be limited to counsel to parties who shall not disclose such information to the parties themselves. Except in the case of the government, disclosure to a party or his counsel shall be conditioned on execution of a sworn statement that no disclosure of the information will be made to persons not entitled to receive it under the terms of the protective order. (No such provision is necessary where government employees are concerned because disclosure by them is subject to the terms of 18 U.S.C. 1905.)

(2) (i) A party or person seeking a protective order may be permitted to

make all or part of the required showing in camera. A record shall be made of such in camera proceedings. If the Presiding Officer enters a protective order following a showing in camera, the record of such showing shall be sealed and preserved and made available to the Agency or court in the event of appeal. (ii) Attendance at any in camera proceeding may be limited to the Presiding Officer, the Agency, and the person or party seeking the protective order.

(3) Any party, subject to the terms and conditions of any protective order issued pursuant to subparagraph (1) of this paragraph, desiring for the presentation of his case to make use of any in camera documents or testimony shall make application to the Presiding Officer by motion setting forth the justification therefor. The Presiding Officer, in granting any such motion, shall enter an order protecting the rights of the affected persons and parties and preventing unnecessary disclosure of such information, including the presentation of such information and oral testimony and cross-examination concerning it in executive session, as in his discretion is necessary and practicable.

(4) In the submittal of proposed findings, briefs, or other papers, counsel for all parties shall make a good faith attempt to refrain from disclosing the specific details of in camera documents and testimony. This shall not preclude references in such proposed findings, briefs, or other papers to such documents or testimony including generalized statements based on their contents. To the extent that counsel consider it necessary to include specific details in their presentations, such data shall be incorporated in separate proposed findings, briefs, or other papers marked "confidential", which shall become part of the *in camera* record.

(o) *Motions.* (1) All motions, except those made orally during the course of the hearing, shall be in writing and shall state with particularity the grounds therefor, shall set forth the relief or order sought, and shall be filed with the Hearing Clerk and served upon all parties.

(2) Within ten days after service of any motion filed pursuant to this section, or within such other time as may be fixed by the Administrator, the Judicial Officer, or the Presiding Officer, as appropriate, any party may serve and file an answer to the motion. The movant shall, if requested by the Administrator, the Judicial Officer, or the Presiding Officer, as appropriate, serve and file reply papers within the time set by the request.

(3) The Presiding Officer shall rule upon all motions filed or made prior to the filing of his decision or accelerated decision, as appropriate. The Administrator or the Judicial Officer, as appropriate, shall rule upon all motions filed prior to the appointment of a Presiding Officer and all motions filed after the filing of the decision of the Presiding Officer or accelerated decision. Oral argument of motions will be permitted only if the Presiding Officer, the Administrator, or the Judicial Officer, as appropriate, deems it necessary.

(p) ***Evidence.*** (1) The official transcripts and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record. Immaterial or irrelevant parts of an admissible document shall be segregated and excluded so far as practicable. Documents or parts thereof subject to a protective order under paragraph (n) of this section shall be segregated. Evidence may be received at the hearing even though inadmissible under the rules of evidence applicable to judicial proceedings. The weight to be given evidence shall be determined by its reliability and probative value.

(2) The Presiding Officer shall allow the parties to examine and to cross-examine a witness to the extent that such examination and cross-examination is necessary for a full and true disclosure of the facts.

(3) Rulings of the Presiding Officer on the admissibility of evidence, the propriety of examination and cross-examination and other procedural matters shall appear in the record.

(4) Parties shall automatically be presumed to have taken exception to an adverse ruling.

(q) *Interlocutory Appeal.* (1) An interlocutory appeal may be taken to the Administrator either (i) with the consent of the Presiding Officer and where he certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense or prejudice to any party or substantial detriment to the public interest, or (ii) absent the consent of the Presiding Officer, by permission of the Administrator.

(2) Applications for interlocutory appeal of any ruling or order of the Presiding Officer may be filed with the Presiding Officer within 5 days of the issuance of the ruling or order being appealed. Answers thereto by other parties may be filed within 5 days of the service of such applications.

(3) The Presiding Officer shall rule on such applications within 5 days of the filing of such application or answers thereto.

(4) Applications to file such appeals absent consent of the Presiding Officer shall be filed with the Administrator within 5 days of the denial of any appeal by the Presiding Officer.

(5) The Administrator will consider the merits of the appeal on the application and any answers thereto. No oral argument will be heard nor other briefs filed unless the Administrator directs otherwise.

(6) Except under extraordinary circumstances as determined by the Presiding Officer, the taking of an interlocutory appeal will not stay the hearing.

(r) *Record.* (1) Hearings shall be stenographically reported and transcribed, and the original transcript shall be part of the record and the sole official transcript. Copies of the record shall be filed with the Hearing Clerk and made available during Agency business hours for public inspection. Any person desiring a copy of the record of the hearing or any part thereof shall be entitled to the same upon payment of the cost thereof.

(2) The official transcripts and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record.

(s) *Proposed findings, conclusions.* (1) Within 20 days of the close of the reception of evidence, or within such longer time as may be fixed by the Presiding Officer, any party may submit for the consideration of the Presiding Officer proposed findings of fact, conclusions of law, and a proposed rule or order, together with reasons therefor and briefs in support thereof. Such proposals shall be in writing, shall be served upon all parties, and shall contain adequate references to the record and authorities relied on.

(2) The record shall show the Presiding Officer's ruling on the proposed findings and conclusions except when his order disposing of the proceeding otherwise informs the parties of the action taken by him thereon.

(t) *Decision of the Presiding Officer.* (1) Unless extended by the Administrator, the Presiding Officer shall issue and file with the Hearing Clerk his decision within 30 days after the period for filing proposed findings as provided for in paragraph (s) of this section has expired.

(2) The Presiding Officer's decision shall become the decision of the Administrator (i) when no notice of intention to appeal as described in paragraph (u) of this section is filed, 30 days after the issuance thereof, unless in the interim the Administrator shall have taken action to review or stay the effective date of the decision; or (ii), when a notice of intention to appeal is filed but the appeal is not perfected as required by paragraph (u) of this section, 5 days after the period allowed for perfection of an appeal has expired unless within that 5 day period, the Administrator shall have taken action to review or stay the effective date of the decision.

(3) The Presiding Officer's decision shall include a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact or law presented on the record and an appropriate rule or order. Such decision shall be supported by substantial evidence and based upon a consideration of the whole record.

(4) At any time prior to the issuance of his decision, the Presiding Officer may reopen the proceeding for the reception of further evidence. Except for the correction of clerical errors, the jurisdiction of the Presiding Officer is terminated upon the issuance of his decision.

(u) *Appeal from the Decision of the Presiding Officer.* (1) Any party to a proceeding may appeal the Presiding Officer's decision to the Administrator: *Provided,* That within 10 days after issuance of the Presiding Officer's decision such party files a notice of intention to appeal and an appeal brief within 30 days of such decision.

(2) When an appeal is taken from the decision of the Presiding Officer, any

party may file a brief with respect to such appeal. The brief shall be filed within 20 days of the date of the filing of the appellant's brief.

(3) Any brief filed pursuant to this paragraph shall contain in the order indicated, the following:

(i) A subject index of the matter in the brief, with page references, and a table of cases (alphabetically arranged), textbooks, statutes, and other material cited, with page references thereto;

(ii) A specification of the issues intended to be urged;

(iii) The argument presenting clearly the points of fact and law relied upon in support of the position taken on each issue, with specific page references to the record and the legal or other material relied upon; and

(iv) A proposed form of rule or order for the Administrator's consideration if different from the rule or order contained in the Presiding Officer's decision.

(4) No brief in excess of 40 pages shall be filed without leave of the Administrator.

(5) Oral argument will be allowed in the discretion of the Administrator.

(v) *Review of the Presiding Officer's Decision in Absence of Appeal.* (1) If, after the expiration of the period for taking an appeal as provided for by paragraph (u) of this section, no notice of intention to appeal the decision of the Presiding Officer has been filed, or if filed, not perfected, the Hearing Clerk shall so notify the Administrator.

(2) The Administrator, upon receipt of notice from the Hearing Clerk that no notice of intention to appeal has been filed, or if filed, not perfected pursuant to paragraph (u) of this section, may, on his own motion, within the time limits specified in paragraph (t)(2) of this section, review the decision of the Presiding Officer. Notice of the intention of the Administrator to review the decision of the Presiding Officer shall be given to all parties and shall set forth the scope of such review and the issues which shall be considered and shall make provision for filing of briefs.

(w) *Decision on appeal or review.* (1) Upon appeal from or review of the Presiding Officer's decision, the Administrator shall consider such parts of the record as are cited or as may be necessary to resolve the issues presented and, in addition shall to the extent necessary or desirable exercise all the powers which he could have exercised if he had presided at the hearing.

(2) In rendering his decision, the Administrator shall adopt, modify or set aside the findings, conclusions, and rule or order contained in the decision of the Presiding Officer and shall set forth in his decision a statement of the reasons or bases for his action.

(3) In those cases where the Administrator believes that he should have further information or additional views of the parties as to the form and content of the rule or order to be issued, the Administrator, in his discretion, may withhold final action pending the receipt of such additional information or views, or may remand the case to the Presiding Officer.

(x) *Reconsideration.* Within twenty (20) days after issuance of the Administrator's decision, any party may file with the Administrator a petition for reconsideration of such decision, setting forth the relief desired and the grounds in support thereof. Any petition filed under this subsection must be confined to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before the Presiding Officer or the Administrator. Any party desiring to oppose such a petition shall file and answer thereto within ten (10) days after the filing of the petition. The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order or to toll the running of any statutory time period affecting such decision or order unless specifically so ordered by the Administrator.

(y) *Accelerated decision: dismissal.* (1) The Presiding Officer, upon motion of any party or *sua sponte*, may at any time render an accelerated decision in favor of the Agency or the manufacturer as to all or any part of the proceeding, without further hearing or upon such limited additional evidence such as affidavits as he may require, or dismiss any party with prejudice, under any of the following conditions:

(i) Failure to state a claim upon which relief can be granted, or direct or collateral estoppel;

(ii) There is no genuine issue of material fact and a party is entitled to judgment as a matter of law; or

(iii) Such other and further reasons as are just, including specifically failure to obey a procedural order of the Presiding Officer.

(2) If under this paragraph an accelerated decision is issued as to all the issues and claims joined in the proceeding, the decision shall be treated for the purposes of these procedures as the decision of the Presiding Officer as provided in paragraph (p) of this section.

(3) If under this paragraph, judgment is rendered on less than all issues or claims in the proceeding, the Presiding Officer shall determine what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. He shall thereupon issue an order specifying the facts which appear without substantial controversy, and the issues and claims upon which the hearing will proceed.

(z) *Conclusion of hearing.* (1) If, after the expiration of the period for taking an appeal as provided for by paragraph (r) of this section, no appeal has been taken from the Presiding Officer's decision, and, after the expiration of the period for review by the Administrator on his own motion as provided for by paragraph (v) of this section, the Administrator does not move to review such decision, the hearing will be deemed to have ended at the expiration of all periods allowed for such appeal and review.

(2) If an appeal of Presiding Officer's decision is taken pursuant to paragraph (u) of this section, or if, in the absence of such appeal, the Administrator moves to review the decision of the Presiding Officer pursuant to paragraph (v) of this section, the hearing will be deemed to have ended upon the rendering of a final decision by the Administrator.

(aa) *Judicial Review.* (1) The Administrator hereby designates the Deputy General Counsel, Environmental Protection Agency as the officer upon whom copy of any petition for judicial review shall be served. Such officer shall be responsible for filing in the court the record on which the order of the Administrator is based.

(2) Before forwarding the record to the court, the Agency shall advise the petitioner of costs of preparing it and as soon as payment to cover fees is made shall forward the record to the court.

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PART III

# SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

■

# DRUG TREATMENT SERVICES AND CENTRAL INTAKE UNITS

## Federal Funding Criteria

## SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

[ 21 CFR Parts 1402, 1403 ]

### DRUG TREATMENT SERVICES AND CENTRAL INTAKE UNITS

#### Proposed Federal Funding Criteria

For the past several months, the Special Action Office for Drug Abuse Prevention has undertaken studies of the types of services and facilities that should be required for all drug abuse treatment centers and central intake units which operate through funds furnished under contracts or grants made by agencies or departments of the Federal Government. Based on these studies, guidelines and criteria have been developed and the Director of the Special Action Office has determined that they should be published as proposed regulations for the purpose of seeking public comments prior to their promulgation as final regulations. The proposed regulation on funding criteria for treatment services is published as Part 1402 (21 CFR Part 1402) and the proposed regulation on funding criteria for drug treatment central intake units is published as Part 1403 (21 CFR Part 1403).

GENERAL OBJECTIVES

The guidelines which are proposed in Part 1402 and Part 1403 represent a major step in efforts to upgrade the quality of services at Federally funded drug abuse treatment centers and central intake units. They also reflect established levels of program performance which hopefully can be achieved by all drug treatment and central intake unit programs with minimal assistance from the Federal Government.

COMMENTS BY DEPARTMENT OF DEFENSE, VETERANS ADMINISTRATION AND BUREAU OF PRISONS

While Parts 1402 and 1403 do not apply to programs which are established and conducted under the direct control of departments and agencies of the Federal Government, information as to the manner in which their standards differ from those proposed herein will be extremely helpful in the promulgation of final regulations. Therefore, all such departments and agencies, including particularly the Department of Defense, the Veterans Administration and the Bureau of Prisons (Department of Justice) are requested to submit comments on these proposed regulations, and to note in those comments any significant differences between the standards applied in the conduct of their programs and those set forth in proposed Parts 1402 and 1403.

SINGLE STATE AGENCIES

Single State Agencies in states which have adopted or are developing standards for the performance of treatment and central intake unit services through accreditation of facilities, licensing of agencies, and certification of drug abuse workers by the state may arrange for a review of such standards to determine whether they are in conformity with the standards set forth in Parts 1402 and 1403. Upon determination that applicable state standards are in substantial conformity with those set forth in parts 1402 and 1403, such state standards will then apply in measuring the performance of treatment and central intake services. All requests for review should be submitted in writing to the Director, Division of Community Assistance, National Institute on Drug Abuse, 11400 Rockville Pike, Rockville, Maryland 20852.

WRITTEN COMMENTS

All persons or organizations, including Federal and State agencies, having an interest in these proposed regulations are invited to submit written comments. Comments are requested to be in triplicate and should be submitted on or before January 22, 1975. They should be mailed or delivered to the Office of the General Counsel, Special Action Office for Drug Abuse Prevention, 726 Jackson Place, NW., Washington, D.C. 20506. Written comments will be available for public inspection in Room 3026 of this address during regular business hours.

Dated: December 23, 1974.

ROBERT L. DUPONT,
*Director, Special Action Office for Drug Abuse Prevention.*

## PART 1402—FEDERAL FUNDING CRITERIA FOR DRUG TREATMENT SERVICES

Sec.


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AUTHORITY: Secs. 210, 221, 222, the Drug Abuse Office and Treatment Act of 1972, Pub. L. 92-255. (21 U.S.C. 1120, 1131, and 1132).

### § 1402.01 Applicability.

This part is applicable to all drug abuse programs and projects which provide treatment and rehabilitation services, including but not limited to, outpatient methadone, residential methadone, residential drug free, outpatient drug free, and day care drug free, and which receive funding from any agency or department of the Federal Government through a grant or contract awarded after the effective date of this part. This part does not apply to programs conducted directly by departments and agencies of the Federal Government.

### § 1402.02 Definitions.

(a) *Patient.* The term "patient" means any person who has been accepted for treatment or rehabilitation services furnished under a contract or grant funded by an agency or department of the Federal Government.

(b) *Program.* The term "program" means a Federally funded activity through contract or grant which provides facilities and services for the treatment or rehabilitation of drug abuse patients.

(c) *Program director.* The term "program director" means the person having the ultimate responsibility for supervising and conducting a drug abuse treatment and/or rehabilitation program.

(d) *Treatment plan.* The term "treatment plan" means that mode of treatment or rehabilitation that is determined appropriate to meet the objective needs of the patient.

### § 1402.03 Technical assistance.

Drug abuse treatment and rehabilitation programs, which experience difficulty or for any reason have need for advice or assistance in meeting the funding criteria set forth in this part may obtain technical and other assistance from the Program Development Specialist, Division of Community Assistance, National Institute on Drug Abuse, 11400 Rockville Pike, Rockville, MD 20852.

### § 1402.04 General requirements.

The grantee or contractor shall provide the necessary facilities, materials, services, and personnel for the operation of a drug abuse treatment and rehabilitation facility. The contractor or grantee shall establish and operate, or shall engage a subcontractor to establish and operate such facilities, and provide such material, services, and personnel as are necessary to provide drug dependent persons with services in accordance with the provisions of this part. The grantee or contractor shall:

(a) Provide services through such drug abuse treatment or rehabilitation facilities as may be appropriate, at such site or sites as shall be approved by the contracting or awarding authority.

(b) Maintain all facilities in a clean, safe, and attractive condition in accordance with applicable standards established under Federal, State and local laws.

(c) Develop criteria which meet the requirements of this part for the admission of patients and the termination of services to them.

(d) Install and maintain appropriate equipment and furnishings which are suitable for the type of treatment and rehabilitation services being conducted.

(e) Establish procedures under which a complete personal, medical, and drug history for each patient will be developed upon the patient's entry to the program and maintained throughout the treatment and rehabilitation process. This is essential for the purpose of identifying symptoms of flashbacks, psychotic manifestations, and severe physical illness requiring immediate psychiatric or medical care and for the development of the pa-

tient's treatment plan. The intake process must proceed expeditiously to avoid discouragement and should not exceed a period of three days.

**§ 1402.05 Minimum standards for physical and laboratory examinations.**

(a) *Performance.* A physical and laboratory examination should be administered by qualified personnel as soon as practicable after the patient's admission but not later than 21 days after such admission. The procedures for such examination shall be detailed in the patient's treatment plan. Residential drug free programs are required to perform physical examinations at the earliest practicable time because of the possibility of infectious diseases and the close patient contact. In the event that the residential program has an induction phase, the physical examination should be performed during the period of such phase. This criterion is not intended to supersede FDA regulations requiring a phyical examination at intake.

(b) *Examination.* The physical and laboratory examination of each patient shall include:

(1) Investigation of the possibility of infectious disease, pulmonary, liver, cardiac abnormalities, dermatologic sequelae of addiction and possible concurrent surgical problems;

(2) Complete blood count and differential;

(3) Serological tests for syphilis;

(4) Routine and microscopic urinalysis;

(5) Urine screening for drugs (toxicology);

(6) SMA 12/60 or equivalent;

(7) Chest X-ray;

(8) Sickle cell, as appropriate;

(9) Australian antigen, as appropriate; and

(10) EKG and biological tests for pregnancy, as appropriate.

**§ 1402.06 Pre-admission interview.**

(a) *Information to be obtained.* Each patient seeking admission or re-admission shall be interviewed by a qualified mental health professional (i.e., a person who by virtue of training and experience is capable of assessing the psychological and sociological background of drug abusers to determine the optimum treatment plan). Under the supervision and guidance of the mental health professional, the staff shall take a complete personal history which should include the following information:

(1) Family background;

(2) Educational achievement;

(3) Vocational achievement;

(4) Problems of a legal nature, including history of criminal conduct;

(5) History relating to the use of drugs, including types of drugs abused, the extent of abuse and prior treatment experience; and

(6) Any other relevant information bearing on the patient's drug abuse problem.

(b) *Development of appropriate treatment plan.* A primary objective of the admission interview is to determine the most appropriate mode of treatment for the patient and to assure that he understands the nature of the program and what may be expected of him. Any program of treatment recommended should be designed to meet the needs of the patient consistent with the projected program expectations. Where a Central Intake Union (CIU) provides the intake screening, it is the responsibility of the program to which the patient has been referred by the CIU to develop an individually tailored treatment plan appropriate for the patient involved after a careful review of the records and an interview with the patient.

(c) *Reexamination and reports.* For persons receiving outpatient treatment, individual treatment plans shall be reexamined and altered where necessary, by the treatment team no less than every 90 days. For all other modalities, the individual treatment plan shall be reviewed and reexamined every 30 days. A complete report of each review shall be recorded in the patient's clinical record.

(d) *Information to be documented.* Each treatment plan must include documented information relating to (1) short and long term goals for treatment generated by both staff and client, (2) the assignment of a primary counselor, (3) a delineation of the type and frequency of counseling services to be provided, and (4) a delineation of those supportive services needed by the individual patient.

**§ 1402.07 Medical services.**

(a) Designation of medical director. Each grantee or contractor shall designate a medical director who must assume medical responsibility for the drug abuse treatment and rehabilitation program and be licensed to practice medicine in the jurisdiction in which the program is located. He must insure that the initial evaluation is properly performed and that the medical needs of each patient are periodically evaluated, and that emergency medical services, when needed, are adequately provided. It is also the responsibility of the medical director to determine what emergency medical equipment and supplies are needed to deal with possible overdoses and any other medical emergencies that might arise. Medical services which are not directly related to the provision of drug abuse treatment services should be provided through city or county medical facilities. Such medical services are not reimbursable under Federal contracts or grants, either directly or indirectly.

(b) *Services to patients receiving prescription medication (other than methadone).* Each grantee or contractor shall, for those patients receiving prescription medication through the program, establish procedures under which consultation with a program physician will be provided, at a minimum, once every four weeks, or more frequently if the needs of the patient require it.

**§ 1402.08 Agreement for emergency services.**

Each program is required to formalize a written agreement with a licensed hospital or hospitals in the community for the purpose of providing emergency, inpatient and ambulatory medical services as needed.

**§ 1402.09 Mental health consultation.**

Each program shall provide a minimum of 5 hours per week of professional mental health consultation per 100 patients. The objective of this consultation should be to review selected cases and to provide assistance to the staff in patient management or for the referral for psychiatric services.

**§ 1402.10 Counseling.**

A variety of counseling techniques may be utilized in individual, family, or group counseling sessions conducted by trained personnel under the supervision of a duly qualified professional. In the case of group counseling, the size of the group should range between 5 and 15 individuals. In outpatient methadone and outpatient drug free programs, each patient shall have available a minimum of three hours per week of counseling. In residential drug free, residential methadone, and day care drug free program, a minimum of 10 hours per week of formalized counseling shall be available for each patient. These counseling guidelines should be considered minimum for planning purposes; however, the actual counseling allotted should be based upon individual client needs.

**§ 1402.11 Provision for supportive services.**

The following supportive services shall be provided:

(a) Educational;

(b) Vocational counseling and training;

(c) Job development and placement; and

(d) Legal services through local licensed lawyers.

To the maximum extent possible programs shall utilize community resources to provide these services. Documentation of any agreements to provide the services set forth in this section shall be provided to contracting or awarding authority. If any program can adequately demonstrate inability to obtain the requisite supportive services, it must submit a formal request to their program development specialist to have such services provided directly.

**§ 1402.12 Procedures for urine surveillance.**

The following procedures shall be followed for urine surveillance:

(a) Urine specimens from each patient must be collected in a manner that minimizes falsification and on a randomly scheduled basis. In programs dispensing methadone, urine specimens for all patients must be analyzed weekly for opiates and monthly for methadone, amphetamines, barbiturates, as well as other drugs as indicated. For all other programs, it is recommended that urine specimens from all patients be analyzed at least monthly for opiates, methadone, amphetamines, barbiturates, as well as

other drugs as indicated. More frequent testing should occur when clinically indicated. Exceptions to these requirements may be authorized in particular circumstances.

(b) Laboratories used for urine testing shall comply with all State and Federal proficiency testing and licensure programs that are acceptable to the Secretary of DHEW Laboratories covered by this requirement include any independent, clinical, government or program facility that offers to perform presumptive analysis for screening purposes as well as definitive qualitative analysis for confirmed identifications.

(c) Urine testing results shall be used as one clinical tool for purposes of diagnosis, patient management, and in the determination of patient treatment plans. Patient records must reflect the manner in which test results are utilized, and shall distinguish presumptive from definitive qualitative laboratory results.

(d) Clinical directors electing to rely upon presumptive urinalysis results for patient management must demonstrate adequate access to definitive qualitative laboratory analysis for use when necessary, e.g., criminal justice system records, intake urine testing on all prospective methadone clients, any loss of patient privileges based on urinalysis results, and for random checks on less frequently used drugs not detectable by a screening method.

**§ 1402.13 Vocational rehabilitation and employment programs.**

All patients enrolled in outpatient treatment shall be encouraged to participate in either an educational program, a job training program or gainful employment as soon as appropriate but not later than 120 days from date of enrollment. In the case of patients enrolled in residential programs such patient shall be encouraged to enroll within 60 days after the date of admission. If, for any reason, a patient is not encouraged to seek such participation, the reasons therefor shall be recorded in the patient's records. Although patients may refuse to participate in these programs, they should be encouraged to do so as a basic element of the treatment plan.

**§ 1402.14 Patient follow-up.**

Each program shall establish a policy which will encourage a follow-up by maintaining minimum contact with discharged patients.

**§ 1402.15 Patient record system.**

Each program shall establish a patient record system to document and monitor patient care. This system shall comply with all Federal and State reporting requirements. All records shall be kept confidential in accordance with part 1401 of the Code of Federal Regulations. 21 CFR 1401.

**§ 1402.16 Program hours.**

A reasonable effort must be made to adjust the hours for the operation of the program to meet the needs of the patient. For outpatient treatment programs, consideration should be given to the employment hours of patients and clinic operating hours should be scheduled at such times as will not conflict with patient's working schedules. Patients who are not employed or who are not attending school or training programs are expected to arrange their schedules in order to receive services at suitable times. Where necessary to accommodate the needs of patients, the program must recognize that the usual 9 a.m. to 5 p.m. workday shall not be rigidly adopted for outpatient treatment. In many clinics with large patient admissions, a 12 hour day of operations is frequently necessary. In any event, the following minimum hours of operation shall be maintained:

(a) *Outpatient methadone.* Seven (7) days per week as follows: 5 days per week at 8 hours per day (in all cases at least 2 hours must be outside the regular 9 a.m. to 5 p.m. day) and two days per week at 4 hours per day.

(b) *Residential methadone and residential drug free.* Seven (7) days per week at 24 hours per day.

(c) *Outpatient drug-free.* At least 6 days per week: 5 days at 8 hours per day (in all cases at least 2 hours must be outside of the 9 a.m. to 5 p.m. regular schedule) and one day at 5 hours.

(d) *Day care drug free.* At least 6 days must be provided at 10 hours per day.

(e) *Central Intake Unit.* At least 5 days per week at 8 hours per day must be provided.

**§ 1402.17 Provision for meals.**

Residental methadone and residential drug free programs shall provide a minimum of 3 meals per day per patient. Day care drug free programs may provide one meal per patient per day is expedient.

**§ 1402.18 Compliance with all Federal and State regulations.**

All programs which use methadone for detoxification and maintenance treatment must comply with all of the regulations of the Food and Drug Administration as well as other applicable Federal and State regulations and directives.

**§ 1402.19 Exceptions to requirements.**

Any exceptions to the requirements of the criteria set forth in this Part 1402 may be requested by submitting an application to the Director, Division of Community Assistance, National Institute on Drug Abuse, 11400 Rockville Pike, Rockville, MD 20852. The application shall fully explain and justify the necessity for the requested exception.

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## PART 1403—FEDERAL FUNDING CRITERIA FOR DRUG TREATMENT CENTRAL INTAKE UNITS

Sec.

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AUTHORITY: Secs. 210, 221, 222, Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92-255, 21 U.S.C. 1120, 1131, and 1132).

**§ 1403.01 Applicability.**

This part is applicable to all drug treatment central intake units which receive funding from any agency or department of the Federal Government through grant or contract awarded after the effective date of this part. The regulations of this part do not prohibit or supersede additional or more stringent requirements which may be imposed by Federal Departments or agencies through regulations or the terms and conditions of a grant or contract.

**§ 1403.02 Definitions.**

(a) *Patient.* The term "patient" means any person who has been accepted for treatment or rehabilitation services furnished under a contract or grant funded by an agency or department of the Federal Government.

(b) *Program.* The term "program" means a Federally funded activity through contract or grant which provides facilities and services for the treatment or rehabilitation of drug abuse patients.

(c) *CIU.* The term "CIU" means central intake unit.

(d) *Qualified mental health professional.* The term "qualified mental health professional" means a person who, by virtue of training and experience, is capable of assessing the psychological and sociological background of drug abusers to determine the treatment plan most appropriate for the patient.

(e) *Treatment plan.* The term "treatment plan" means that mode of treatment or rehabilitation that is determined appropriate to meet the objective needs of the patient.

**§ 1403.03 Technical assistance.**

Drug abuse treatment and rehabilitation programs which experience difficulty, or for any reason have need for advice or assistance, in meeting the funding criteria set forth in this part 1403, may obtain technical and other assistance from the Program Development Specialist, Division of Community Assistance, National Institute on Drug Abuse, 11400 Rockville Pike, Rockville, MD 20852.

**§ 1403.04 General requirements.**

The grantee or contractor shall provide adequate facilities, material, services, and personnel for the operation of a central intake facility. The contractor or grantee shall establish and operate,

or shall engage a subcontractor to establish and operate, such facilities and provide such material, services, and personnel as are necessary to provide such services to drug dependent persons in accordance with the provisions of this part. The central intake unit shall be established and operated at such site or sites as shall be approved by the awarding authority and under procedures which provide (a) criteria for the admission of patients and for the termination of services rendered to them and (b) informal, standardized, initial patient orientation, multi-phasic health screening, and referral to an appropriate treatment modality for new and readmitted patients.

**§ 1403.05 Operation of facilities and examination of patients.**

(a) *Hours of operation and maintenance of facilities.* Each CIU facility shall remain open at least 8 hours per day, 5 days per week. The intake process must proceed expeditiously to avoid discouragement and shall not exceed a period of two days. The facility shall be appropriately furnished to provide the required services and shall be maintained in a condition consistent with applicable regulations of Federal, State and local authorities.

(b) *Examination.* At the time of intake, an initial personal, medical, and drug history shall be obtained and also a physical and laboratory examination administered by qualified personnel. Such examination should check the possibility of infectious diseases, pumonary, liver, cardiac abnormalities, dermatologic sequelae of addiction and possible concurrent surgical problems. The laboratory examination should include a check of the following:

(1) Complete blood count and differential;

(2) Serologic test(s) for syphilis;

(3) Routine and microscopic urinalysis;

(4) Urine screening for drugs (toxicology);

(5) SMA 12/60 or equivalent;

(6) Chest X-ray;

(7) Sickle Cell, as appropriate;

(8) Australian antigen, as appropriate;

(9) Pap Smear and gonorrhea culture, as appropriate;

(10) Tetanus toxoid as appropriate; and

(11) DKG and biological tests for pregnancy, as appropriate.

**§ 1403.06 Medical services.**

Each grantee or contractor shall designate a medical director who must assume medical responsibility for the CIU and be licensed to practice medicine in the jurisdiction in which the program is located. He must insure that the initial evaluation is properly performed and that the medical needs of each patient are properly evaluated and/or referred, as the case may be. Medical services shall include initial diagnostic work up, identification of medical and surgical problems for referral to other treatment facilities, and a review of patients' records. The medical director should, if appropriate, request a copy of the patient's previous medical records and shall forward them to the appropriate treatment center.

**§ 1403.07 Agreement for emergency services.**

Each program is required to formalize a written agreement with a licensed hospital or hospitals in the community for the purpose of providing emergency, inpatient and ambulatory medical services as needed. Such services which are not directly related to the provision of drug abuse treatment services, are not reimbursable under a contract or grant, either directly or indirectly.

**§ 1403.08 Pre-admission interview.**

Each program shall conduct an interview of each new patient admitted or a former patient re-admitted by a mental health professional or by qualified intake counselor under the supervision of such a professional. In the course of the interview, the staff shall take a complete personal history, including information as to the patient's family, education, vocation, drug history (including the kinds of drugs abused and when commenced) and prior treatment services. The staff should then discuss with the patient the various treatment modalities available to him. After discussing the availability of these modalities in the light of the patient's particular needs (including the results of the physician's evaluation), a treatment plan should be selected by mutual agreement and an appropriate referral made.

**§ 1403.09 Patient file.**

The program should maintain a patient file of all drug dependent individuals referred for treatment through its screening and referral unit. This file should be updated by the particular agencies as transfers to other programs and terminations occur. These records shall be held confidential and shall not be disclosed except as authorized by applicable laws and regulations.

**§ 1403.10 Referral for treatment.**

Upon reaching an agreement, as to the modality to be applied, the patient should be referred to treatment within 48 hours and his intake records transferred to the center administering such treatment.

**§ 1403.11 Uniform intake procedures.**

Each receiving treatment program shall maintain uniform intake procedures so that it will not be necessary for programs which receive patients from the CIU to perform duplicate services.

**§ 1403.12 Urine surveillance.**

Urine specimens should be obtained from each patient under appropriate supervision during the intake process. The specimens must be analyzed for morphine, methadone, cocaine, codeine, amphetamines, barbiturates, as well as other drugs if indicated. Laboratories which are used for urine testing must comply with all Federal and State proficiency testing programs.

**§ 1403.13 Patient record keeping.**

Each CIU program shall establish a record system for patients which must be adequate to meet all Federal and State reporting requirements and records shall be kept confidential in accordance with part 1401 of this Title (21 CFR 1401).

**§ 1403.14 Agreements between CIU and community programs.**

Each CIU program shall establish and provide the awarding agency with documentary evidence of formal agreements with community based drug treatment programs. Such documentary evidence shall include the treatment program's agreement to utilize the CIU for patient intake functions and to avoid duplication of effort. They should also provide for the acceptance of only those patients who have been processed through the CIU.

**§ 1403.15 Definition of procedures by CIU.**

Each CIU program shall define:

(a) The procedure by which applicants shall be oriented to available options;

(b) The decision making process for determining recommended referral;

(c) The decision making process for "mutual agreement" between applicants, programs, and CIU staff regarding referral; and

(d) Procedures for meeting the needs of patients referred to the CIU for re-screening and referral to a more suitable modality or program. These shall be subject to Federal and State approval.

**§ 1403.16 Compliance with all Federal and State regulations.**

All programs which use methadone for detoxification and maintenance treatment must comply with all regulations of the Food and Drug Administration as well as all other relevant Federal and State regulations and directives.

**§ 1403.17 Exceptions to requirements.**

Applications for exceptions to the criteria and requirements set forth in this part 1403 should be submitted to the Director, Division of Community Assistance, National Institute on Drug Abuse, 11400 Rockville Pike, Rockville, MD 20852, for his consideration and action. Each application shall fully explain and justify the necessity for the requested exception.

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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.

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