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NOTE: There are no items eligible for inclusion in the list of RULES GOING INTO EFFECT.

Daily List of Public Laws

NOTE: No acts approved by the President were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

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

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Commuted Traveltime Allowances

The purpose of this amendment is to establish commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of the Plant Protection and Quarantine Programs performs overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Plant Protection and Quarantine Programs, by 7 CFR 354.1 of the regulations concerning overtime services relating to imports and exports, the administrative instructions appearing at 7 CFR 354.2, as amended, February 3, 1975 (40 FR 4897 and March 20, 1975 (40 FR 12646)), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty are further amended by adding (in appropriate alphabetical sequence) or deleting the information as shown below:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

Commuted traveltime allowances (in hours)

Location covered	Served from	Metropolitan area: Within	Metropolitan area: Outside
Delete:			
* * * * *			
Missouri:			
Kansas City	Chicago, Ill.		6
St. Louis	do.		6
Nebraska:			
Omaha	do.		6
Puerto Rico:			
Aguadilla		1	
Isabela	Ramey AFB		1
Mayaguez	do.		2
Roosevelt Roads NAS.		1	
* * * * *			
Add:			
* * * * *			
Alabama:			
Fort Osborne	Birmingham or Tuscaloosa.		3
Kentucky:			
Covington	Lexington		4
Louisville	Elizabethtown		2
Do.	Lexington		4

Commuted traveltime allowances (in hours)—Continued

Location covered	Served from	Metropolitan area: Within	Metropolitan area: Outside
North Carolina:			
Cherry Point	Morehead City		1
Puerto Rico:			
Fajardo	San Juan		3
Tennessee:			
Millington NAS.	Memphis		2
Utah:			
Salt Lake City International Airport.		2	
Hill AFB, Ogden.	Salt Lake City		4
* * * * *			

(64 Stat. 561; 7 U.S.C. 2260)

It is to the benefit of the public that this instruction be made effective at the earliest practicable date. Accordingly, it is found upon good cause, under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to the foregoing amendment are impracticable and unnecessary and good cause is found for making it effective less than 30 days after publication in the Federal Register.

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER (5–6–75).

Done at Washington, D.C., this 30th day of April 1975.

JAMES O. LEE, Jr.,
Acting Deputy Administrator, Plant Protection and Quarantine Programs.

[FR Doc.75-11688 Filed 5-5-75;8:45 am]

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

[Peach Reg. 5]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Container and Pack Regulation

This regulation is issued pursuant to the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), which regulate the handling of fresh pears, plums, and peaches grown in California. It requires that, during the period May 7 through June 20, 1975, all varieties of fresh California peaches shipped in interstate commerce shall be in containers which conform to the pack and labeling requirements hereinafter specified. Those requirements are that (1) all peaches packed in closed containers shall meet the requirements of "standard pack" as specified in the United States Standards for Peaches, (2) each container of peaches shall bear the name of the variety of peaches or the words "unknown variety" if the variety is not known, (3) each container of peaches shall be marked with the size of the peaches therein, (4) the variation in diameter among peaches in each container shall not exceed the limits hereinafter specified, and (5) all No. 22D and 22E standard lug boxes shall be labeled according to the applicable net weight hereinafter specified. This regulation contains essentially the same requirements as were in effect in 1974 and prior years except that the "standard pack" requirements have been broadened to include all closed containers and the "net weight" labeling requirement has been added. The regulation also makes technical changes in the terminology of the size designations so that the language will conform to the requirements of the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.) applicable to the disclosure of the size of the contents of containers by appropriate labeling of the containers. This regulation supersedes Peach Regulation 2 (§ 914.424; 36 FR 12508) which has been in effect since July 4, 1971. This regulatory action is necessary to provide standardized packing practices and more informative labeling that will facilitate more orderly marketing of fresh California peaches and contribute to more effective operations under said marketing agreement and order.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in 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 of the Peach Commodity Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the regulation of shipments of peaches, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) This action reflects the Department's appraisal of the need for regulation in the interest of consumers and the industry. Interstate shipments of fresh peaches from the production area are expected to begin on or about May 7,

1975. The container and pack requirements provided herein are designed to prevent the handling on and after May 7, 1975, of any such shipments of fresh peaches, grown in the production area, which do not comply with such requirements so as to provide consumers and the trade with clear and conspicuous labeling of all fresh peach containers which containers shall have been properly packed.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the date when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective date; the containers and pack of fresh California peaches are currently regulated by Peach Regulation 2 (§ 917.424; 36 FR 12508) and said regulation will continue indefinitely unless sooner terminated; and good cause exists for making the provisions hereof effective not later than May 7, 1975. Adequate information pertaining thereto was not available to the Peach Commodity Committee until April 3, 1975, on which date an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of peach container and pack regulation. Interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information and regulation during the period specified herein were promptly submitted to the Department after such meeting was held; shipments of the current crop of such peaches are expected to begin on or about the effective date hereof; this regulation should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this regulation are identical with the aforesaid recommendation of the committee; information concerning such provisions and effective time has been disseminated among handlers of such peaches; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

§ 917.436 Peach Regulation 5.

Order. (a) Peach Regulation 2 (36 FR 12508) is hereby terminated as of the effective date hereof.

(b) During the period May 7 through June 20, 1975, no handler shall handle any package or container of any variety of peaches except in accordance with the following terms and conditions:

(1) Such peaches, when packed in any closed container, shall conform to the requirements of standard pack.

(2) Each package or container of peaches shall bear, in plain sight and in plain letters on one outside end, the name of the variety, if known or, when the variety is not known, the words "unknown variety."

(3) Each package or container of peaches shall bear, on one outside end in plain sight and plain letters, the following count or size description of the peaches as applicable.

(i) The size of peaches packed in molded forms (tray packs) in cartons, lug boxes, No. 12B fruit (peach) boxes, or flats and the size of wrapped peaches packed in rows in No. 12B fruit (peach) boxes shall be indicated in accordance with the number of peaches in the container, such as "80 count," "88 count," etc.

(ii) The size of peaches loose-filled, loose-packed, or tight-filled (not packed in rows) in No. 22D standard lug boxes shall be indicated according to the number of such peaches when packed in molded forms in said boxes in accordance with the requirements of standard pack, such as "88 size," "96 size," etc.

(iii) The size of peaches loose-filled, loose-packed, or tight-filled (not packed in rows) in any container, other than the No. 22D standard lug box, shall be indicated according to the number of such peaches when packed in molded forms in a No. 22D standard lug box in accordance with the requirements of standard pack, such as "88 size," "88 size," etc.

(4) Except as hereinafter provided in paragraph (b)(5) of this section, the difference in diameter between the smallest and the largest peach in any individual container shall be not greater than

(i) ¼-inch for size 80 or smaller and for the equivalent count of such peaches when packed in molded forms in No. 22D standard lug boxes; or

(ii) ⅜-inch for size 75 or larger and for the equivalent count of such peaches when packed in molded forms in No. 22D standard lug boxes.

(5) Not more than 5 percent, by count, of the peaches in any individual container may fail to comply with the diameter requirements specified in subparagraph (b)(4) of this section.

(6) Each No. 22D standard lug box of loose-filled or loose-packed peaches (not packed in rows) shall bear on one outside end, in plain sight and in plain letters, the words "25 pounds net weight."

(7) Each No. 22E standard lug box of loose-filled or loose-packed peaches (not packed in rows) shall bear on one outside end, in plain sight and in plain letters, the words "35 pounds net weight."

(c) As used herein, standard pack" shall have the same meaning as set forth in the U.S. Standards for Peaches (§ 51.1210–51.1223 of this title); the terms of "No. 22D standard lug box," "No. 22E standard lug box," and "No. 12B fruit (peach) box" shall have the same meaning as set forth in § 1387.11 of the "Regulations of the California Department of Food and Agriculture;" and all other terms shall have the same meaning as when used in the marketing agreement and order.

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

Dated: May 1, 1975.

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

[FR Doc.75–11944 Filed 5–5–75;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order 11]

PART 1011—MILK IN THE APPALACHIAN MARKETING AREA

Order Terminating Certain Provisions

This termination order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Appalachian marketing area.

It is hereby found and determined that the following provisions of the order no longer tend to effectuate the declared policy of the Act:

In § 1011.44, paragraph (c) and that portion of paragraph (d) that reads as follows: ", located not more than 200 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the City Hall of Bluefield, West Virginia, or from the city limits of Kingsport, Tennessee,".

This termination was requested by Dairymen, Inc., a cooperative representing more than 95 percent of producers supplying the market. The action eliminates from the order provisions requiring that milk transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant located more than 200 miles from the nearer of the City Hall of Bluefield, West Virginia, or from the city limits of Kingsport, Tennessee, shall be Class I irrespective of its use.

The current seasonally increased production has made it necessary to move milk more than 200 miles from the points specified in the order to nonpool plants for Class II uses to facilitate the orderly and economic disposition of producer milk not needed in the market for Class I use.

In the March 26, 1974, decision of the United States District Court for the Eastern District of Pennsylvania (Interstate Milk Producers' Cooperative vs. Butz), it was indicated that a provision of the Middle Atlantic order such as is here terminated was not authorized by the Statute.

It is hereby found and determined that notice of proposed rule making, public procedure thereon and thirty days' notice of the effective date hereof are impractical, unnecessary and contrary to the public interest in that:

(a) This termination is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area; and

(b) This termination does not require of persons affected substantial or extensive preparation prior to the effective date.

Therefore, good cause exists for making this order effective April 1, 1975.

It is therefore ordered, That the aforesaid provisions of the order are hereby terminated.

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

Effective date: April 1, 1975.

Signed at Washington, D.C., on May 1, 1975.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.75-11854 Filed 5-5-75;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

[Ruling 1975–4]

STORAGE TANK RENTALS

Denial for Modifying Practices

Facts: Firm X and Firm Y sell propane at both the wholesale and retail marketing levels. As an incentive to prospective buyers to purchase propane, Firm X on May 15, 1973 provided certain of its purchasers with propane storage tanks, free of charge. Firm Y, on the other hand, leased propane storage tanks on May 15, 1973 to certain of its purchasers at an annual rental of $25. Both firms supplied these storage tanks upon the condition that the tanks may be filled only by the owner of the tank or upon the owner's authorization.

Firm X has notified its purchasers that it will no longer provide storage tanks free of charge, but instead has offered to sell the tanks to its purchasers. Firm Y has notified its purchasers that its rental rates on storage tanks will be increased and that the increased rental payments are to be made on a monthly, instead of a yearly, basis. In addition, Firm Y plans to institute a minimum volume purchase requirement whereby tank rental payments will be further increased for those purchasers who do not accept delivery of a specified minimum volume each month.

Issue #1: May Firm X now refuse to provide storage tanks free of charge and, instead, require its customers to purchase these tanks?

Issue #2: May Firm Y now increase its storage tank rental rates, alter its rental payment schedule, or enforce a minimum purchase requirement through increased storage tank rental rates?

Ruling: Neither firm may modify its storage tank practices in the manner described.

Section 212.31 states, in relevant part, that for purposes of 10 CFR Part 212, "[p]rice means any consideration for the sale or lease of any property or services. * * *" In the case of Firm X, certain of its purchasers have enjoyed the use of storage tanks as a service provided in conjunction with their purchase of propane. In those cases where the use of such tanks was provided on May 15, 1973, the price charged for propane on that date included consideration for the use of the storage tanks as well.

That price includes compensation for both product and services provided is also made explicit by § 210.62(c) which states, in relevant part, as follows:

> Any practice which constitutes a means to obtain a price higher than is permitted by the regulations in this chapter or to impose terms or conditions not customarily imposed upon the sale of an allocated product is a violation of these regulations. Such practices include * * * tie-in agreements * * * or failure to provide the same services and equipment previously sold.

These provisions indicate that where a seller ceases to provide services and equipment previously provided in conjunction with sales of its product, such action constitutes, in effect, an increase in the price charged for such product. Such action may constitute a means to obtain a price higher than is permitted by the regulations or may result in the unequal application of increased costs among purchasers. Accordingly, under the terms of § 210.62(c), such activity constitutes a violation of the FEA regulations.

In the case of Firm Y, the fact that the rental charged for a storage tank was separately stated on May 15, 1973 indicates that the price charged for propane may not include consideration for the use of the storage tank. Nevertheless, the fact that the lessee-purchaser is required to fill the tank only in accordance with the lessor-supplier's instructions results in a "tie-in agreement" within the meaning of § 210.62(c). Such agreements are not necessarily prohibited by the FEA regulations, and where the supplier has customarily imposed such requirements as a condition of the purchase of product, for example, the continuation of this practice may be permitted. (See, e.g., FEA Ruling 1974–23 which states that requiring retail purchasers of gasoline to buy a car wash as a condition of sale is a permissible business practice, providing it was an established practice when FEA regulations went into effect.)

The determination that tie-in arrangements are not prohibited, per se, however, does not mean that alterations in the terms of such arrangements may not constitute "a means to obtain a price higher than that permitted by the regulations," (§ 210.62(c)). As a practical matter, Firm Y's lessee-purchasers of propane must pay Firm Y a combined charge, consisting of the price of propane and the rental on the storage tank, in order to obtain deliveries of fuel. Under such circumstances, the distinction between an increase in the price of propane and a tank rental increase is of no significance to the lessee-purchaser. In either event, the lessee-purchaser's financial obligation for continued supply of product is increased.

In order to insure that the price regulations applicable to the sale of propane are not circumvented, Firm Y may not increase, above the May 15, 1973 level, the rental it charges a lessee-purchaser for storage tanks. Any such increase would constitute "a means to obtain a price higher than that permitted by the regulations" within the meaning of § 210.62(c) of the FEA regulations.

Firm Y's proposal to implement a minimum volume purchase requirement through changes in its storage tank rental fees would also be in violation of FEA price regulations, for the reasons described above, even though the storage tank rental increase would be applicable only to those purchasers which purchased less than the specified volume of propane.

The principles set forth in this ruling govern the application of the FEA regulations to the described modes of furnishing storage facilities by refiners, resellers, reseller-retailers, and retailers as defined in 10 CFR 212.31. FEA recognizes that many such firms have incurred increased costs associated with furnishing storage facilities through arrangements similar to those described above. Those increased costs constitute increased non-product costs under FEA regulations and, as such, may be passed through in prices charged for product only to the extent and in the manner provided for by the increased non-product cost provisions of the price rules applicable to such firms.

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

APRIL 30, 1975.

[FR Doc.75-11800 Filed 5-1-75;12:56 pm]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

[Regs. G, T and U]

SECURITIES CREDIT TRANSACTIONS

"Same-Day Substitution"; Suspension of Limitation, Extension

The Board's securities credit regulations, Parts 207, 220, and 221 (Regulations G, T and U), generally require that in the case of purchase-and-sale substitutions of securities in an undermargined account a specified portion of the proceeds from the securities sold must be used to reduce the credit. Until September 18, 1972, there was an exemption from that requirement when both the purchase and sale were executed on the same day. Effective September 18, 1972, the Board narrowed the same-day substitution exemption and limited it to accounts where the customer's equity was at least 40 per cent (37 FR 13972).

The limitation imposed in 1972 was suspended for a six-month period from November 5, 1974, to May 5, 1975, while the Board reviewed its appropriateness (39 FR 39433). The Board has determined to extend the suspension until September 30, 1975, to allow time for further consideration and consultation with interested parties with respect to an analysis of the impact of the limitation of the "same-day substitution" rule. The result of the Board's action will be to

allow same-day substitutions of collateral in all accounts without regard to the customer's equity in the collateral until September 30, 1975, on the same basis as existed prior to September 18, 1972.

To implement this further suspension, the Board amends 12 CFR, Chapter II, Subchapter A, Parts 207, 220 and 221 as follows:

PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS, OR DEALERS

1. Part 207 (Reg. G), paragraph (f) of § 207.5 (the Supplement to Regulation G) is amended by changing the final date in the notice of suspension from May 5, 1975 to September 30, 1975. The amended section reads as follows:

§ 207.5 Supplement.

* * * * *

(f) *Minimum equity ratio.* The minimum equity ratio of a credit subject to § 207.1 is 40 per cent. For the period November 5, 1974, through September 30, 1975, all same-day substitutions of collateral permitted by § 207.1(j)(2) for credits in which the equity ratio equals or exceeds the minimum equity ratio shall also be permitted for all credits in which the equity ratio is less than the minimum equity ratio.

PART 220—CREDIT BY BROKERS AND DEALERS

2. Part 220 (Reg. T), paragraph (g) of § 220.8 (the Supplement to Regulation T) is amended by changing the final date in the notice of suspension from May 5, 1975 to September 30, 1975, to read as follows:

§ 220.8 Supplement.

* * * * *

(g) *Account subject to section 8(g).*

* * *

(3) For the period November 5, 1974, through September 30, 1975, all transactions permitted by §§ 220.3(b)(1) and 220.3(g) for accounts not subject to section 8(g) shall also be permitted in accounts subject to section 8(g).

PART 221—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCK

3. Part 221 (Reg. U), paragraph (f) of § 221.4 (the Supplement to Regulation U) is amended by changing the final date in the notice of suspension from May 5, 1975 to September 30, 1975. The amended section read as follows:

§ 221.4 Supplement.

* * * * *

(f) *Minimum equity ratio.* The minimum equity ratio of a credit subject to § 221.1 is 40 percent. For the period November 5, 1974, through September 30, 1975, all same-day transactions permitted by 221.1(c) for credits in which the equity ratio is equal to or exceeds the minimum equity ratio shall also be permitted for those credits in which the equity ratio is less than the minimum equity ratio.

These amendments are issued pursuant to the authority of section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g).

The requirements of 5 U.S.C. 553 with respect to notice, public participation and deferred effective date were not followed in connection with this additional suspension since it temporarily relieves a restriction and the Board found that to follow the requirements of section 553 would be impractical, unnecessary, and contrary to the public interest inasmuch as they would needlessly cause disruption in the procedures of lenders covered by the Board's securities credit regulations.

Effective date. These amendments are effective May 1, 1975.

By order of the Board of Governors, April 30, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-11864 Filed 5-1-75;4:52 pm]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 14449; Amdt. 37-37]

PART 37—TECHNICAL STANDARD ORDER AUTHORIZATIONS

Ground Proximity Warning Equipment

The purpose of this amendment to Part 37 of the Federal aviation regulations is to add a new Technical Standard Order (TSO) for ground proximity warning equipment. This TSO prescribes the minimum performance standards that such equipment must meet in order for a manufacture to identify it with the applicable TSO designation.

This amendment is based on a notice of proposed rule making (Notice No. 75-11) published in the FEDERAL REGISTER on March 10, 1975, (40 FR 11002). Eight commentators responded to the notice, all of whom were in basic agreement with the proposal. The FAA's disposition of comments is discussed below.

The RTCA Committee responsible for the preparation of RTCA Document DO-161 dated February 7, 1975, (hereinafter DO-161), submitted three recommendations for changes to the document which it considered to be necessary clarifications that would not alter the technical content. A change to paragraph 2.1.4 of DO-161 would more precisely define the operating portion of the envelope there under discussion and add a specific provision (not addressed in the document) to cover change in landing gear configuration occurring when operating within the envelope. A recommended change to the Mode 3 warning envelope would specify a definite flap configuration where the diagram is now silent. A change to the T4 Mode 4 test procedure would also specify flap configuration and simplify the statement of the test objective. The FAA agrees that in the areas cited the recommended changes would clarify the document by removing possible ambiguities, and the applicability paragraph has been amended accordingly.

One commentator recommended that the TSO contain a clear definition of the system and a list of the components included (radio altimeter, vertical speed sensor or air data computer, deactivation control, warning indicators, GPW computer, etc.) in order that the applicability of the TSO requirements relating to reliability, list of components, and marking can be precisely determined. Initially, it should be noted that a TSO is not a specification containing detailed hardware requirements but is a set of performance and related environmental standards which an article must meet in order to be identified with the applicable TSO marking. As explained in the introduction of DO-161, ground proximity warning equipment includes all the components or units determined by the equipment manufacturer to be necessary to perform its intended function. The TSO approval may be granted to an entire system including interacting sensors or to a system limited to a major component such as the ground proximity warning computer where the sensor elements (i.e. radio altimeters) are governed by separate standards. The reliability, listing, and marking requirements apply to the system, including the component parts, for which TSO approval is requested.

The same commentator expressed the opinion that the warning envelopes contained in Appendix A of DO-161 permit tolerance limits that result in loss of capability of the equipment. In this connection, however, the activation envelopes were necessarily restricted to the values given in order to avoid an excessive rate of false warnings that would reduce the credibility of equipment output to the point where it would be operationally ineffective. The FAA believes that expansion of the operational envelopes to the maximum, as suggested by the commentator, would result in an unacceptable rate of false warnings during normal operations.

Four commentators objected to the inclusion of a reliability standard on the asserted grounds that reliability programs have not been successful in the past and that reliability can be negotiated between buyer and seller of the equipment. The FAA does not agree. Reliability is a factor closely related to safety and is therefore properly the subject of a regulatory standard affecting the public. Bases now exist for designing to the reliability level specified in the TSO.

Two commentators objected to the fire protection requirements contained in the proposed TSO on the grounds that such requirements have not previously been incorporated into minimum performance standards and may delay delivery of manufactured units. The FAA believes that fire protection is a necessary requirement in this TSO. Moreover, fire protection provisions are included in

other TSO's, as for example §§ 37.132 and 37.136 which incorporate § 25.853, and § 37.178 which contains specific fire protection requirements. The commentators, neither of which are manufacturers, did not explain why delays might result and presented no reason why a delay would justify deletion of the fire protection requirement.

The FAA agrees with several comments to the effect that one data set is not necessary for each manufactured article. As pointed out in the comments, under the proposal a purchaser of several hundred articles would have to pay for and take delivery of a vast bulk of repetitive data that is of no value to him. The requirement has, therefore, been changed to require that one copy of the data and information be furnished to each person receiving for use one or more articles manufactured under the TSO. A user, of course, could arrange to receive additional data sets as needed.

The FAA does not agree with one commentator stating that proposals covering mean time between failure, fire protection, and expanded data requirements should be withdrawn from this TSO and be considered independently since their effect extends beyond this one TSO, and only minimal time for response was allowed. These requirements are not new for items of aircraft equipment, and a response directed to other TSO's would be beyond the scope of Notice 75–11. Moreover, as discussed above, each of these requirements has been established, after considering relevant comments, consistent with the needs for ground proximity warning equipment.

One commentator noted that some airlines object to the use of safety wiring on switch protective covers, and recommended that alternatives to safety wiring be permitted in applications not involving use of circuit breakers. The commentator did not recommend any specific alternatives. Safety-wired switch covers are currently used in many transport category aircraft applications without any adverse effect on safety. Moreover, safety wiring is the surest known means of making obvious the fact that the switch has been operated. The requirement is, therefore, being adopted as proposed.

Another commentator recommended that the automatic transfer from Mode 4 to Mode 3 be based on the 500 foot line rather than the lower height line as depicted on the Mode 4 envelope at page 5, Appendix A. The FAA does not agree. To the extent the recommendation may have been based on some misunderstanding on the part of the commentator, the changes discussed above, in connection with paragraph 2.1.4 of DO–161 and the redesignation of one area of the Mode 3 envelope, clarify the explanatory note on the Mode 4 envelope concerning automatic transfer. In addition, it is noted that the lower height was specified for automatic transfer because certain operational requirements of turboprop aircraft may cause undesirable nuisance warnings above that value.

The National Transportation Safety Board (NTSB) has indicated its support for Notice 75–11 but took exception to the omission of any mention of the FAA's planned glide path deviation alarm system as an add-on operational mode requirement. Subsequent to the NTSB (40 FR 17156, April 17, 1975) which invites public comment on the proposal to require a glide path deviation alarm system on large turbine-powered aircraft operating under Part 121. Under rules proposed in Notice 75–16, the glide path deviation alarm system may be integrated into the ground proximity warning equipment.

This amendment is made under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

comment, the FAA issued Notice 75–16

In consideration of the foregoing, Part 37 of the Federal Aviation Regulations is amended by adding a new § 37.201, effective June 5, 1975, to read as follows:

§ 37.201 Ground proximity warning equipment; TSO–C92.

(a) *Applicability.* This Technical Standard Order prescribes the minimum performance standards that ground proximity warning equipment must meet in order to be identified with the applicable TSO marking. Ground proximity warning equipment that is to be so identified must meet the minimum performance standards prescribed in Radio Technical Commission for Aeronautics (RTCA) Document No. DO–161, titled "Minimum Performance Standards, Airborne Ground Proximity Warning System" dated February 7, 1975, (DO–161), with the exceptions covered in paragraphs (a)(1), (2), and (3) of this section, and must meet the additional standards contained in paragraph (c) of this section.

(1) In complying with the second sentence of paragraph 2.1.4 of DO–161, the warning for the upper left portion of the envelope must be provided only when that portion of the envelope is entered from above with the landing gear configured other than for landing. There may not be a warning if the landing gear configuration changes from landing to not landing after entering the upper left portion of the envelope with the gear configured for landing, unless descent with the gear configured other than for landing continues into the lower portion of the envelope.

(2) For the purpose of this section, the lower right portion of the Mode 3, warning envelope diagram, Appendix A, page 4, DO–161, designated "WARNING (ALL CONFIGURATIONS)" is redesignated "WARNING (LANDING GEAR ANY CONFIGURATION, FLAPS NOT IN LANDING CONFIGURATION)".

(3) In complying with the second and third sentences of test procedure T4 Mode 4, paragraph (b), Appendix B, DO–161, with gear selected in landing configuration and flaps set in other than landing configuration, apply a terrain height signal of 300 feet. Then select gear not in landing configuration and verify that no warnings occur.

(b) *Environmental standards.* RTCA Document No. DO–138, titled "Environmental Conditions and Test Procedures for Airborne Electronic/Electrical Equipment and Instruments", dated June 27, 1968, including Change Number 2, dated October 29, 1969, must be used to determine the environmental conditions over which the equipment has been designed to operate.

(c) *Additional standards.* (1) *Reliability.* The design mean time between failure (MTBF) rate may not be less than 8000 hours. This must be shown by the use of analytical methods acceptable to the Administrator.

(2) *Fire protection.* Except for small parts (such as knobs, fasteners, seals, grommets, and small electrical parts) that the Administrator finds would not contribute significantly to the propagation of a fire, all materials used must be self extinguishing when tested in accordance with the requirements of §§ 25.853 and 25.1359(d), as applicable, and Appendix F to Part 25 except that the materials may be of a size and be mounted for the test in accordance with paragraph (b) of Appendix F or may be of a size and be mounted as used in the aircraft.

(3) *Aural and visual warnings.* The required aural and visual warnings must initiate simultaneously.

(4) *Deactivation control.* If the equipment incorporates a deactivation control other than a circuit breaker, the control must be a switch with a protective cover. The cover must be safety wired so that the wire must be broken in order to gain access to the switch.

(d) *Markings.* In addition to the markings specified in § 37.7(d), the equipment must be marked as follows:

(1) The environmental categories over which it has been designed to operate as set forth in Appendix B of RTCA Document No. DO–138 must be permanently and legibly marked on the equipment. Where an environmental test procedure is not applicable and the test is not conducted, an "X" must be placed in the space assigned for that category.

(2) Each separate component of equipment (computer, transducer, etc.) must be permanently and legibly marked with, at least, the name of the manufacturer, the TSO number, and the environmental categories over which it has been tested.

(e) *Data requirements.* In accordance with § 37.5, the manufacturer must furnish to the Chief, Engineering and Manufacturing Branch, Flight Standards Division (or in the case of the Western Region, the Chief, Aircraft Engineering Division) Federal Aviation Administration, in the region in which the manufacturer is located, one copy of the following technical data, except that additional copies must be furnished upon request:

(1) Manufacturer's operating instructions and equipment limitations.

(2) Installation procedures with applicable schematic drawings, wiring diagrams, and specifications. Any limitations, restrictions, or other conditions pertinent to installation must be included.

(3) List of the components (by part number) that make up the equipment system complying with the standards prescribed in this section.

(4) Equipment data sheets specifying, within the prescribed ranges of environmental conditions, the actual performance of equipment of that type with respect to each performance factor prescribed in the standard.

(5) Manufacturer's test report.

(f) *Data to be furnished with each manufactured unit.* One copy of the data and information specified in paragraph (e)(1), (e)(2), (e)(3), and (e)(4) of this section must be furnished to each person receiving for use one or more articles manufactured under this TSO.

(g) *Availability of referenced documents.* RTCA Documents Nos. DO–138, dated June 27, 1968, including Change Number 2, dated October 29, 1969, and DO–161, dated February 7, 1975, are incorporated herein in accordance with 5 U.S.C. 552(a)(1) and § 37.23, and are available as indicated in § 37.23. Additionally, RTCA Documents Nos. DO–138 and DO–161 may be examined at any FAA Regional Office of the Chief, Engineering and Manufacturing Branch (or in the case of the Western Region, the Chief, Aircraft Engineering Division) and may be obtained from the RTCA Secretariat, Suite 655, 1717 H Street, NW., Washington, D.C. 20006, at a cost of $16.00 per copy for Document No. DO–138 and $16.00 per copy for Document No. DO–161.

Issued in Washington, D.C., on May 1, 1975.

R. P. SKULLY,
Director,
Flight Standards Service.

[FR Doc.75–11960 Filed 5–5–75;8:45 am]

[Docket No. 14450; Amdt. 121–119]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Ground Proximity Warning Systems

The purpose of this amendment to § 121.360 of Part 121 of the Federal aviation regulations is to provide that the ground proximity warning system required by that section must meet specific technical performance and environmental standards.

Interested persons have been afforded an opportunity to participate in the making of this amendment by a notice of proposed rule making (Notice 75–12) issued on March 6, 1975, and published in the FEDERAL REGISTER on March 10, 1975 (40 FR 11004). Due consideration has been given to all comments presented in response to the notice. These amendments and the reasons therefor are the same as those in Notice 75–12. Concurrently with the issue of Notice 75–12, the FAA issued a notice of proposed rule making, Notice 75–11, proposing to amend Part 37 of the Federal aviation regulations by adding a new Technical Standard Order for Ground Proximity Warning Equipment (TSO–C92).

The FAA received seven public comments in response to Notice 75–12. Several of the comments were directed only to the substance of proposed TSO–C92 contained in Notice 75–11. They are discussed in the preamble to Amendment 37–37 which is being issued concurrently with this amendment. Commentators speaking directly to the proposal in Notice 75–12 generally favored the adoption of the proposed amendment. Several commentators recommended changes to the proposal and those that involve matters within the scope of the notice are discussed hereinafter. Those recommendations that were not within the scope of the Notice will be retained by the FAA for future consideration.

One commentator expressed the concern that, if the proposed amendment were adopted, it would "grant approval only to TSO equipment and exclude the past practice of accepting component equipment as a part of type certification of an airplane." This is not the case, however. Under § 121.360(a), as amended herein, a ground proximity warning system need not be approved under TSO–C92. The system may still be approved in conjunction with the type certification procedures for the airplane, but it would have to meet the performance and environmental standards of TSO–C92.

Another commentator contended that prohibiting the use after January 1, 1977, of equipment already approved for use under Part 121 and installed before the effective date of this amendment unduly penalizes those operators who provided the benefits of a ground proximity warning system in advance of a regulatory requirement. The commentator points out that currently installed equipment has demonstrated its effectiveness through many flight hours. In addition the commentator asserts that the proposal constrains the production and delivery of the FAA certified ground proximity warning systems currently in service which substantially meet the proposed requirements. Finally, the commentator states that the proposal does not recognize the airframe manufacturer caught with an inventory of non-TSO computers and the numerous drawing changes required to alter the production line to a configuration using TSO type computers. The commentator recommends that the installation of equipment that has been approved for installation under Part 121 be allowed until December 1, 1975, and that there not be a requirement that it be replaced at a later date by equipment meeting the performance and environmental standards of TSO–C92.

The FAA has determined that it would not be in the public interest to permit the continued use of ground proximity warning systems that do not meet the performance and environmental standards of TSO–C92. Moreover, information available to the FAA indicates that there is sufficient time before the December 1, 1975, compliance date of § 121.360(a) to modify existing equipment that does not meet those standards and has not been installed before the effective date of this amendment, and that the commentator should not have a problem meeting that compliance date. The FAA has determined that requiring the modification or replacement of equipment that has been approved for use under Part 121, and installed before the effective date of this amendment, before January 1, 1977, would not impose an unreasonable burden on any manufacturer or operator.

Another commentator objected to the proposed requirement that, whenever a ground proximity warning system required by § 121.360 is deactivated, an entry shall be made in the airplane maintenance record that includes the date and time of deactivation. The commentator suggests that the requirement serves no useful purpose. The FAA does not agree. The entry will ensure that the safety wire on the deactivation switch is replaced and that system malfunctions are noted.

Two commentators indicated confusion as to whether the ground proximity warning system may be included in the minimum equipment list in the manual of a Part 121 certificate holder. Amendment 121–114 which adopted § 121.360 also added a reference to that section in § 121.303(d)(2), which now prohibits the takeoff of any large turbine-powered airplane being operated under Part 121 unless the ground proximity warning system required by § 121.360 is in operable condition. However, as pointed out in the preamble to Amendment 121–114, § 121.627(c) will allow the continuation of a flight beyond a terminal point with the ground proximity warning system inoperative if the minimum equipment list and procedures for the continuation of flight are included in the certificate holder's manual.

(Sections 313(a), 601, 603, and 604 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423, and 1424. Section 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c).)

In consideration of the foregoing, § 121.360 of Part 121 of the Federal aviation regulations is amended, effective June 5, 1975, to read as follows:

§ 121.360 Ground proximity warning systems.

(a) Except as provided in paragraph (b) of this section, after December 1, 1975, no person may operate a large turbine-powered airplane unless it is equipped with a ground proximity warning system that meets the performance and environmental standards of TSO–C92.

(b) Ground proximity warning systems approved for use under this Part and installed before June 5, 1975 may be used in lieu of equipment that meets the performance and environmental standards of TSO–C92 until January 1, 1977,

except that the requirements of paragraph (c) of this section must be met.

(c) For the ground proximity warning system required by this section, the Airplane Flight Manual shall contain—

(1) Appropriate procedures for—

(i) The use of the equipment;

(ii) Proper flight crew action with respect to the equipment;

(iii) Deactivation for planned abnormal and emergency conditions; and

(2) An outline of all input sources that must be operating.

(d) No person may deactivate a ground proximity warning system required by this section except in accordance with procedures contained in the Airplane Flight Manual.

(e) Whenever a ground proximity warning system required by this section is deactivated, an entry shall be made in the airplane maintenance record that includes the date and time of deactivation.

Issued in Washington, D.C., on May 1, 1975.

JAMES E. DOW,
Acting Administrator.

[FR Doc.75-11959 Filed 5-5-75;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Regulation ER-908; Amdt. 8]

PART 287—EXEMPTION AND APPROVAL OF CERTAIN INTERLOCKING RELATIONSHIPS

Exemption to Interlocking Relationships With Respect to Commercial Lenders

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. April 30, 1975.

Section 287.3a (14 CFR Part 287) of the Economic Regulations exempts air carriers with respect to interlocking relationships involving directors of air carriers who are also directors, officers, or employees of commercial lending institutions which do not lease aircraft to the air carrier,[1] subject, however, to various specified limitations.

In adopting § 287.3a in 1966 the Board provided that the exemption would expire after three years: ER-455, 31 FR 5121. Since experience under the exemption has not disclosed any basis for termination, the Board has already granted four one-year extensions and one two-year extension of the expiration date, to April 30, 1975, and now, for the same reason, has decided to extend again the expiration date of § 287.3a to April 30, 1977. However, this extension is being made without prejudice to any action which the Board may take regarding this rule in the Institutional Control of Air Carriers Investigation.[2]

As this amendment extends the relief provided in the existing regulation, notice and public procedure hereon are unnecessary and the amendment may be made effective upon less than 30 days' notice.

Accordingly, the Civil Aeronautics Board hereby amends § 287.3a effective April 30, 1975, by extending the expiration date from April 30, 1975 to April 30, 1977. As amended, § 287.3a will read as follows:

§ 287.3a Exemption of air carriers with respect to interlocking relationships with commercial lending institutions.

In addition to the exemptions provided in §§ 287.2 and 287.3, and subject to the other provisions of this part, air carriers are hereby relieved from the provisions of section 409(a) of the Act and Part 251 of this chapter with respect to any interlocking relationship between any such air carrier and a commercial lending institution which does not lease aircraft to the air carrier: *provided, however,* That such exemption shall expire on April 30, 1977, and shall extend only to the relationship involving a director of the air carrier who is not an officer or employee of the air carrier or a stockholder holding a controlling interest in the air carrier (or the representative or nominee of any such person) and who is not a member of the commercial lending institution: *provided, further,* That in order to qualify for an exemption under this section air carriers shall file with the Bureau of Operating Rights annual reports on or before April 1 of each year showing for the previous calendar year (a) the names and addresses of all directors of the air carrier who were also directors, officers, or employees of commercial lending institutions; (b) the names and addresses of such commercial lending institutions; and (c) a description of all transactions between the air carrier (and/or its directors, who were also officers or directors of commercial lending institutions) and such commercial lending institutions.

(Secs. 101(3), 204(a), 409, 416; 72 Stat. 737, 743, 768, and 771; 49 U.S.C. 1301, 1324, 1379, and 1386.)

By the Civil Aeronautics Board:

Effective: April 30, 1975.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-11837 Filed 5-5-75;8:45 am]

[Regulation ER-907; Amdt. 41]

PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Surcharge Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. April 30, 1975.

In accordance with established procedure and methodology, the Board, having completed its review of fuel prices for foreign and overseas MAC air transportation services as of April 1, 1975, is herein amending the surcharge provisions in Part 288 of its Economic Regulations (14 CFR Part 288) applicable to the rates established for those services.[1]

Appendices A and B[2] set forth the results of our computations of reported fuel price changes as of April 1, 1975, for both commercial and military fuel, based upon application of the "active stations" methodology to fuel consumption reported for the quarter ended December 31, 1974; and the rate impact of the change in current average fuel prices from that reflected in the base rates. Based on these computations, we will revise the fuel surcharge rates effective May 1, 1975, as follows: (a) Decrease the long-range Category B and Category A rate from 1.13 to 1.01 percent; (b) decrease the Pacific interisland short-range Category B rate from 1.67 to 1.62 percent; and (c) maintain the "all other" short-range Category B rate at 1.79 percent.

In view of the continuing need for a fuel surcharge to the minimum rates set forth in Part 288, we find good cause exists to make the within amendments effective on less than thirty (30) days' notice.

In consideration of the foregoing, the Board hereby amends Part 288 of its Economic Regulations (14 CFR Part 288) effective May 1, 1975 as follows:

1. Amend § 288.7(a) by amending the third proviso following the table to read as follows:

§ 288.7 Reasonable level of compensation.

* * * * *

(a) * * *: *Provided, however,* That effective May 1, 1975, the total minimum compensation pursuant to the rates set forth in paragraph (a)(1) above for (i) services performed with regular jet, wide-bodied jet, and DC-8F-61/63 aircraft, (ii) Pacific interisland services performed with B-727 aircraft, and (iii) all other

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[1] Section 287.4 provides that:

To the extent that any officer, director or member of an air carrier, or stockholder holding a controlling interest in an air carrier (or the representative or nominee of any such person) would, without prior approval of the Board, be in violation of any provision of section 409(a) of the Act, by reason of any interlocking relationship directly involving such air carrier which has been exempted under this part, such relationship is hereby approved for the duration of such exemption.

Section 287.6 provides that the exemption and approval granted by Part 287 "shall not constitute an order made under section 409(a) of the Act within the meaning of section 414 of the Act and shall not confer any immunity or relief from operation of the 'antitrust laws' or any other statute (except the Federal Aviation Act of 1958, as amended) with respect to any interlocking relationship otherwise within the purview of said section 409(a)."

[2] See Orders 74-1-132 and 75-1-35 (Docket 26348).

[1] ER-896, effective January 17, 1975.

[2] Appendices A and B filed as part of the original document.

services performed with B–727 aircraft shall be increased by surcharges of 1.01 percent, 1.62 percent, and 1.79 percent, respectively.[3]

* * * * *

2. Amend § 288.7(d) by amending the proviso to paragraphs (d) (1) and (2) to read as follows:

§ 288.7 Reasonable level of compensation.

* * * * *

(d) For Category A transportation * * *

(1) * * *

(2) * * *

Provided, That effective May 1, 1975, the total minimum compensation pursuant to the rates specified in paragraphs (d) (1) and (2) of this section shall be increased by a surcharge of 1.01 percent.

* * * * *

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

By the Civil Aeronautics Board:

Effective date: May 1, 1975.

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

[FR Doc.75-11838 Filed 5-5-75;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2654]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Grand Furs, Ltd. et al.

Subpart—Advertising falsely or misleadingly: § 13.73 Formal regulatory and statutory requirements; § 13.73–10 Fur Products Labeling Act; § 13.205 Scientific or other relevant facts. Subpart—Invoicing products falsely: § 13.1108 Invoicing products falsely; § 13.1108–45 Fur Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1212 Formal regulatory and statutory requirements; § 13.1212–30 Fur Products Labeling Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 Formal regulatory and statutory requirements; § 13.1623–30 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 Formal regulatory and statutory requirements; § 13.1852–35 Fur Products Labeling Act; § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f.)

In the Matter of Grand Furs, Ltd., a Corporation, and Harry Brown, Individually and as an Officer of Said Corporation.

Consent order requiring a Las Vegas, Nev., furrier, among other things to cease misbranding and falsely invoicing its fur products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:[1]

ORDER

It is ordered, That Grand Furs, Ltd., a corporation, its successors and assigns, and its officers, and Harry Brown, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding any fur product by:

1. Failing to affix a label to such fur product showing in words and in figures plainly legible all of the information required to be disclosed by each subsection of section 4(2) of the Fur Products Labeling Act.

B. Falsely or deceptively invoicing any fur product by:

1. Failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words or figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b) (1) of the Fur Products Labeling Act.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

The Decision and Order was issued by the Commission April 3, 1975.

CHARLES A. TOBIN, *Secretary.*

[FR Doc.75-11786 Filed 5-5-75;8:45 am]

[Docket C-2655]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Health Spa International, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.73 Formal regulatory and statutory requirements: § 13.73–92 Truth in Lending Act; § 13.155 Prices: § 13.155–95 Terms and conditions: § 13.155–95(a) Truth in Lending Act. Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements: § 13.533–20 Disclosures; § 13.533–25 Displays, in-house. Subpart—Misrepresenting oneself and goods—Prices: § 13.1823 Terms and conditions: § 13.1823–20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 Formal regulatory and statutory requirements: § 13.1852–75 Truth in Lending Act; § 13.1905 Terms and conditions: § 13.1905–60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601, *et seq.*)

In the Matter of Health Spa International, Inc. and Concept Enterprises, Inc., Corporations, and Jerry Katz, Individually and as an Officer of said Corporations.

Consent order requiring a Linwood, N.J., health spa and its Cherry Hill, N.J., credit arm, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:[1]

[3] The surcharge provisions for services performed with B–727 aircraft will be applied to all other common-rated aircraft types.

[1] Copies of the Complaint, Decision, and Order, filed with the original document.

[1] Copies of the Complaint, Decision and Order, filed with the original document.

ORDER

It is ordered, That respondents Health Spa International, Inc. and Concept Enterprises, Inc., corporations, their successors and assigns, and Jerry Katz, individually and as an officer of said corporations, and respondents' officers, agents, representatives and employees directly or through any corporation, subsidiary, division or other device in connection with any consumer credit sale or any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to accurately disclose the amount of the downpayment in money made in connection with the credit sale, and to describe that amount as the "cash downpayment" as required by § 226.8(c)(2) of Regulation Z.

2. Failing to accurately disclose the difference between the cash price and the total downpayment, and to describe that amount as the "unpaid balance of cash price" as required by § 226.8(c)(3) of Regulation Z.

3. Failing to accurately disclose the sum of all charges required by § 226.4 of Regulation Z to be included in the finance charge and to describe that amount as the "finance charge" as required by § 226.8(c)(8)(i) of Regulation Z.

4. Failing to accurately disclose, as "total of payments", the sum of the payments scheduled to repay the indebtedness, as required by § 226.8(b)(3) of Regulation Z.

5. Failing to accurately disclose the "deferred payment price" as the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, as required by § 226.8(c)(8)(ii) of Regulation Z.

6. Failing to accurately disclose the annual percentage rate computed in accordance with § 226.5 of Regulation Z, as required by § 226.8(b)(2) of Regulation Z.

7. Failing, in any consumer credit transaction or advertisement, to make all disclosures determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form and amount required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

It is further ordered, That respondent Health Spa International, Inc. prominently display the following notice in two or more locations in that portion of respondents' business premises most frequented by prospective customers, and in each location where customers normally sign consumer credit documents or other binding instruments. Such notice shall be considered prominently displayed only if so positioned as to be easily observed and read by the intended individuals:

NOTICE TO CREDIT CUSTOMERS

IF THE DEALER IS FINANCING OR ARRANGING THE FINANCING OF YOUR PURCHASE, YOU ARE ENTITLED TO CONSUMER CREDIT COST DISCLOSURES AS REQUIRED BY THE FEDERAL TRUTH IN LENDING ACT. THESE MUST BE PROVIDED TO YOU IN WRITING BEFORE YOU ARE ASKED TO SIGN ANY DOCUMENT OR OTHER PAPERS WHICH WOULD BIND YOU TO SUCH A PURCHASE.

It is further ordered, That respondents deliver a copy of this order to cease and desist to each operating division and to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may effect compliance obligations arising out of the order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That no provision of this order shall be construed in any way to annul, invalidate, repeal, terminate, modify or exempt respondents from complying with agreements, orders or directives of any kind obtained by any other agency or act as a defense to actions instituted by municipal or state regulatory agencies. No provisions of this order shall be construed to imply that any past or future conduct of respondents complies with the rules and regulations of, or the statutes administered by the Federal Trade Commission.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

The Decision and Order was issued by the Commission April 11, 1975.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-11787 Filed 5-5-75;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

Correction

On August 2, 1972, in 37 FR 15428, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included Prince Georges County, Maryland, as an eligible community and included Map No. H 245208 49 which indicates that Lot No. 3, Block D, Clover Homes Subdivision, Clinton, Maryland, as recorded in Plat Book WWW 69, Plat No. 12, in the office of the Maryland National Capital Park and Planning Commission, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is within Zone B, and not within the Special Flood Hazard Area. Accordingly, effective August 12, 1970, Map No. H 245208 49 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: April 10, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-11868 Filed 5-5-75;8:45 am]

[Docket No. FI-196]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

Correction

On August 24, 1973, in 38 FR 22776, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the Village of Ridgewood, New Jersey, as an eligible community and included Map No. H 340067 03, which indicates that 311 South Irving Street, Ridgewood, New Jersey, as recorded in Deed Book Volume 5799, Page 220, in the office of the Clerk of Bergen County, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective August 31, 1973, Map No. H 340067 03, is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation

of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: April 11, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-11869 Filed 5-5-75;8:45 am]

[Docket No. FI-211]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

Correction

On September 20, 1973, in 38 FR 26368, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included Washington Township, Ohio, as an eligible community and included Map No. H 390598 01 which indicates that the property at 2563 Redfox Drive, Toledo, Ohio, being Lot Number 2, Raintree Subdivision, Washington Township, Lucas County, Ohio, as recorded in Volume 2400 at Page 29, in the office of the County Auditor, Lucas County, Ohio, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective September 20, 1973, Map No. H 390598 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 11, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-11870 Filed 5-5-75;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

Correction

On October 3, 1970, in 35 FR 15442, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the City of Virginia Beach, Virginia, as an eligible community and included Map No. H 515531 31 which indicates that Lot No. 81, Section No. 2, Lynnhaven Colony, Virginia Beach, Virginia, as recorded in Map Book 37, Page 8 in the office of the Clerk of the Circuit Court, Virginia Beach, Virginia, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is within Zone C, and not within the Special Flood Hazard Area. Accordingly, effective September 8, 1970, Map No. 515531 31 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: April 3, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-11871 Filed 5-5-75;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

Correction

On August 17, 1971, in 36 FR 15532, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the City of Tulsa, Oklahoma, as an eligible community and included Map No. H 405381 16 which indicates that property located at 4017 East 52nd Street, which is Block No. 14, Lot No. 3, of Tanglewood Addition, Tulsa, Oklahoma, as shown on Plat No. 2184 which was filed on December 20, 1957, in the City of Tulsa, Oklahoma, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is within Zone C, and not within the Special Flood Hazard Area. Accordingly, effective November 20, 1970, Map No. H 405381 16 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 8, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-11872 Filed 5-5-75;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

Correction

On August 17, 1971, in 36 FR 15532, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the City of Tulsa, Oklahoma, as an eligible community and included Map No. H 405381 16 which indicates that Block No. 3, Lot No. 5, Southern Hills Manor Addition, Tulsa, Oklahoma, as shown on Plat No. 2003 in the records of the Clerk of Tulsa County, Oklahoma, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of the additional, recently acquired flood information, that the above property is within Zone C, and not within the Special Flood Hazard Area. Accordingly, effective November 20, 1970, Map No. H 405381 16 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 8, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-11873 Filed 5-5-75;8:45 am]

Title 29—Labor

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

PART 1960—SAFETY AND HEALTH PROVISIONS FOR FEDERAL EMPLOYEES

Correction

Pursuant to authority in sections 8(g), 19 and 24 of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1600, 1609, 1614, 29 U.S.C. 657, 668, 673), Secretary of Labor's Order No. 12-71 (36 FR 8754) and the provisions of Executive Order 11807, Part 1960 of Title 29 of the Code of Federal Regulations is hereby amended as set forth below.

A number of typographical and clerical errors appeared in the publication of Part 1960 on October 9, 1974 (39 FR 36454). The purpose of this amendment is to correct the errors in the text of the regulations.

Accordingly, Part 1960 of Title 29, Code of Federal Regulations, is amended as follows:

§ 1960.2 [Amended]

1. Section 1960.2(h) is amended by correcting the series number for Fire

Protection Specialist/Marshal to read "GS-081".

§ 1960.26 [Amended]

2. Section 1960.26(a) is amended by correcting the beginning of the second sentence to read "For workplaces where there is".

§ 1960.28 [Amended]

3. Section 1960.28(a)(3) is amended by correcting the words "official charge" to read "official in charge".

§ 1960.32 [Amended]

4. Section 1960.32 is amended by correcting the words "otheothe rresponsible" in the third sentence to read "other responsible".

§ 1960.50 [Amended]

5. Section 1960.50 is amended by inserting the word "safety" after the word "occupational" in the first sentence.

This amendment is effective May 6, 1975.

(Secs. 8(g), 19, 24, Pub. L. 91-596, 84 Stat. 1600, 1609, 1614, (29 U.S.C. 657, 668, 673), Secretary of Labor's Order No. 12-71 (36 FR 8754), E.O. 11807 (39 FR 35559))

Signed at Washington, D.C., this 29th day of April, 1975.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.75-11820 Filed 5-5-75;8:45 am]

Title 38—Pensions, Bonuses and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 36—LOAN GUARANTY

Interest Rate Change

The Veterans Administration is amending § 36.4212(a) (2) and (3), 36.4311 and 36.4503, Title 38 of the Code of Federal Regulations to increase the maximum allowable interest rates on new loans.

Sections 36.4311 and 36.4503, Title 38 of the Code of Federal Regulations are being amended to increase the maximum interest rate on new guaranteed, insured and direct loans from 8 to 8½ percent. Section 36.4212(a) (2) and (3), Title 38 of the Code of Federal Regulations relating to that portion of a mobile home loan which finances the purchase of a lot and the cost of necessary site preparation is amended to increase the maximum interest rate from 8 to 8½ percent, except for that portion of § 36.4212(a)(3) which relates to loans that do not exceed $2,500 made for site preparation to a lot owned by the veteran where no change is made. Thus, the interest rate on such loans will be consistent with that in effect on other guaranteed and insured loans for real estate purposes. Section 36.4311(a) of the Code of Federal Regulations is further amended to delete reference to non-real estate loans; § 36.4311(b), which governs the interest rate chargeable on non-real estate insured loans is revoked, inasmuch as section 7(a) of Pub. L. 93-569, (88 Stat. 1863) repealed the Veterans Administration authority to guarantee or insure this type of loan.

Compliance with the provisions of § 1.12 of this chapter is waived in this instance. The availability of mortgage funds from the private sector is dependent upon the interest rate being competitive with other available investments. Compliance with § 1.12 would create an acute shortage of mortgage funds pending the effective date of the amendments, which would necessarily be more than 30 days after it was published in proposed form.

1. In § 36.4212, paragraph (a)(2) and (3) is revised to read as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to April 28, 1975.

* * * * *

(2) 8½ percent simple interest per annum for that portion of the loan which finances the purchase of a lot and the cost of necessary site preparation, if any.

(3) 8½ percent simple interest per annum on that portion of a loan which will finance the cost of the site preparation necessary to make a lot owned by the veteran acceptable as the site for the mobile home purchased with the proceeds of the loan except that a rate of not to exceed 12 percent may be charged if the portion of the loan to pay for the cost of such necessary site preparation does not exceed $2,500.

* * * * *

2. Section 36.4311 is revised to read as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 8½ per centum per annum, effective April 28, 1975, the interest rate on any loan guaranteed or insured wholly or in part on or after such date may not exceed 8½ per centum per annum on the unpaid principal balance.

(b) Interest in excess of the rate reported by the lender when requesting evidence of guaranty or insurance shall not be payable on any advance, or in the event of any delinquency or default: *Provided*, That a late charge not in excess of an amount equal to 4 percent on any installment paid more than 15 days after due date shall not be considered a violation of this limitation.

3. In § 36.4503, paragraph (a) is revised to read as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after December 31, 1974, shall not exceed an amount which bears the same ratio to $25,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $17,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Loans made by the Veterans Administration shall bear interest at the rate of 8½ percent per annum.

* * * * *

These VA Regulations are effective April 28, 1975.

Approved: April 24, 1975.

[SEAL] R. L. ROUDEBUSH,
Administrator.

[FR Doc.75-11785 Filed 5-5-75;8:45 am]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER H—TRAINING

PART 310—MERCHANT MARINE TRAINING

Subpart A—Regulations and Minimum Standard for State Maritime Academies and Colleges

Notice is hereby given that Subpart A of Part 310, Title 46, Code of Federal Regulations, is hereby amended. Subpart A currently provides, in part, that cadets at The Great Lakes Maritime Academy, to satisfy the requirement of 9 months sea training time, must spend 6 months aboard Great Lakes commercial vessels and 3 months aboard a schoolship in a cruise status. The amendment provides greater flexibility in the manner in which a cadet at The Great Lakes Maritime Academy may satisfy the requirement of 9 months sea training time.

Subpart A of Part 310, Title 46, Code of Federal Regulations, is amended as follows:

By revising the fourth sentence of paragraph (c)(1) of section 310.3 to read as follows:

§ 310.3 Schools and courses.

* * * * *

(c) *Curriculum.*—(1) * * * For the cadets at The Great Lakes Maritime Academy, 6 months of the time must be aboard Great Lakes commercial vessels and an additional 3 months must be aboard either a schoolship in a cruise status or Great Lakes commercial vessels while underway. * * *

* * * * *

Effective Date: May 6, 1975.

AUTHORITY: Sec. 8, Maritime Academy Act of 1958 (46 U.S.C. 1387), Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840) as amended by Pub. L. 91-469 (84 Stat. 1036), Department of Commerce Org. Order 10-8 (38 FR 19707, July 23, 1973).

Catalog of Federal Domestic Assistance Program No. 11-506 State Marine Schools.

Dated: April 30, 1975.

By Order of the Assistant Secretary of Commerce for Maritime Affairs:

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.75-11861 Filed 5-5-75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 19690; RM-2003; RM-2062; RM-2027; RM-2068; RM-2046; RM-2085; RM-2051; RM-2097; RM-2054; RM-2098; RM-2057; RM-2100; RM-2058; RM-2002; RM-2144; RM 2160; RM-2039; RM-2194]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations; Table of Assignments

In the Matter of Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations (Wilmington, Ill.; Many, La.; Moyock, N.C.; Lake Providence, La.; Newton, Miss.; Bay Springs, Miss.; York, Ala.; Rehoboth Beach, Del.; Canton, Tex.; Brandon, Miss.; Southport, N.C.; Harrison, Mich.; Greenfield, Mo.; Belhaven, N.C.; Ruston, La.; Shreveport, La.; Berhany Beach, Del.; and Alexandria and Ferriday, La.).

1. On March 6, 1975, the Commission released its Second Report and Order in the proceeding FCC 75-248, (40 FR 11354). Inadvertently part of paragraph 8 was omitted. Included in the omitted material was the effective date for the rule changes and this needs to be supplied to avoid any confusion on this score.

2. Accordingly, pargaraph 8 is corrected to read:

8. Accordingly, *it is ordered*, That effective April 11, 1975, and pursuant to the authority contained in sections 4(i), 303 (g) and (r), and 316 of the Communications Act of 1934, as amended, § 73.-202(b) of the Commission's rules as it pertains to the listed communities is amended to read as follows:

§ 73.202 Table of Assignments.

City:	*Channel No.*
Alexandria, La	226, 245, 262
Ferriday, La	296A
Many, La	296A
Ruston, La	298

Released: April 28, 1975.

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

[FR Doc.75-11761 Filed 5-5-75;8:45 am]

[Docket Nos. 20121; RM-2252; RM-2339; RM-2301; RM-2352; RM-2309; RM-2355; RM-2310; RM-2366; RM-2311; RM-2367; RM-2321; RM-2373; RM-2445.]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations; Table of Assignments

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Fairfield, Ia.; Mayville, N.D.; Eldon, Mo.; Crete, Nebr.; Hurricane, W. Va.; Patterson, N.Y.; Sauk Centre, Minn.; Appomatox, Va.; Warren, Ark.; Gatesville, Tex.; Batesville, Ind.; and Otsego, Mich.)

1. In a First Report and Order in this proceeding released December 17, 1974 (FCC 74-1401, 39 FR 45263), the Commission disposed of all the matters before it except RM-2367 and RM-2445, which pertain to the proposed assignment of Class A Channel 276A or 280A to Batesville, Indiana, as discussed below. Comments were first invited on the proposal in our notice of proposed rule making released in this proceeding on July 29, 1974 (39 FR 28444).

2. Batesville, Indiana. RM-2367. On April 11, 1974, Batesville Broadcasting Company filed a petition proposing the assignment of Channel 276A to Batesville, Indiana. Batesville (population 3,799)[1] is located in two counties, Ripley (population 21,138) and Franklin (16,943). Of the Batesville population, 3,469 reside in Ripley County and the remainder reside in Franklin County. In the notice of proposed rule making we set out information pertaining to the need for a first FM assignment to Batesville and will not repeat it here. There is no local broadcast transmission service in Batesville or in Ripley or Franklin Counties.

3. In response to the notice of proposed rule making, a counterproposal (RM-2445) to assign Channel 280A in lieu of Channel 276A to Batesville was filed by Mid America Radio, Inc., licensee of FM Station WXTZ (Channel 277), Indianapolis, Indiana (WXTZ).

4. Batesville Broadcasting in reply comments urged rejection of WXTZ's counterproposal to assign Channel 280A to Batesville. It contended that Channel 276A would allow use of a transmitter site closer to Batesville which would be more economically feasible and readily accessible. Batesville Broadcasting argued that WXTZ wanted a greater protection by preventing a Batesville station from operating on the adjacent channel, and that WXTZ had failed to provide support for its claim of interference in Indianapolis. The counterproposal of WXTZ raised a number of issues which could not be resolved without additional information.

5. On February 12, 1975, the Commission adopted a Request for Supplemental Information requesting the following information: (1) Actual population residing in the area within the Indianapolis city limits but beyond the present 70 dBu contour of WXTZ; (2) areas and population within the present and proposed 60 dBu contours of WXTZ; and (3) the areas and population within the 60 dBu contours for proposed Channel 276A and for the suggested Channel 280A Batesville assignments.

6. Comments were filed by Batesville Broadcasting Company stating that it investigated the likelihood of obtaining airspace clearance for a tower at its assumed site for Channel 276A and found that airspace problems at that location will not permit the use of that site. It therefore states that it is constrained to support the request of WXTZ for the assignment of Channel 280A to Batesville. It also adds that, if that channel is assigned, it will promptly prepare and file an application for a new station there.

[1] All population figures are from the 1970 U.S. Census.

7. In comments filed by WXTZ it states that, in view of Batesville Broadcasting's new position, no conflict remains between the parties with regard to which channel ought to be assigned to Batesville, and the Commission should therefore grant the counterproposal of WXTZ to assign Channel 280A to Batesville.

8. In view of the foregoing and since the community of Batesville and the counties of Ripley and Franklin would be provided with their first local broadcast facility, we believe it is in the public interest to assign Channel 280A to Batesville, Indiana. The Canadian Government has given its concurrence to the proposed assignment.

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

10. In view of the foregoing, *it is ordered*, That effective June 6, 1975, § 73.202(b) of the Commission's rules and regulations, the FM Table of Assignments is amended to read as follows for the listed community:

§ 73.202 Table of Assignments.

City:	*Channel No.*
Batesville, Ind	280A

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

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

Adopted: April 23, 1975.

Released: May 1, 1975.

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

[FR Doc.75-11762 Filed 5-5-75;8:45 am]

[Docket No. 20148; RM 2072]

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Auto Alarm Receiver Tolerances

In the Matter of Amendment of Part 83 to specify radio-telegraph auto alarm receiver timing tolerances, add requirements for reception of additional emissions, and to make editorial changes.

1. A notice of proposed rule making in the above-captioned matter was released on August 30, 1974 and published in the FEDERAL REGISTER on September 5, 1974 (39 FR 32150). There were no comments filed within the comment or reply comment periods. Two late filings were, however, made: one by the American Institute of Merchant Shipping (AIMS), and the second by ITT Mackay Marine (ITTM). Because of their interest, they are considered below without regard to their filing date.

2. Both AIMS and ITTM point out that many presently installed auto alarms of the digital type will require modification to be brought into compliance with proposed § 83.554(a)(1)(b). They suggest these modifications be

staggered over the course of the next year and, where feasible, be effectuated at some time before or during the Commission's annual detailed inspection. The suggestion has merit from the points of view both of scheduling the facilities available for making the needed modifications to the equipment, and of avoiding the incurring of needless expense to the steamship companies. Accordingly the regulations will be modified to reflect this change.

3. Both AIMS and ITTM feel that adequate time should be allowed for developing, manufacturing and type approving the newer auto alarms. ITTM proposes that the cutoff date for the new auto alarms be extended to 1 January 1976. Since we are only indirectly concerned here with safety—the primary effect of the tightened specification will be to reduce the number (and inconvenience) of false responses—the cutoff date will be extended as requested and the proposed regulation amended.

4. AIMS also seeks information as to whether a completely new type approval of the modified units will be required. Since the proposed changes involve only the timing circuitry and not the radio circuitry, since in any case the system concepts and circuitry were not changed, only the values of certain components being altered, it is believed that a fresh type approval de novo would serve no useful purpose in these cases. Accordingly, all that will be required will be a request for amendment, without test, of the existing type approval.

5. AIMS further suggests that the whole matter of auto-alarm timing tolerances be referred to a government-industry forum prior to any modification of existing requirements. In response it may be said that the tolerance question has been the subject of continued discussions going back at least to 1952 when it was reported on by the Radio Technical Commission for Marine Services' Special Committee No. 15. Since that time there have been many requests from the shipping industry for relief from the burden of false responses (e.g. Pacific Far East Line, Inc. dated October 6, 1972; Prudential-Grace Lines, November 13, 1972; American Institute of Merchant Shipping, November 30, 1972) as well as many discussions and meetings with interested parties. In fact this action has itself been undertaken largely in response to requests by the industry and in coordination with their representatives.

6. Furthermore, and the whole history of these meetings makes this clear, the matter is not essentially controversial, neither technically nor, for that matter, politically. From an engineer's point of view, this rule making is no more than a technical rectification. Just as an editor will enclose an appositive phrase in commas where his text lacks them through inadvertence or negligence, so an engineer will introduce tolerances into his text where they have been omitted through a similar inadvertence or negligence. It was for this reason that none of the meetings that were held between industry and the Commission ever felt the need to address any but the unique problem: What tolerances is present-day equipment actually capable of meeting, and how shall we write these tolerances into the regulations?

7. In effect, the only basic policy decisions taken in the present action were: 1) To stand firm for the full measure of the safety signal while yielding a small amount on the false responses, since the physical world is such that they cannot both be fully accommodated; and 2) To choose tolerances well within the state of the art that, at no great additional expense, would grant relief to those shipowners to whom a high incidence of false responses had become burdensome.

8. ITTM, finally, suggests that there is no need for any modification at all, that, had digital techniques been widely known at the time, the question of clock tolerance would have been overlooked and any values (within the tolerances, of course) would have been found equally acceptable. But this is exactly the point at issue. At the time of the drafting of the Safety Convention, everyone knew about tolerances; it was just that they felt then, about their 1930's equipment, no differently than ITTM does today about its new equipment, namely, that in view of the electronic marvels the equipment embodied, the question of tolerances was too unimportant to be worth bothering about. The result is that forty years later it has come back to haunt us. By making the new requirements clear and unequivocal, we can expect that that ghost, at least, may finally be laid to rest.

9. In order to make clear for the record that the timing values of proposed §§ 83.554(1)(i) and 83.554(1)(i)(*b*) are not arbitrary, and to explain just why they were chosen, the Annex[1] to the notice of proposed rule making in this docket is herewith made an integral part of this Report and Order.

10. The letter from Pacific Far East Line, Inc., referred to above inaugurated a rule making (RM 2072) which is effectively satisfied by the present action. Its disposition is accordingly associated with this docket.

11. For the reasons set forth in the foregoing paragraphs, it is ordered, pursuant to the authority contained in sections 4(i) and 303 (e) and (r) of the Communications Act of 1934, as amended, that effective June 6, 1975 Part 83 of the Commission's rules are amended as set forth below.

12. *It is further ordered*, That the proceedings in Rulemaking 2072 are herewith *terminated*.

13. *It is further ordered*, That the proceedings in Docket No. 20148 are *terminated*.

[1] Annex filed as part of the original document.

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

Adopted: April 23, 1975.

Released: May 1, 1975.

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

Part 83 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

In § 83.554(a), the introductory text and subparagraphs (1)(i), (1)(ii), (2)(i)(a), and (5)(i) are amended to read as follows:

§ 83.554 Requirements for radiotelegraph auto alarm.

(a) To be type approved by the Commission pursuant to section 3(x) of the Communications Act subsequent to July 1, 1975, radiotelegraph auto alarms shall comply with the following requirements:

(1) *Basic technical requirements.* (i) The auto alarm shall be capable of being operated by four consecutive dashes when the dashes vary in length from 6.0 to 3.5 seconds, and the intervening spaces vary in length between 1.5 seconds and 10 milliseconds. It shall not respond to dashes longer than 6.31 seconds or shorter than 3.33 seconds, nor to spaces longer than 1.58 seconds or shorter than 5 milliseconds except as follows:

(*a*) Auto alarms of the non-digital type employing resistance-capacitance timing covered by type approval granted before October 1, 1969, and placed in service on or before January 1, 1975, need only satisfy the following less stringent rejection limits: the auto alarm shall not respond to dashes longer than 7.40 seconds or shorter than 2.80 seconds, nor to spaces longer than 1.80 seconds or shorter than 5 milliseconds.[1] This exception shall not continue in effect after July 1, 1980.

(*b*) Auto alarms of the digital type employing a stable clock as the basic timing device covered by type approval granted before May 1, 1968, and placed in service on or before December 1, 1975, may be permitted additionally to accept dashes whose lower limit extends beyond 3.33 seconds down to 3.0 seconds.[1] This exception shall not continue in effect after July 1, 1980. Auto alarms installed before * * * (the effective date of this Report and Order), shall demonstrate compliance with this subsection during their first detailed annual inspection subsequent to that date.

(ii) In the absence of interference of any kind, without manual adjustment during operation, the auto alarm shall be

[1] The acceptability of an auto alarm during field inspection under the limits specified in this exception will be determined in the absence of interference of any kind.

capable of positive and reliable operation with a minimum available signal of 100 microvolts RMS from the antenna circuit. It shall be capable under these conditions of operation on signals of the following classes of emission:

(a) A1;

(b) A2 (carrier modulated at any given modulation percentage from 30 to 100 percent at any given modulation frequency from 300 to 1350 hertz, inclusive);

(c) A2H (carrier keyed and emitted at any given power level from 3 to 6 decibels below peak envelope power, modulated at any given modulation frequency from 300 to 1350 hertz, inclusive).

* * * * *

(2) *Requirements as to construction.* (i) * * *

(a) A radio receiver capable of receiving emissions of classes A1, A2, and A2H over the entire frequency range 492 to 508 kHz inclusive.

* * * * *

(5) *Requirements as to laboratory tests.* (i) The following tests shall be conducted by the Commission's Laboratory at Laurel, Maryland, and shall be at the expense of the manufacturer or person submitting the auto alarm for approval, in the amounts specified in section 1.1120 of the Commission's rules for the application filing fee and grant fee, respectively, plus shipping charges. The tests will be conducted using signals with A1, A2, and A2H emission, with modulation percentages and modulation frequencies as described in the following paragraphs, with the auto alarm connected to an artificial antenna consisting of a 20 microhenry inductance, a 500 picofarad capacitor, and a 5 ohm resistor connected in series. The receiver will be tested with its internal sensitivity control (if provided) set at maximum sensitivity, except where otherwise specified herein. The signal levels specified herein refer to the RMS value of signal present at the signal generator output terminal without external loading.

(a) Test of sensitivity of the auto alarm at the radio frequency 500 kHz to determine operation of the aural warning device.

(1) Measurements of minimum radio frequency signal input, keyed with alarm signal, 30 percent modulated with 300 Hz tone, required to operate aural warning device.

(2) Test of operation using 100 microvolts radio frequency input, keyed with alarm signal, 30 percent modulated with 300 Hz tone.

(3) Test of operation using 1 volt radio frequency input, keyed with alarm signal, 30 percent modulated with 300 Hz tone.

(4) Repeat of tests as in paragraph (a) (5) (i) (a) (1), (2), and (3) of this section, 30 percent modulated with 1350 Hz tone.

(5) Repeat of tests as in paragraph (a) (5) (i) (a) (1), (2), (3) and (4) of this section, with 100 percent modulated signal.

(b) Test to determine operation of aural warning device from a 100 microvolts alarm signal, 30 percent modulated with a 300 hertz tone transmitted on any radio frequency or frequencies selected by the Commission from 492 to 508 kHz, inclusive.

(c) Test of auto-alarm operation with internal receiver sensitivity control (if provided) set at minimum setting at which 100 microvolts input on the radio frequency 492 kHz will operate aural warning device with simultaneous inputs of 100 microvolts auto-alarm signal, 30 percent modulation with an 800 hertz tone on 492 kHz and 200,000 microvolts, (800 hertz modulation) unkeyed signal on the frequency 350 kHz; similar test with the same alarm signal and a 25,000 microvolts, (800 hertz modulation) unkeyed signal on the frequency 460 kHz; similar test with internal receiver sensitivity control (if provided) set at minimum setting at which 100 microvolts input on the frequency 508 kHz will operate aural warning device with simultaneous input of unkeyed signal on the frequency 540 kHz at 25,000 microvolts; and similar test with this latter signal on the frequency 650 kHz at 200,000 microvolts.

(d) Test of selector response to and rejection of dashes and spaces as provided in section 83.554(a) (1) (i). The tests will be made on the radio frequency 500 kHz with any input from 100 microvolts to 1 volt, RMS: A1, A2, and A2H emission at any modulation from 30 to 100 percent, and any modulation frequency from 300 to 1350 Hz.

* * * * *

[FR Doc.75-11764 Filed 5-5-75;8:45 am]

[Docket No. 20273]

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Mandatory VHF Requirements

In the Matter of Amendment of Part 83 of the rules to implement the mandatory VHF requirements of the Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973.

1. A notice of proposed rule making in the above-captioned matter was released on December 19, 1974, and was published in the FEDERAL REGISTER on December 20, 1974 (39 FR 44039). The dates for filing comments and reply comments thereto have passed.

2. Comments were filed by Lorain Electronics Company (LORAIN), Central Committee on Telecommunications of the American Petroleum Institute (API), The Great Lakes Towing Company (GLTC), Twin City Barge and Towing Company (TC) and Lake Carriers Association (LCA). The comments submitted by LCA were never received in the Commission. However, the staff was apprised of this submission and received an information copy, at a date too late to make available to the public during the comment period, therefore, we are considering LCA comments as submitted.[1]

3. LORAIN suggested that the language in § 83.542(c) (2) was unclear as to whether the artificial load is to be used in place of the transmitter or the output of the transmitter is to be terminated in an artificial load. We are correcting the punctuation to clarify the sentence. LORAIN stated that the requirement in § 83.549 to report by letter to the Secretary, FCC within 12 hours any failure of the radiotelephone while enroute is imposing an undue burden and is impractical since the turn around time is about eight hours. Any reports received by the Secretary would be several days after the fact and would only be filed for statistical purposes. Our Field Operations Bureau has noted that reports are not being made, therefore, this requirement appears to serve no purpose, and we are deleting this section in its entirety.

4. LORAIN, API and LCA proposed that the requirement for a radio frequency indicator either be deleted or be consistent with those for Bridge-to-Bridge radiotelephone installations contained in § 83.721 of the Commission's rules. We believe that an antenna radio frequency indicator serves an important safety need by providing a fairly simple and reliable means by which a non-technical operator could immediately determine whether the transmitter is radiating energy. We do not believe that a device such as a pilot lamp or meter which provides for a continuous visual indication that the transmitter control circuits have been placed in a condition to activate the transmitter provides this reliable indication that the transmitter is radiating energy. We are proposing to amend § 83.528 of the Commission's rules applicable to stations subject to Title III, Part III of the Communications Act of 1934, as amended. It would be desirable to specify the same requirements for transmitters used to comply with Title III, Part III of the Communications Act and the Great Lakes Radio Agreement. We are, therefore, reserving action in this matter and including this requirement in the new matter of the antenna radio frequency indicator to be released in the near future.

5. In addition to associating itself with LORAIN, LCA urged that the requirement for a four hour capacity for the auxiliary source of energy be reduced to a two hour capacity. LCA states that the GLA makes no requirement for an auxiliary source of energy and the previous Commission's rules required a two hour capability for cargo vessels of over 1000 gross tons. LCA knows of no experience which would justify a four hour capability. LCA feels that certain operational benefits could accrue in terms of enhanced portability and effectiveness for an adequate but appropriate requirement for auxiliary power and emergency use of the radiotelephone equipment. In promulgating the existing requirement for an auxiliary source of energy with a two hour requirement on cargo vessels of over 1000 gross tons, we considered the routes of the voyages of

[1] LCA comments are similar to those submitted by LORAIN except for auxiliary source of energy which is discussed in Para. 5.

Great Lakes vessels, the proximity of other vessels and the numerous public coast and U.S. Coast Guard stations with which to communicate in the event of a distress. The routes of the voyages and other circumstances stated above remain the same, therefore, it is not necessary to increase the requirement to four hours, and § 83.545(a) will be amended accordingly.

6. We have considered the impact of the requirement for an auxiliary source of energy on vessels of less than 1000 gross tons which previously were not required to have an auxiliary source of energy and the large number of vessels which will become subject to the GLA after May 6, 1975. The majority of these vessels are small passenger ferry vessels navigated on short voyages usually within 2 or 3 miles from shore or small tugs of less than 300 gross tons. The small size of these vessels usually does not permit installation of the auxiliary source of energy on the bridge deck or at least one deck above the main deck. Upon consideration of the routes of the voyages and the small size of the vessel, it appears that it would be unreasonable to require these small vessels to install an auxiliary source of energy. We are, therefore, amending § 83.545(a) to require an auxiliary source of energy on all passenger vessels of more than 100 gross tons and on all cargo vessels of more than 300 gross tons.

7. GLTC operates a fleet of 45 tugs on the Great Lakes and principally in the harbors of United States ports. GLTC has no objection to the rules as proposed where applicable to the tugs which operate outside of the harbor with live-aboard crews. They also requested clarification of whether the tugs operating solely within the harbor are subject to GLA when towing vessels which have radiotelephone installations complying with the GLA. Section 83.536(a) states that every vessel 65 feet or over in length shall comply with this Subpart when navigated on the Great Lakes. Section 83.536(b)(2) excepts towing vessels where the vessel towed complies with this Subpart. In the event that the tug is less than 65 feet, it is not subject.

8. GLTC requested that "booming ground" be defined. A "booming ground" as used in this Subpart is the area in which logs are confined. This explanation will be added to § 83.536(b)(3).

9. The GLA requires that a daily demonstration be made that the radiotelephone equipment is in proper operating condition for an emergency. This may be done by either normal use or by a test conducted by a qualified person. In our proposal, we designated a test on a required frequency, which will not clearly indicate that the equipment is in proper operating condition for an emergency. We are amending § 83.548 to designate emergency frequency 156.8 MHz as the frequency to be used for tests.

10. In § 83.545(b) we inadvertently overlooked including § 83.541 as one of the sections with which an auxiliary radiotelephone installation provided in lieu of an independent source of energy must comply. An independent source of energy would provide power to the radiotelephone at the principal operating position. The auxiliary radiotelephone installation must be able to provide the same operating capability as the main radiotelephone when there is a failure of the primary power, therefore, we are adding this requirement to § 83.545(b).

11. The Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973, provides that the Agreement shall become effective May 6, 1975, and we consider this international agreement provision as controlling. Therefore, we will order these changes to be effective on that date, which is less than 30 days from the release date of this report and order, notwithstanding the provision in 5 U.S.C. 553(d) that changes of a substantive rule shall be made not less than 30 days before the effective date of the change.

12. Accordingly, *it is ordered*, That, pursuant to the authority contained in the Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973, and in section 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 83 of the Commission's rules is amended effective May 6, 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: April 23, 1975.

Released: May 1, 1975.

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

Part 83 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 83.157(a) and headnote are amended to read as follows:

§ 83.157 Licensed operators required by Great Lakes Radio Agreement.

(a) For the purpose of complying with Article VII, paragraph 1 of the Great Lakes Radio Agreement, there shall be on board each United States vessel when underway and subject to the Great Lakes Radio Agreement, as an officer or member of the crew, at least one person who shall hold a radiotelephone third-class operator permit or higher class of authorization.

* * * * *

2. Section 83.206 is amended to read as follows:

§ 83.206 Watch required by the Great Lakes Radio Agreement.

Each ship of the United States which is equipped with a radiotelephone installation for compliance with the Great Lakes Radio Agreement shall, when underway and subject to said Agreement, keep a continuous and effective watch on 156.8 MHz whenever such installation is not being used for authorized traffic. Such watch shall be maintained by at least one officer or member of the crew designated to do so. The person designated by the master may simultaneously perform other duties relating to the operation or navigation of the vessel, provided such other duties do not interfere with the effectiveness of the watch.

3. Sections 83.368 (a) and (c) are amended to read as follows:

§ 83.368 Radiotelephone station log.

(a) A station log shall be maintained during the hours of service of ship stations using radiotelephony, in which the entries required by this section shall be made. Pages of the log shall be numbered in sequence and each page shall include the name of the vessel and the radio call sign of the station. All entries which show transmitter operation shall be made and signed by the licensed operator (or other person in accordance with § 83.155). Watch entries, and signatures of each person keeping the required watch, shall be so related that they constitute a certification by each such person as to when he began and ended each period of his watch during the voyage. The date and time of each occurrence or incident required to be entered in the log shall be shown opposite the entry, and the time shall be counted from 0000 to 2400 beginning at midnight. Stations on board vessels engaged on international voyages, other than on the Great Lakes or inland waters, shall use Greenwich mean time (G.m.t.); stations on board vessels navigated on the Great Lakes and subject to the Great Lakes Agreement shall use Eastern Standard Time (e.s.t.); other stations may use G.m.t. or local standard time. The appropriate symbol, G.m.t., e.s.t., c.s.t., p.s.t., etc., shall be entered at the head of the column in which time is entered.

* * * * *

(c) The log of ship stations subject to the Great Lakes Agreement shall include these entries specified by subparagraphs (1), (5), (6), (7), (9), and (10) of paragraph (b) of this section, and in addition shall include the name and radio license number of each operator actually on board and designated by the master to operate the radiotelephone installation.

* * * * *

§ 83.536 Applicability to vessels.

The Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973, applies to vessels of all countries when navigated on the Great Lakes. The Great Lakes Agreement defines the Great Lakes as "all waters of Lakes Ontario, Erie, Huron (including Georgian Bay), Michigan, Superior, their connecting and tributary waters and the River St. Lawrence as far east as the lower exit of St. Lambert Lock at Montreal in the Province of Quebec, Canada." A vessel to which the Great Lakes Agreement applies and which falls into the specific categories of paragraphs (a), (b) or (c) of this section and not

excepted by paragraphs (d) or (e) of this section shall comply with this subpart while navigated on the Great Lakes.

(a) Every vessel 65 feet or over in length (measured from end to end over the deck, exclusive of sheer).

(b) Every vessel engaged in towing another towing vessel or floating object, except:

(1) where the maximum length of the towing vessel, measured from end to end over the deck exclusive of sheer, is less than twenty-six (26) feet and the length or breadth of the tow, exclusive of the towing line, is less than sixty-five (65) feet;

(2) where the vessel towed complies with this subpart;

(3) where the towing vessel and tow are located within a booming ground (the area in which logs are confined); or

(4) where the tow has been undertaken in an emergency and neither the towing vessel nor the tow can comply with this subpart.

(c) Any vessel carrying more than six passengers for hire.

(d) The requirements of the Great Lakes Agreement shall not apply to:

(1) ships of war and troop ships;

(2) vessels owned and operated by any national government and not engaged in trade.

(e) The Commission may, if it considers that the conditions of the voyage or voyages affecting safety (including but not necessarily limited to the regularity, frequency and nature of the voyages, or other circumstances) are such as to render full application of the Great Lakes Agreement unreasonable or unnecessary, may exempt partially, conditionally or completely any individual vessel for one or more voyages or for any period of time not exceeding one year.

§ 83.537 Survey and certification.

Each vessel of the United States subject to the Great Lakes Agreement shall have a periodic survey of the required radiotelephone installation not less than once every twelve months; however, a one month extension of a certificate issued by the Commission may be granted by Commission inspection personnel in order to allow for more flexibility in their inspection workload. This survey shall be made while the vessel is in active service or within not more than one month before the date on which it is placed in service. A Great Lakes Agreement Radiotelephony Certificate will be issued to vessels found, as a result of the periodic survey, to be in compliance with the Agreement. Such certificate shall be prominently posted at the principal operating position of the required radiotelephone installation.

§ 83.539 Radiotelephone installation.

(a) Each vessel of the United States while subject to the requirements of the Great Lakes Radio Agreement shall be fitted with a radiotelephone in effective operating condition meeting the provisions of this subpart in addition to the provisions of such other rules in this part, governing ship stations using telephony, as are applicable.

(b) The term "radiotelephone installations", for the purposes of the Great Lakes Agreement, means a ship radio station (including the source of power necessary to energize the apparatus) capable of transmitting and receiving speech on at least the following VHF channels:

Channel 16—156.8 MHz—Distress, safety and calling

Channel 6—156.3 MHz—Primary intership

Channel 12—156.6 MHz—

Channel 14—156.7 MHz—

Such other frequencies as are required for their service. Nothing contained in this paragraph shall be construed to require or prohibit the availability of other frequencies by the use of the same "radiotelephone installation" for communication authorized by this part on other frequencies.

(c) Every radiotelephone station shall include one or more transmitters, one or more receivers, one or more sources of electrical energy; and associated antennas and control equipment. The radiotelephone station, exclusive of the antennas and source of electrical energy, shall be located as high as practicable on the vessel, preferably on the bridge, and suitably protected from the harmful effects of water, temperature, electrical and mechanical noise.

§ 83.541 Principal operating position.

(a) The principal operating position of the radiotelephone installation shall be on the bridge, convenient to the conning position.

(b) Where the radiotelephone station is located elsewhere than on the bridge, provision shall be made for operational control of the equipment at that location and at the bridge operating position. However, provision shall be made to take immediate and complete control of the equipment at the bridge operating position.

§ 83.542 Radiotelephone transmitter.

(a) The transmitter shall be capable of effective transmission of F3 emission on the required frequencies, and such other frequencies as are required for their service.

(b) The transmitter shall be of a type which has been demonstrated in the process of type acceptance as being capable of delivering a carrier power of at least 15 watts, but not more than 25 watts, on each of the frequencies 156.8 MHz, 156.3 MHz, 156.6 MHz and 156.7 MHz into 50 ohms effective resistance, when operated with its applied primary supply voltage.

(c) When an individual demonstration of the capability of the transmitter is deemed necessary in the judgment of the Commission, measurements of primary supply voltage and transmitter output power shall be made with the equipment drawing energy only from the ship's battery, in accordance with the following procedures:

(1) The primary supply voltage measured at the power input terminals to the transmitter terminated in a matching artificial load, shall be measured at the end of 10 minutes of continuous, uninterrupted operation of the transmitter at its full power output.

(2) The primary supply voltage, measured in accordance with the procedures of this paragraph, shall be not less than 11.5 volts.

(3) The transmitter output power, measured in accordance with the procedures of this paragraph, shall be not less than 15 watts.

§ 83.543 Radiotelephone receiver.

(a) The receiver used for maintaining the listening watch required by § 83.206 shall be capable of effective reception of F3 emission on the required frequencies.

(b) The receiver shall have a sensitivity of at least two microvolts across 50 ohm or equivalent input terminals, for a 20 decibel signal-to-noise ratio.

§ 83.544 Main source of energy.

(a) A main source of energy of sufficient capacity to energize the radiotelephone installation properly and immediately shall be available at all times while the vessel is subject to the requirements of the Great Lakes Radio Agreement.

(b) Means shall be provided for adequately charging any storage batteries used as a main source of energy, or any part thereof. There shall be provided a device which during charging of the batteries, will give a continuous indication of the rate and polarity of the charging current.

§ 83.545 Auxiliary source of energy.

(a) Each passenger vessel of more than 100 gross tons and each cargo vessel of more than 300 gross tons shall be provided with an auxiliary source of energy independent of the vessel's normal electrical system and capable of properly energizing the radiotelephone installation and illuminating the operating controls at the principal operating position prescribed in § 83.547, for at least two continuous hours under normal operating conditions. When meeting this two hour requirement, such auxiliary source of energy shall be located on the bridge level or at least one deck above the vessel's main deck.

(b) In lieu of the independent source of energy specified in (a) of this section, the vessel may be provided with an auxiliary radiotelephone installation having a power source independent of the vessel's normal electrical system. Any such installation must comply with §§ 83.539, 83.541, 83.542, 83.543, 83.547 and 83.548, as well as the general technical standards contained in this part. Additionally, the power supply for any such auxiliary radiotelephone shall be regarded as an "auxiliary source of energy" for the purposes of paragraphs (c), (d) and (e) of this section.

(c) Means shall be provided for adequately charging any storage batteries used as an auxiliary source of energy, or

any part thereof, for the required radiotelephone installation. There shall be provided a device which, during charging of the batteries, will give a continuous indication of the rate and polarity of the charging current.

(d) Use of the auxiliary source of energy, when required by paragraph (a) of this section, shall be available within one minute after the need for its use.

(e) The station licensee, when directed by the Commission, shall prove by demonstration as prescribed in paragraphs (e)(1), (2), (3) and (4) of this section or by such other means as may be deemed necessary, that the auxiliary source of energy is capable of meeting the requirements of paragraph (a) of this section as follows:

(1) When the auxiliary source of energy consists of or includes a storage battery, proof of the ability of such battery to operate continuously and effectively over the required period of time is authorized to be established by a discharge test over the required period of time, when supplying power at the voltage required for normal and effective operation to an electric load as prescribed by paragraph (e)(3) of this section.

(2) When the auxiliary source of energy consists of or includes an engine-driven generator, proof of the adequacy of the engine fuel supply to operate the unit continuously and effectively over the required period of time may be established by using as a basis the fuel consumption during a continuous period of one hour when supplying power, at the voltage required for normal and effective operation, to an electrical load as prescribed by paragraph (3)(e) of this section.

(3) For the purposes of determining the electrical load to be supplied, the following formula shall be used:

(i) One-half the current consumption of the radiotelephone while transmitting at its rated power output, less one-half the current consumption while not transmitting; plus

(ii) Current consumption of the required receiver; plus

(iii) Current consumption of the source of illumination provided for the operating controls prescribed by § 83.547; plus

(iv) The sum of the current consumption of all other loads to which the auxiliary source of energy may supply power in time of emergency or distress.

(4) At the conclusion of the test specified in paragraphs (e) (1) and (2) of this section, no part of the auxiliary source of energy shall have excessive temperature rise, nor shall the specific gravity or voltage of any storage battery be below the 90 percent discharge point as determined from information (such as voltage curves or specific gravity tables) supplied by the manufacturer of the type of battery involved.

§ 83.546 Antenna system.

The antenna provided shall be effective, vertically polarized and located as high as practicable on the masts or superstructure of the vessel. The transmission line shall be effective and, to the extent practicable, shall impose a minimum loss.

§ 83.547 Illumination of operating controls.

(a) The radiotelephone shall have dial lights which clearly illuminate the operating controls at the principal operating position.

(b) In lieu of paragraph (a) of this section, a light from an electric source of energy may be provided and permanently arranged to illuminate the operating controls of the radiotelephone at the principal operating position. If an auxiliary source of energy is required to be provided on board the vessel, arrangements shall be provided to permit the use of such source of energy for such illumination within one minute after the need arises for its use.

§ 83.548 Trial of radiotelephone installation.

At least once during each calendar day in which a vessel of the United States is navigated while subject to the Great Lakes Radio Agreement, a test communication on 156.8 MHz to demonstrate that the radiotelephone installation is in proper operating condition shall be made by a licensed operator as required in § 83.157, unless the normal daily use of the equipment demonstrates that this installation is in proper operating condition. Should the equipment be found at any time by a person other than the master not to be in operating condition, the master shall be promptly notified. A record shall be made in the radio station log showing the operating condition of the equipment as determined either by daily normal communication or the daily test communication referred to in this Section, and showing that, if an improper operating condition was found, the master was properly notified thereof.

§ 83.550 Antenna radio frequency indicator. [Reserved]

[FR Doc.75-11763 Filed 5-5-75;8:45 am]

[RM-2506]

PART 87—AVIATION SERVICES

Civil Air Patrol Stations

In the matter of amendment of Part 87 of the rules to provide additional radioteleprinter service to Civil Air Patrol Stations.

1. Section 87.513 of the Commission's rules and regulations, specifies the frequencies and corresponding types of emission available for assignment to Civil Air Patrol (CAP) land and mobile stations. The CAP has requested that F1 emission be authorized on additional frequencies and, in the instances, where F1 emission was assigned and not utilized, that it be deleted.

2. We have been advised that radioteleprinter operations will be scheduled and rigidly controlled so as not to interfere with single sideband (voice) transmissions on these frequencies. Since these frequencies are for the exclusive use of CAP stations and, since F1 emission is presently being utilized on the requested frequencies under Special Temporary Authorization (STA), we conclude that our rules should be amended as indicated below.

3. Since the rule changes affect only the Civil Air Patrol stations, and the action is being taken at its request, we would consequently expect to receive no comments in this matter. Therefore, the prior public notice and effective date provisions contained in the Administrative Procedure Act, 5 U.S.C. § 553, would not serve any practical purpose and are unnecessary.

4. Accordingly, *it is ordered*, That pursuant to authority contained in section 4 (i) and 303 (b), (e), (f), and (r) of the Communications Act of 1934, as amended, Part 87 of the Commission's rules is amended effective May 6, 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: April 23, 1975.

Released: May 1, 1975.

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

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 87.513 is amended to read as follows:

§ 87.513 Frequencies available.

The following frequencies are available for assignment to Civil Air Patrol land and mobile stations within the United States, its territories and possessions, except as otherwise provided in this section:

(a)(1) 2374 kHz, A1, A2, A3 emission, 400 watts maximum power.

(2) 2375.5 kHz (2374.0 kHz carrier frequency), A3A, A3H, A3J emission 1,600 watts maximum power.

(3) 2372.5 kHz (2371 kHz carrier frequency), A3A, A3J emission, 1,600 watts maximum power.

(4) 2372.5 kHz, 1.7 F1 emission,[1] 400 watts maximum power.

(b)(1) 4467.5 kHz A1, A2, A3 emission, 400 watts maximum power.

(2) 4469 kHz (4467.5 kHz carrier frequency), A3A, A3H, A3J emission 1,600 watts maximum power.

(3) 4469 kHz, 1.7 F1 emission,[1] 400 watts maximum power.

(4) 4466 kHz (4467.5 kHz carrier frequency), A3A, A3J emission, 1,600 watts maximum power.

(5) 4466 kHz, 1.7 F1 emission,[1] 400 watts maximum power.

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

See footnotes at end of document.

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

(c) (1) 4507.5 kHz, A1, A2, A3 emission, 400 watts maximum power.

(2) 4509 kHz (4507.5 kHz carrier frequency), A3A, A3H, A3J emission, 1,600 watts maximum power.

(3) 4509 kHz, 1.7 F1 emission,[1] 400 watts maximum power.

(4) 4506 kHz (4504.5 kHz carrier frequency), A3A, A3J emission, 1,600 watts maximum power.

(5) 4506 kHz, 1.7 F1 emission,[1] 400 watts maximum power.

(6) Assignment of the frequencies 4507.5 kHz, 4509 kHz, and 4506 kHz is limited to stations in the following States:

Arizona.	Montana.
Arkansas.	Nebraska.
California.	Nevada.
Colorado.	New Mexico.
Idaho.	North Dakota.
Illinois.	Ohio.
Indiana.	Oklahoma.
Iowa.	Oregon.
Kansas.	South Dakota.
Kentucky.	Texas.
Louisiana.	Utah.
Michigan.	Washington.
Minnesota.	Wisconsin.
Missouri.	Wyoming.

(d) (1) 4585 kHz, A1, A2, A3 emission, 400 watts maximum power.

(2) 4586.5 kHz (4585 kHz carrier frequency), A3A, A3H, A3J emission, 1,600 watts maximum power.

(3) 4586.5 kHz, 1.7 F1 emission,[1] 400 watts maximum power.

(4) 4583.5 kHz (4582 kHz carrier frequency), A3A, A3J emission, 1,600 watts maximum power.

(5) 4583.5 kHz, 1.7 F1 emission,[1] 400 watts maximum power.

(e) (1) 4602.5 kHz, A1, A3 emission, 400 watts maximum power.

(2) 4604 kHz (4602.5 kHz carrier frequency), A3A, A3H, A3J emission, 1,600 watts maximum power.

(3) 4604 kHz, 1.7 F1 emission,[1] 400 watts maximum power.

(4) 4601 kHz (4599.5 kHz carrier frequency), A3A, A3J emission, 1,600 watts maximum power.

(5) 4601 kHz, 1.7 F1 emission,[1] 400 watts maximum power.

(6) Assignment of the frequencies 4602.5 kHz, 4604.0 kHz, and 4601.0 kHz is limited to stations in the following States:

Colorado.	Montana.
Idaho.	Ohio.
Illinois.	Utah.
Indiana.	Wisconsin.
Kentucky.	Wyoming.
Michigan.	

(f) (1) 4630 kHz, A1, A3 emission, 400 watts maximum power.

(2) 4631.5 kHz (4630 kHz carrier frequency) A3A, A3H, A3J emission, 1,600 watts maximum power.

(3) 4631.5 kHz, 1.7 F1 emission[1], 400 watts maximum power.

(4) 4628.5 kHz (4627 kHz carrier frequency) A3A, A3J emission, 1,600 watts maximum power.

(5) 4628.5 kHz, 1.7 F1 emission[1], 400 watts maximum power.

(6) Assignment of the frequencies 4630 kHz, 4631.5 kHz, and 4628.5 kHz is limited to stations in the following States:

Arizona.	New Mexico.
Arkansas.	Oklahoma.
Louisiana.	Texas.

(g) 26.62 MHz, A3 emission, 5 watts maximum power. In the State of Hawaii, A1, A2, A3 emission and 250 watts maximum power is permissible.

(h) 143.9 MHz, A1, A2, A3, F3 emission, 30 watts maximum power.

(i) 148.15 MHz, A2, A3, F3 emission, 50 watts maximum power.

[FR Doc.75-11765 Filed 5-5-75;8:45 am]

[1] When using a direct-printing telegraph system other than 60 words per minute, 5 unit (Start-stop) code, station identification shall be made by means of A1, A3A, or A3J emission.

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 THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 32]

HUNTING

Notice of Proposed Rulemaking

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), and the National Wildlife Refuge System Administration Act of 1965, as amended (80 Stat. 927; 16 U.S.C. S6Bdd), as delegated to the Director, U.S. Fish and Wildlife Service by chapter 2, part 242 of the departmental manual, it is proposed to amend 50 CFR Part 32 by the addition of Barnegat National Wildlife Refuge, New Jersey to the list of areas open to the hunting of migratory game birds.

The Service has evidence suggesting that the hunting of migratory game birds could be permitted on the refuge without detriment to the objectives for which the area was established. An environmental assessment has been prepared concerning this proposed action.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment, to the Regional Director, United States Fish and Wildlife Service, Boston, Massachusetts 02109, on or before June 5, 1975.

Accordingly, it is proposed that § 32.11, List of open areas; migratory game birds, be amended by the following addition:

§ 32.11 List of open areas; migratory game birds.

NEW JERSEY
BARNEGAT NATIONAL WILDLIFE REFUGE

Dated: MAY 1, 1975.

LYNN A. GREENWALT,
Director,
U.S. Fish and Wildlife Service.

[FR Doc.75-11781 Filed 5-5-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 32, 50, 52, 53, 54, 56, 58, 63]

[CGD 73-254]

MARINE ENGINEERING SYSTEMS AND COMPONENTS

Miscellaneous Amendments; Corrections

In the 3 April 1975 issue of the FEDERAL REGISTER (40 FR 14935), the Coast Guard issued a notice of proposed rule making on Marine Engineering Systems. This document makes editorial corrections to that notice of proposed rule making.

On page 14935, in the third column, the word "charpy" is misspelled.

On page 14937, item 20 incorrectly refers to "VHA-23(b)". "VHA" should read "UHA".

On page 14938, item 3b contains a wrong heading, "§ 56.60-2 Ferrous materials". It should read, "§ 56.60-2 Limitations on materials".

Item 45 has a typographical error in the last paragraph, in the center column on page 14938. The sentence "(5) (Reproduce 127.4(c))" should read, "(5) (Reproduce 127.2(c))".

Item 45 also has a typographical error in the last column of page 14938. The Q in "(f) *Weld defect repairs (Reproduces 127.4.11Q*", should be a closing parenthesis making the phrase read, "(Reproduces 127.4.11)".

On page 14939, item 45(i) contains Table 56.70-15. In this table, the phrase "below 0°F. or above" is misplaced. It should be deleted from the general heading and inserted before "750°F." as a column heading.

On the same page, item 47, § 56.85-10 Preheating, paragraph (a) states that preheating is required for Class I, I-L, I-N, II-N and II-L piping when the ambient temperature is below 50°F. "I-N and II-N" should be removed from that list.

On page 14939, in item 47, the word "minimum" has been omitted from table 56.85-10 in two places. It should follow the number 400 which appears by itself twice near the bottom of the table under the heading "Minimum temperature".

Note (10) for table 56.85-10 should read, "heating rate" rather than "heating route".

Finally, items 64 through 66 are repeats of items 61 through 63 and should be deleted.

Dated: April 25, 1975.

J. V. CAFFREY,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.75-11813 Filed 5-5-75;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 577]

[Docket No. 75-10; Notice 1]

DEFECT NOTIFICATION

Proposed Amendments

This notice proposes to amend 49 CFR Part 577, "Defect Notification," to conform to recently-enacted sections 151-160, or Part B, of the National Traffic and Motor Vehicle Safety Act (Pub. L. 93-492, 88 Stat. 1470, October 27, 1974; 15 U.S.C. 1411-1420). The Defect Notification regulations were issued in their present form on January 23, 1973 (38 FR 2215), and amended April 17, 1973 (38 FR 9509).

Manufacturers should note that issuance of implementing regulations is not necessary to make effective these and other Part B provisions regarding notification. Such provisions supersede any inconsistent existing requirements in Part 577.

To avoid any confusion about the application of the proposed requirements, manufacturers should also note carefully the provisions of section 159 in Part B.

Section 159 defines "replacement equipment" as including all vehicle equipment other than original equipment, and defines "original equipment" as equipment installed in or on a vehicle at the time of its delivery to the first purchaser. "Replacement equipment" is thus not restricted to its generally understood meaning of equipment that replaces original equipment. Section 159 also provides that vehicle manufacturers are responsible for furnishing notification and for remedying defects and noncompliances in all original equipment. The NHTSA has received two petitions for rulemaking requesting the promulgation of regulations that would redistribute this responsibility and is considering a notice of proposed rulemaking that would modify to some extent this statutory scheme.

Part B establishes new requirements regarding the methods of mailing notifications and manufacturers' obligations to obtain the names of vehicle and equipment owners. Pursuant to Part B, notification regarding vehicles and original equipment would be required by the proposal to be sent by first class mail to all registered owners whose names can be found through State records or other available sources, such as R. L. Polk & Co. If the name of the registered owner of a vehicle could not be found, the manufacturer would have to notify the most recent purchaser known to him. If the manufacturer did not know a purchaser more recent than the first purchaser, he would notify the first purchaser. In the case of both original and replacement equipment tires, notification would be required to be sent to all first purchasers, by either first class or certified mail at the manufacturer's election.

In the case of replacement equipment other than tires, the most recent purchaser known to the manufacturer would have to be notified, also by first class mail. However, notification by mail of retail purchasers of such equipment may not be possible in many cases, especially

since manufacturers are not required to retain the names of the first purchasers. Accordingly Part B permits the agency to order public notice after consultation with the manufacturer.

The proposed rule specifies requirements for four types of notifications: manufacturer-initiated notification (when a manufacturer makes a defect or noncompliance determination); Administrator-ordered notification (when a manufacturer does not contest a determination by the Administrator); provisional notification (when the manufacturer contests in court the Administrator's determination); and post-litigation notification (when the manufacturer's court contest is unsuccessful).

Each type of notification would have to be sent within specified times. As under existing Part 577, manufacturer-initiated notifications would be required to be sent within a reasonable time after the manufacturer's determination. Provisional notifications would have to be sent within 30 days after the Administrator's order for such notifications. The other two types of notifications would be required to be sent within 60 days after the Administrator's order for their transmittal, unless the Administrator incorporated in his order a determination that a shorter or longer period is in the public interest.

Manufacturer-initiated and Administrator-ordered notifications would be required to begin with a statement that they are sent in accordance with the Vehicle Safety Act, and to contain a statement that the manufacturer or, if appropriate, the Administrator, has determined that a defect or noncompliance exists in certain identified vehicles or items of replacement equipment. As previously proposed (November 25, 1974; 39 FR 41182), the statement of determination would refer to vehicles only in the case of notification sent by a vehicle manufacturer, and to replacement equipment only in the case of notification sent by a replacement equipment manufacturer. The manufacturer could, if appropriate, include an additional statement that he has determined that the defect does not exist in all identified vehicles or items of replacement equipment. This proposal also incorporates the November 25 proposal for requiring that notifications sent to the Commonwealth of Puerto Rico or the Canal Zone be written in both English and Spanish.

The notification would be required to describe the defect or noncompliance, and to evaluate its relationship to safety, in essentially the manner required in existing Part 577. The description of a noncompliance would be required to indicate the difference between the performance of the vehicle or item of replacement equipment and the performance specified in the applicable standard.

Under the proposed rule, a manufacturer required by Part B to remedy without charge would have to state that he will so remedy and indicate whether the remedy will be by repair, replacement, or (except in the case of replacement equipment) refund. A manufacturer is required by Part B to remedy without charge if the vehicle or item of equipment involved, other than a tire, was sold to its first retail purchaser not more than 8 years before a notification concerning the vehicle or equipment is sent or ordered to be sent. The time limit for tires is 3 years.

The notification would indicate the earliest date on which the remedy will be performed. In the case of tires, the last date of remedy without charge would also be stated if the manufacturer decided to limit the period during which such remedy is available. Part B permits him to limit the period to 60 days.

If the manufacturer chose to remedy by repair, he would have to provide general repair information when he intended to perform the repairs through his dealers or any of his other service facilities. More detailed information would have to be provided if he did not intend to use his facilities. This requirement follows existing Part 577 and is intended to assist the making of repairs by service facilities that are not connected with the manufacturer and, therefore, possibly less familiar with the defective or noncomplying product.

Where the manufacturer opted to remedy by replacement, the notification would be required to describe the replacement vehicle or item of equipment. Where the manufacturer opted to remedy by refunding the purchase price, the notification would be required to specify the method by which he would compute the depreciation that Part B permits him to deduct from the amount of refund.

The notification would also contain information apprising the owner that he may complain to the NHTSA if he believes that the notification or the remedy he is offered is inadequate, or that the manufacturer has failed or has been unable to remedy in the manner or within the time specified in the notification. The agency will consider the complaints and determine whether any enforcement or other action is necessary. In making these determinations, the agency may conduct a hearing under section 156 of Part B regarding the reasonableness of the manufacturer's efforts to meet his notification and remedy obligations. Regulations for such hearings will be proposed in the near future.

A manufacturer who would voluntarily remedy without charge would be subject to the same notification requirements as a manufacturer required to so remedy. These requirements are less burdensome, in terms of the amount of information required, than those applicable to manufacturers who do not remedy without charge. Consequently, a manufacturer would be deemed to be voluntarily remedying without charge only if he, in fact, satisfied all of the notification and remedy requirements applicable to manufacturers required to remedy. He would not, therefore, be permitted to establish any conditions or limitations on the remedy that could not be established by a manufacturer required to remedy without charge.

If a manufacturer were not required by Part B to remedy without charge and decided not to do so voluntarily, his notification would have to state that he was not so required. This is to inform owners of the statutory basis of manufacturers' actions, and to eliminate the possible inference that manufacturers are acting arbitrarily. Such manufacturers should note that two different versions of the notification may be necessary when some but not all of the vehicles or equipment involved in a single campaign were first purchased before the applicable statutory cutoff date. One version would be for owners of products first purchased after the cutoff date and, therefore, subject to the remedy requirement. The other would be for owners of products purchased before the date and not subject to the requirement. The manufacturer would, of necessity, be required to determine whether a given owner's vehicle or equipment item was first purchased within the time limits for remedy-without-charge. This burden is placed on the manufacturer since he is more able than individual owners, especially if they are not the first purchasers, to determine the date of first purchase. However, manufacturers could logically avoid the need for drafting different versions, and for determining the owners to which they should be sent, by remedying without charge all vehicles or items of equipment, regardless of age. A similar problem would be encountered, and a similar solution could be used, regarding the other three types of notification.

A manufacturer who did not offer to remedy without charge would also be required to state the extent to which, if at all, he would remedy. The agency anticipates that manufacturers will continue their practice of providing remedy where they are not necessarily required to do so, and will include such information in the notification as a matter of course. It is also anticipated that the manufacturers may in these cases establish such limitations and conditions on the remedy as they deem appropriate and fair. So that the owner will fully understand the extent of the remedy he is being offered, the manufacturer would be required to specify such limitations and conditions, including the cost to the owner of the remedy.

Regardless of whether a limited remedy is offered, the manufacturer would be required to state whether, in his judgment, the vehicle or equipment involved could be repaired. If his conclusion were affirmative, he would be required to provide detailed repair information, including relevant cost information. The NHTSA believes manufacturers should be required to use their expertise to formulate repair procedures concerning vehicles and equipment for which they are responsible under Part B and regulations issued thereunder. The information would be particularly needed when no remedy were offered, or if individual owners did not wish to accept costs or other conditions imposed by manufacturers for a limited remedy.

Under Part B, the Administrator may order a provisional notification to be sent by a manufacturer who contests in Federal District Court a defect or noncom-

pliance determination by the Administrator. The purpose of the notification is to inform owners as quickly as possible of the determination and of the contingency of any remedy-without-charge upon the outcome of the court proceeding. The notification would be required by this proposal to refer to the determination and to the fact that the manufacturer was contesting it. A clear description would have to be provided of the Administrator's basis for his determination, including his evidence and reasoning; of the Administrator's evaluation of the risk to traffic safety; and of the measures that the Administrator believed to be necessary for owners to avoid any unreasonable hazard. The manufacturer would also have to summarize the evidence and reasoning which he relied on in contesting the determination.

Part B provides that a manufacturer who loses a suit in Federal District Court regarding a defect or noncompliance determination will not only be required to remedy-without-charge the vehicle or equipment item, but will also be required to reimburse owners for reasonable and necessary expenses (which may be determined by the Secretary) incurred by the owner in repairing the vehicle before the outcome of the court proceeding, but after the owner's receipt of a provisional notification.

To implement this requirement, it is proposed that the manufacturer be required in the provisional notification to inform the owner about the availability of remedy-without-charge and reimbursement if the Administrator is successful in the court proceeding. A manufacturer required under such circumstance to remedy and reimburse due to the age of the vehicle or equipment would have to state that he will remedy without charge or reimburse the owner. A manufacturer not required to remedy and reimburse would indicate the extent to which he would voluntarily remedy and reimburse, if decided by him at the time he mailed the provisional notification.

To facilitate the obtaining of immediate repairs by recipients of provisional notifications, regardless of the outcome of the court proceeding, the manufacturer would be required to indicate whether, in his judgment, the defect or noncompliance could be remedied by repair. This requirement would apply to the manufacturer even though he would not be required to reimburse the owner, for the reasons, expressed above, that the NHTSA believes manufacturers should use their technical expertise to formulate repair procedures for vehicles and equipment manufactured by them. If the manufacturer believed that repair is possible, he would be required to include a general description of the repair, information on when and where needed parts and instructions will be available, his estimate of the labor time needed, and his recommendation of the service facilities where the owner could have the repairs performed. If the manufacturer were required to reimburse, if the Administrator's determination were upheld, his recommendation would have to include the name of at least one facility for whose repair charges the owner would be fully reimbursed by the manufacturer. The name of such a facility should reduce an owner's concern over costs when he wishes to correct the possible defect or noncompliance prior to the end of the court proceeding. The notification would further inform the owner that he would be advised by the manufacturer if the Administrator were successful in court. The owner would also be given an address to which he could write to obtain from the manufacturer additional information on the notification.

When a manufacturer has contested a defect or noncompliance determination by the Administrator in Federal District Court and the determination is upheld, Part B also requires the manufacturer to send a post-litigation notification on order by the Administrator. This notification would generally contain information similar to that specified for an Administrator-initiated notification, except that it would be required to state that the determination has been upheld by the Federal District Court. If the manufacturer furnished a provisional notification, the post-litigation notification would be required to explain the owner's right to reimbursement for repairs.

The proposed requirements retain existing provisions prohibiting disclaimers. These provisions are viewed by NHTSA as essential if notifications are to motivate owners to have the appropriate remedy made expeditiously. The proposed requirements also carry over the existing requirements indicating that a failure of a notification to conform to this regulation shall be a failure to comply with the applicable provisions of the Vehicle Safety Act.

Interested persons are invited to submit comments on this proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: July 7, 1975.

Proposed effective date: September 1, 1975.

Issued on April 30, 1975.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

In light of the above, it is proposed that Part 577, "Defect Notification," of Title 49, Code of Federal Regulations, be renamed "Defect and Noncompliance Notification" and amended to read as set forth below.

PART 577—DEFECT AND NONCOMPLIANCE NOTIFICATION

Sec.
577.1 Scope.
577.2 Purpose.
577.3 Application.
577.4 Definitions.
577.5 Notification pursuant to a manufacturer's determination.
577.6 Notification pursuant to the Administrator's determination.
577.7 Time and manner of notification.
577.8 Disclaimers.
577.9 Conformity to statutory requirements.

AUTHORITY: Secs. 108, 112, 119, Pub. L. 89-563; 80 Stat. 718; Secs. 102, 103, 104, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1397, 1401, 1408, 1411-1420; delegations of authority at 49 CFR 1.51 and 49 CFR 501.8)

§ 577.1 Scope.

This part sets forth requirements for notification to owners of motor vehicles and replacement equipment about the possibility of a defect which relates to motor vehicle safety or a noncompliance with a Federal motor vehicle safety standard.

§ 577.2 Purpose.

The purpose of this part is to ensure that notifications of defects or noncompliances adequately inform and effectively motivate owners of potentially defective or noncomplying motor vehicles or items of replacement equipment to have such vehicles or equipment inspected and, when necessary, remedied as quickly as possible.

§ 577.3 Application.

This part applies to manufacturers of completed motor vehicles, incomplete motor vehicles, and replacement equipment. In the case of vehicles manufactured in two or more stages, compliance by either the manufacturer of the incomplete vehicle, any subsequent manufacturer, or the manufacturer of affected replacement equipment, shall be considered compliance by each of those manufacturers.

§ 577.4 Definitions.

For purposes of this part:

"Act" means the National Traffic and Motor Vehicle Safety Act of 1966, as amended, 15 U.S.C. 1391 et seq.

"Administrator" means the Administrator of the National Highway Traffic Safety Administration or his delegate.

"First purchaser" means the first purchaser for a purpose other than resale.

"Original equipment" means an item of motor vehicle equipment (including a tire) which was installed in or on a motor vehicle at the time of its delivery to the first purchaser.

"Owner" includes purchaser.

"Replacement equipment" means any motor vehicle equipment (including a tire) other than original equipment.

§ 577.5 Notification pursuant to a manufacturer's determination.

(a) When a manufacturer of motor vehicles or replacement equipment determines that any motor vehicle or item of replacement equipment produced by him contains a defect which relates to motor vehicle safety, or fails to conform to an applicable Federal motor vehicle safety standard, he shall provide notification in accordance with paragraph (a) of § 577.7, unless the manufacturer is exempted by the Administrator (pursuant to section 157 of the Act) from giving such notification. The notification shall contain the information specified in this section. The information required by paragraphs (b) and (c) of this section shall be presented in the form and order specified. The information required by paragraphs (d) through (g) of this section may be presented in any order. Notification sent to an owner whose address is in either the Commonwealth of Puerto Rico or the Canal Zone shall be written in both English and Spanish.

(b) An opening statement: "This notice is sent to you in accordance with the requirements of the National Traffic and Motor Vehicle Safety Act."

(c) Whichever of the following statements is appropriate:

(1) "(Manufacturer's name or division) has determined that a defect which relates to motor vehicle safety exists in (identified motor vehicles, in the case of notification sent by a motor vehicle manufacturer; identified replacement equipment, in the case of notification sent by a replacement equipment manufacturer);" or

(2) "(Manufacturer's name or division) has determined that (identified motor vehicles, in the case of notification sent by a motor vehicle mnaufacturer; identified replacement equipment, in the case of notification sent by a replacement equipment manufacturer) fail to conform to Federal Motor Vehicle Safety Standard No. (number and title of standard)."

(d) When the manufacturer determines that the defect or noncompliance may not exist in each such vehicle or item of replacement equipment, he may include an additional statement to that effect.

(e) A clear description of the defect or noncompliance, which shall include—

(1) An identification of the vehicle system or particular item(s) of motor vehicle equipment affected.

(2) A description of any malfunction that may occur. The description of a noncompliance with an applicable standard shall include the difference between the performance of the noncomplying vehicle or item of replacement equipment and the performance specified by the standard;

(3) A statement of any operating or other conditions that may cause the malfunction to occur; and

(4) A statement of the precautions, if any, that the owner should take to reduce the chance that the malfunction will occur before the defect or noncompliance is remedied.

(f) An evaluation of the risk to motor vehicle safety reasonably related to the defect or noncompliance.

(1) When vehicle crash is a potential occurrence, the evaluation shall include whichever of the following is appropriate:

(i) A statement that the defect or noncompliance can cause vehicle crash without prior warning; or

(ii) A description of whatever prior warning may occur, and a statement that if this warning is not heeded, vehicle crash can occur.

(2) When vehicle crash is not a potential occurrence, the evaluation must include a statement indicating the general type of injury to occupants of the vehicle, or to persons outside the vehicle, that can result from the defect or noncompliance.

(g) A statement of measures to be taken to remedy the defect or noncompliance, in accordance with paragraph (g)(1) or (g)(2) of this section, whichever is appropriate.

(1) When the manufacturer is required by the Act to remedy the defect or noncompliance without charge, or when he will voluntarily so remedy in full conformity with the Act, he shall include—

(i) A statement that he will cause such defect or noncompliance to be remedied without charge, and whether such remedy will be by repair, replacement, or (except in the case of replacement equipment) refund, less depreciation, of the purchase price.

(ii) The earliest date on which the defect or noncompliance will be remedied without charge. In the case of remedy by repair, this date shall be the earliest date on which the manufacturer reasonably expects that dealers or other service facilities will receive necessary parts and instructions. The manufacturer shall specify the last date, if any, on which he will remedy tires without charge.

(iii) In the case of remedy by repair through the manufacturer's dealers or other service facilities:

(A) A general description of the work involved in repairing the defect or noncompliance; and

(B) The manufacturer's estimate of the time reasonably necessary to perform the labor required to correct the defect or noncompliance.

(iv) In the case of remedy by repair through service facilities other than those of the manufacturer:

(A) The name and part number of each part that must be added, replaced, or modified;

(B) A description of any modifications that must be made to existing parts, which shall also be identified by name and part number;

(C) Information as to where needed parts will be available;

(D) A detailed description (including appropriate illustrations) of each step required to correct the defect or noncompliance;

(E) The manufacturer's estimate of the time reasonably necessary to perform the labor required to correct the defect or noncompliance; and

(F) The manufacturer's recommendations of service facilities where the owner should have the repairs performed.

(v) In the case of remedy by replacement, a description of the motor vehicle or item of replacement equipment that the manufacturer will provide as a replacement for the defective or noncomplying vehicle or equipment.

(vi) In the case of remedy by refund of purchase price, the method or basis for the manufacturer's assessment of depreciation.

(vii) A statement informing the owner that he may submit a complaint to the Administrator, National Highway Traffic Safety Administration, Washington, D.C. 20590, if the owner believes that—

(A) The notification or the remedy described therein is inadequate.

(B) The manufacturer has failed or is unable to remedy the defect or noncompliance in accordance with his notification.

(C) The manufacturer has failed or is unable to remedy the defect or noncompliance—

(*1*) (In the case of motor vehicles or items of replacement equipment, other than tires) within a reasonable time, but not longer than 60 days, after the owner's first attempt to obtain remedy following the earliest remedy date specified in the notification.

(2) (In the case of tires) after the date specified in the notification on which replacement tires will be available.

(2) When the manufacturer is not required to remedy the defect or noncompliance without charge and he will not voluntarily so remedy, the statement shall include—

(i) A statement that the manufacturer is not required by the Act to remedy without charge.

(ii) A statement of the extent to which the manufacturer will voluntarily remedy, including the method of remedy and any limitations and conditions imposed by the manufacturer on such remedy.

(iii) The manufacturer's opinion whether the defect or noncompliance can be remedied by repair. If the manufacturer believes that repair is possible, the statement shall include the information specified in paragraph (g)(1)(iv) of this section, except that—

(A) The statement required by paragraph (g)(1)(iv)(A) of this section shall also indicate the suggested list price of each part.

(B) The statement required by paragraph (g)(1)(iv)(C) of this section shall also indicate the manufacturer's estimate of the date on which the parts will be generally available.

§ 577.6 Notification pursuant to Administrator's determination.

(a) *Manufactured-ordered notification.* When a manufacturer is ordered

pursuant to section 152 of the Act to provide notification of a defect or noncompliance, he shall provide such notification in accordance with §§ 577.5 and 577.7, except that the statement required by paragraph (c) of § 577.5 shall indicate that the determination has been made by the Administrator of the National Highway Traffic Safety Administration.

(b) *Provisional notification.* When a manufacturer does not provide notification as required by paragraph (a) of this section, and an action concerning the Administrator's order to provide such notification has been filed in a United States District Court, the manufacturer shall, upon the Administrator's further order, provide in accordance with paragraph (c) of § 577.7 a provisional notification containing the information specified in this paragraph, in the order and, where specified, the form of paragraphs (b) (1) through (b) (10) of this section.

(1) An opening statement: "This notice is sent to you in accordance with the requirements of the National Traffic and Motor Vehicle Safety Act."

(2) Whichever of the following statements is appropriate:

(i) "The Administrator of the National Highway Traffic Safety Administration has determined that a defect which relates to motor vehicle safety exists in (identified motor vehicles, in the case of notification sent by a motor vehicle manufacturer; identified replacement equipment, in the case of notification sent by a replacement equipment manufacturer);" or

(ii) "The Administrator of the National Highway Traffic Safety Administration has determined that (identified motor vehicles, in the case of notification sent by a motor vehicle manufacturer; identified replacement equipment, in the case of notification sent by a replacement equipment manufacturer) fail to conform to Federal Motor Vehicle Safety Standard No. (number and title of standard)."

(3) The statement: "(Manufacturer's name or division) is contesting this determination in a proceeding in a United States District Court and has been required to issue this notice pending the outcome of the court proceeding."

(4) A clear description of the Administrator's stated basis for his determination, as provided in his order, including a brief summary of the evidence and reasoning that the Administrator relied upon in making his determination.

(5) A clear description of the Administrator's stated evaluation as provided in his order of the risk to motor vehicle safety reasonably related to the defect or noncompliance.

(6) Any measures that the Administrator has stated in his order should be taken by the owner to avoid an unreasonable hazard resulting from the defect or noncompliance.

(7) A brief summary of the evidence and reasoning upon which the manufacturer relies in contesting the Administrator's determination.

(8) A statement regarding the availability of remedy and reimbursement in accordance with paragraph (8) (i) or (8) (ii) below, whichever is appropriate.

(i) When the manufacturer is required by the Act to remedy without charge or to reimburse the owner for reasonable and necessary repair expenses, he shall include—

(A) A statement that the remedy will be provided without charge to the owner if the Court upholds the Administrator's determination;

(B) A statement of the method of remedy. If the manufacturer has not yet determined the method of remedy, he shall indicate that he will select either repair, replacement with an equivalent vehicle or item of replacement equipment, or (except in the case of replacement equipment) refund, less depreciation, of the purchase price; and

(C) A statement that, if the Court upholds the Administrator's determination, he will reimburse the owner for any reasonable and necessary expenses that the owner incurs in repairing the defect or noncompliance following a date, specified by the manufacturer, which shall be not later than the date of the Administrator's order to issue this notification.

(ii) When the manufacturer is not required either to remedy without charge or to reimburse, he shall include—

(A) A statement that he is not required to remedy or reimburse, or

(B) A statement of the extent to which he will voluntarily remedy or reimburse, including the method of remedy, if then known, and any limitations and conditions on such remedy or reimbursement.

(9) A statement indicating whether, in the manufacturers opinion, the defect or noncompliance can be remedied by repair. When the manufacturer believes that such remedy is possible, the statement shall include:

(i) A general description of the work and the manufacturer's estimate of the costs involved in repairing the defect or noncompliance;

(ii) Information on where needed parts and instructions for repairing the defect or noncompliance will be available, including the manufacturer's estimate of the day on which they will be generally available;

(iii) The manufacturer's estimate of the time reasonably necessary to perform the labor required to correct the defect or noncompliance; and

(iv) The manufacturer's recommendations of service facilities where the owner could have the repairs performed, including (in the case of a manufacturer required to reimburse if the Administrator's determination is upheld in the court proceeding) at least one service facility for whose charges the owner will be fully reimbursed if the Administrator's determination is upheld.

(10) A statement that further notice will be mailed by the manufacturer to the owner if the Administrator's determination is upheld in the court proceeding; and

(11) An address of the manufacturer where the owner may write to obtain additional information regarding the notification and remedy.

(c) *Post-litigation notification.* When a manufacturer does not provide notification as required in paragraph (a) of this section and the Administrator's order to provide such notification is upheld in a proceeding in a United States District Court, the manufacturer shall, upon the Administrator's further order, provide notification in accordance with paragraph (d) of § 577.7 containing the information specified in paragraph (a) of this section, except that—

(1) The statement required by paragraph (c) of § 577.5 shall indicate that the determination has been made by the Administrator and that his determination has been upheld in a proceeding in a United States District Court; and

(2) When a provisional notification was issued regarding the defect or noncompliance and the manufacturer is required under the Act to reimburse—

(i) The manufacturer shall state that he will reimburse the owner for any reasonable and necessary expenses that the owner incurred in repairing the defective or noncomplying vehicle or item of equipment on or after a date on which provisional notification was ordered to be issued and on or before a date not sooner than the date on which this notification is received by the owner. The manufacturer shall determine and specify both dates.

(ii) The statement required by paragraph (g) (1) (vii) of § 577.5 shall also inform the owner that he may submit a complaint to the Administrator if the owner believes that the manufacturer has failed to reimburse adequately.

(3) If the manufacturer is not required under the Act to reimburse, he shall include—

(i) A statement that he is not required to reimburse, or

(ii) When he will voluntarily reimburse, a statement of the extent to which he will do so, including any limitations and conditions on such reimbursement.

§ 577.7 Time and manner of notification.

(a) The notification required by § 577.5 shall—

(1) Be furnished within a reasonable time after the manufacturer first determines the existence of a defect which relates to motor vehicle safety, or of a noncompliance.

(2) Be accomplished—

(i) In the case of a notification required to be sent by a motor vehicle manufacturer, by first class mail to each person who is registered under State law as the owner of the vehicle and whose name and address are reasonably ascertainable by the manufacturer through State records or other sources available to him. If the owner cannot be reasonably ascertained, the manufacturer shall notify the most recent purchaser known to the manufacturer.

(ii) In the case of a notification required to be sent by a replacement equipment manufacturer—

(A) By first class mail to the most recent purchaser known to the manufacturer, and

(B) (Except in the case of a tire) if determined by the Administrator to be necessary for motor vehicle safety, by public notice in such manner as the Administrator may determine after consultation with the manufacturer.

(iii) In the case of a manufacturer required to provide notification concerning any defective or noncomplying tire, by first class or certified mail.

(b) The notification required by paragraph (a) of § 577.6 shall be provided:

(1) Within 60 days after the manufacturer's receipt of the Administrator's order to provide the notification, except that the notification shall be furnished within a shorter or longer period if the Administrator incorporates in his order a finding that such period is in the public interest; and

(2) In the manner and to the recipients specified in paragraph (a) of this section.

(c) The notification required by paragraph (b) of § 577.6 shall be provided:

(1) Within 30 days after the Administrator's order to issue the notification; and

(2) In the manner and to the recipients specified in paragraph (a) of this section.

(d) The notification required by paragraph (c) of § 577.6 shall be provided:

(1) Within 60 days after the manufacturer's receipt of the Administrator's order for the notification, except that the notification shall be furnished within a shorter or longer period if the Administrator incorporates in his order a finding that such period is in the public interest; and

(2) In the manner and to the recipients specified in paragraph (a) of this section.

§ 577.8 Disclaimers.

(a) A notification sent pursuant to § 577.5 or § 577.6 regarding a defect which relates to motor vehicle safety shall not, except as specifically provided in this part, contain any statement or implication that there is no defect, that the defect does not relate to motor vehicle safety, or that the defect is not present in the owner's vehicle or item of replacement equipment.

(b) A notification sent pursuant to § 577.5 or § 577.6 regarding a noncompliance with an applicable Federal motor vehicle safety standard shall not, except as specifically provided in this part, contain any statement or implication that there is not a noncompliance or that the noncompliance is not present in the owner's vehicle or item of replacement equipment.

§ 577.9 Conformity to statutory requirements.

A notification that does not conform to the requirements of this part is a violation of the Act.

[FR Doc.75-11794 Filed 5-5-75;8:45 am]

COMMISSION ON CIVIL RIGHTS

[45 CFR Part 702]

ATTENDANCE OF NEWS MEDIA AT PUBLIC SESSIONS

Hearing Procedures

Notice is hereby given that the United States Commission on Civil Rights (USCCR) is proposing to amend 45 CFR Part 702, § 702.16—Rules on Hearings and Reports of the Commission.

The proposed amendment deletes the last sentence of the section, renumbers the remaining paragraph (a) and adds a new paragraph (b) setting forth procedures for witnesses to avoid photographic news media coverage.

This amendment is designed to protect a Commission hearing witness from harmful consequences of publicity surrounding his/her testimony. The witness would be required to notify the Office of General Counsel of an intention to object to media coverage, such notice to be given at least forty-eight hours in advance.

The General Counsel would determine whether the request contained sufficient evidence of potential danger to the health or safety, of the witness or to family members of the witness.

All interested persons are invited to submit their comments on this proposed rule change. Two written copies of the comments should be sent to the Office of General Counsel, United States Commission on Civil Rights, 1121 Vermont, NW., Washington, D.C. 20425. All comments received by close of business on June 5, 1975, will be considered in formulating the final rule.

ARTHUR S. FLEMMING,
Chairman.

Section 702.16 would be amended to read as follows:

§ 702.16 Attendance of news media at public sessions.

(a) Reasonable access for coverage of public sessions shall be provided to the various means of communication, including newspapers, magazines, radio, newsreels, and television, subject to the physical limitations of the room in which the session is held and consideration of the physical comfort of Commission members, staff, and witnesses.

(b) Upon written request of a witness that he/she not be televised, filmed or photographed when testifying nor have his/her testimony broadcast or recorded for broadcasting, the General Counsel shall take appropriate measures to implement such request: *Provided* That, (1) such request is received by the General Counsel at least forty-eight hours in advance of the witness' scheduled appearance (unless such requirement is specifically waived by the General Counsel); (2) such request states that it is made because of anticipated danger to the health or safety of the witness or members of his/her family and (3) such request states sufficient supporting evidence to enable the General Counsel to verify the existence of potential danger to the health or safety of the witness or members of his/her family.

[FR Doc.75-11833 Filed 5-5-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL-367-7]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Mississippi: Approval of Compliance Schedules

Section 110 of the Clean Air Act, as amended, 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 the State. 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 May 31, 1972 (37 FR 10842), the Administrator approved the Mississippi plan. Subsequent to this approval the State of Mississippi submitted a number of compliance schedules which were approved in the FEDERAL REGISTER on August 21, 1974 (39 FR 30127), and on January 22, 1975 (40 FR 3430).

On January 20, 1975, pursuant to 40 CFR 51.6 and 51.15, the State of Mississippi submitted for the Environmental Protection Agency's approval additional compliance schedules. The purpose of this notice is to offer these schedules as proposed rulemaking and to solicit public comment on this proposal.

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 in the table under the heading "Final Compliance Date". In many cases the schedules include incremental steps toward compliance, with interim dates for achieving those steps. While the table below does not list these, the actual schedules do. The entry "Immediately" under the heading "Effective Date" means that a schedule becomes Federally enforceable immediately upon its approval by the Administrator.

All of the compliance schedules listed here are available for public inspection at the following locations:

Air Programs Office
Environmental Protection Agency
Region IV
1421 Peachtree Street, NE.
Atlanta, Georgia 30309

Division of Air Pollution Control
Mississippi Air and Water Pollution Control Commission
P.O. Box 827
Jackson, Mississippi 39205

Freedom of Information Center
Environmental Protection Agency
401 M Street, SW.
Washington, D.C. 20460

Each schedule was adopted or approved by the Mississippi Air and Water Pollution Control Commission after notice and public hearing, and submitted to the Agency in accordance with the procedural requirements of 40 CFR Part 51. Each also satisfies the substantive requirements of 40 CFR 51.6 and 51.15 pertaining to plan revisions and compliance schedules. In addition, each schedule has been determined to be consistent with the control strategies of the implementation plan.

An evaluation of any of the compliance schedules may be obtained by consulting personnel of the Agency's Region IV Office at the Atlanta location listed above.

Interested persons are encouraged to submit written comments on the proposed schedule. To be considered, comments must be received on or before June 5, 1975, and should be directed to Ms. Harriet Hagan of the Agency's Region IV Air Programs Office at the Atlanta address given above. After carefully weighing all relevant comments and other available information in the light of requirements set forth in section 110 (a) of the Clean Air Act, as amended, and in the implementing regulations of 40 CFR Part 51, the Administrator will take approval/disapproval action on the proposed Mississippi compliance schedules.

(AUTHORITY: Sec. 110(a) of the Clean Air Act, as amended (42 U.S.C. 1857c-5(a))).

Dated: April 18, 1975.

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 Z—Mississippi

1. Section 52.1270(c)(2) is amended by inserting in proper chronological order the date January 20, 1975.

2. Section 52.1274 is amended by inserting additional lines in the tables of paragraph (a) as follows:

§ 52.1274 Compliance schedules.

(a) * * *

MISSISSIPPI

Source	Location	Regulation involved	Date of adoption	Effective date	Final compliance date
ALCORN COUNTY					
Gateway Corp.	Corinth	APC-S-1	Dec. 16, 1974	Immediately	Apr. 1, 1975
AMITE COUNTY					
Georgia Pacific Corp.	Gloster	APC-S-1	Dec. 16, 1974	Immediately	Mar. 1, 1975
Hood Lumber Co. of Crosby	Crosby	APC-S-1	Dec. 16, 1974	do	July 15, 1975
BOLIVAR COUNTY					
Alabama Metal Products Co. (AMPCO), Inc.	Rosedale	APC-S-1	Feb. 28, 1974	Immediately	Sept. 1, 1974
Bunge Corp.	Gunnison	APC-S-1	Dec. 16, 1974	do	July 31, 1975
CHICKASAW COUNTY					
E. F. Dyer Handle Co.	Houston	APC-S-1	Dec. 16, 1974	Immediately	Mar. 20, 1975
CLAIBORNE COUNTY					
Pickens Brothers Lumber Co.	Port Gibson	APC-S-1	Dec. 16, 1974	Immediately	May 17, 1975
CLARKE COUNTY					
Morris Feed Mill	Enterprise	APC-S-1	Dec. 16, 1974	Immediately	July 31, 1975
Shell Oil Co., Goodwater plant	Shubuta	APC-S-1	Dec. 16, 1974	do	July 31, 1975
Hood Charcoal Co. Division of Masonite Corp.	Pachuta	APC-S-1	Feb. 28, 1974	do	Mar. 31, 1974
COAHOMA COUNTY					
Claremont Gin	Clarksdale	APC-S-1	Dec. 16, 1974	Immediately	Feb. 22, 1975
COPIAH COUNTY					
Copiah County Manufacturing Co.	Hazelhurst	APC-S-1	Dec. 16, 1974	Immediately	Jan. 15, 1974
Hazelhurst Box Co.	do	APC-S-1	Dec. 16, 1974	do	July 31, 1975
Hood Lumber of Georgetown	Georgetown	APC-S-1	Dec. 16, 1974	do	Feb. 21, 1974
DE SOTO COUNTY					
Dutchess Furniture Co.	Hernando	APC-S-1	Dec. 16, 1974	Immediately	Feb. 21, 1975
Continental Foundry & Machine Works.	Olive Branch	APC-S-1	Feb. 28, 1974	do	Feb. 17, 1974
FORREST COUNTY					
Dairy Fresh Corp.	Hattiesburg	APC-S-1	Dec. 16, 1974	Immediately	July 31, 1975
Dixie Pole & Piling Co.	do	APC-S-1	Dec. 16, 1974	do	Mar. 26, 1975
Hood Lumber of Hattiesburg, treating division.	do	APC-S-1	Dec. 16, 1974	do	Mar. 1, 1975
FRANKLIN COUNTY					
Klumb Manufacturing Co.	Bude	APC-S-1	Dec. 16, 1974	Immediately	July 31, 1975
HANCOCK COUNTY					
Winn-Dixie No. 1475	Bay St. Louis	APC-S-1	Dec. 16, 1974	Immediately	July 31, 1975
HINDS COUNTY					
Millers Discount Store (Incinerator)	Jackson	APC-S-1	Dec. 16, 1974	Immediately	July 31, 1975
J. J. Ferguson Ready Mix-Hot Mix Co.	do	APC-S-1	Feb. 28, 1974	do	Dec. 1, 1974
Mississippi Foundry & Machine Co., Inc.	do	APC-S-1	Feb. 28, 1974	do	Dec. 31, 1973
General Tire Service	do	APC-S-1	Feb. 28, 1974	do	May 1, 1975
Presto Manufacturing Co.	do	APC-S-1	Dec. 16, 1974	do	July 31, 1975
Delta Asphalt, Inc.	do	APC-S-1	Feb. 28, 1974	do	May 17, 1974
ISSAQUENA COUNTY					
Bunge Corp.	Mayersville	APC-S-1	Dec. 16, 1974	Immediately	July 31, 1975
ITAWAMBA COUNTY					
S. A. McDaniel Gin	Dorsey	APC-S-1	Feb. 28, 1974	Immediately	Dec. 1, 1974
JACKSON COUNTY					
Jitney Jungle Food Store	Moss Point	APC-S-1	Feb. 28, 1974	Immediately	Jan. 25, 1975
Ocean Springs Nursing Center (Incinerator).	Ocean Springs	APC-S-1	Dec. 16, 1974	do	July 31, 1975
Mississippi Chemical Corp., phosphate rock storage and handling facility.	Pascagoula	APC-S-1	Dec. 16, 1974	do	Mar. 1, 1975
No. 2 Mixed Fertilizer Plant	do	APC-S-1	Dec. 16, 1974	do	Mar. 15, 1975
Blossman Concrete Ready-Mix, Inc.	Ocean Springs	APC-S-1	Feb. 28, 1974	do	Apr. 22, 1975
Mississippi Chemical Corp., No. 1, No. 2, and No. 3, fertilizer storage building.	Pascagoula	APC-S-1	Dec. 16, 1974	do	Mar. 1, 1975
PAVCo Industries, Inc.	do	APC-S-1	Dec. 16, 1974	do	July 31, 1975

MISSISSIPPI—Continued

Source	Location	Regulation involved	Date of adoption	Effective date	Final compliance date
		JACKSON COUNTY—Continued			
Concrete Products and Supply and Weatherby Materials.	Escatawpa	APC-S-1	Feb. 28, 1974	do	Dec. 22, 1974
Corchem, Inc.	Pascagoula	APC-S-1	Feb. 28, 1974	do	July 31, 1975
		JASPER COUNTY			
Georgia Pacific Corp.	Bay Springs	APC-S-1	Dec. 16, 1974	Immediately	Apr. 1, 1975
		JEFFERSON DAVIS COUNTY			
Bassfield Feed Mill	Bassfield	APC-S-1	Dec. 16, 1974	Immediately	July 31, 1975
		JONES COUNTY			
Hood Lumber of Laurel	Laurel	APC-S-1	Dec. 16, 1974	Immediately	Oct. 13, 1974
Hoss Ready Mix Concrete, Inc.	do	APC-S-1	Dec. 16, 1974	do	July 31, 1975
		LAFAYETTE COUNTY			
J. J. Ferguson Ready Mix-Hot Mix Co.	Oxford	APC-S-1	Dec. 16, 1974	Immediately	Dec. 1, 1974
		LAMAR COUNTY			
Kaiser Aluminum & Chemical Corp., Purvis coke-cleaning facility.	Purvis	APC-S-1	Sept. 11, 1973	Immediately	May 1, 1975
		LAUDERDALE COUNTY			
Atlas Roofing Co.	Meridian	APC-S-1	Dec. 16, 1974	Immediately	Oct. 30, 1974
Sam Finley, Inc.	do	APC-S-1	Dec. 16, 1974	do	Aug. 15, 1974
Meywebb Hosiery Mill	do	APC-S-1	Dec. 16, 1974	do	July 31, 1975
Meridian Woodworking, Inc.	do	APC-S-1	Feb. 28, 1974	do	May 15, 1974
		LAWRENCE COUNTY			
St. Regis Paper Co. (recovery boilers No. 1 and No. 2 particulates).	Monticello	APC-S-1	Dec. 16, 1974	Immediately	April 30, 1975
		LEAKE COUNTY			
Leake County Milling Co., Inc.	Carthage	APC-S-1	Dec. 16, 1974	Immediately	Sept. 23, 1974
		LEE COUNTY			
Paverite Asphalt Co.	Tupelo	APC-S-1	Feb. 28, 1974	Immediately	Dec. 1, 1974
Tupelo Manufacturing Co.	do	APC-S-1	Dec. 16, 1974	do	Dec. 15, 1974
		LEFLORE COUNTY			
Farmers Gin of Greenwood	Greenwood	APC-S-1	Feb. 28, 1974	Immediately	Dec. 1, 1974
		LOWNDES COUNTY			
Hooker Chemical Co.	Columbus	APC-S-1	Dec. 16, 1974	Immediately	Mar. 1, 1975
Johnston Tombigbee Furniture Co. (Woodworking plant).	do	APC-S-1	Dec. 16, 1974	do	July 31, 1975
(Tee Pee Burners)	do	APC-S-1	Dec. 16, 1974	do	July 31, 1975
		MARION COUNTY			
Piggly Wiggly Food Store	Columbia	APC-S-1	Feb. 28, 1974	Immediately	Aug. 20, 1974
Marion County General Hospital	do	APC-S-1	Feb. 28, 1974	do	Nov. 17, 1974
		MONROE COUNTY			
Gilmore-Puckett Lumber Co.	Amory	APC-S-1	Dec. 16, 1974	Immediately	July 31, 1975
Bunge Corp.	Nettleton	APC-S-1	Dec. 16, 1974	do	July 31, 1975
Amory Cotton Oil Co.	Amory	APC-S-1	Dec. 16, 1974	do	Jan. 1, 1975
		NEWTON COUNTY			
La-z-Boy South	Newton	APC-S-1	Dec. 16, 1974	Immediately	July 31, 1975
		NOXUBEE COUNTY			
Atlas Brick Co.	Shuqualak	APC-S-1	Dec. 16, 1974	Immediately	Dec. 15, 1974
		OKTIBBEHA COUNTY			
Howard Furniture Manufacturing Co., Inc.	Starkville	APC-S-1	Dec. 16, 1974	Immediately	Apr. 1, 1975
		PIKE COUNTY			
Roses Department Store	McComb	APC-S-1	Dec. 16, 1974	Immediately	July 31, 1975
		PRENTISS COUNTY			
Gaines Manufacturing Co.	Booneville	APC-S-1	Dec. 16, 1974	Immediately	July 31, 1975
		QUITMAN COUNTY			
Kentucky-Tennessee Clay Co.	Crenshaw	APC-S-1	Dec. 16, 1974	Immediately	Mar. 7, 1975

MISSISSIPPI—Continued

Source	Location	Regulation involved	Date of adoption	Effective date	Final compliance date
RANKIN COUNTY					
Cataphote Corporation Division of Ferro Corp.	Flowood	APC-S-1	Dec. 16, 1974	Immediately	June 1, 1975
SHARKEY COUNTY					
Associate Producers Gin, Inc., No. 2.	Rolling Fork	APC-S-1	Feb. 28, 1974	Immediately	Dec. 1, 1974
Cameta Gin	Cameta	APC-S-1	Feb. 28, 1974	do	Feb. 7, 1975
SIMPSON COUNTY					
W. E. Blain & Sons, Inc	Pinola	APC-S-1	Feb. 28, 1974	Immediately	July 15, 1974
C. D. Rhodes Sawmill	Braxton	APC-S-1	Feb. 28, 1974	do	Nov. 9, 1974
SMITH COUNTY					
Georgia-Pacific Corp.	Taylorsville	APC-S-1	Dec. 16, 1974	Immediately	Apr. 1, 1975
(Particleboard plant)	do	APC-S-1	Dec. 16, 1974	do	Jan. 1, 1975
TALLAHATCHIE COUNTY					
Tallahatchie Hardwood	Charleston	APC-S-1	Dec. 16, 1974	Immediately	Oct. 5, 1974
TATE COUNTY					
Tate County Ready-Mix, Inc	Senatobia	APC-S-1	Feb. 28, 1974	Immediately	May 28, 1975
TIPPAH COUNTY					
Lockhart Feed Mill	Ripley	APC-S-1	Dec. 16, 1974	Immediately	July 31, 1975
UNION COUNTY					
Morris Feed Mill	Enterprise	APC-S-1	Dec. 16, 1974	Immediately	July 31, 1975
WARREN COUNTY					
Vicksburg Chemical Co. K-No. 3 Dust Emissions.	Vicksburg	APC-S-1	Dec. 16, 1974	Immediately	Feb. 1, 1975
Valley Cement Ind., Inc	Redwood	APC-S-1	Dec. 16, 1974	do	Feb. 12, 1975
Mid-South Milling Co	Vicksburg	APC-S-1	Dec. 16, 1974	do	Oct. 20, 1974
WASHINGTON COUNTY					
J.J. Ferguson Ready Mix Hot Mix Co.	Greenville	APC-S-1	Feb. 28, 1974	Immediately	Dec. 1, 1974
Burge Corp	do	APC-S-1	Dec. 16, 1974	do	July 31, 1975
U.S. Gypsum Co	do	APC-S-1	Dec. 16, 1974	do	Apr. 1, 1975
WINSTON COUNTY					
Quality Feed Mill	Louisville	APC-S-1	Feb. 28, 1974	Immediately	Dec. 1, 1974
Barton Sawmill	do	APC-S-1	Dec. 16, 1974	do	July 31, 1975
Georgia-Pacific Corp. (Particleboard Plant).	do	APC-S-1	Dec. 16, 1974	do	July 1, 1975
YAZOO COUNTY					
Bunge Corp	Yazoo City	APC-S-1	Dec. 16, 1974	Immediately	July 31, 1975
Mississippi Chemical Corp. (Urea Plant).	do	APC-S-1	Feb. 28, 1974	do	July 1, 1974
Ammonium Nitrate Neutralizer Section.	do	APC-S-1	Feb. 28, 1974	do	July 1, 1974

[FR Doc.75-11493 Filed 5-5-75;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 212]

MARKUP ON WHOLESALE AND RETAIL SALES OF PROPANE

Increased Non-Product Costs; Public Hearing

The Federal Administration hereby gives notice of a proposal to review the amount which may be added to the wholesale and the retail selling price of propane to reflect increased non-product costs under the petroleum price regulations, in order to determine whether or to what extent some modification of that amount may now be appropriate. The FEA will receive written comments and hold a public hearing with respect to this proposal.

Under 10 CFR 212.93(a), a wholesaler or retailer of propane is permitted to charge a price which is its weighted average lawful price for propane to the class of purchaser concerned on May 15, 1973, plus an amount which reflects a dollar-for-dollar pass through of the increased cost of propane since May 15, 1973. In addition, under 10 CFR 212.93 (b)(4), adopted effective April 1, 1974, a wholesaler is permitted to add one-half cent per gallon to the price otherwise permitted to be charged in wholesale sales of propane and a retailer is permitted to add one cent per gallon to the price otherwise permitted to be charged in retail sales of propane, to reflect increases in non-product costs. Non-product costs are wages, rent, utilities, taxes, interest, insurance, etc.

Parallel provisions of the price regulations applicable to retail sales of propane by refiners through company owned and operated marketing outlets also permit price increases of one cent per gallon at the retail level and one-half cent per gallon with respect to all other sales, to reflect increased non-product costs (10 CFR 212.87(c)(4)(vi)). A refiner which increases prices under this provision to reflect increased non-product costs is, however, subject to a profit margin limitation (10 CFR 212.82(d)).

In view of the fact that one year has now expired since the one-half cent and one cent wholesale/retail markups on propane sales were established, it appears appropriate to review at this time the question of the adequacy or inadequacy of the increment which is allowed to reflect increases in the seller's non-product costs. In addition, the FEA has received a report prepared for the National LP-Gas Association on LP gas retail operating costs per gallon for the calendar years 1973 and 1974. The report, which was based on a national sample of 178 LP gas marketers selected as representative of the industry, concludes that retail operating costs increased by 2.0 cents per gallon between the end of 1973 and the end of 1974. On the basis of this data, the FEA is prepared to consider whether the increment which is allowed to reflect increases in non-product costs at the retail level for propane should be increased.

With respect to the increment allowed to reflect increases in non-product costs at the wholesale level for propane, the FEA does not have sufficient data at this time as to whether an adjustment at the wholesale level is needed. The FEA will, however, consider whether an adjustment should be made in the markup at the wholesale level, in connection with its review of the markup at the retail level, and will be guided in this respect by written and oral comment received, and all other relevant data.

The FEA therefore solicits written comment, and particularly financial and economic data, which would support either maintenance of one or both of the increments presently allowed or an adjustment in the amount permitted to be added to the wholesale and/or retail price of propane to reflect non-product cost increases. Data should be quantified, if possible, on the basis of net overall changes in non-product costs on a per gallon basis since May 15, 1973.

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to this matter to Executive Communications, Room 3309, Federal Energy Administration, Box CS, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation "Propane Prices: Wholesale/Retail Markup to Reflect Non-Product Cost Increases." Fifteen copies should be submitted. All comments received by May 22, 1975, before 4:30 p.m., e.d.t. and all other relevant information will be considered by the

Federal Energy Administration before the final action is taken on the proposed regulations.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

The public hearing in this proceeding will be held at 9:30 a.m., e.d.t., on Wednesday, May 28, 1975, and will be continued, if necessary on May 29, 1975, at Room 2105, 2000 M St., NW., Washington, D.C., in order to receive comments from interested persons on the matters set forth herein.

Any person who has an interest in this matter, or who is a representative of a group or class of persons that has an interest in this matter, may make written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., e.d.t., on May 20, 1975. Such a request may be hand delivered to Room 3309, Federal Building, 12th & Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he is a proper representative of a group or class of persons that has such a interest; and to give a concise summary of the proposed oral presentation and a phone number where he may be contacted through May 26, 1975. Each person selected to be heard will be so notified by the FEA before 4:30 p.m., e.d.t., May 23, 1975, and must submit 100 copies of his statement to Executive Communications, FEA, Room 2414, 2000 M St., NW., Washington, D.C. 20508, before 4:30 p.m., e.d.t., on May 27, 1975.

The FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of person presenting statements. Any decision made by the FEA with respect to the subject matter of the hearings will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions, to be asked of any person making a statement at the hearings, to Executive Communications, FEA, before 4:30 p.m., e.d.t. May 26, 1975. Any person who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearings, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by the FEA and made available for inspection at the Administrator's Reception Area, Room 3400, Federal Building, 12th & Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

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

(Emergency Petroleum Allocation Act of 1973, as amended, Pub. L. 93-159, as amended by Pub. L. 93-511; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185).

Issued in Washington, D.C. April 30, 1975.

In consideration of the foregoing, it is proposed to amend Part 212, Chapter II of Title 10 Code of Federal Regulations, as set forth below.

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

1. Section 212.87 is amended to revise paragraph (c)(4)(vi) to read as follows:

§ 212.87 Increased non-product costs.

* * * * *

(c) *Defined categories of non-product costs.* * * *

(4) *Marketing cost increase.* * * *

(vi) allow an increase in the price of propane above the prices otherwise permitted to be charged for propane pursuant to the provisions of this part by an amount not in excess of __ cent[s] per gallon with respect to retail sales and __ cent[s] per gallon with respect to all other sales; and where:

"Cost of marketing covered products" means the costs attributable to marketing operations with respect to covered products under the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned. A refiner must prepare a schedule itemizing the principal costs included in this category and describing the accounting procedures by which they are calculated.

* * * * *

2. Section 212.93 is amended to revise paragraph (b)(4) to read as follows:

§ 212.93 Price rule.

* * * * *

(b) * * *

(4) With respect to propane beginning with _____, 1975: in retail sales, a seller may charge __ cent[s] per gallon in excess of the amount otherwise permitted to be charged for that item pursuant to the provisions of this section to reflect non-product cost increases which the seller incurred after May 15, 1973; and, with respect to all other sales, a seller may charge __ cent[s] per gallon in excess of the amount otherwise permitted to be charged for that item pursuant to the provisions of this section to reflect non-product cost increases which the seller incurred after May 15, 1973.

[FR Doc.75-11799 Filed 5-1-75;12:55 pm]

[10 CFR Part 211]

RECORDKEEPING REQUIREMENTS

Use of Form To Demonstrate Basis for Distribution of Allocable Supplies

The Federal Energy Administration hereby gives notice of a proposal to amend Part 211, Chapter II of Title 10, Code of Federal Regulations, with respect to the regulation (10 CFR 211.223) requiring suppliers which sell to wholesale purchaser-consumers and end-users to maintain records on FEA forms which demonstrate the basis for distribution of allocable supplies among their various purchasers.

The form devised to be used in connection with the reporting requirement in § 211.223 is Form FEO-22, "Supplier's Monthly Allocation Worksheet." In light of FEA's experience in auditing suppliers' record during the past several months, FEA believes that existing supplier records or computer printouts contain the audit information required for FEA purposes without the need for a special FEA form. Accordingly, FEA proposes to delete the requirement that suppliers use FEA forms in complying with § 211.223, thereby reducing the recordkeeping burden imposed on suppliers. Although the proposal is to remove the requirement to use a special form, suppliers will be expected to maintain records which shall contain the information required in § 211.223 and which shall be subject to FEA audit.

As currently written, the regulations require that supplier records be maintained on a monthly basis. FEA believes it would be more useful for audit purposes if this information were kept on a base period basis for each allocated product. The proposal would achieve this result.

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposed regulation set forth in this notice to Executive Communications, Federal Energyy Administration, Box DC, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation "Deletion of Requirement that Suppliers Use FEA Form." Fifteen copies should be submitted. All comments received by Tuesday, May 27, 1975, and all relevant information, will be considered by the Federal Energy Administration before final action is taken on the proposed regulation.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Since the proposed rulemaking will not affect the quality of the environment, FEA has not submitted this proposal to the Administrator of the Environmental Protection Agency for comment as provided in section 7(c)(2) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275) ("FEAA"). Also, since the proposed change in the regulations is not likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, no public hearing will be conducted with respect to this proposed rulemaking as provided in section 7(i)(1)(c) of the FEAA.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended by Pub. L. 93-511; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185)

In consideration of the foregoing, it is proposed to amend Part 211, Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., May 1, 1975.

DAVID G. WILSON,
Acting General Counsel.

Section 211.223 is amended in the first two sentences to read as follows:

§ 211.223 Recordkeeping requirements.

Suppliers which sell to wholesale purchaser-consumers and end-users shall maintain records, subject to FEA audit, which shall be made available to the FEA upon request, which demonstrate the basis for distribution of allocable supplies among their various purchasers. These records shall contain the following information for each allocated product and for each purchaser for each period corresponding to a base period:

* * * * *

[FR Doc.75-11856 Filed 5-1-75;4:28 pm]

FEDERAL POWER COMMISSION

[18 CFR 154.38]

[Docket No. RM75-19]

END USE RATE SCHEDULES

Extension of Time

APRIL 24, 1975.

On April 21, 1975, the American Gas Association and the Interstate Natural Gas Association of America filed motions for an extension of time for comments in the above-designated matter, and the latter motion requested a revised comment procedure. On April 24, 1975, the Michigan Consolidated Gas Company, Columbia Gas Transmission Corporation and Columbia Gas Distribution Companies, Peoples Gas Light and Coke Company and North Shore Gas Company, Natural Gas Pipeline Company of America, Indiana Gas Company, Central Indiana Gas Company and Ohio River Pipeline Corporation all filed motions for extension. The comment periods in this rulemaking were fixed by notice issued February 20, 1975 (40 FR 8571, February 28, 1975), as modified by notice issued April 18, 1975.

Upon consideration, notice is hereby given that the time for filing comments in the above rulemaking is extended to June 2, 1975, and the time for responding comments is extended to and including June 23, 1975. Other issues in the above motions are reserved for further action by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11753 Filed 5-5-75;8:45 am]

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

[33 CFR Part 401]

SEAWAY REGULATIONS

Miscellaneous Amendments

Notice is hereby given that the Saint Lawrence Seaway Development Corporation, pursuant to provisions of its enabling act (33 U.S.C. 981 et seq.), acting jointly with the St. Lawrence Seaway Authority of Canada, proposes to further amend Subpart A—Seaway Regulations of 33 CFR Part 401.

The Seaway regulations and rules were published initially in the FEDERAL REGISTER on July 1, 1958 (23 FR 5011-5013), to give users of the waterways essential information and directions for transiting. Each year, the regulations and rules have been reviewed and amended, using the experience gained from past navigation seasons in proposing necessary changes. The last major revision of the regulations and rules was published in the FEDERAL REGISTER on March 22, 1974 (29 FR 10899) when the regulations and rules were consolidated into one set of regulations to eliminate repetition of the regulations in the rules and vice versa, and for clarity. The regulations were most recently amended in the FEDERAL REGISTER on March 13, 1975 (40 FR 11721) and this document proposes additional miscellaneous changes.

The proposed amendments are as follows:

§ 401.37 [Amended]

1. It is proposed to designate the existing text as paragraph (a) and add a new paragraph (b) to § 401.37 which would read:

(b) Crew members being put ashore on landing booms and handling mooring lines on the tie-up walls of the locks shall wear life jackets.

In view of the fact that there have been several incidents where crewmen have removed their life jackets while handling lines on the walls and have subsequently fallen into the water and drowned, the proposed new section is considered necessary to prevent such drownings.

§ 401.50 [Amended]

2. In § 401.50(c), it is proposed to change this anchorage to read "St. Zotique, Dickerson Island and Stonehouse Point (Lake St. Francis)." It is felt that since Stonehouse Point anchorage is in fact a separate anchorage area, it should not be included in Dickerson Island anchorage.

§ 401.62 [Amended]

3. In § 401.62, it is proposed to amend the seaway stations for Control Sector No. 5 by changing "VDX72 (Seaway Oshawa)—Oshawa, Ontario—Traffic Control Sector No. 5" to read "VDX72 (Seaway Newcastle)—Port Hope, Ontario—Traffic Control Sector No. 5" and by adding "VDX70 (Seaway Newcastle)—Port Weller, Ontario—Traffic Control Sector No. 5". This change is proposed as a result of reconfiguration of radio stations in the western area of Lake Ontario (Sector 5).

§ 401.63 [Amended]

4. In the table following § 401.63, Radio procedure, it is proposed to change the "Station" designation for "Control Sector Number 5" from "Seaway Oshawa" to "Seaway Newcastle" to conform with the immediately preceding change.

In Schedule III, item 15, it is proposed to change the C.I.P. and Check Point to read "Wolfe Is. Cut (Beauvais Point)—Vessels leaving main channel" since the actual location is Beauvais Point and not Quebec Head.

Further in Schedule III, items 19, 20, 32, 33 and 34, it is proposed to change the Station to Call in each instance to read "Seaway Newcastle Ch. 11" also to conform with the changes in §§ 401.62 and 401.63 regarding reconfiguration of radio stations in Control Sector No. 5.

Interested parties may submit written data, views or arguments with respect to the proposed amendments to the Saint Lawrence Seaway Development Corporation, P.O. Box 520, Massena, New York 13662 (Attention: General Counsel). Comments received not later than May 30, 1975 will be considered. All comments received will be available for examination at the offices of the Corporation at Massena, New York.

(68 Stat. 92-97 (33 U.S.C. 981-990), as amended, and sec. 104, Pub. L. 92-340, 86 Stat. 424, 49 CFR 1.50a (37 FR 21943)).

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION,
[SEAL] D. W. OBERLIN,
Administrator.

[FR Doc.75-11852 Filed 5-5-75;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

Agency for International Development

REPRESENTATIVE, U.S. EMBASSY TO TURKEY

Redelegation of Authority

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the AID Representative, U.S. Embassy to Turkey, the authority to sign or approve:

1. U.S. Government contracts and grants (other than grants to foreign governments or agencies thereof) and amendments thereto, and AID grant-financed host country contracts for technical assistance, provided that the aggregate amount of each individual contract does not exceed $25,000 or local currency equivalent.

2. Contracts with individuals for the services of the individual alone without monetary limitation.

The authority herein delegated may be redelegated in writing, in whole or in part, by said AID Representative at his discretion to the person or persons designated by the AID Representative as Contracting Officer. Such redelegation shall remain in effect until such designated person or persons cease to hold the office of Contracting Officer for AID programs, or until the redelegation is revoked by the AID Representative, whichever shall first occur. The authority so redelegated by the AID Representative may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies now or hereafter established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein delegated to the AID Representative may be exercised by duly authorized persons who are performing the functions of the AID Representative in an acting capacity.

Redelegation of Authority 99.1.24 (38 FR 29097), dated September 21, 1973 is hereby revoked.

Any official actions taken prior to the effective date hereof by officers duly authorized pursuant to delegations revoked hereunder are hereby continued in effect, according to their terms until modified, revoked, or superseded by action of the officer to whom I have delegated relevant authority in this delegation.

Actions within the scope of this delegation and any redelegations hereunder heretofore taken by the officials designated in such delegation or redelegations are hereby ratified and confirmed.

This redelegation of authority shall be effective immediately.

Dated: April 28, 1975.

HUGH L. DWELLEY,
Acting Director,
Office of Contract Management.

[FR Doc.75-11792 Filed 5-5-75;8:45 am]

Office of the Secretary

DRAFT ENVIRONMENTAL STATEMENT ON PROPOSED CONSTRUCTIONS

Public Information and Comment Meetings; Correction

APRIL 30, 1975.

In FR Doc. 75-11396 appearing on page 18813 in the issue for Wednesday, April 30, 1975, make the following changes:

1. Page 18813, left hand column, third line from bottom; insert the word "such" between the words "Each" and "party".

2. Page 18813, center column, first line at top of page; delete the word "permission" and in it's place insert the word "submission".

JAMES A. LOVELL,
Technical Liaison, International Center Project, Department of State.

[FR Doc.75-11802 Filed 5-5-75;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meetings

APRIL 30, 1975.

40 FR 14956, Thursday, April 3, 1975; published notice of the activities of the USAF Scientific Advisory Board Study Group on Management and Support of Air Force Command, Control and Communications. This notification specifically referred to the emergency nature of the activities of this Study Group in that its deliberations and subsequent report to the Secretary of the Air Force would affect impending decisions concerning the reorganization and realignment of certain activities of the Air Force Systems Command. The Air Force installations possibly affected include Griffiss AFB, New York; Hanscom AFB, Massachusetts; Wright-Patterson AFB, Ohio; and Kirtland AFB, New Mexico. As these decisions may affect many Air Force employees, it is imperative that this Group provide its input as soon as as possible. One Congressional Representative has requested an opportunity to meet in open session with this Study Group on 14 May 1975 at Andrews Air Force Base, Maryland, to insure that certain information is included in the Study Group's deliberation. Notification of this meeting in the FEDERAL REGISTER will not comply with the requirements of OMB Circular A-63, paragraph 8.b(3) to publicize such meeting 15 days in advance. Failure to honor this request, however, will preclude the ability of the Study Group to include this information for use in their report to the Secretary. Such failure would be inconsistent with the intent of the Federal Advisory Act. For this reason, the Department of the Air Force has determined that this request has created an emergency situation as defined in OMB Circular A-63, paragraph 8.b(3) and, therefore, that it is in the interest of the general public to conduct an open meeting of this Study Group on 14 May 1975 at Andrews Air Force Base, Maryland.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-4648.

JACK R. BENSON,
Colonel, USAF,
Director of Administration.

[FR Doc.75-11795 Filed 5-5-75;8:45 am]

Corps of Engineers

WINTER NAVIGATION BOARD ON GREAT LAKES—ST. LAWRENCE SEAWAY

Rescheduled Meeting

The Winter Navigation Board meeting scheduled for 8 May 1975, as published in the FEDERAL REGISTER, FR Doc. 75-7613, page 13224, 25 March 1975, has been rescheduled for 5 June 1975. The meeting will still be held at the Sheraton Motor Inn in Romulus, Michigan.

The primary purpose of the meeting is still to discuss and obtain final Board approval of the Fiscal Year 1976 Program.

Inquiries may be addressed to Mr. David Westheuser, U.S. Army Engineer District, Detroit, Corps of Engineers, P.O. Box 1027, Detroit, Michigan 48231, telephone (313) 226-6770.

Dated: April 30, 1975.

By authority of the Secretary of the Army:

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

[FR Doc.75-11713 Filed 5-5-75;8:45 am]

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON "FEDERAL CONTRACT RESEARCH CENTER UTILIZATION"

Meeting

A task force of the Defense Science Board on "Federal Contract Research Center Utilization" will meet during the period 2-6 June 1975 at the following locations:

The Pentagon, Washington, D.C	June 2, 1975
Institute of Defense Analyses, Arlington, Va	June 3, 1975
Center for Naval Analyses, Arlington, Va	Do.
Applied Physics Laboratory, The Johns Hopkins University, Silver Spring, Md.	June 4, 1975
Analytical Services, Inc., Falls Church, Va	Do.
The Mitre Corporation, Bedford, Mass	June 5, 1975
MIT Lincoln Laboratory, Lexington, Mass	June 6, 1975

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense. The Task Force will provide an assessment of Department of Defense—Federal Contract Research Center relationships and make recommendations on which to determine Defense short and long term plans with respect to these institutions.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that all sessions except the 2 June 1975 session of this Defense Science Board Task Force meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, and specifically subparagraphs (1) and (4) thereof, and that accordingly all sessions except the 2 June 1975 session will be closed to the public.

Persons wishing to attend the open session on 2 June 1975 should provide notice, either by mail or telephone by 29 May 1975 to:

Mr. James H. Terrell, Jr.
DSB Task Force on Federal Contract Research Center Utilization
OSD—DD(R&AT)
Room 3E114, The Pentagon
Washington, D. C. 20301
Telephone No. (202) 697-4789

It should be noted that a reasonable quantity of seating for observers will be available, and will be allocated in the order that notices are received.

Dated: May 1, 1975.

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

[FR Doc.75-11777 Filed 5-5-75;8:45 am]

DEFENSE SCIENCE BOARD TASK FORCE ON IDENTIFICATION FRIEND, FOE OR NEUTRAL

Advisory Committee Meeting

The Defense Science Board Task Force on Identification Friend, Foe or Neutral will meet in closed session on 19 and 20 June 1975, at the Institute for Defense Analyses, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long-range guidance in these areas to the Department of Defense.

The Task Force will provide an analysis of technology and systems applicable to the identification function and indicate promising solutions to the problem area for possible implementation within the Department of Defense.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: May 1, 1975.

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

[FR Doc.75-11778 Filed 5-5-75;8:45 am]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group B (Mainly Low Power Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, 9th Floor, New York, NY 10014 on 22 May 1975.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details and will result in advice or recommendations to government research and development agencies preliminary to decisions or actions, the preliminary disclosure of which would interfere with the orderly conduct of government.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraphs (1) and (5) thereof, and that accordingly this meeting will be closed to the public.

Dated: May 1, 1975.

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

[FR Doc.75-11779 Filed 5-5-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Group 536]

ARIZONA

Filing of Survey Plat

APRIL 29, 1975.

1. The plat of survey of lands described below, accepted on March 14, 1975, will be officially filed in the Arizona State Office effective 10 a.m., on June 24, 1975:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 40 N., R. 1 W.

A dependent resurvey of a portion of the south boundary, and the completion survey of the subdivisional lines.

Sec. 1, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 6, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 7, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 8 to 15, inclusive;
Sec. 17;
Sec. 18, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 33 to 36, inclusive.

The area above aggregates 21,742.74 acres of land.

The elevation of this township ranges from 4,800 feet to 5,880 feet above sea level, being at its lowest point in section 6 and the highest point in section 36. The land varies from gently rolling to rolling throughout the township. The drainage is generally northwesterly. The soil is sandy clay and rocky. Pinyon pine and cedar timber exist in the southern part of the township with some existing in sections 12 and 13. The undergrowth consists of sagebrush and cacti, with sparse grass along the major washes in the southwest quarter of the township.

2. All rights of the State of Arizona to sections 2 and 36 have been conveyed to the United States.

3. The lands are classified for multiple use management and segregated from appropriation under the agriculture land laws (43 U.S.C. parts 7 and 9, 25 U.S.C. 334), from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171), and from private exchange (43 U.S.C. 315g (b)). The lands have been and still are subject to the operation of the mining and mineral leasing laws.

4. Inquiries concerning the lands should be addressed to the Arizona State Office, Bureau of Land Management,

3022 Federal Building, Phoenix, Arizona 85025.

CHARLES G. BAZAN, JR.,
Chief, Branch of Records and Data Management.

[FR Doc.75-11788 Filed 5-5-75;8:45 am]

[N.M. Misc. 24]

NEW MEXICO

Order Opening Lands To Entry

APRIL 28, 1975.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315g) and section 13 of the Act of March 3, 1921 (41 Stat. 1239), the following described lands have been reconveyed to the United States:

NEW MEXICO PRINCIPAL MERIDIAN

T. 17 N., R. 13 W.,
Sec. 9, NW¼.
T. 6 S., R. 9 E.,
Sec. 34, S½ and S½N½;
Sec. 35, S½ and S½N½.

The areas described aggregate 1120 acres in McKinley and Lincoln Counties New Mexico.

2. The land in T. 6 S., R. 9 E., is located approximately 7 miles northwest of the town of Carrizozo. Access is very poor. The topography is rolling to rough and hilly; vegetation consists of a fair turf of native grasses, pinon-juniper, cholla, yucca and cacti; the soils are thin silty to sandy loam. The land in T. 17 N., R. 13 W., is approximately 4 miles northwest of Crownpoint. The topography is flat to gently sloping; vegetation consists of grama grasses, some alkali sacaton, galleta grass with some sage.

3. Subject to valid existing rights, the provisions of existing withdrawals, and requirements of applicable law, the lands described above are hereby open to petition-application, location and selection. All valid applications received at or prior to 10 a.m., June 20, 1975, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The land described as NW¼ Sec. 9, T. 17 N., R. 13 W., shall be open to applications and offers under the mineral leasing laws and to locations and entry under the U.S. mining laws. All valid applications received at or prior to 10 a.m. on June 20, 1975, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1449, Santa Fe, NM 87501.

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

[FR Doc.75-11790 Filed 5-5-75;8:45 am]

[OR 9175]

OREGON

Opening of Public Lands

APRIL 29, 1975.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272), as amended June 26, 1936 (49 Stat. 1976; 43 U.S.C. 315g), the following lands have been conveyed to the United States.

WILLAMETTE MERIDIAN

T. 38 S., R. 11 E.,
Sec. 11, S½SE¼;
Sec. 12, SW¼SW¼.
T. 39 S., R. 12 E.,
Sec. 10;
Sec. 11, SW¼SW¼;
Sec. 14, W½NW¼ and NW¼SW¼;
Sec. 15, E½ and E½W½.

Aggregating 1,400 acres in Klamath County.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby open to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.), and the mineral leasing laws. All valid applications received at or prior to 10 a.m. June 4, 1975, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, P.O. Box 2965, Portland, Oregon 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-11789 Filed 5-5-75;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 4, 1975, Part II, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800.

The following properties have been added to the National Register since April 1, 1975. National Historic Landmarks are designated by NHL; properties recorded by Historic American Buildings Survey are designated by HABS; properties recorded by Historic American Engineering Record are designated by HAER.

ALABAMA

Conecuh County

Evergreen, *Louisville and Nashville Depot*, SW end of Front St. (4-3-75).

Dallas County

Selma, *St. Paul's Episcopal Church*, 210 Lauderdale St. (3-25-75).

Jefferson County

Birmingham, *Enslen House*, 2737 Highland Ave. (3-13-75).

Wilcox County

Camden, *Wilcox Female Institute*, Church St. (4-3-75) HABS.

ALASKA

South Central District

Lawing, *Alaska Nellie's Homestead*, Mi. 23, Seward Hwy. (4-3-75).

ARIZONA

Cochise County

Willcox vicinity, *Stafford Cabin*, 30 mi. SE of Willcox in Chiricahua National Monument (3-31-75).

Coconino County

Flagstaff vicinity, *Old Headquarters*, 2 mi. E of Flagstaff in Walnut Canyon National Monument (3-31-75).

Pima County

Tucson vicinity, *Manning Cabin*, 10 mi. E of Tucson in Saguaro National Monument (3-31-75).

Yavapai County

Rimrock vicinity, *Sacred Mountain (Ida Ruin and White Hill)*, E of Rimrock off I-17, in Coconino National Forest (3-4-75).

Yuma County

Parker, *Parker Jail*, N side of Agency Rd. in Pop Harvey Park (4-3-75).

ARKANSAS

Fulton County

Gepp vicinity, *County Line School and Lodge*, NW of Gepp on E side of Baxter-Fulton county line, 2 mi. S of state line (3-27-75).

CALIFORNIA

Fresno County

Fresno, *Kearney, M. Theo., Park and Mansion*, 7160 Kearney Blvd. (3-13-75).

Los Angeles County

Los Angeles, *Natural History Museum*, 900 Exposition Blvd. (3-4-75).

San Diego County

National City, *Granger Hall*, 1700 E. 4th St. (3-18-75).

San Francisco County

San Francisco, *Haslett Warehouse*, 680 Beach St. (3-28-75).

Sonoma County

Sonoma, *Sonoma Depot*, 284 1st St. W. (4-3-75).

Tuolumne County

Long Barn vicinity, *Quail Site*, 10 mi. N of Long Barn on N side of Beardsley Lake in Stanislaus National Forest (3-10-75).

Ventura County

Ventura, *San Buenaventura Mission Aqueduct*, 234 Canada Larga Rd. (3-7-75).

COLORADO

Denver County

Denver, *Curtis-Champa Streets District*, roughly bounded by Arapahoe, 30th, California, and 24th Sts. (4-1-75).

Denver, *St. Andrews Episcopal Church*, 2015 Glenarm Pl. (3-18-75).

Denver, *Westside Neighborhood*, 1311-1466 Lipan St., 1305-1370 Kalamath St., 931-1126 W. 14th Ave., 1312-1438 on E. side of Maraposa St., and 1008-1118 on N. side of W. 13th Ave. (4-17-75).

Jefferson County

Littleton vicinity, *Hildebrande Ranch*, 7 mi. SW of Littleton off Deer Creek Canyon Rd. (3-13-75).

Pueblo County

Pueblo, *Union Depot*, Victoria and B Sts. (4-1-75).

CONNECTICUT

Fairfield County

Greenwich vicinity, *French Farm*, N of Greenwich at Jct. of Lake Ave. and Round Hill Rd. (4-3-75).

Hartford County

Simsbury, *Eno, Amos, House*, off U.S. 202 on Hopmeadow Rd. (4-3-75).

DELAWARE

Sussex County

Seaford vicinity, *Maston House*, 3 mi. N of Seaford on Seaford-Atlanta Rd. (3-31-75).

DISTRICT OF COLUMBIA

Castle Gatehouse, Washington Aqueduct, near Jct. of Reservoir Rd. and MacArthur Blvd. NW (3-13-75).

FLORIDA

Dade County

Coconut Grove, *Woman's Club of Coconut Grove*, 2985 S. Bayshore Dr. (3-26-75).

Gadsden County

Quincy, *Quincy Woman's Club*, 300 N. Calhoun St. (3-10-75).

Monroe County

San Jose Shipwreck Site, see Outer Continental Shelf.

GEORGIA

Bryan County

Savannah vicinity, *Old Fort Argyle Site*, 15 mi. W of Savannah off GA 204 (3-31-75).

Dawson County

Dawsonville, *Steele's Covered Bridge*, 7 mi. NW of Dawsonville on SR 2275 (3-19-75).

Dougherty County

Albany, *Old St. Teresa's Catholic Church*, 313 Residence Ave. (4-1-75).

Forsyth County

Cumming vicinity, *Pool's Mill Covered Bridge*, NW of Cumming off GA 369 on Pool's Mill Rd. (4-1-75).

Fulton County

Fort McPherson, *FORSCOM Command Sergeant Major's Quarters*, bldg. 532 (2-25-75).

Upson County

Thomaston vicinity, *Auchumpkee Creek Covered Bridge*, 10 mi. SE of Thomaston off U.S. 19 on Allen Rd. (4-1-75).

GUAM

Agat vicinity, *Agat Invasion Beach*, coastline NW of Agat from Toocha Beach S to Bangi (3-4-75)

Agat vicinity, *Hill 40*, 0.2 mi. SW of Agat off Rte. 2 (3-4-75)

Asan vicinity, *Matgue River Valley Battle Area*, 0.6 mi. SW of Asan off Marine Dr. (4-3-75)

Piti vicinity, *SMS Cormoran* (crusier), Arpa Harbor (4-4-75)

ILLINOIS

Cook County

Chicago, *South Shore Country Club*, 71st St. and S. Shore Dr. (3-4-75).

Lemont, *Lemont Central Grade School*, 410 McCarthy Rd. (3-7-75).

Henry County

Andover, *Lind, Jenny, Chapel*, SW corner 6th and Oak Sts. (4-1-75).

Kane County

Dundee and vicinity, *Dundee Township Historic District*, both sides of Fox River including sections of W. Dundee, E. Dundee, and Carpentersville (3-7-75).

Putnam County

Hennepin, *Putnam County Courthouse*, 4th St. (3-4-75).

Shelby County

Cowden vicinity, *Thompson Mill Covered Bridge*, 0.5 mi. NE of Cowden across Kaskaskia River (3-13-75).

INDIANA

Marion County

Speedway, *Indianapolis Motor Speedway*, 4790 W. 16th St. (3-7-75).

IOWA

Des Moines County

Burlington, *Burlington Public Library*, 501 N. 4th St. (3-27-75).

Johnson County

Iowa City, *Johnson County Courthouse*, S. Clinton St. (3-27-75).

Wapello County

Agency vicinity, *Chief Wapello's Memorial Park*, SE of Agency off U.S. 34 (3-27-75).

KANSAS

Atchison County

Atchison, *McInteer Villa*, 1301 Kansas St. (3-26-75).

Douglas County

Lawrence, *Usher, John Palmer, House*, 1425 Tennessee St. (3-7-75).

Greenwood County

Severy vicinity, *Two Duck Site*, 5 mi. NE of Severy within limits of Fall River Reservoir (3-26-75).

Marion County

Burns, *Burns Union School*, SW corner Ohio and Main Sts. (3-26-75).

Pottawatomie County

Onaga vicinity, *Vermillion Creek Archeological District*, Vermillion River and drainage pattern from Onaga S to its confluence with the Kansas River (3-10-75).

Shawnee County

Topeka, *Thacher Building*, 110 E. 8th St. (3-31-75).

Wyandotte County

Kansas City, *Westheight Manor District*, bounded roughly by 18th and 24th Sts., Oakland and State Aves. (3-26-75).

KENTUCKY

Logan County

South Union and vicinity, *South Union Shakertown Historic District*, KY 73 at Louisville and Nashville RR. tracks, and Jct. of U.S. 68 and SR 1466 (4-3-75).

Scott County

Georgetown vicinity, *Cardome (Gov. J. F. Robinson House)*, 0.5 mi. N of Georgetown on U.S. 25 (3-13-75).

LOUISIANA

Iberia Parish

Jeanerette vicinity, *Enterprise Plantation*, 2 mi. W of Jeanerette in Patoutville community (3-17-75).

West Feliciana Parish

St. Francisville vicinity, *Cottage Plantation*, 6 mi. N of St. Francisville on U.S. 61 (3-17-75).

MAINE

Cumberland County

Standish, *First Parish Meetinghouse*, Oak Hill Rd. (3-27-75).

Waldo County

Stockton Springs, *Privateer Brigantine Defence Shipwreck Site*, Stockton Springs harbor (3-18-75).

MARYLAND

Allegany County

Old National Pike Milestones, along U.S. 40, Alt. U.S. 40, MD 144, and MD 165 (also in Baltimore, Carroll, Frederick, Howard, and Washington counties) (3-27-75).

Baltimore County

Old National Pike Milestones, see Allegany County.

Towson, *Auburn House*, Osler Dr. between Towsontown Blvd. and Stevenson Lane (3-17-75).

Carroll County

Old National Pike Milestones, see Allegany County.

Frederick County

Old National Pike Milestones, see Allegany County.

Howard County

Old National Pike Milestones, see Allegany County.

Glenwood vicinity, *Union Chapel*, 1 mi. N of Glenwood on MD 97 (3-17-75).

Somerset County

Cokesbury vicinity, *Canon, Burton, House*, 1 mi. N of Cokesbury on Dublin Rd. (4-3-75).

Washington County

Old National Pike Milestones, see Allegany County.

MASSACHUSETTS

Essex County

Gloucester, *Oak Grove Cemetery*, bounded by Derby, Washington, and Grove Sts., and Maplewood Ave. (4-3-75).
Newburyport, *Brown Square House*, 11 Brown Sq. (3-7-75).
Salem, *Charter Street Historic District*, bounded by Liberty, Derby, Central, and Charter Sts. (3-10-75).
Salem, *Woodbridge, Thomas March, House*, 48 Bridge St. (3-31-75).

Hampden County

Agawam, *Leonard, Capt. Charles, House*, 663 Main St. (3-10-75).

Middlesex County

Burlington, *Wyman, Francis, House*, Francis Wyman St. (3-13-75) HABS.
Medford, *Lawrence Light Guard Armory*, 90 High St. (3-10-75).
Wilmington, *Harnden Tavern*, 430 Salem St. (4-3-75).

Worcester County

Worcester, *G.A.R. Hall*, 55 Pearl St. (3-13-75).

MICHIGAN

Eaton County

Bellevue, *Bellevue Mill*, W bank of Battle Creek on Riverside St. (3-4-75).

Lenawee County

Hudson, *Thompson, Gamaliel, House*, 101 Summit St. (4-3-75).

Menominee County

Menominee, *Menominee County Courthouse*, 10th Ave. between 8th and 10th Sts. (3-7-75).

Washtenaw County

Ann Arbor, *Michigan Central Railroad Depot*, 401 Depot St. (3-10-75).

Wayne County

Detroit, *Hudson-Evans House*, 79 Alfred St. (3-5-75).
Detroit, *Hurlbut Memorial Gate*, E. Jefferson at Cadillac Blvd. (3-27-75).
Detroit, *Second Baptist Church of Detroit*, 441 Monroe St. (3-19-75).
Detroit, *Taylor, Elisha, House*, 59 Alfred St. (3-5-75).

MINNESOTA

Aitkin County

Malmo vicinity, *Malmo Mounds and Village Site*, NW of Malmo on Mille Lacs Lake (4-3-75).

Dodge County

Wasioja, *Wasioja Historic District*, N side of Zumbra River on both sides of SR 16 (3-13-75).

Hennepin County

Minneapolis, *Basilica of St. Mary*, Hennepin Ave. at 16th St. (3-26-75).

Olmstead County

Rochester, *Mayo, Dr. William J., House*, 701 SW. 4th St. (3-26-75).

Ramsey County

St. Paul, *Assumption School*, 68 Exchange St. (3-26-75).

Rice County

Faribault, *Chapel of the Good Sheperd*, at Shattuck School (4-4-75).
Faribault, *Old Phelps Library*, at Shattuck School (4-4-75).
Faribault, *Seabury Divinity School (Johnson Hall)*, on grounds of District No. 1 Hospital (3-31-75).
Faribault, *Shumway Hall and Morgan Refectory*, at Shattuck School (4-4-75).

St. Louis County

Duluth, *Traphagen, Oliver G., House (Redstone)*, 1509-1511 E. Superior St. (4-4-75).

MISSISSIPPI

Amite County

Liberty vicinity, *Batchelor, Thomas, House*, 5 mi. E of Liberty on Olio Rd. (3-27-75).

Bolivar County

Benoit vicinity, *Hollywood*, S of Benoit on MS 448 (4-1-75) HABS.

Oktibbeha County

Starkville vicinity, *Montgomery Hall*, Mississippi State University campus (3-26-75).

MISSOURI

Buchanan County

St. Joseph, *Missouri Valley Trust Company Historic District*, Felix and 4th Sts. (3-4-75).

St. Louis County

University City, *University City Plaza (City Hall Plaza)*, bounded roughly by Delmar Blvd., Trinity, Harvard, and Kingsland Aves. (3-7-75).

Schuyler County

Lancaster, *Hall, William P., House*, U.S. 136, W of Schuyler County Courthouse (4-1-75).

MONTANA

Cascade County

Great Falls vicinity, *Mullan Road*, N of Great Falls in Benton Lake National Wildlife Refuge (3-13-75).

Jefferson County

Elkhorn, *Fraternity Hall*, Lot 14, Main St. (4-3-75) HABS.

NEVADA

Churchill County

Fallon vicinity, *Stillwater Marsh*, 15 mi. NE of Fallon in Stillwater Wildife Management Area (3-19-75).

Clark County

Las Vegas vicinity, *Corn Creek Campsite*, 26 mi. N of Las Vegas in Desert National Wildlife Range (3-4-75).

Elko County

Elko, *Ruby Valley Poney Express Station*, 1515 Idaho St. (3-10-75).

NEW JERSEY

Bergen County

Englewood, *Westervelt, Peter, House and Barn*, 290 Grand Ave. (3-19-75) HABS.

Burlington County

Burlington, *Burlington Historic District*, roughly L-shaped bounded by Delaware River and High, W. Broad, Albot, and Reed Sts. (3-13-75) HABS.

Camden County

Blenheim, *Chew-Powell House*, 500-502 Good Intent Rd. (3-27-75).

Essex County

Cedar Grove, *Jacobus House*, 178 Grove Ave. (4-1-75) HABS.

Mercer County

Hopewell, *Leigh, Icabod, House*, Pennington-Rocky Hill Rd. (3-4-75).

Morris County

Morristown, *Cutler Homestead*, 21 Cutler St. (3-10-75).
Rockaway Borough, *Jackson, Joseph, House*, 82 E. Main St. (3-4-75) HABS.

NEW YORK

Chemung County

Elmira, *Quarry Farm*, Crane Rd. (3-13-75).

Cortland County

Cortland, *Tompkins Street Historic District*, Tompkins and intersecting sts. from Main St. to Cortland Rural Cemetery (3-18-75).

Dutchess County

Barrytown vicinity, *Rokeby*, S of Barrytown between Hudson River and River Rd. (3-26-75) HABS.

Monroe County

West Chili vicinity, *Chili Mills Conservation Area*, 1 mi. SW of West Chili off Stuart Rd. along Black Creek (3-12-75).

Nassau County

Oyster Bay, *Elmwood*, E side of Cove Rd. (4-3-75).

Orange County

Goshen, *1841 Goshen Courthouse*, 101 Main St. (3-4-75).

Seneca County

Willard, *Willard Asylum for the Chronic Insane*, Willard State Psychiatric Center (3-7-75).

NORTH CAROLINA

Duplin County

Kenansville, *Kenansville Historic District*, downtown area centered around Main St. and Limestone Rd. as far N as Hill St. (3-13-75).

NORTH DAKOTA

Williams County

Williston vicinity, *Fort Buford State Historic Site*, SW of Williston at confluence of Yellowstone and Missouri rivers (4-1-75).

OHIO

Ashtabula County

Conneaut, *Lake Shore and Michigan Southern Passenger Depot*, 342 Depot St. (3-27-75).

Brown County

St. Martin vicinity, *Thumann Log House*, 1 mi. S of St. Martin at Jct. of OH 251 and U.S. 50 (3-27-75).

Butler County

Auburn vicinity, *Roberts Mound*, NW of Auburn (3-27-75).
Hamilton, *Edgeton (Jacob Shafer House)*, 575 Harrison Ave. (4-3-75).

Cuyahoga County

Berea, *Berea District 7 School*, 323 E. Bagley Rd. (4-3-75).
Cleveland, *Hessler Court Wooden Pavement*, 11330 E. between Bellflower and Hessler Rds. (3-31-75).
Cleveland, *Holy Name High School—Gallagher Building*, 8318 Broadway SE (3-27-75).

Delaware County

Powell vicinity, *Highbanks Metropolitan Park Mounds I and II*, 2 mi. E of Powell on U.S. 23 (3-19-75).

Erie County

Florence, *Florence Corners School (Town Hall)*, OH 113 at Davidson St. (3-19-75).

Huron, *Christ Episcopal Church*, Park and Ohio Sts. (3-4-75).
Kelley's Island, *Kelley's Island South Shore District*, Water St., S side of Kelley's Island (3-27-75).
Milan, *Milan Historic District*, Main and Church Sts., both sides of Front St., and Edison Dr. (3-13-75).
Milan, *Mitchell Historic District*, 115-137 and 118-136 Center St. (3-13-75).
Sandusky, Engine House No. 3, Meigs St. and Sycamore Line (4-1-75).
Sandusky, *Water Street Commercial Buildings*, 101-165 E. Water St. and 101-231 W. Water St. (3-18-75).

Franklin County

Columbus, *American Insurance Union Citadel*, 50 W. Broad St. (3-12-75).

Hamilton County

Cincinnati, *Ingalls Building*, 6 E. 4th St. (3-7-75).
Elizabethtown vicinity, *Rennert Mound Archeological District*, W. of Elizabethtown (3-4-75).
Glendale, *Glendale Police Station*, 305 E. Sharon Ave. (3-27-75).

Huron County

Willard, *Baltimore and Ohio Railroad Depot*, B & O RR. Jct. (3-31-75).

Lake County

Madison, *Kimball, Addison, House*, 390 W. Main St. (3-27-75).

Montgomery County

Brookville, *Spitler, Samuel, House*, 14 Market St. (3-5-75).
Dayton, *Incinerator Site*, along West River Rd., E of B & O RR. tracks (4-1-75).
Dayton, *Old Post Office and Federal Building*, SE corner of W. 3rd and Wilkinson Sts. (3-10-75).
Dayton, *Oregon Historic District*, between Patterson Blvd. and Wayne Ave. N to Gates St. and S to U.S. 35 (3-27-75).

Noble County

Middleburg vicinity, *Huffman Covered Bridge*, 1.5 mi. S of Middleburg off SR 564 (3-4-75).

Ottawa County

Danbury, *Johnson Island Civil War Prison and Fort Site*, E shore area of Johnson Island (3-27-75).

Pike County

Piketon vicinity, *Vanmeter Stone House and Outbuildings*, S. of Piketon at Jct. of U.S. 23 and OH 124 (3-31-75).

Ross County

South Salem vicinity, *South Salem Covered Bridge*, W of South Salem on Lower Twin Rd. across Buckskin Creek (3-4-75).

Stark County

Canton, *Stark County Courthouse and Annex*, Market and Tuscarawas Sts. (4-3-75).

Union County

Marysville vicinity, *Reed Covered Bridge*, 3.5 mi. S of Marysville off SR 38 (3-4-75).

Washington County

Decaturville vicinity, *Root Covered Bridge*, 0.5 mi. N of Decaturville on SR 6 (3-27-75).

Wyandot County

Upper Sandusky vicinity, *Parker Covered Bridge*, 5 mi. NE of Upper Sandusky on SR 40A (3-31-75).

OKLAHOMA

Murray County

Sulphur vicinity, *Lowrance Springs Site*, 3 mi. SE of Sulphur off OK 18 (3-10-75).

Oklahoma County

Oklahoma City, *Fairchild Winery*, 1600 NE. 81st St. (3-13-75).

Washington County

Bartlesville, *Phillips, Frank, House*, 1107 Cherokee Ave. (3-13-75).

OREGON

Douglas County

Yoncalla vicinity, *Applegate, Charles, House*, NE of Yoncalla on Halo Trail (3-17-75) HABS.

PENNSYLVANIA

Adams County

Gettysburg and vicinity, *Gettysburg Battlefield Historic District* (3-19-75).

Allegheny County

Pittsburgh, *Duquesne Incline*, 1220 Grandview Ave. (3-4-75).
Pittsburgh, *Shadyside Presbyterian Church*, Amberson Ave. and Westminster Pl. (4-3-75).

Beaver County

Harmony, *Legionville*, between Duss Ave. and PA 75 (3-27-75).

Centre County

Port Matilda vicinity, *Gray, John, House*, E of Port Matilda off PA 550, S of U.S. 220 (4-3-75).

Chester County

Chatham vicinity, *Primitive Hall*, 2 mi. NW of Chatham on PA 841 (3-19-75) HABS.

Crawford County

Titusville, *Titusville City Hall*, 107 N. Franklin St. (3-31-75).

Lancaster County

Gap vicinity, *White Chimneys*, 1 mi. NW of Gap on U.S. 30 (4-1-75).

Lycoming County

Jersey Shore, *Jersey Shore Historic District*, irregular shape roughly bounded by Lawshe Run, W. Branch Susquehanna River, S borough boundaries, and Tomb Ave. (3-31-75).

Susquehanna County

Montrose, *Silver Lake Bank*, 75 Church St. (3-7-75).

Washington County

Washington vicinity, *"S" Bridge*, 6 mi. W of Washington on U.S. 40 (4-4-75).

RHODE ISLAND

Bristol County

Bristol, *Bristol Waterfront Historic District*, Bristol Harbor to E side of Wood St. as far N as Washington St. and S to Walker Cove (3-18-75).

Newport County

Newport, *Ochre Point-Cliffs Historic District*, roughly bounded by Bellvue Ave. and coastline as far N as Memorial Blvd. and S to Sheep Point Cove (3-16-75) HABS.

SOUTH CAROLINA

Union County

Cross Anchor vicinity, *Musgrove's Mill Historic Battle Site*, 2.5 mi. S of Cross Anchor on SC 56 (3-4-75).

TENNESSEE

Bedford County

Shelbyville, *Bedford County Jail*, N. Spring and Jackson Sts. (4-1-75).
Shelbyville vicinity, *Grassland Farm (Alexander Greer House)*, 8 mi. SW of Shelbyville on Snell Rd. (3-4-75).

Cocke County

Newport vicinity, *O'Dell House*, NE of Newport on Greeneville Hwy. (4-1-75).

Davidson County

Donelson, *Clover Bottom Mansion*, 2930 Lebanon Rd. (4-3-75).
Nashville, *West Meade*, Old Harding Pike (3-4-75).

Fayette County

La Grange and vicinity, *La Grange Historic District*, bounded by La Grange town boundaries and including both sides of TN 57 E to Jct. with TN 18 (4-4-75).

Knox County

Knoxville vicinity, *Buffat Homestead*, 1 mi. N of Knoxville on Love Creek Rd. (4-1-75).

Lincoln County

Howell vicinity, *Harris-Holden House*, E of Howell on Daves Hollow Rd. (3-19-75).

McMinn County

Niota, *Niota Depot*, Main St. (4-1-75).

Shelby County

Germantown, *Germantown Baptist Church*, 2216 Germantown Rd. (4-1-75).
Memphis, *Davies Manor*, 9336 Davies Plantation Rd. (3-19-75) HABS.

Union County

Tazewell vicinity, *Ousley, Baile, House*, 15 mi. SW of Tazewell, N of Morris Lake on Big Valley Rd. (3-4-75).

TEXAS

Austin County

Wallis vicinity, *Allens Creek Ossuary Site*, 4 mi. NW of Wallis off TX 36 (3-21-75).

Comal County

New Braunfels, *Guadalupe Hotel/Schmitz Hotel*, 471 Main Plaza (3-13-75).

Culberson County

Guadalupe Mountain National Park, *Pratt, Wallace, Lodge*, at Jct. of N and S branch of McKittrick Canyon (3-26-75).

UTAH

Grand County

Moab vicinity, *Courthouse Wash Pictographs*, 1 mi. NW of Moab in Arches National Park on UT 163 (4-1-75).

San Juan County

Monticello vicinity, *Salt Creek Archeological District*, 30 mi. W of Monticello in E sec. of Canyonlands National Park (3-31-75).

Wayne County

Green River vicinity, *Harvest Scene Pitograph*, 60 mi. S of Green River in Canyonlands National Park (4-1-75).

VERMONT

Washington County

Northfield, *Central Vermont Railway Depot*, W end of Depot Sq. (4-1-75).

VIRGINIA

Chesterfield County

Matoaca vicinity, *Olive Hill*, 0.5 mi. W of Matoaca off VA 36 (4–3–75).

Fredericksburg (independent city)

Chimneys, The, 623 Caroline St. (4–3–75).
Federal Hill, S side of Hanover St. between Jackson and Prince Edward Sts. (3–26–75) HABS.

Lexington (independent city)

Stono, N side of Jct. of U.S. 11 and U.S. 11A (4–1–75).

Loudoun County

Lincoln vicinity, *Shelburne Parish Glebe*, 3.5 mi. S of Lincoln off VA 728 (4–1–75).

Surry County

Scotland vicinity, *Swann's Point Plantation Site*, 2 mi. NW of Scotland off VA 610 (4–1–75).

Virginia Beach (independent city)

Upper Wolfsnare, E of Jct. of Rte. 635 and Rte. 632 (3–26–75).

Washington County

Blackwell vicinity, *Crabtree-Blackwell Farm*, 1 mi. S of Blackwell on SR 686 (4–1–75).

WASHINGTON

Benton County

Paterson vicinity, *Telegraph Island Petroglyphs*, 2 mi. SW of Paterson on Telegraph Island (3–10–75).

Clark County

Woodland vicinity, *Cedar Creek Grist Mill*, 9 mi. E of Woodland on Cedar Creek (3–26–75).

Lewis County

Chehalis, *McFadden, O. B., House*, 1639 Chehalis Ave. (4–1–75) HABS.
Mineral, *Mineral Log Lodge*, E side of Mineral Lake on Hill Rd. (3–26–75).

WEST VIRGINIA

Greenbrier County

Lewisburg vicinity, *Tuckwiller Tavern*, 2 mi. NW of Lewisburg on U.S. 60 (3–4–75).

Kanawha County

Cedar Grove, *Cedar Grove (William Tompkins House)*, SE of Jct. of U.S. 60 and Kanawha and James River Tpke. (3–10–75).

Monroe County

Salt Sulphur Springs vicinity, *Indian Creek Covered Bridge*, 1.5 mi. S of Salt Sulphur Springs on U.S. 219 (4–1–75).

WISCONSIN

Waukesha County

Waukesha, *Old Waukesha Courthouse*, 101 W. Main St. (3–27–75).

OUTER CONTINENTAL SHELF

Plantation Key vicinity, *San Jose Shipwreck Site*, 4 mi. SE of Plantation Key, Monroe Co. FL (3–18–75).

* * * * *

The following are corrections for properties previously listed in the Federal Register:

DISTRICT OF COLUMBIA

Carnegie Endowment for International Peace, 700 Jackson Pl. (9–19–75) NHL.

LOUISIANA

Orleans Parish

New Orleans, *Pontalba Buildings*, Jackson Sq. (10–30–74) NHL.

MARYLAND

ANNE ARUNDEL COUNTY

Annapolis vicinity, *Thomas Point Shoals Light Station*, Chesapeake Bay (2–20–75).

MICHIGAN

Chippewa County

Drummond Island, *Fort Drummond*, W end of Drummond Island (10–1–69).

Jackson County

Clark-Stringham Site, N quarter of Jackson County (6–19–73).
Jackson, *Stone Post Office*, at rear of 125 N. Jackson St. (3–16–72).

Macomb County

Washington, *Washington Octagon House*, 57000 Van Dyke St. (9–3–71).

Sanilac County

Greenleaf vicinity, *Sanilac Petroglyphs* (1–25–71).

NEW JERSEY

Essex County

Morris Canal, irregular line beginning at Phillipsburg and ending at Jersey City (also in Hudson, Morris, Passaic, Sussex, and Warren counties) (10–1–74).

Passaic County

Morris Canal, see Essex County.

OHIO

Hamilton County

Cincinnati, *Goshorn, Sir Alfred T., House*, 3540 Clifton Ave. (4–3–73).

Henry County

Napoleon, *Henry County Courthouse*, corner of N. Perry and E. Washington Sts. (2–28–73).

PENNSYLVANIA

Bedford County

Bedford, *Espy House*, 123 Pitt St. (11–19–74).

Delaware County

Chadds Ford, *Chadd's Ford Historic District*, Jct. of U.S. 1 and PA 100 (11–23–71).

Montgomery County

Pottstown, *Pottstown Roller Mill*, South and Hanover Sts. (10–10–74).

Philadelphia County

Philadelphia, *Mt. Pleasant*, Fairmount Park (10–9–60) NHL.

SOUTH CAROLINA

Charleston County

Mount Pleasant vicinity, *Pritchard, Paul, Shipyard*, 2 mi. N of Mt. Pleasant (9–17–74).
Rockville and vicinity, *Rockville Historic District*, N bank of Bohicket Creek (6–13–72).

TENNESSEE

Davidson County

Nashville, *Two Rivers (David H. McGavock House)*, 3130 McGavock Pike (2–23–72) HABS.

VERMONT

Orleans County

Coventry vicinity, *Orne Covered Bridge*, SW of Coventry off VT 14 (11–20–74).
North Troy vicinity, *River Road Covered Bridge*, S of North Troy off VT 101 (11–19–74).

WEST VIRGINIA

Grant County

William vicinity, *Fairfax Stone Site*, N of William at corner of Grant, Preston, and Tucker Counties (1–26–70).

Ohio County

Wheeling, *Center Wheeling Market*, Market St. between 22nd and 23rd Sts. (2–20–75) HAER.

Preston County

William vicinity, *Fairfax Stone Site*, see Grant County.

Tucker County

William vicinity, *Fairfax Stone Site*, see Grant County.

WISCONSIN

Walworth County

East Troy vicinity, *Loomis, Horace, House*, 2.4 mi. S of East Troy (12–3–74).

WYOMING

Weston County

Newcastle vicinity, *Jenny Stockade Site* (9–30–69).

* * * * *

The following properties were omitted from the February 4, 1975, Federal Register:

DISTRICT OF COLUMBIA

U.S. Marine Barracks Historic District, 8th and I Sts. (12–27–72).

HAWAII

Maui County

Crater Historic District, Haleakala National Park (11–1–74).

MARYLAND

Anne Arundel County

Annapolis, *House by the "Town Gates,"* 63 West St. (6–19–73).

MINNESOTA

Chippewa County

Montevideo vicinity, *Lac qui Parle Mission Site*, 10 mi. NW of Montevideo at end of Lac qui Parle Lake (also in Lac qui Parle County) (3–14–75).

NEVADA

Clarke County

Las Vegas vicinity, *Mormon Well Corral*, N of Las Vegas (12–24–74).

NEW JERSEY

Burlington County

Westhampton, *Peachfield* (6–17–73).

Union County

Clark, *Clark House* (11–19–74).

OHIO

Vinton County

Wilkesville vicinity, *Ponn Humpback Covered Bridge*, 4 mi. SW of Wilkesville over Raccoon Creek (4–11–73).

WISCONSIN

Walworth County

Delavan Lake, *Jones, Fred B., Estate (Penwern)*, 3335 S. Shore Dr. (12-27-74).

* * * * *

The following properties have been demolished and therefore removed from the National Register of Historic Places:

CALIFORNIA

Los Angeles County

Pasadena, *Neighborhood Church.*

ILLINOIS

Cook County

Chicago, *Scoville Building.*

Stephenson County

Freeport, *Stephenson County Courthouse.*

NEW JERSEY

Mercer County

Washington, *Hutchinson House.*

Monmouth County

Asbury Park, *Mayfair Theater.*
Colts Neck vicinity, *North American Phalanx.*

NORTH CAROLINA

Craven County

New Bern, *Simpson-Oaksmith-Patterson House.*

Guilford County

Greensboro, *Founders Hall.*

TENNESSEE

Davidson County

Nashville, *J. S. Reeves and Company Building.*

Hickman County

Nunnelly vicinity, *Pinewood.*

* * * * *

The following properties have been determined to be eligible for inclusion in the National Register. All determinations of eligibility are made at the request of the concerned Federal Agency under the authorities in section 2(b) and 1(3) of Executive Order 11593 as implemented by the Advisory Council on Historic Preservation, 36 C.F.R. Part 800. This listing is not complete. Pursuant to the authorities discussed herein, an Agency Official shall refer any questionable actions to the Director, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, for an opinion respecting a property's eligibility for inclusion in the National Register.

Historical properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to the procedures of the Advisory Council on Historic Preservation, 36 C.F.R. Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on such a property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

ALABAMA

Dallas County

Selma, *Gill House*, 1109 Selma Ave.

Madison County

Huntsville, *Lee House*, Red Stone Arsenal.

ALASKA

Northwestern District

Little Diomede Island, *Iyapana, John, House.*

ARIZONA

Coconino County

Grand Canyon National Park, *Old Post Office.*
Grand Canyon National Park, *O'Neill, Buckey, Cabin.*
Grand Canyon National Park, *Ranger's Dormitory.*

Maricopa County

Cave Creek Archeological District.
New River Dams Archeological District.
Site T:4:6.
Skunk Creek Archeological District.

Navajo County

Polacca vicinity, *Walpi Hopi Village*, Adjacent to Polacca

Pima County

Tucson vicinity, *Old Santan*, NW of Tucson.

Yuma County

Wickenburg vicinity, *Harquahala Peak Observatory*, SW of Wickenburg.
Yuma, *Southern Pacific Depot.*

ARKANSAS

Ouachita County

Camden, *Old Post Office*, Washington St.

CALIFORNIA

Calaveras County

New Melones Historical District, New Melones Lake Project area, Stanislaus River (also in Tuelumne County).

Imperial County

Glamis vicinity, *Chocolate Mountain Archeological District.*

Inyo County

Scotty's Castle, Death Valley National Monument.
Scotty's Ranch, Death Valley National Monument.

Marin County

Point Reyes, *Point Reyes Light Station.*

Mariposa County

Yosemite National Park, *Degnan Residence and Bakery*, Southside Dr.

Modoc County

Alturas vicinity, *Rail Spring*, about 30 mi. N of Alturas in Modoc National Forest.
Alturas vicinity, *Yellowjackets Landing*, NW of Alturas in Modoc National Forest.
Canby vicinity, *Sevenmile Flat*, NW of Canby in Modoc National Forest.

Monterey County

Big Sur, *Point Sur Light Station.*
Pacific Grove, *Point Pinos Light Station.*

Riverside County

Blythe vicinity, *Blythe Intaglios, Indian Intaglios*, N of Blythe on U.S. 95.
Twentynine Palms, *Barker Dam*, Joshua Tree National Monument.
Twentynine Palms, *Cottonwood Oasis (Cottonwood Springs)*, Joshua Tree National Monument.
Twentynine Palms, *Desert Queen Mine*, Joshua Tree National Monument.
Twentynine Palms, *Lost Horse Mine*, Joshua Tree National Monument.

San Bernardino County

Twentynine Palms, *Keys, Bill, Ranch*, Joshua Tree National Monument.
Twentynine Palms, *Cow Camp*, Joshua Tree National Monument.
Twentynine Palms, *Twentynine Palms Oasis*, Joshua Tree National Monument.
Twentynine Palms, *Wallstreet Mill*, Joshua Tree National Monument.

San Luis Obispo County

San Luis Obispo, *San Luis Obispo Light Station.*

San Mateo County

Ano Nuevo vicinity, *Pigeon Point Light Station.*
Hillsborough, *Point Montara Light Station.*

Shasta County

Redding vicinity, *Squaw Creek Archeological Site*, NE of Redding.
Whiskeytown, *Irrigation System (165 and 166)*, Whiskeytown National Recreation Area.

Sonoma County

Dry Creek-Warm Springs Valley Archeological District.
Santa Rosa, *Santa Rosa Post Office.*

Siskiyou County

Thomas-Wright Battle Site, Lava Beds National Monument.

COLORADO

Denver County

Denver, *Eisenhower Memorial Chapel*, Building No. 27, Reeves St., on Lowry AFB.

Eagle County

Wolcott, *Wolcott Stage Station.*

El Paso County

Colorado Springs, *Alamo Hotel*, corner of Tejon and Cucharras Sts.
Colorado Springs, *Old El Paso County Jail*, corner of Vermijo and Cascade Ave.

Rio Blanco County

Meeker vicinity, *Thornburgh Monument*, NE of Meeker on Thornburgh Road 9 mi. from Jct. of CO 13 and 789.
Rangely vicinity, *Canon Pintado*, S of Rangely on Hwy. 139.
Rangely vicinity, *Carrot Men Pictograph Site*, SW of Rangely and W of Rangely Dragon Rd.

CONNECTICUT

Hartford County

Hartford, *Church of the Good Shepherd and Parish House*, Wyllys St. and Van Block Ave.
Hartford, *Colt Factory Housing*, Huyshope Ave. between Sequassen and Weehasset Sts.
Hartford, *Colt Factory Housing (Potsdam Village)*, Curcombe St. between Hendricxsen Ave. and Locust St.
Hartford, *Colt Park*, bounded by Wethersfield Ave., Stonington, Wawarme, Curcombe, and Marseek Sts., and by Huyshope and Van Block Aves.
Hartford, *Colt, Colonel Samuel, Armory, and related factory buildings*, Van Dyke Ave.
Hartford, *Flat-Iron Building (Motto Building)*, Congress St. and Maple Ave.
Hartford, *Houses on both side of Congress Street.*
Hartford, *Houses on Charter Oak Place.*

Hartford, *Houses on Wethersfield Avenue*, between Morris and Wyllys Sts., particularly Nos. 97–81, 65.

Middlesex County

Middletown, *Mather-Douglas-Santangelo House*, 11 S. Main St.

New Haven County

New Haven, *City Hall and Annex.*

New Haven, *Post Office-Courthouse*, Church and Court Sts.

New London County

New London, *Thames Shipyard*, west bank of Thames River N. of the U.S. Coast Guard Academy.

DELAWARE

New Castle County

Wilmington, *Wilmington Custom House*, King St.

Suffolk County

Lewes, *Delaware Breakwater.*
Lewes, *Harbor of Refuge Breakwater.*

DISTRICT OF COLUMBIA

Auditors' Building, 201 14th St. SW.
Central Heating Plant, 13th and C Sts. SW.
1700 Block Q Street NW, 1700–1744, 1746, 1748 Que St. NW.; 1536, 1538, 1540, 1602, 1604, 1606, 1608 17th St. NW.

FLORIDA

Hillsborough County

Tampa, *Firehouse No. 10*, Ybor City.

Pinellas County

Bay Pines, *VA Center*, Sections 2, 3, and 11 TWP 31–S, R–15E.

GEORGIA

Chatham County

Archeological Site, N end of Skidway Island.

Clarke County

Athens, *Carnegie Library Building*, 1401 Prince Ave.

Clay County

Archeological Site WGC–73, downstream from Walter F. George Dam.

Heard County

Philpott Homesite and Cemetery, on bluff above Chattahoochee River where Grayson Trail leads into river.

Stewart County

Rood Mounds.

Sumter County

Americus, *Aboriginal Chert Quarry*, Souther Field.

HAWAII

Moanalua Valley.

Hawaii County

Hawaii Volcanoes National Park, *Mauna Loa Trail.*

Maui Country

Hana vicinity, *Kipahulu Historic District*, SW of Hana on Rte. 31.

IDAHO

Ada County

Boise, *Alexanders*, 826 Main St.
Boise, *Falks Department Store*, 100 N. 8th St.
Boise, *Idaho Building*, 216 N. 8th St.
Boise, *Simplot Building (Boise City National Bank)*, 805 Idaho St.
Boise, *Union Building*, 712½ Idaho St.

Custer County

Orofino vicinity, *Canoe Camp—Site 18*, W. of Orofino on U.S. 12 in Nez Perce National Historical Park.

Custer County

Challis, *Challis Bison Jump.*

Idaho County

Kamiah vicinity, *East Kamiah—Site15*, SE of Kamiah on U.S. 12 in Nez Perce National Historical Park.

Lemhi County

Tendoy, *Lewis and Clark Trail, First Flag Unfurling.*
Tendoy, *Lewis and Clark Trail, Pattee Creek Camp.*

Lewis County

Jacques Spur vicinity, *St. Joseph's Mission (Slickpoo)*, S of Jacques Spur on Mission Creek off U.S. 95.

Nez Perce County

Lapwai, *Fort Lapwai Officer's Quarters*, Phinney Dr. and C St. in Nez Perce National Park.
Lapwai, *Spalding.*

ILLINOIS

Cook County

Chicago, *McCarthy Building (Landfield Building)* NE corner of Dearborn and Washington Sts.
Chicago, *Methodist Book Concern (later Stop and Shop Warehouse)*, 12 W. Washington St.
Chicago, *Ogden Building*, 130 W. Lake St.
Chicago, *Oliver Building*, 159 N. Dearborn St.
Chicago, *Springer Block* (Bay, State, and Kranz Buildings), 126–146 N. State St.
Chicago, *Unity Building*, 127 N. Dearborn St.

De Kalb County

De Kalb, *Haish Barbed Wire Factory*, corner of 6th and Lincoln Sts.

Lake County

Fort Sheridan, *Museum, Bldg. 33*, Lyster Rd.
Fort Sheridan, *Water Tower*, Bldg. 49, Leonard Wood Ave.

INDIANA

Monroe County

Bloomington, *Carnegie Library.*

St. Joseph County

Mishawaka, *100 NW Block*, properties fronting N. Main St. and W. Lincoln Way.

Vermillion County

Houses in SR 63/32 Project, Jct. of SR 32 and SR 63 and 1st rd. S of Jct.

IOWA

Muscatine County

Muscatine, *Clark, Alexander, Property*, 125–123 W. 3rd and 307, 309 Chestnut.

KENTUCKY

Jefferson County

Louisville, *Old Louisville Historic District*, bounded on N by Broadway; on the W by 7th and the Louisville/Nashville RR. tracks; on the E by Interstate 65 and Brook St.; on the S by Eastern Pkwy. and Gaulbert Ave.

Trigg County

Golden Pond, *Center Furnace*, N of Golden Pond on Bugg Spring Rd.

MARYLAND

Anne Arundel County

Chestertown, *Bloody Point Bar Light*, on Chesapeake Bay.
Skidmore, *Sandy Point Shoal Light*, on Chesapeake Bay.

Baltimore County

Fort Howard, *Craighill Channel Upper Range Front Light*, on Chesapeake Bay.
Sparrows Point, *Craighill Channel Range Front Light*, on Chesapeake Bay.

Cecil County

Perryville, *Perry Point Mansion House*, Veterans Administration Hospital grounds.
Perryville, *Perry Point Mill*, Veterans Administration Hospital grounds.
Sassafras Elk Neck, *Turkey Point Light*, at Elk River and Chesapeake Bay.

Dorchester County

Hoopersville, *Hooper Island Light*, Chesapeake Bay-Middle Hooper Island.

Harford County

Havre De Grace, *Havre De Grace Light.*

St. Marys County

Piney Point, *Piney Point Light Station.*
St. Inigoes, *St. Inigoes Manor House*, Naval Electronic System Test and Evaluation Detachment.
St. Marys City, *Point No Point Light*, on Chesapeake Bay.

Talbot County

Tilgman Island, *Sharps Island Light*, on Chesapeake Bay.

MASSACHUSETTS

Middlesex County

Wayland, *Old Town Bridge (Four Arch Bridge)*, Rte. 27, 1.5 mi. NW of Rte. 126 Jct.

MINNESOTA

Beltrami County

Blackduct, *Rabideau CCC Camp Site*, S of Blackduct in Chippewa National Forest.

Winona County

Winona, *Second Street Commercial Block.*

MISSOURI

Buchanan County

St. Joseph, *Hall Street Historic District*, bounded by 4th St. on W, Robidoux on S, 10th on E, and Michel, Corby, and Ridenbaugh on N.

Dent County

Lake Spring, *Hyer, John, House.*

Franklin County

Leslie, *Noser's Mill and adjacent Miller's House*, Rural Rte. 1.

MONTANA

Carbon County

Barry's Landing, *Bad Pass Trail (Sioux Trail)*, Big Horn Canyon National Recreation Area.
Hardin, *Pretty Creek Site (Hough Creek Site)*, Big Horn Canyon National Recreation Area.

Fergus County

Lewis & Clark Campsite, May 23, 1805.
Lewis & Clark Campsite, May 24, 1805.
Rocky Point.

Lewis and Clark County

Marysville, *Marysville Historic District.*

Ravalli County

Conner vicinity, *Alta Ranger Station,* S of Conner in Bitterroot National Forest.

Sheridan County

Medicine Lake, *Tipi Hills,* Medicine Lake National Wildlife Refuge.

NEVADA

Clark County

Indian Springs vicinity, *Tim Springs Petroglyphs,* N of Indian Springs.
Las Vegas vicinity, *Blacksmith Shop,* Desert National Wildlife Range.
Las Vegas vicinity, *Mesquite House,* Desert National Wildlife Range.
Las Vegas vicinity, *Mormon Well Corral,* NE of Las Vegas.

Lincoln County

Alamo vicinity, *Black Cayon Petroglyphs,* Pahranagat National Wildlife Refuge.

Nye County

Las Vegas, vicinity, *Emigrant's Trail,* about 75 mi. NW of Las Vegas on U.S. 95.

Storey County (also in Washoe County)

Sparks vicinity, *Derby Diversion Dam,* on the Truckee River 19 mi. E of Sparks, along Interstate 80.

Washoe County

Derby Diversion Dam, see Storey County.

NEW HAMPSHIRE

Grafton County

Bedell Covered Bridge.

NEW JERSEY

Mercer County

Hamilton and West Windsor Townships, *Assunpink Historic District.*

Middlesex County

New Brunswick, *Delaware and Raritan Canal,* between Albany St. Bridge and Landing Lane Bridge.

Monmouth County

Long Branch, *The Reservation,* 1-9 New Ocean Ave.

Sussex County (also in Warren County)

Old Mine Road Historic District.

Warren County

Old Mine Road Historic District, see Sussex County.

NEW YORK

Bronx County

New York, *North Brothers Island Light Station,* in center of East River.

Greene County

New York, *Hudson City Light Station,* in center of Hudson River.

New York County

New York, *Harlem Courthouse,* 170 E. 121st St.

Richmond County

New York, *Romer Shoal Light Station,* located in lower bay area of New York Harbor.

Suffolk County

New York, *Fire Island Light Station,* U.S. Coast Guard Station.
New York, *Little Gull Island Light Station,* off North Point of Orient Point, Long Island.
New York, *Plum Island Light Station,* off Orient Point, Long Island.
New York, *Race Rock Light Station,* south of Fishers Island, 10 mi. N. of Orient Point.

Ulster County

Kingston vicinity, *Esopus Meadows Light Station,* middle of Hudson River.
New York, *Rondout North Dike Light,* center of Hudson River at Jct. of Rondout Creek and Hudson River.
New York, *Saugerties Light Station,* Hudson River.

Westchester County

Port Washington vicinity, *Execution Rocks Light Station,* lower SW portion of Long Island Sound.

NORTH CAROLINA

Brunswick County

Southport, *Fort Johnston,* Moore St.

Caswell County (also in Rockingham Co.)

Archeological Sites CS-12, County Line Creek Watershed Project.

Cumberland County

Fayetteville, *Veterans Administration Hospital Confederate Breastworks,* 23 Ramsey St.

Dare County

Buxton, *Cape Hatteras Light,* Cape Hatteras National Seashore.

Hyde County

Ocracoke, *Ocracoke Lighthouse.*

New Hanover County

Wilmington, *Market Street Mansions District,* both side of Market St. between 17th and 18th Sts.

Rockingham County

Archeological Sites CS-12 (see Caswell County).

NORTH DAKOTA

Ward County

Minot vicinity, *Eastwood Park Bridge.*

OHIO

Clermont County

Neville vicinity, *Maynard House,* 2 mi. E of Neville off U.S. 52.

Pickaway County

Williamsport vicinity, *The Shack (Daugherty, Harry, House),* 5.5 mi. NW of Williamsport.

Seneca County

Tiffin, *Old U.S. Post Office,* 215 S. Washington St.

OKLAHOMA

Comanche County

Fort Sill, *Blockhouse on Signal Mountain,* off Mackenzie Hill Rd.
Fort Sill, *Camp Comanche Site,* E range on *Cache Creek.*
Fort Sill, *Chiefs Knoll, Post Cemetery,* N of Macomb Rd.
Fort Sill, *Geronimo's Grave,* N. of Jct. of Dodge Hill and Elgin Rds.
Fort Sill, *Henry Post Air Field,* Post Rd.
Fort Sill vicinity, *Medicine Bluffs,* NW of Fort Sill.

Haskell County

Keota, vicinity, *Otter Creek Archeological Site,* SW of Keota.

Kay County

Newkirk vicinity, *Bryson Archeological Site,* NE of Newkirk.

OREGON

Coos County

Charleston, *Cape Arago Light Station.*

Curry County

Port Orford, *Cape Blanco Light Station.*
Wolf Creek, *Rogue River Branch,* Star Rte. Box 78.

Douglas County

Winchester Bay, *Umpqua River Lighthouse.*

Josephine County

Whisky Creek Cabin.

Klamath County

Crater Lake National Park, *Crater Lake Lodge.*

Lake County

Silver Lake, *Picture Rock Pass Petroglyphs Site.*

Lane County

Roosevelt Beach, *Heceta Head Lighthouse.*
Roosevelt Beach, *Heceta Head Light Station.*

Lincoln County

Agate Beach, *Yaquina Head Lighthouse.*

Sheman County

Grass Valley vicinity, *Mack Canyon Archeological Site,* at end of BLM access road adjacent to Deschutes River N of Maupin.

Tillamook County

Tillamook, *Cape Meares Lighthouse.*

PENNSYLVANIA

Brumbaugh Homestead, Raystown Lake Project.

Adams County

Gettysburgh, *Barlow's Knoll,* adjacent to Gettysburg National Military Park.

Allegheny County

Bruceton, *Experimental Mine,* U.S. Bureau of Mines, off Cochran Mill Rd.

Clinton County

Lockhaven, *Apsley House,* 302 E. Church St.
Lockhaven, *Harvey, Judge, House,* 29 N. Jay St.
Lockhaven, *McCormick, Robert, House,* 234 E. Church St.
Lockhaven, *Mussina, Lyons, House,* 23 N. Jay St.

Lehigh County

Dorneyville, *King George Inn and two other stone houses,* Hamilton and Cedar Crest Blvds.

Mercer County

Mercer vicinity, *Big Bend Historical Area,* NW of Mercer.

Philadelphia County

Philadelphia, *Quartermaster's Depot, U.S. Marine Corps,* 1100 S. Broad St.

SOUTH CAROLINA

Charleston County

Charleston, *139 Ashley St.*
Charleston, *69 Barre St.*
Charleston, *69r Barre St.*
Charleston, *316 Calhoun St.*
Charleston, *316r Calhoun St.*
Charleston, *268 Calhoun St.*
Charleston, *274 Calhoun St.*
Charleston, *Old Rice Mill,* off Lockwood Dr.

SOUTH DAKOTA

Pennington County

Rapid City, *Rapid City Historic Commercial District*, portions of 612–632 Main St.

TENNESSEE

Henry County

Mt. Zion Church and Cemetery (United Baptist Church).

Monroe County

Vonore vicinity, *Tellico Blockhouse Site*, E of Vonore.

Stewart County

Dover vicinity, *Fort Henry Site*, NW of Dover.
Great Western Furnace.

TEXAS

Bexar County

Fort Sam Houston, *Eisenhower House*, Artillery Post Rd.

Brewster County

Big Bend National Park, *Wilson, Homer, Ranch (Blue Creek Ranch).*

Galveston County

Galveston, *U.S. Customhouse*, bounded by Avenue B, 17th, Water, and 18th Sts.

Potter County

Lake Meredith Recreation Area, *McBride Ranch House.*

UTAH

Salt Lake County

Salt Lake City, *Karrick Building (Leyson-Pearsoll Building)*, 236 S. Main St.
Salt Lake City, *Lollin Block*, 238–240 S. Main St.

Tooele County

Wendover vicinity, *Wendover Air Force Base*, S of Wendover.

VERMONT

Franklin County

Highgate Falls, *Lenticular or Parabolic Truss Bridge*, over Missisquoi River.

Windsor County

Windsor, *Post Office Building.*

WASHINGTON

Clallam County

Olympic National Park Archeological District, Olympic National Park (also in Jefferson County).
Segium, *New Dungeness Light Station.*

Grays Harbor County

Westport, *Grays Harbor Light Station.*

Jefferson County

Olympic National Park Archeological District (see Clallam County).

King County

Burton, *Point Robinson Light Station.*
Seattle, *Alki Point Light Station.*
Seattle, *West Point Light Station.*

Kitsap County

Hansville, *Point No Point Light Station.*

Pacific County

Ilwaco, *Cape Disappointment Light Station.*
Ilwaco, *North Head Light Station.*

Pierce County

Fort Lewis Military Reservation, *Captain Wilkes, July 4, 1841, Celebration Site.*
Longmire, *Longmire Cabin*, Mount Rainier National Park.

San Juan County

San Juan Islands, *Patos Island Light Station.*

Snohomish County

Mukilteo, *Mukilteo Light Station.*

WEST VIRGINIA

Cabell County

Huntington, *Old Bank Building*, 1208 3rd Ave.

Kanawha County

Saint Albans, *Chilton House*, 439 B St.

Wood County

Parkersburg, *Wood County Courthouse.*
Parkerburg, *Wood County Jail.*

WISCONSIN

Ashland County

Ashland vicinity, *Madeline Island Site 7302.*

Door County

Chambers Island, *Chambers Island Lighthouse Dwelling*, northern tip Chambers Island, Green Bay, Lake Michigan.

Milwaukee County

Milwaukee, *Plankinton, Elizabeth, House*, 1492 W. Wisconsin Ave.

WYOMING

Goshen County

Torrington, *Union Pacific Depot.*

Park County

Mammouth, *Chapel at Fort Yellowstone*, Yellowstone National Park.

PUERTO RICO

Mona Island, *Sardinero Site and Ball Courts.*

A. R. MORTENSEN,
Director, Office of Archeology and Historic Preservation.

[FR Doc.75-11703 Filed 5-5-75;8:45 am]

Office of the Secretary

EMERGENCY ADVISORY COMMITTEE FOR NATURAL GAS

Cancellation of Meeting

The meeting of the Emergency Advisory Committee for Natural Gas which was to be held on May 8, 1975 at the O'Hare Hilton Hotel at O'Hare International Airport, Chicago, Illinois has been canceled. The notice announcing the meeting was published on Page 17771 of the April 22, 1975 issue of the FEDERAL REGISTER.

Dated: May 1, 1975.

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

[FR Doc.75-11832 Filed 5-5-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

ROGUE RIVER NATIONAL FOREST GRAZING ADVISORY BOARD

Meeting

The Rogue River National Forest Grazing Advisory Board will meet May 29, 1975, 10 p.m., U.S. Post Office and Federal Building, Eighth & Holly, Room 302, Medford, Oregon.

The purpose of this meeting is to discuss the following:

1. Region Six's new Fish Habitat Management Policy.
2. Land Use Planning—McLoughlin Unit.
3. Coordinated Resource Management Planning.
4. Region Six's Quality Range Management Program.

The meeting is open to the public. Comments are invited following committee discussion of regular topics.

Dated: April 24, 1975.

W. N. STANALAND,
Acting Forest Supervisor.

[FR Doc.75-11839 Filed 5-5-75;8:45 am]

Soil Conservation Service

BRILLION WATERSHED PROJECT, WISCONSIN

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the Brillion Watershed Project, Calumet and Manitowoc Counties, Wisconsin, USDA-SCS-EIS-WS-(ADM)-75-1-(F)-WI.

The EIS concerns a plan for watershed protection and flood prevention. The planned works of improvement provide for conservation land treatment supplemented by two floodwater retarding structures and one lake level control structure and associated channel.

The final EIS has been filed with the Council on Environmental Quality.

A limited supply is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, P.O. Box 4248, Madison, Wisconsin 53711

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

APRIL 28, 1975.

[FR Doc.75-11841 Filed 5-5-75;8:45 am]

CEDAR CREEK WATERSHED PROJECT, TEXAS

Environmental Statement; Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.-8(b)(3) of the Soil Conservation Service

Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Cedar Creek Watershed, Rockwall, Kaufman, Van Zandt, Henderson and Hunt Counties, Texas.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Edward E. Thomas, State Conservationist, Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns plans for watershed protection and flood prevention. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by eleven floodwater retarding structures.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA
First National Bank Building
Temple, Texas 76501

Requests for the negative declaration should be sent to the above address.

No administrative action on implementation of the proposal will be taken until May 21, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

APRIL 29, 1975.

[FR Doc.75-11840 Filed 5-5-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

NATIONAL ADVISORY BODIES

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to assemble during the month of June 1975:

Name: NATIONAL ADVISORY COUNCIL ON NURSE TRAINING. Date and Time: June 2-5, 1975, 9:00 a.m. Place: Conference Room #9, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. Open on June 2, 9:00 a.m. to 10:00 a.m. Closed remainder of meeting.

Purpose: The council performs the final review of applications for construction projects, financial distress grants, special projects for improvement of nurse training, and research grants, and recommends approval, disapproval, or deferral action to the Administrator, Health Resources Administration.

Agenda: Agenda items for the open portion of the meeting will cover announcements; consideration of minutes of previous meeting; discussion of future meeting dates; and administrative and staff reports. During the closed session, the council will be performing the final review of grant applications for Federal assistance and will not be open to the public in accordance with the provisions set forth in section 552(b) (4), (5), and (6), Title 5, U.S. Code and the Determination by the Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to attend, obtain a roster of members or other relevant information should contact Dr. Mary S. Hill, Federal Building, Room 6C-08, 7550 Wisconsin Avenue, Bethesda, Maryland, Telephone (301) 496-6985.

Name: NATIONAL ADVISORY COUNCIL ON HEALTH PROFESSIONS EDUCATION. Date and Time: June 2-6, 1975, 8:30 a.m. Place: Conference Room #6, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. Open on June 2, 8:30 a.m. to 10:30 a.m. Closed remainder of meeting.

The Council will meet again on: Date and Time: June 20, 1975, 8:30 a.m. Place: Conference Room #4, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. Open on June 20, 8:30 a.m. to 10:30 a.m. Closed remainder of meeting.

Purpose: The council advises the Secretary with respect to the administration of programs of financial assistance for the health professions and makes recommendations based on their review of applications requesting such assistance.

Agenda: During the open session, agenda items include administrative matters and reports. During the closed session, the council will be performing the final review of grant applications for Federal assistance and will not be open to the public in accordance with the provisions set forth in section 552 (b) (4), (5), and (6), Title 5, U.S. Code, and the Determination by the Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to attend, obtain a roster of members or other relevant information should contact Mrs. Lynn Stevens, Room 4C-06, Building 31, 9000 Rockville Pike, Bethesda, Maryland, Telephone (301) 496-5353.

Name: NATIONAL ADVISORY COUNCIL ON REGIONAL MEDICAL PROGRAMS. Date and Time: June 12-13, 1975, 9:00 a.m. Place: Conference Room G/H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland. Open on June 12, 9 a.m. to 10 a.m. Closed remainder of meeting.

Purpose: The council advises and assists the Secretary in the preparation of regulations for, and as to policy matters arising with respect to, the administration of this Program. Reviews applications for grants under Title IX, and recommends to the Secretary with respect to approval of applications for, and the amounts of, grants under this Title.

Agenda: During the open portion of the meeting, the council will discuss policy matters and conduct other required business. During the closed session the council will be performing the review of grant applications for Federal assistance and will not be open to the public in accordance with the provisions set forth in section 552(b) (4), (5), and (6), Title 5, U.S. Code and the Determination by the Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to attend, obtain a roster of members or other relevant information should contact Mr. Kenneth Baum, Room 11-05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, Telephone (301) 443-1520.

Name: HEALTH SERVICES DEVELOPMENTAL GRANTS STUDY SECTION. Date and Time: June 17-19, 1975, 7:00 p.m. Place: Sheraton Inn and International Conference Center, Conference Room 8, 11810 Sunrise Valley Drive, Reston, Virginia. Closed for entire meeting.

Purpose: The study section is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.

Agenda: The study section will be performing the initial review of grant applications for Federal assistance and will not be open to the public in accordance with the provisions set forth in section 552(b) (4), (5), and (6), Title 5, U.S. Code and the Determination by the Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster or other relevant information should contact Mr. David McFall, Parklawn Building, Room 15-29, 5600 Fishers Lane, Rockville, Maryland, Telephone (301) 443-2930.

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.

Date: April 30, 1975.

EDWARD A. STEFFEE,
Associate Administrator for Operations and Management.

[FR Doc.75-11816 Filed 5-5-75;8:45 am]

NATIONAL ADVISORY PUBLIC HEALTH TRAINING COUNCIL

Notice of Meeting; Correction

In FR Doc. 75-10113 appearing at page 17306 in the FEDERAL REGISTER of April 18, 1975, the meeting date of the National Advisory Public Health Training Council has been changed from May 15-16 to June 12-13.

The time, place, purpose, and agenda for this meeting remains unchanged.

Dated: April 30, 1975.

EDWARD A. STEFFEE,
Associate Administrator for Operations and Management.

[FR Doc.75-11815 Filed 5-5-75;8:45 am]

Office of the Secretary

NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

Meeting

Notice is hereby given that the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research will meet on May 23 and 24, 1975, in Conference Room 10, C Wing, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014. The meeting will convene at 9 a.m. each day and will be open to the public, subject to the limitations of available space. This meeting will be

held only if it is determined to be necessary at the meeting of the Commission on May 9 and 10, 1975.

The agenda will include discussion of issues identified in the legislative mandate to the Commission under Pub. L. 93-348 and planning of studies to be undertaken by the Commission.

Requests for information should be directed to Ms. Anne Ballard (301-496-7776), Room 125, Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland 20016.

Date: April 30, 1975.

CHARLES U. LOWE,
Executive Director, National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

[FR Doc.75-11821 Filed 5-5-75;8:45 am]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

EXECUTED MEMORANDA OF AGREEMENT

Pursuant to section 800.6(a) of the Advisory Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800), notice is hereby given that the following Memoranda of Agreement were executed during the month of April, 1975:

Water Distribution System, Department of Defense, U.S. Air Force, affecting the Bellows Field Archeological Site, Hawaii (4/13/75); Ballenger Creek Sewage Treatment Plant, Environmental Protection Agency, affecting the Monocacy Battlefield, Frederick County, Maryland (4/14/75);

Stabilization project, Department of Defense, Department of the Army, Corps of Engineers, affecting the Cabin John Aqueduct Bridge, Montgomery County, Glen Echo vicinity (4/24/75);

Interstate 640, 6-lane Beltway around Knoxville, Tennessee, Department of Transportation, Federal Highway Administration, affecting "Middlebrook", Knox County, Tennessee (4/24/75);

Viviendas La Victoria Housing Project, Department of Housing and Urban Development, affecting the South End Historic District, Boston, Massachusetts (4/29/75); and

Central Waterfront Urban Renewal, Department of Housing and Urban Development, affecting the Harvey Mansion, New Bern, North Carolina (4/29/75).

These Memoranda were executed in accordance with section 800.5 of the Advisory Council's Procedures, in fulfillment of Federal agency responsibilities to afford the Advisory Council an opportunity to comment on Federal, federally assisted, and federally licensed undertakings which have an effect upon properties included or eligible for inclusion in the National Register of Historic Places. These agency responsibilities derive from section 106 of the National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. S470f) and sections 1(3) and 2(b) of Executive Order 11593, "Protection and Enhancement of the Cultural Environment," (16 U.S.C. S470, 36 FR 8921). The Memoranda are available for inspection at the Advisory Council offices, Suites 430 and 1030, 1522 K Street NW., Washington, D.C. 20005. Further information is available from the Director, Office of Review and Compliance, Advisory Council on Historic Preservation, at the above address.

Dated: May 1, 1975.

ROBERT R. GARVEY, Jr.,
Executive Director.

[FR Doc.75-11809 Filed 5-5-75;8:45 am]

PUBLIC INFORMATION MEETING

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463) and section 800.5(c) of the Advisory Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR 800), that two public information meetings will be held so that representatives of national, State, and local units of government, and representatives of public and private organizations, and interested citizens can receive information and express their views on a proposed undertaking of the Federal Highway Administration that will have an adverse effect upon a property determined by the Secretary of the Interior to be eligible for inclusion in the National Register of Historic Places. The first meeting will be held on June 3, at 8 p.m., and it will be held at the Department of Highways Maintenance Station, Mile Post 31, Edgerton Highway, Chitina, Alaska, and the second meeting will be held on June 4 at 8 p.m. at the Cordova High School Gymnasium (South 2nd Avenue East) P.O. Box 140, Cordova, Alaska 99574. The proposed undertaking is the reconsideration of an alignment for the Copper River Highway between mile 82 and Chitina that will require the use of the Copper River Railroad right-of-way. The property is the Copper River and Northwestern Railway, South Central District.

A summary of the agenda of the public information meeting follows:

I. Explanation of the procedures and purpose of the meeting by representatives of the Executive Director of the Advisory Council.

II. Explanation of the project by representatives of the Federal Highway Administration.

III. Statement by the Alaska State Historic Preservation Officer on the project.

IV. Statements from the public on the project.

Speakers will be permitted to present their views on the project and should limit their statements to approximately ten minutes. Statements should be limited to the undertaking, its effects on historic and cultural properties, and alternate courses of action. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005 (202-254-3380).

Dated: May 1, 1975.

ROBERT R. GARVEY, Jr.,
Executive Director.

[FR Doc.75-11810 Filed 5-5-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 27061]

EASTERN AIR LINES, INC.

Suspension/Deletion of Service Mayaguez, Puerto Rico; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that public hearings in this proceeding will be held on June 3, 1975, at 10 a.m. (local time) in Room 726, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before Chief Administrative Law Judge Robert L. Park.

For details of the issues involved in this proceeding, interested persons are referred to the Board's Order 74-12-39 dated December 11, 1974, instituting this proceeding; the Prehearing Conference Report served on February 7, 1975; the Supplemental Prehearing Conference Report served on March 5, 1975; and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., May 1, 1975.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.75-11834 Filed 5-5-75;8:45 am]

[Docket 26494 Agreements C.A.B. 25064; 25070, R-1 and R-2; C.A.B. 24944; Order 75-4-145]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreements Relating to North Atlantic Proportional Fares

Agreements have been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA).

Agreement C.A.B. 25064, adopted at a Resolution 015 meeting held in New York, March 11-13, 1975, proposes adjustments in North Atlantic proportional fares used for construction of through fares over New York, effective June 1, 1975, to reflect tariff revisions filed by U.S. domestic carriers implementing Phase 9 of the Domestic Passenger-Fare Investigation. Except for Florida and Seattle proportionals which have been superseded by Agreement C.A.B. 25070, this agreement will be approved consistent with our action in Order 75-4-95 (April 18, 1975) approving similar adjustments in transpacific proportionals. Agreement C.A.B.

25070, to be effective April 30, 1975, was adopted at a North Atlantic Traffic Conference meeting April 7–10 in Geneva, and would revise proportional fares for Florida points and Seattle as a result of the Board's disapproval of Florida-London fares and all Seattle-Europe fares effective May 1, 1975 (Order 75–3–101, March 27, 1975.[1]

In Order 75–3–101, which disposed of the IATA North Atlantic fare structure for effect April 1, 1975, the Board disapproved New York-London fares insofar as they would otherwise be used to construct through fares between Florida and London on the ground that National Airlines, Inc. (National), the only U.S. carrier providing direct Miami-London service, projected a return on investment in excess of 19 percent, and did not require the increase in fares which would have resulted. The Board also disapproved all transatlantic fares to/from New York insofar as they would otherwise be used to construct through fares to/from Seattle since, on a per-mile basis, Seattle/Europe fares would exceed those between Vancouver and Europe despite the virtually identical length of haul. The Board did, however, afford the carriers a one-month period to resolve these matters.

The Board indicated its intention that beginning May 1, 1975, Florida-London fares should be based on the sum of last year's (August 1, 1974) New York-London fares plus the proportional add-ons to/from points in Florida approved for effectiveness April 1, 1975. The Board's order did not expressly call for any reduction of fares between Florida and other European points, or between Europe and other points on National's system west of Florida. It was the Board's expectation that the IATA carriers would submit a set of specified fares between Miami and London, with London fares to/from other points in Florida constructed over Miami rather than New York.

The carriers, however, claim that this approach would result in fare-structure anomalies, and have submitted a different approach which they contend will achieve the Board's objective in what they consider a sounder way. Briefly, they propose to retain for construction purposes the New York-Europe fares approved for effectiveness April 1, 1975, but to reduce the proportional add-ons to/from Miami, other points in Florida, and a number of additional points across the southern tier of the United States. The result will be to reduce through fares between all of the latter points and all points in Europe below the levels proposed in Agreement C.A.B. 24944. In the Miami-Europe markets the reductions in the various types of economy-class normal and promotional fares will range between $27 and $40 ($46 in first class); from points further west, economy-class reductions will range as high as $50.[2]

On the other hand, Miami-London fares will not be held to last year's levels, as the Board desired, but will be as much as $20 higher in the case of peak-season 22/45-day excursion fares and affinity-group fares ($26 higher in first class).[3] Since a substantial fraction of National's Miami-London passengers either begin their trips at points west of Florida, or are bound for European points beyond London, the carriers contend (and our own rough analysis confirms) that the proposed changes as a whole will reduce National's revenues from the level contemplated in Agreement C.A.B. 24944 by at least as much as, and probably more than, the specific freeze on Florida-London fares mandated by Order 75–3–101. Taking into account the travelers from west-of-Florida points who do not use National's service, there is no doubt that U.S. travelers to Europe will benefit more in the aggregate from the carriers' proposed changes than from the narrower action called for by the Board. By the same token, the impact on other carriers' revenues will be greater.

Although the Board would have preferred to keep Florida-London fares at no higher than last year's dollar levels, and to have the carriers make such further minimum adjustments as might be needed to avoid anomalies from that base, Order 75–3–101 was not explicit on the latter point, and the carriers are not to be criticized for proposing broader adjustments than absolutely essential. Taken as a whole, the Board finds the carriers' proposal acceptable as a reasonable accommodation of competing interests which satisfies the Board's objectives in substance although it does not conform fully to the requirements of Order 75–3–101. The proposal will accordingly be approved.

Concerning Seattle-Europe fares, the Board indicated that these should not exceed comparable Vancouver-Europe fares by more than an amount justified by the small (approximately 150-mile) difference in round-trip mileages from the two points to Europe. Instead of recalculating all Seattle-Europe fares on this basis, the carriers again chose to proceed by retaining the New York-Europe fares for construction purposes and by adjusting the proportional add-ons to/from Seattle; and in doing so they focused only on certain promotional fares where the Vancouver vs. Seattle differentials appeared to be particularly out of line. Their stated rule of thumb was to reduce these differentials to no more than "about $15" (actually the differentials remaining after adjustment run as high as $18 in some cases).

As a result, the differential between comparable Seattle-Europe and Vancouver-Europe fares remains higher in most cases than would be justified on a strict mileage basis. For the 14/21-day and 22/45-day excursion fares and the affinity-group and GIT fares, this excess differential is mostly in the range of $6–$8; for first-class fares, which the carriers did not adjust, it is $19.[4] On the other hand, as the carriers point out, Seattle-Europe normal economy and APEX fares are $7–$9 lower in relation to Vancouver fares than would be justified by the mileage-proportionality principle.

The result of the carriers' proposed adjustments is not fully satisfactory, since the excess differentials both outnumber and outweigh those which could legitimately have been increased. However, the excess differentials are not large, except on first class which is used by relatively few passengers, and the Seattle parties have not objected to the revised agreement. Under the circumstances, the Board will approve the agreement, although it will expect closer adherence to the mileage-proportionality principle in the future.

Finally, Agreement C.A.B. 25070 would also amend the conditions of the new trans-atlantic advance-purchase excursion (APEX) fare to provide for full refund in the event of cancellation prior to departure time due to death in the passenger's immediate family. This amendment will be approved since it partly satisfies the concerns which led the Board to condition its approval of the original resolution in Order 75–3–101; however, the need for the condition is not removed, and it will continue to apply.

The Board, acting pursuant to sections 102, 204(a) and 412(b) of the Act, makes the following findings:

1. It is not found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest or in violation of the Act, provided that approval is subject, where applicable, to conditions previously imposed by the Board:

[1] Additionally, the agreement would allow all previously adopted resolutions pertaining to North Atlantic fares to continue in effect beyond April 30, 1975. We will disapprove this to the extent it would permit present affinity and incentive group fares to continue in effect to points in Spain/Portugal from the United States consistent with our actions in Orders 75–3–101 and 75–4–137 dated March 27 and April 29, 1975 respectively.

[2] APEX and youth fares will not be reduced, presumably because they did not exist last year and thus were not subject to the Board's injunction to maintain last year's fares.

[3] In two anomalous cases, the new fares will be slightly below last year's, and in general the winter-season increases are quite small, mostly on the order of 1–2 percent.

[4] The excess differential on youth fares is $35–$36, but these present a special case, since the U.S. youth fares were deliberately constructed by adding together the applicable Canada-Europe youth fare and the local fare from the U.S. point in question to the nearest Canadian gateway (here Vancouver). In view of the basis on which the Board's approval of these youth fares was justified in Order 75–3–101, the mileage-proportionality principle is not applicable to them.

Agreement CAB	IATA No.	Title	Application
25064	015	North Atlantic Proportional Fares—North American (Amending) Insofar as it applies to proportional fares other than to/from Florida and Seattle.	1/2.
25070: R-1	002x	Special Amending Resolution—North Atlantic (New) (Except insofar as it would permit fares between the United States and Spain, Portugal, Madeira Islands, Canary Islands and the Azores to continue in effect beyond April 30, 1975 under Resolutions 076e and 076p.).	1/2.
R-2	071p	North Atlantic Advance-Purchase Excursion Fares (Amending)	1/2.

2. It is found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest and in violation of the Act:

Agreement CAB	IATA No.	Title	Application
25064	015	North Atlantic Proportional Fares—North American (Amending) Insofar as it applies to proportional fares to/from Florida and Seattle.	1/2.
25070: R-1	002x	Special Amending Resolution—North Atlantic (New) (Insofar as it would permit fares between the United States and Spain, Portugal, Madeira Islands, Canary Islands and the Azores to continue in effect beyond April 30, 1975 under Resolutions 076e and 076p.).	1/2.

Accordingly, *it is ordered*, That 1. Those portions of Agreements C.A.B. 25064 and C.A.B. 25070 set forth in finding paragraph 1 above be and hereby are approved, subject, where applicable, to conditions previously imposed by the Board;

2. Those portions of Agreements C.A.B. 25064 and C.A.B. 25070 set forth in finding paragraph 2 above be and hereby are disapproved; and

3. Those portions of Agreement C.A.B. 24944 set forth in finding paragraphs 4, 6 and 10 of Order 75–3–101 (March 27, 1975), be and hereby are approved, subject, where applicable, to conditions previously imposed by the Board.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75–11835 Filed 5–5–75;8:45 am]

[Order 75–4–143; Docket 22859]

NORTHWEST AIRLINES, INC.

Domestic Air Freight Rate Investigation; Order of Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 30th day of April, 1975.

By tariff revisions[1] posted March 31 and scheduled to become effective May 15, 1975, Northwest Airlines, Inc. (Northwest) proposes, inter alia, to increase general and specific commodity rates systemwide, generally as follows:

1. Increase most bulk and standard service container general commodity rates by 12 percent;
2. Increase most bulk specific commodity rates by 10 percent;
3. Increase bulk and container general and specific commodity rates between Hawaii and the other 49 states by 20 percent;
4. Increase small package rates by $3.00 wherever current rates are $30.00 or less; and
5. Set flat-charge daylight time-of-tender container rates at 110 percent of the new standard service pivot weight rates.

The carrier also proposes to cancel all bulk general commodity weight-breaks except at 100, 1,000, 2,000, and 3,000 pounds; to cancel all A–2 and A–3 container rates; to reduce the exception rating on human remains from 135 percent to 119 percent of the general commodity rate in order to keep human remains rates at their current level; and to increase bulk general commodity minimum charges to the following:

1. Under 1,050 miles—$13.00,
2. 1,051 to 1,350 miles—$14.00,
3. 1,351 to 1,600 miles—$15.00, and
4. Over 1,600 miles—$16.00

In support of the proposal, Northwest asserts, inter alia, that the cost formula used is identical to that previously allowed by the Board in Order 74–11–63; that it is consistent with the formula developed by the Board's Bureau of Economics that the carrier's forecast for the year ending May 31, 1976 reveals a loss of nearly $2 million at present rate levels, with a return on investment of −0.43 percent; and that the proposal would yield a system profit of $4.3 million for a 4.95 percent return on investment.

The proposed rates come within the scope of the Domestic Air Freight Rate Investigation (DAFRI), Docket 22859, and their lawfulness will be determined in that proceeding. The issue now before the Board is whether to permit them to become effective or to suspend them pending final decision in DAFRI.

Although Northwest states that its approach to increasing rates is in accordance with the precedent used by the Board in considering rate increases, we find that numerous container rates exceed the costs that the Board has used, principally with respect to standard service D and daylight LD–7 rates in markets over 1,500 miles, and daylight LD–3 and standard LD–7 rates in markets over 2,500 miles,[2] as well as a few bulk general commodity rates. Further, there are a limited number of specific commodity rates that exceed the general commodity rates. Finally, the Board notes that the proposed cancellation of 220- and 440-pound weightbreaks between Hawaii and the Mainland would leave in effect for such shipments only the current 100-pound rates, which typically exceed costs by approximately 50 percent. Upon consideration of all relevant factors, the Board concludes that the above rates and cancellations should be suspended pending its decision in DAFRI.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered that. 1. Pending hearing and decision by the Board, the increased rates, charges, and provisions described in Appendix A[3] are suspended and their use deferred to and including August 12, 1975, unless otherwise ordered by the Board, and that no change be made therein during the period of suspension except by order or special permission of the Board; and

2. Copies of this order shall be filed with the tariffs.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75–11836 Filed 5–5–75;8:45 am]

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[1] Revisions to Airline Tariff Publishing Company, Agent, Tariffs C.A.B. Nos. 169, 227, and 235.

[2] Daylight container rates consist of a flat charge per container, regardless of weight, up to the maximum capacity of the container. Northwest's LD–3 and LD–7 daylight rates cover densities ranging from 7.5 to 25.4 pounds per cubic inch. Many of the rates to be suspended do not exceed costs at very high densities. The Board, however, concludes that lower-density traffic should not be subject to above-cost rates.

[3] Appendix filed as part of the original document.

CONSUMER PRODUCT SAFETY COMMISSION

NATIONAL ADVISORY COMMITTEE FOR FLAMMABLE FABRICS ACT

Meeting

Notice is given that a meeting of the National Advisory Committee for the Flammable Fabrics Act will be held on Monday, June 9 (9 a.m. to 4 p.m.) and Tuesday, June 10 (9 a.m. to 2 p.m.) in the 6th Floor Conference Room, Consumer Product Safety Commission, 1750 K Street, NW., Washington, D.C.

The National Advisory Committee provides advice and recommendations on the Commission's proposals and plans for reducing the frequency and severity of burn injuries involving flammable fabrics.

The tentative agenda includes discussion of the following topics: Burns prevention education program, amendments to the mattress flammability standard, and upholstered furniture flammability standard.

The meeting is open to the public, however, space is limited. Further information concerning this meeting and final

agenda may be obtained from the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, phone (202/634–7700).

Dated: May 1, 1975.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.75–11862 Filed 5–5–75;8:45 am]

SUBMISSION OF CHEMICAL FORMULATION FOR CERTAIN CONSUMER PRODUCTS

Rescission of General Order

On April 9, 1975, the Consumer Product Safety Commission issued a General Order which required the manufacturers of consumer products in certain product categories to submit the chemical formulation for those consumer products. The order was published in the FEDERAL REGISTER on April 14, 1975, at 40 FR 16713.

Prior to the issuance of the General Order, the Commission, through its contractor, Auerbach Associates, Inc., 121 North Broad Street, Philadelphia, PA. 19107, had solicited chemical formulation data from certain manufacturers on a voluntary basis. The questionnaire sent to the manufacturers was cleared by the General Accounting Office pursuant to the Federal Reports Act.

The intended effect of the General Order was to transform the voluntary solicitation of information into a mandatory requirement. The General Accounting Office has determined that the transformation may constitute a material revision in the collection plan and further believes a more indepth review is required of mandatory requests than of voluntary solicitations. Therefore, the General Accounting Office believes a new clearance is required. The Commission is seeking a new clearance in accordance with the applicable General Accounting Office regulations.

Pending the processing of the new clearance request, the General Order is rescinded. Manufacturers who would have been subject to the order are advised that they need not comply with the order until further notice.

Dated: May 1, 1975.

SADYE E. DUNN,
Secretary,
Consumer Product Safety Commission.

[FR Doc.75–11863 Filed 5–5–75;8:45 am]

FLAMMABILITY OF MATTRESSES (FF4–72)

Policy Clarification

Section 3 of the Flammable Fabrics Act (15 U.S.C. 1192) prohibits, among other matters, the "manufacture for sale" of any product which fails to conform to an applicable standard issued under the Act. The Standard for the Flammability of Mattresses, as amended (FF 4–72, 38 FR 15095, June 8, 1973), (Mattress Standard), issued pursuant to the Act, provides that, with certain exceptions, mattresses must be tested according to a prescribed method. The standard does not exempt renovation; nor does it specifically refer to renovation.

The purpose of this notice is to inform the public that mattresses renovated for sale are considered by the Commission to be mattresses manufactured for sale and, therefore, subject to the requirements of the Mattress Standard. The Commission believes that this policy clarification will better protect the public against the unreasonable risk of fires leading to death, personal injury or significant property damage, and assure that purchasers of renovated mattresses receive the same protection under the Flammable Fabrics Act as purchasers of new mattresses.

For purposes of this notice, mattress renovation includes a wide range of operations. Replacing the ticking or batting, stripping a mattress to its springs, rebuilding a mattress, or replacing components with new or recycled materials, are all part of the process of renovation. Any one, or any combination of one or more of these steps in mattress renovation is considered to be mattress manufacture.

If the person who renovates the mattress intends to retain the renovated mattress for his or her own use, or if a customer of a renovator merely hires the services of the renovator and intends to take back the renovated mattress for his or her own use, "Manufacture for sale" has not occurred and such a renovated mattress is not subject to the mattress standard.

However, if a renovated mattress is sold or intended for sale, either by the renovator or the owner of the mattress who hires the services of the renovator, such a transaction is considered to be "manufacture for sale".

Accordingly, mattress renovation is considered by the Commission to be "manufacture for sale" and, therefore, subject to the Mattress Standard, when renovated mattresses are sold or intended for sale by a renovator or the customer or the renovator.

Renovators of mattresses, like manufacturers, work with mattresses of nonstandard size or shape and may, therefore, believe that such mattresses are one-of-a-kind. Section 2(d) of the Mattress Standard provides:

> (d) One-of-a-kind mattresses, such as nonstandard sizes or shapes, may be excluded from testing under this standard pursuant to rules and regulations established by the Consumer Product Safety Commission.

However, there are currently no rules or regulations for excluding one-of-a-kind mattresses from testing under the Mattress Standard, although the matter is under active review. Until Commission policy on one-of-a-kind mattress exemption is issued, a renovator who believes that certain mattresses are entitled to one-of-a-kind exemption, may present relevant facts to the Commission and petition for an exemption. Renovators are expected to comply with all the testing requirements of the Mattress Standard until an exemption is approved.

Dated: April 30, 1975.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.75–11542 Filed 5–5–75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP–32000/240 & 241; FRL 368–4]

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 July 7, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH–569), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until 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 July 7, 1975.

Dated: April 25, 1975.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP—32000/240)

EPA File Symbol 8590–UAI. Agway Inc., Fertilizer-Chemical Div., Box 1333, Syracuse NY 13201. LIVESTOCK & FARM AEROSOL. Active Ingredients: Pyrethrins 0.5%; Piperonyl Butoxide, Technical (Equivalent to 3.2% of (butylcarbityl) (6-propylpiperonyl) ether and 0.8% of related compounds) 4.0%; Petroleum Distillate 5.3%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 8590–UAT. Agway Inc., Fertilizer-Chemical Div., Box 1333, Syracuse NY 13201. HOUSE & ORNAMENTALS SPRAY INSECTICIDE. Active Ingredients: Tetramethrin (1 - Cyclohexene - 1,2-dicarboximidomethyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate) 0.250%; Related compounds 0.034%; (5-Benzyl - 3-furyl) methyl 2,2 - dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.106%; Related compounds 0.014%; Petroleum Distillate 9.000%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 10088–LL. Athea Labs., Inc., 4180 N. 1st St., Milwaukee WI 53212. NON SELECTIVE HERBICIDE NO. 3. Active Ingredients Prometon: 2,4-bis (isopropylamino)-6-methoxy-s-triazine 3.73%; Petroleum distillate 81.04%. Method of Support: Application proceeds under 2(c) of interim policy. PM25.

EPA File Symbol 2382–TN. Carson Chem., Inc., PO Box 466, New Castle IN 47362. MANGE–TROL. Active Ingredients: Benzyl benzoate 34.0%; Soap (anhydrous) 7.50%; Ronnel (0,0-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate) 0.25%. Method of Support: Application proceeds under 2(c) of interim policy. PM15.

EPA File Symbol 11694–TG. Dymon, Inc., 3401 Kansas Ave., Kansas City KS 66106. REPEL. Active Ingredients: N-N-diethyl-m-toluamide 14.25%; Other isomers 0.75%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 11694–TR. Dymon, Inc. BY–BY–FLY. Active Ingredients: N,N-diethyl-m-toluamide 6.65%; Other isomers 0.35%; N-octyl bicycloheptene dicarboximide 2.00%; 2,3:4,5-Bis (2-butylene) tetrahydro-2-furaldehyde 0.50%; Di-n-propyl isocinchomeronate 0.50%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 11694–TN. Dymon, Inc. ECONORID. Active Ingredients: Pyrethrins 0.20%; Piperonyl butoxide, technical (Equivalent to 0.576% (butylcarbityl) (6-propylpiperonyl) ether and 0.144% other related compounds) 0.72%; N-octyl bicycloheptene dicarboximide 0.40%; petroleum distillate 8.68%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 8730–L. Herculite Protective Fabrics Corp., 1107 Broadway, New York NY 10010. HERCON "ROACH–TAPE". Active Ingredients: 2-(1-Methylethoxy) phenol methylcarbamate 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM12.

EPA File Symbol 5748–UI. Household Products Div., Conwood Corp., PO Box 217, Memphis TN 38101. HOT SHOT MOUSE KILLER. Active Ingredients: 2-[(p-chlorophenyl) Phenylacetyl] 1,3-indandione 0.005%. Method of Support: Application proceeds under 2(c) of interim policy. PM11.

EPA Reg. No. 2342–711. Kerr-McGee Chemical Corp., Kerr-McGee Center, Oklahoma City OK 73125. FAS-KIL COTTON AND SOYBEAN INSECTICIDE SPRAY. Active Ingredients: 0,0-dimethyl 0-p-nitrophenyl phosphorothioate 26.8%; Toxaphene (chlorinated camphene) (Chlorine content 67% to 69%) 53.2%; Xylene range solvents 13.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Amendment, supplemental registration. PM12.

EPA File Symbol 1769–EAL. National Chemsearch, Div. of USA-chem, Inc., 2730 Carl Rd., Irving TX 75062. NATIONAL CHEMSEARCH KILLZOL INSECT SPRAY. Active Ingredients: Petroleum Distillates 99.429%; Technical Piperonyl Butoxide (Equivalent to 0.381% (Butylcarbityl) (6-propylpiperonyl) ether and 0.095% related compounds) 0.476%; Pyrethrins 0.095%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 9591–GR. Nationwide Products, PO Box 3027, Hamilton OH 45013. NATIONWIDE EXTERMINATING RAT & MOUSE KILLER READY–TO–USE BAIT IN "PELLETIZED" FORM. Active Ingredients: 2-(Pivalyl-1, 3-Indandione) 0.025%. Method of Support: Application proceeds under 2(c) of interim policy. PM11.

EPA File Symbol 9591–GN. Nationwide Products. NATIONWIDE EXTERMINATING RAT & MOUSE KILLER CO-RAX PELLETED BAIT. Active Ingredients: Warfarin (3-Alpha - Acetonylbenzyl)-4-Hydroxycoumarin) 0.025%. Method of Support: Application proceeds under 2(c) of interim policy. PM11.

EPA File Symbol 9591–GE. Nationwide Products. NATIONWIDE EXTERMINATING RAT & MOUSE KILLER READY-TO-USE BAIT IN "PELLETED" FORM. Active Ingredients: N1-(2-quinoxalinyl) sulfanilamide (Sulfaquinoxaline) 0.025%; Warfarin [3 - (a - acetonylbenzyl) - 4 - hydroxycoumarin] 0.025%. Method of Support: Application proceeds under 2(c) of interim policy. PM11.

EPA File Symbol 655–LGU. Prentiss Drug & Chem. Co., Inc., 363 7th Ave., New York NY 10001. PRENTOX INTERMEDIATE 225. Active Ingredients: Pyrethrins 2.0%; Piperonyl Butoxide, Technical (Equivalent to 2.0% (Butylcarbityl) (6-propylpiperonyl) Ether and 0.5% related compounds) 2.5%; N-octyl bicycloheptene dicarboximide 2.5%; Petroleum Distillates 8.0%; Mineral Oil 85.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 5347–RN. Sabine Chem. Co., Inc., 948 Fort Worth Ave., Port Arthur TX 77640. PRO-CON PRO-FESSIONAL CONCENTRATE. Active Ingredients: Malathion (O,O-Dimethyl dithiophosphate of diethyl mercaptosuccinate) 4.768%; O,O-Diethyl O-(2-isopropyl-4-methyl - 6 - pyrimidinyl) phosphorothioate 4.525%; Aromatic Petroleum Solvents 84.313%. Method of Support: Application proceeds under 2(c) of interim policy. PM15.

EPA File Symbol 25708–R. Shield Aerosol Co., 5165 G St., Chino CA 91710. SHIELD INSECTICIDE CHERRY FRAGRANCE. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; Related compounds 0.028%; d-trans Allethrin (allyl homolog of Cinerin 1) 0.150%; Related compounds 0.012%; Aromatic petroleum hydrocarbons 0.272%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 3743–GUO. Southern Agricultural Chem., Inc., PO Drawer 527, Kingstree SC 29556. ROYAL BRAND D–D SOIL FUMIGANT. Active Ingredients: Chlorinated C3 Hydrocarbons, including 1,3-Dichloropropene, 1,2-Dichloropropane, 3,3-Dichloropropene, 2,3-Dichloropropene, and Other Related Chlorinated Hydrocarbons 100.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM11.

EPA File Symbol 1386–LII. Universal Cooperatives Inc., 111 Glamorgan St., Alliance OH 44601. ATRAZINE 4L HERBICIDE. Active Ingredients: Atrazine (2-chloro-4-ethylamino-6-isopropylamino - s - triazine) 40.8%; Related compounds 2.2%. Method of Support: Application proceeds under 2(c) of interim policy. PM25.

EPA File Symbol 7401–EAI. Voluntary Purchasing Groups, Inc., PO Box 460, Bonham TX 75418. FERTI-LOME TOMATO SET. Active Ingredients: p-Chlorophenoxyacetic Acid 0.005%. Method of Support: Application proceeds under 2(c) of interim policy. PM23.

EPA File Symbol 35138–L. Winco Chem. Co., PO Box 104, Jackson MS 39205. WINCO DUR-I-CIDE. Active Ingredients: Pyrethrins 0.052%; Piperonyl butoxide, technical (Equivalent to 0.208% (butylcarbityl) (6-propylpiperonyl) ether and 0.052% related compounds) 0.260%; O,O-Diethyl O-(2-isopropyl - 6 - methyl - 4 - pyrimidinyl) Phosphorothioate 0.500%; Petroleum distillate 99.112%. Method of Support: Application proceeds under 2(c) of interim policy. PM15.

EPA File Symbol 35138–I. Winco Chem. Co. WINCO MARV-I-CIDE. Active Ingredients: Pyrethrins 0.50%; Piperonyl butoxide, technical (Equivalent to 2.00% (butylcarbityl) (6-propylpiperonyl) ether and 0.50% related compounds) 2.50%; Petroleum distillate 97.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 35138–T. Winco Chem. Co. WINCO ULV INSECTICIDE. Active Ingredients: Pyrethrins 3.0%; Piperonyl butoxide, technical (Equivalent to 12% (butylcarbityl) (6-propylpiperonyl) ether and 3% related compounds) 15.0%; Petroleum distillate 82.0%. Method of Support: Application Proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 35138–O. Winco Chem. Co. WINCO WHITE FLY SPRAY. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl - 3 - (2-methylpropenyl) cyclopropanecarboxylate 24.30%; Related compounds 3.30%; Aromatic petroleum hydrocarbons 66.40%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 35138–A. Winco Chem. Co. WINCO SUP–I–CIDE. Active Ingredients: Pyrethrins 1.0%; Piperonyl butoxide, technical (Equivalent to 4.8% (butylcarbityl) (6-propyl piperonyl) ether and 1.2% related compounds) 5.0%; Petroleum distillate 94.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM 17.

EPA File Symbol 34858–T. Alladdin Lab., Inc., 30 S. Ocean Ave., Freeport NY 11520. ALLADDIN ALGAE AND FUNGUS TREATMENT. Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylenedimethyliminio)ethylene dichloride] 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 10088–UA. Athea Lab., Inc., 4180 N. 1st St., Milwaukee WI 53212. NON SELECTIVE HERBICIDE NO. 4. Active Ingredients: Monuron Trichloroacetate (3-(p-chlorophenyl)-1-dimethylurea trichloroacetate 3.19%; Aromatic Petroleum Derivative 91.67%. Method of Support: Application proceeds under 2(c) of interim policy. PM25.

EPA Reg. No. 551–131. Baird & McGuire, Inc., South Street, Holbrook MA 02343. MALATHION 5LB EMULSIFIABLE CONCENTRATE. Active Ingredients: Malathion (O,O-Dimethyl dithiophosphate of diethyl-mercaptosuccinate) 57%; Heary Aromatic Naptha 34%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Additional claims added. PM16.

EPA File Symbol 7969-AU. Basf Wyandotte Corp., 100 Cherry Hill Rd., Parsippany NJ 07054. BASALIN AN EMULSIFIABLE CONCENTRATE PREPLANT INCORPORATED HERBICIDE. Active Ingredients: Fluchloralin [N-(2-chloroethyl)-a,a,a-trifluoro-2,6-dinitro-N-propyl-p-toluidine] 45.1%. Method of Support: Application proceeds under 2(b) of interim policy. PM25.

EPA Reg. No. 3125-25. Chemagro Corp., PO Box 4913, Kansas City MO 64120. GUTHION 25% WETTABLE POWDER CROP INSECTICIDE. Active Ingredients: *O,O*-Dimethyl *S* - [4 - oxo - 1,2,3 - benzotriazin-3(4H) -yl) methyl] phosphorodithioate 25%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM12.

EPA File Symbol 8203-EU. Chipman Chem. Ltd., PO Box 9100, Stoney Creek, Ontario, Canada. 2,4-D ACID. Active Ingredients: 2,4-dichlorophenoxyacetic acid 99.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM23.

EPA File Symbol 34691-G. Culligan Water Conditioning, PO Box 574, Huntsville, AL 35804. TOWER GUARD. Active Ingredients: Disodium cyanodithioimidocarbonate 7.35%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA File Symbol 34179-R. De-Oxx, Inc., 1032 W. Robinson St., Orlando FL 32805. D-ALGE. Active Ingredients: Alkyl (C14 60%, C12 25%, C16 15%) Dimethyl Benzyl Ammonium Chloride 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM24.

EPA File Symbol 1421-RIT. Dettelbach Chem. Corp., 4181 Peachtree Rd., Atlanta, GA 30319. INSECTICIDE CONCENTRATE 153. Active Ingredients: Pyrethrins 1.50%; Piperonyl butoxide, technical (Equivalent to 2.4% (butylcarbityl) (6-propylpiperonyl) ether and 0.60% related compounds) 3.00%; N-octyl bicycloheptene dicarboximide 5.00%; Petroleum distillate 90.50%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 33914-U. Dixie Agricultural Chem. Co., PO Box 1227, Eustis FL 32726. DIXIE AG CYTHION 5E INSECTICIDE. Active Ingredients: Malathion (0,0-dimethyl phosphorodithioate of diethyl mercaptosuccinate) 57%; Aromatic Petroleum Solvent 30%. Method of Support: Application proceeds under 2(c) of interim policy. PM16.

EPA File Symbol 11694-TU. Dymon, Inc., 3401 Kansas Ave., Kansas City KS 66106. DC-450 CLEANER-DISINFECTANT-DEODORIZER-FUNGICIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 6150-L. J & F Mfg., Inc., PO Box 26363, Houston TX 77207. CAPITOL PUNISHMENT FOR RATS AND MICE. Active Ingredients: Warfarin (3-(a-acetonylbenzyl)-4-hydroxycoumarin 0.025%. Method of Support: Application proceeds under 2(c) of interim policy. PM11.

EPA File Symbol 6543-L. Lan-O-Sheen, Inc., Marine Div., One W. Water St., St. Paul MN 55107. BOAT BOTTOM CLEANER. Active Ingredients: Hydrochloric Acid 20.94%. Method of Support: Application proceeds under 2(c) of interim policy. PM32.

EPA File Symbol 7001-ERU. Occidental Chem. Co., PO Box 198, Lathrop CA 95330. SEVIN 5 DUST. Active Ingredients: Carbaryl (1-naphthyl methylcarbamate) 5.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM12.

EPA File Symbol 8047-UR. Poly Chem., Inc., PO Box 10026, New Orleans LA 70181. POLY ORANGE FRAGRANCE GERMICIDAL CLEANER COEF. 12. Active Ingredients: n-Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chlorides, isopropyl alcohol, essential oils 5.5%. Method of Support: Application proceeds under 2 (c) of interim policy. PM31.

EPA File Symbol 13261-G. Sanitary Specialties Co., 1441 Market St., Denver CO 80202. SANI-QUAT DISINFECTANT, SANITIZER DEODORANT. Active Ingredients: Alkyl (C14 50%, C12 40%, C16 10%) dimethyl benzyl ammonium chloride 10.00%; Ethanol 2.50%. Method of Support: Application proceeds under 2(c) of interim policy. PM31.

EPA File Symbol 13261-E. Sanitary Specialties Co., 1441 Market St., Denver CO 80202. SANI-GERM DETERGENT DISINFECTANT. Active Ingredients: Alkyl (C14 90%, C12 5%, C16 5%) dimethyl dichlorobenzyl ammonium chloride 2.50%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 1.25%; Alkyl (C14 90%, C12 5%, C16 5%) dimethyl ethyl ammonium bromide 1.25%; Isopropanol 0.63%; Sodium carbonate 2.00%; Ethylenediamine-tetraacetic acid, tetrasodium salt 0.38%. Method of Support: Application proceeds under 2(c) of interim policy. PM31.

EPA File Symbol 36531-G. Shamrock Chem. Co., Inc., PO Box 1132, Huntington WV 25714. PINE CLEAN-UP PINE ODOR DISINFECTANT COEF 13. Active Ingredients: Isopropanol 9.50%; Pine Oil 7.90%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 3.95%. Method of Support: Application proceeds under 2(c) of interim policy. PM32.

EPA File Symbol 201-GIL. Shell Chemical Co., Suite 200, 1025 Conn. Ave., NW., Washington DC 20460. PHOSDRIN 10.3 WS WATER SOLUBLE INSECTICIDE. Active Ingredients: Alpha Isomer of 2-Carbomethoxy-1-methylvinyl Dimethyl Phosphate 60.0%; Related Compounds 40.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM16.

EPA File Symbol 34742-E. Smithers-Oasis, 919 Marvin Ave., Kent OH 44240. PRESSURIZED PLANT AND PET SPRAY FROM 5951. Active Ingredients: Pyrethrins 0.056%; Rotenone 0.008%; Other cube resins 0.016%; Pine oil 0.900%; Petroleum distillate 0.406%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 1187-RRL. Virginia Chem. Inc., 3340 W. Norfolk Rd., Portsmouth VA 23703. LETHALAIRE. Active Ingredients: 2,2-Dichlorovinyl Dimethyl Phosphate (DDVP) 18.6%; Related compounds 1.4%. Method of Support: Application proceeds under 2(c) of interim policy. PM13.

EPA File Symbol 35138-RN. Winco Chem. Co., PO Box 104, Jackson MI 39205. WINCO WOND-I-CIDE. Active Ingredients: Pyrethrins 0.25%; Piperonyl butoxide, technical (Equivalent to 0.80% (butylcarbityl) (6-propylpiperonyl) ether and 0.20% related compounds) 1.25%; Petroleum distillate 98.50%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

[FR Doc.75-11710 Filed 5-5-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 19744, 19745; File Nos. BRCT-33, BPCT-4453]

BELO BROADCASTING CORP. AND WADECO, INC.

Renewal of License and Construction Permit

In re Applications of Belo Broadcasting Corporation WFAA-TV Dallas, Texas for renewal of broadcast license WADECO, Inc. Dallas, Texas for construction permit for new television broadcast station.

The Commission has before it for consideration: (a) An application for review of the Review Board's Memorandum Opinion and Order herein (49 FCC 2d 181) released October 15, 1974, which was filed on October 22, 1974, by Belo Broadcasting Corporation (WFAA-TV), (b) oppositions thereto filed by WADECO, Inc. on November 5, 1974.[1] and by the Chief, Broadcast Bureau on November 4, 1974; (c) a reply of Belo Broadcasting Corporation (WFAA-TV), filed on November 11, 1974; (d) a supplement to application for review filed November 29, 1974 by Belo Broadcasting Corporation (WFAA-TV)[2]; (e) oppositions thereto filed by WADECO, Inc. on December 12, 1974 and by the Chief, Broadcast Bureau on December 11, 1974; and (f) reply of Belo Broadcasting Corporation (WFAA-TV) filed December 24, 1974.

2. In its application for review and supplement thereto, Belo Broadcasting Corporation (Belo) seeks review of a Review Board Memorandum Opinion and Order, supra, denying (except as to one issue) Belo's fourth motion to enlarge issues. The essential background of the fourth motion is adequately set out in the Board's Memorandum Opinion and Order and need not be repeated here. Suffice it to note that Belo questions the Board's refusal to add a "major principal" issue respecting Caruth C. Byrd, a contingent issue respecting Byrd's qualifications to be a licensee (proposed issues (a) and (b)),[3] and an issue re-

[1] WADECO, Inc. on November 5, 1974 filed a motion to accept late filed opposition to application for review. The unopposed request is hereby granted.

[2] Belo Broadcasting Corporation (WFAA-TV) on November 29, 1974 filed a motion for leave to file supplement to application for review which was opposed by WADECO, Inc. and by the Chief, Broadcast Bureau. The motion for leave to file supplement is hereby granted.

[3] WADECO, the competing applicant here, has a $3,500,000 loan commitment from Byrd. Amendments to WADECO's application disclose it has given Byrd subscription rights to 15% of WADECO's stock and has also granted him an option to purchase up to 51% of WADECO, subject to Commission approval, after WADECO has operated its proposed station on Channel 8 for at least three years. See 49 FCC 2d 181.

specting the alleged trafficking potential of financing arrangements between WADECO, Inc. and Byrd (Issue e).

3. Our concern is with the Board's refusal to add the proposed "major principal" issue. In declining to do so, the Board felt there was nothing to support a conclusion Byrd is a major principal of WADECO or that the agreements between Byrd and WADECO had resulted in an unauthorized transfer of control to Byrd. And even though Byrd might in the future obtain control of WADECO, this could occur only after WADECO had operated its station for three years and after Commission approval. For this reason, the Board felt the various cases relied on by Belo, including WLOX Broadcasting Co. v. FCC, 104 U.S. App. D.C. 194, 260 F 2d 712 (1958), were inapposite.

4. Belo contends the Board's reasoning has missed the mark, and in its supplement to its application for review, Belo cites a subsequent Review Board decision, KOWL, Inc., 49 FCC 962, where the Board felt an applicant's financing arrangements suggested more than the usual normal debtor-creditor relationship and thus justified adding a "real party in interest" issue.[4] Belo says the present case and KOWL are in direct conflict, and KOWL compels adding a major principal issue respecting Byrd. Both WADECO and the Broadcast Bureau oppose Belo's application for review and the supplement thereto.

5. In our opinion, the issues should be enlarged to include proposed issues (a) and contingent issue (b). Undeniably, Byrd has a future right to acquire control of WADECO, after Commission approval. Moreover, it appears from the record compiled so far that but for the present financial arrangements, WADECO would not have been able to continue prosecuting its competing application. Given this and the particular mix of Byrd's present and future interests in WADECO, we think Byrd's stake in the applicant is too substantial to be ignored. In our judgment, fairness to Belo in a comparison between the applicants dictates that inquiry should be made whether Byrd is to be treated as the major principal of WADECO. If he is to be so treated, Belo shall have the right of full inquiry into his qualifications to be a licensee. It is only at this stage that a meaningful comparison of the applicants can be made.

6. *Accordingly, it is ordered*, That pursuant to § 1.115(g) of the Commission's rules, the application for review and the supplement thereto filed by Belo Broadcasting Corporation, are granted to the extent indicated below, and are denied in all other respects; and

It is further ordered, That the issues in the above-entitled proceeding, are enlarged to determine:

(a) Whether Caruth C. Byrd should be treated as the major principal of WADECO and, if so,

(b) Whether Byrd is legally, financially, and otherwise qualified to be the major principal of a prospective broadcast licensee.

Adopted: April 17, 1975.

Released: April 29, 1975.

FEDERAL COMMUNICATIONS COMMISSION [5]

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.75-11767 Filed 5-5-75;8:45 am]

[4] We agree with Belo that the Commission uses "major principal" and "real party in interest" issues interchangeably. See Massillon Broadcasting Co., Inc., 44 FCC 2540.

[5] Commissioner Robinson absent.

[FCC 75-453]

CABLE TELEVISION APPLICANTS

Reminder of Disclosure Requirements for Certificates of Compliance

APRIL 24, 1975.

The Commission wishes to call to the attention of all applicants for cable television certificates of compliance the necessity of making a complete disclosure of their intentions. Where part of a complement of requested signals is objected to and it remains the applicant's intention to include all of the signals in his regular operation, he may not request deletions of the signals objected to, or a substitution of other signals, without stating at that time his intention to reapply for the deleted signals after receipt of a certificate of compliance for the signals to which there was no objection. See Hall v. Federal Communications Commission, 99 U.S. App. D.C. 86, 237 F. 2d 567 (1956).

If an applicant requests substitute signals in lieu of deleted signals, and subsequently files a separate application to carry the previously deleted signals and to drop the substitute signals, and such substitute signals were known to the applicant to be unavailable at the time that he requested them, or applicant had no intention of carrying the substitute signals, then it may be determined that the applicant has abused the Commission's processes.

Generally, however, subject to the considerations mentioned above, the Commission does not believe that deletion of signals in the face of opposition, and the subsequent filing of a separate application for carriage of the deleted signals constitute misrepresentation or abuse of Commission processes. The Commission encourages separation of contested from non-contested issues, because such separation results in the speedier implementation of basic cable television service to the applicant's community.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.75-11774 Filed 5-5-75;8:45 am]

[Report No. 751]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

APRIL 28, 1975.

Pursuant to §§ 1.227(b)(3) and 21.30(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS, *Secretary.*

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21303-CD-P-(2)-75, Northwest Mutual Aid Telephone Corporation (KAI929), C.P. to change antenna system, replace transmitter and change base frequency from 152.57 MHz to 152.54 MHz and test frequency from 157.83 MHz to 157.80 MHz located 9 miles South and 0.75 miles East of Columbus, North Dakota.

21458-CD-MP-(2)-75, Massachusetts - Connecticut Mobile Telephone Company (KQZ747), C.P. consolidate facilities under KUO585 with KQZ747 to operate on 158.70 MHz located at Bull Hill Lane, Orange, Connecticut.

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's Rules, regulations and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the Rules).

21459–CD–P–(2)–75, Massachusetts - Connecticut Mobile Telephone Company (KUC916), C.P. for additional control facs. to operate on 72.32 MHz to be located at WWLP–TV Tower, Provin Mountain, Agawam, Massachusetts; and consolidate facilities of KUC917 operating on 152.24 MHz, base, and 72.68 MHz, control.

21460–CD–P–75, Frank C. Escue dba Telpage (New), C.P. for a new 1-way station to operate on 158.70 MHz to be located approx. 5 miles West of Bowling Green, Kentucky.

21461–CD–P–75, Knox La Rue dba Atlas Radiophone (KMJ224), C.P. to replace transmitter and change antenna system operating on 454.200 MHz to be located approx. 7.5 miles NE of Danville, atop North Peak of Mt. Diablo, near Danville, California.

21462–CD–P–75, Mobile Radio System of San Jose, Inc. (KQZ715), C.P. to add antenna location #3 to operate on 158.70 MHz located at Loma Prieta Mtn., Chi Site, San Jose, California.

21463–CD–P–75, Mobile Radio System of San Jose, Inc. (KMA741), C.P. to add antenna location #3 to operate on 152.09 MHz located at Loma Prieta Mtn., Chi Site, San Jose, California.

21464–CD–P–75, The Wheat State Telephone Company, Inc. (New), C.P. for a new 2-way station to operate on 152.57 MHz to be located Behind telephone company central office building in heart of town, Otpe, Kansas.

21465–CD–P–75, Mobile Radio System of San Jose, Inc. (New), C.P. for a new 1-way station to operate on 35.22 MHz to be located at Bald Mtn., 4 miles NE of Watsonville, California.

21466–CD–P–75, Asotin Telephone Company (New), C.P. for a new 2-way station to operate on 152.81 MHz to be located 0.6 mile West of Asotin, Washington.

21467–CD–P–75, South Central Bell Telephone Company (KKI456), C.P. to change antenna system and relocate facilities operating on 152.72 MHz to be located approx. 0.3 mile SW of Franklin, Louisiana.

21468–CD–P–75, Answering, Inc. (KWU324), C.P. to add antenna location #2 to operate on 158.70 MHz to be located at 100 Broadway, Oklahoma City, Oklahoma.

21469–CD–P–75, Range Corporation (New), C.P. for a new 2-way station to operate on 152.09 MHz to be located 1.5 miles NW of City Limits, Escanaba, Michigan.

21470–CD–P–75, Range Corporation (New), C.P. for a new 1-way station to operate on 152.24 MHz to be located 1.5 miles NW of City Limits, Escanaba, Michigan.

21471–CD–P–75, Texoma Mobilfone, Inc. (KLB502), C.P. to replace transmitter operating on 152.21 MHz located at Highway #75, 5 miles North of Sherman, Texas.

21472–CD–AL–(2)–75, Physicians' and Businessmen's Paging Service, Inc. Consent to Assignment of License from Physicians' and Businessmen's Paging Service, Inc., Assignor to Eugene D. and June DeSauliniers, assignee. Stations: KAD931 & KAF254, Kansas City, Missouri.

21473–CD–AP/AL–(2)–75, Morgan City Mobilephone. Consent to Assignment of Permit and License from Morgan City Mobilephone, assignor to Telephone & Radio Answering Service, Inc., assignee. Stations: KFJ896, Morgan City, Louisiana and KUS289, Berwick, Louisiana.

21296–CD–ML–75, RCA Alaska Communications, Inc. (KTR985), Mod. of License to change frequency from 152.72 MHz to 152.69 MHz at Loc. #4: AFS Radome, 156 miles, 298 degrees TN from Bethel, Cape Romanzof, Alaska.

CORRECTIONS

21299–CD–P–75, General Communications Company (KUC849), correct entry to read: 21299–CD–P–(2)–75, General Communications Co. (KUC849), C.P. to replace transmitter operating on 35.22 MHz at Loc. #1: Route 8, Fairmont, West Virginia; and Loc. #3: Route 50, 2 miles East of Clarksburg, West Virginia. This corrects PN #747 dated 3/31/75.

21450–CD–AL–75, David W. Gustafson (KFJ 900), correct to delete entry according to PN #750 dated 4–21–75.

INFORMATIVE

It appears that the following applications may be mutually exclusive and subject to the Commission's Rules regarding Ex Parte presentations by reasons of potential electrical interference.

Maine

New Dawn Communications, Inc. (New), 20197–CD–P–(4)–75.

Summit Mobile Radio, Inc. (New), 20198–CD–P–(4)–75.

Eikonix Communications, Inc. (New) 20485–CD–P–(3)–75.

RURAL RADIO SERVICE

60319–CR–MP–75, RCA Alaska Communications, Inc. (WQO79), Mod. of Permit to add frequency 158.07 MHz located at Village located 123 miles NE of Galena AFS, Alakaket, Alaska.

60320–CR–MP–75, RCA Alaska Communications, Inc. (WQO80), Mod. of Permit to add frequency 158.07 MHz located at Village located 120 miles NW of Galena AFS, Hughes, Alaska.

60321–CR–MP–75, RCA Alaska Communications, Inc. (WQO81), Mod. of Permit to add frequency 158.07 MHz located at Village located 60 miles N. of Galena AFS, Husila, Alaska.

60322–CR–P–75, RCA Alaska Communications, Inc. (New), C.P. for a new rural subscriber station to operate on 157.92 MHz located at Village located 26 miles SW of Gustavus, Elfin Cove, Alaska.

60323–CR–P–75, RCA Alaska Communications, Inc. (New), C.P. for a new central office station to operate on 152.66 MHz located at Coast Guard Light House located 36 miles SW of Gustavus, Cape Spencer, Alaska.

60324–CR–AL–75, Morgan City Mobilephone. Consent to Assignment of License from Morgan City Mobilephone, assignor to Telephone & Radio Answering Service, Inc., assignee. Station: KVU82, Temporary-fixed.

POINT-TO-POINT MICROWAVE RADIO SERVICE

3324–CF–MP–75, MCI Telecommunications Corporation (WIU91), 3.0 Miles WNW of Chester, Pennsylvania. Lat. 39°50'51" N., Long. 75°29'45" W. Mod. C.P. to add 10775.0V towards Wilmington, Delaware on azimuth 202° 53'.

3325–CF–P–75, Same (New), 300 Delaware Avenue, Wilmington (New), 300 Delaware Avenue, Wilmington, Delaware. Lat. 39° 44'47" N., Long. 75°33'04" W. C.P. for a new station on 11265.0V towards Chester, Pennsylvania on azimuth 22°51'.

3396–CF–MP–75, CPI SATELLITE TELECOMMUNICATIONS, INC. (WAH637), One Main Place, corner of Field and Main Streets, Dallas, Texas. Lat. 32°46'49" N., Long. 96°48'07" W. Mod. C.P. to change frequency 11225.0V to 11665.0V towards Cedar Hill, Texas on azimuth 217° 07".

3336–CF–P–75, American Telephone and Telegraph Company. (KIN48), 3.8 miles NE of Fruitdale, Alabama. Lat. 31°23'18" N., Long. 88°22'14" W. C.P. to add 4030V MHz toward Silas, Alabama, on azimuth 356°09'.

3337–CF–P–75, Same. (KIN47), 4.4 Miles W. of Silas, Alabama. Lat. 31°44'59" N., Long. 88°23'57" W. C.P. to add 4070V MHz toward Quitman, Mississippi, on azimuth 322°54'.

3338–CF–P–75, Same. (KKP95), 4.0 Miles East of Quitman, Mississippi. Lat. 32°02'18" N., Long. 88°39'20" W. C.P. to add 4050V MHz toward Meridian, Mississippi, on azimuth 354°30'.

3384–CF–P–75, Eastern Microwave, Inc. (KFN21), New York, New York, Lat. 40° 46'09" N., Long. 73°58'55" W. C.P. to add 6271.4V MHz toward Mt. Kisco, New York, on azimuth 28°49'.

3385–CF–P–75, Same. (New), 3.1 Miles SE of Mt. Kisco, New York. Lat. 41°11'07" N., Long. 73°40'43" W. C.P. for a new station on 5974.8V MHz toward Beacon, New York, on azimuth 326°10'. (NOTE: A waiver of 21.701 (i) requested by Eastern Microwave, Inc.)

Microwave Transmission Corporation (WDD–52), 1.7 Miles East of Casmalia, California. Lat. 34°50'30" N., Long. 120°29'53" W. C.P. to add 11095H MHz, 11135V MHz, 10775H MHz, 11015V MHz, 10735H MHz and 10975V MHz toward Vandeberg AFB, California, on azimuth 194°47'. (NOTE: Special Temporary Authority requested by Microwave Transmission Corporation.)

3269–CF–P–75, Western Tele-Communications, Inc. (KPT21), Nelson Peak, 18.0 Miles SW of Salt Lake City, Utah. Lat. 40°36'28" N., Long. 112°09'27" W. C.P. to add 11325V MHz, 11605H MHz and 11645V MHz toward Provo(CATV), Utah on azimuth 133°13'.

3268–CF–P–75, Same (KPT21), Nelson Peak, Utah. 18.0 Miles SW of Salt Lake City, Utah. Lat. 40°36'28" N., Long. 112°09'27" W. C.P. to add 11325V MHz and 11605H MHz toward Ogden(CATV), Utah on azimuth 14°29'.

3288–CF–MP–75, American Television and Communications Corp. (KJE51), Stuart, Florida. Lat. 27°06'33" N., Long. 80°14'48" W. Mod. of C.P. (6949–C1–P–71) to replace 3 of 5 existing transmitters.

3289–CF–MP–75, American Television and Communications Corp. (KJE52), Fort Pierce, Florida. Lat. 27°26'28" N., Long. 80°23'17" W. Mod. of C.P. (6950–C1–P–71) to replace 4 of 5 existing transmitters.

3290–CF–P–75, Video Service Company. (KSO94), 3.0 Miles WSW of Delong, Indiana. Lat. 41°07'08" N., Long. 86°27'55" W. C.P. to (a) replace three (3) existing transmitters; (b) to increase output power on existing paths to Logansport and Peru, Indiana; (c) to delete frequency 6271.4H MHz toward Logansport, Indiana.

3291–CF–P–75, Same (KSP63), 0.8 Mile West of Logansport, Indiana. Lat. 40°46'00" N., Long. 86°24'30" W. C.P. to (a) replace five (5) existing transmitters with four (4); (b) to increase output power on existing path toward Monticello, Indiana; (c) delete frequency 5960.0V MHz toward Monticello, Indiana.

3292–CF–P–75, Same (KSP64), 0.8 Mile NW of Monticello, Indiana. Lat. 40°45'00" N., Long. 86°47'03" W. C.P. to (a) replace seven (7) existing transmitter with four (4); (b) to increase output power on existing paths toward Lafayette, Indiana; (c) delete frequencies 6241.7H MHz toward Lafayette, Indiana and 6301.0H MHz, 6360.3H MHz toward West Lafayette, Indiana.

3293–CF–P–75, Same (KVD52), 1.8 Miles NW of Peru, Indiana. Lat. 40°46'32" N., Long. 86°05'32" W. C.P. to replace two (2) existing transmitters.

3335–CF–P–75, American Telephone and Telegraph Company (KIN49), 1.2 Miles NW of Mt. Vernon, Alabama. Lat. 31°05'–36" N., Long. 88°01'51" W. to add 4070V MHz toward Fruitdale, Alabama, on azimuth 315°23'.

3340–CF–P–75, RCA Global Communications, Inc. (WAS488), One Wilshire Bldg., (624 S. Grand Avenue) Los Angeles, California. Lat. 34°02'52" N., Long. 118°15'17" W. C.P. to change antenna system and add frequency 11135H MHz toward a new point of communication at CBS–TV City, Los Angeles, California on azimuth 287°36'; add alarm center location.

3341–CF–P–75, Same (New), CBS–TV City, 7800 Beverly Blvd., Los Angeles, California. Lat. 34°04'30" N., Long. 118°21'29" W. C.P. for a new station on frequency 11305V MHz toward station WAS488, Los Angeles, California on azimuth 107°34'.

3363–CF–P–75, American Telephone and Telegraph Company (KGP69), 2.8 Miles NNE of Montgomery, Louisiana. Lat. 31°42'-18" N., Long. 92°52'18" W. C.P. to add frequency 4130V MHz toward Winnfield, Louisiana on azimuth 54°21'.

3364–CF–P–75, Same (KGP68), 4.4 Miles SE of Winnfield, Louisiana. Lat. 31°52'52" N., Long. 92°35'00" W. C.P. to add frequency 4170V MHz toward Clarks, Louisiana on azimuth 72°11'.

3365–CF–P–75, United Inter-Mountain Telephone Company (KJD22), 114–116 Commerce Street, Kingsport, Tennessee. Lat. 36°32'42" N., Long. 82°33'39" W. C.P. to change frequencies 11445V and 11685H MHz to 11365H and 11525H MHz toward Chestnut Ridge, Tennessee on azimuth 82°46'; replace transmitters and change power.

3366–CF–P–75, Same (KJD23), Chestnut Ridge, approx. 6.5 Miles East of Kingsport, Tennessee. Lat. 36°33'25" N., Long. 82°26'-37" W. C.P. to change frequencies 10755V 10835H 10915V 10995H 11075V and 11155H MHz to 10755V 10915V 11075V and 11155V MHz toward Weaver, Tennessee on azimuth 35°16'; replace transmitters and change power.

3367–CF–P–75, Same (KJB45), Corner of North Roan & Commerce Street, Johnson City, Tennessee. Lat. 36°19'07" N., Long. 82°21'10" W. C.P. to change frequencies 10755H 10995V 10715H and 10955V MHz to 10915H 11075H MHz toward Kingsport, Tennessee on azimuth 262°50'; 10735H and 10815H MHz toward Weaver, Tennessee on azimuth 99°48'; replace transmitters and change power.

3368–CF–P–75, Same (KJX20), 112 Sixth Street, Bristol, Tennessee. Lat. 36°35'36" N., Long. 82°11'02" W. C.P. to change frequencies 10795V and 11035H MHz to 10875V and 11115V MHz toward Weaver, Tennessee on azimuth 174°30'; replace transmitters and change power.

3369–CF–P–75, Same (KJD24), Weaver, 5.1 Miles South of Bristol, Tennessee Lat. 36°31'10" N., Long. 82°10'36" W. C.P. to change frequencies 11285H 11445H 11525V 11685V 11245V 11325H 11485H 11565V 11405V and 11645H MHz to 11365V 11525V 11685V toward Johnson City, Tennessee on azimuth 215°23'; 11325V 11485V and 11565V MHz toward Bristol, Tennessee on azimuth 355°30'; 11305H and 11385H MHz toward Chestnut Ridge, Tennessee on azimuth 279°57'; replace transmitters and change power.

3370–CF–MP–75, Southern Bell Telephone and Telegraph Company (KIY59), 1645 Hampton Street, Columbia, South Carolina. Lat. 34°00'29" N., Long. 81°01'42" W. Modification of C.P. to add frequency 6063.-8V MHz toward Ridgeway, South Carolina on azimuth 13°12'.

3371–CF–MP–75, Same (KFB40), 1.3 Miles NE of Ridgeway, South Carolina. Lat. 34° 19'18" N., Long. 80°56'23" W. Modification of C.P. to add frequency 6315.9V MHz toward Chester, South Carolina on azimuth 332°05'

3405–CF–P–75, General Telephone Company of Michigan (KQN59), Buttles Road, 5.1 Miles North of Lewiston, Michigan. Lat. 44°57'28" N., Long. 84°18'44" W. C.P. to delete frequency 6308.4V MHz; replace transmitter and change emission designator and power for frequency 6189.8V MHz toward Gaylord, Michigan on azimuth 285°45'.

3406–CF–P–75, Same (KQN58), 120 W. Main Street, Gaylord, Michigan. Lat. 45°01'41" N., Long. 84°40'29" W. C.P. to delete frequency 6056.4V MHz; replace transmitter and change emission designator and power for frequency 5937.8V MHz toward Lewiston, Michigan on azimuth 105°29'.

MAJOR AMENDMENT

2864–CF–P–75, Warner Cable of Mississippi, Inc. (KLT75), 0.25 Mile South of Cleveland, Mississippi. Lat. 33°43'36" N., Long. 90°43'53" W. Application amended to change frequency from 6197.2H MHz to 6375.2H MHz toward Greenville, Mississippi, on azimuth 220°23'.

386–CF–P–75, American Television Relay, Inc. (KSV58), Phoenix (KTVK–TV), Arizona. Lat. 33°29'07" W., Long. 112°02'48" W. Application amended to change 3750.0H MHz to 6034.2V MHz and 6093.5V MHz toward Pinal Peak, Arizona, on azimuth 100° 50'. (Other particulars see Public Notice of August 26, 1974.)

[FR Doc.75–11770 Filed 5–5–75;8:45 am]

[Docket No. 16070]

COMMUNICATIONS SATELLITE CORP.

Investigation Into Charges, Practices, Classifications, Rates and Regulations

1. By Order (FCC 75–372) released April 1, 1975, the Commission extended to May 1, 1975 the time to file reply findings and briefs in this proceeding. In granting such extension the Commission recounted the history of past extensions and its efforts to expedite the resolution of the case.

2. On April 18, 1975 COMSAT filed a motion for an extension of time, until May 12, 1975, to file reply findings and briefs. In support of its motion COMSAT cites "unanticipated delays caused by a temporary physical disability of one of the counsel centrally involved in the preparation of COMSAT's pleadings * * *." COMSAT states that the requested extension is necessary in order to complete the task of responding to the proposed findings and conclusions submitted by the other parties. COMSAT also states that it has been authorized to represent that the Trial Staff does not oppose the granting of this motion for additional time.

3. The Bureau has been advised by the Secretary of Defense that no objection to COMSAT's motion will be interposed.

4. Inasmuch as the requested extension of time is based on the temporary physical disability of one of COMSAT's counsel, and, no objections having been interposed, it appears that there is good cause to grant the extension.

5. Accordingly, *it is Ordered*, pursuant to § 0.303 of the Commission's rules, 47 CFR § 0.303 that COMSAT's Motion for extension of time is granted, and the due date for filing reply findings and briefs is extended to and including May 12, 1975.

Adopted: April 24, 1975.

Released: April 29, 1975.

[SEAL] WALTER R. HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc.75–11768 Filed 5–5–75;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 128—Minimum Performance Standards for Airborne Ground Proximity Warning System. It is to be held on June 3–4, 1975, in Conference Room 9 ABC, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C., commencing at 9:30 A.M.

The agenda is as follows:

1. Chairman's opening remarks.
2. Approval of the agenda for this meeting.
3. Approval of the minutes of the January 28, 1975, meeting.
4. MPS requirements for Glide Slope Deviation Alerting.
5. MPS requirements for Altitude Loss Mechanization of GPWS Mode 3.
6. United Air Lines' proposals for amendment of paragraph 2.1.3 and Test Procedure T4(b) of DO–161.
7. Eastern Airlines' proposals for specification of GPWS performance characteristics for turboprop aircraft in DO–161.
8. Any other business.
9. Date and place of next meeting.

The meeting is open to the public subject to limitations of space available, and any member of the public may present oral or written statements at the Meeting, subject to time available, or to the RTCA Secretariat. Persons planning to attend or who desire additional information concerning this meeting are requested to contact the RTCA Secretariat, Suite 655, 1717 H Street NW., Washington, D.C. 20006, or telephone area code (202) 296–0484.

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

[FR Doc.75–11771 Filed 5–5–75;8:45 am]

[Docket No. 20448; File No. BML–2521; FCC 75–435]

RUST COMMUNICATIONS GROUP, INC. (WKLX)

Change in Station Location; Opinion and Order Designating Application for Hearing on Stated Issues

1. The Commission has before it for consideration (i) the above-captioned application filed July 3, 1974, by Rust Communications Group, Inc. [Rust], licensee of standard broadcast station

WKLX, Portsmouth, Virginia; [1] (ii) a petition to deny filed December 30, 1974, by Hampton Roads Broadcasting Corporation, licensee of stations WGH(AM) and WGH–FM, Newport News, Virginia [WGH]; and (iii) pleadings in opposition and reply thereto; and (iv) motions to strike filed by each party.[2]

I. Position of the parties. 2. Rust seeks to change the station location of WKLX from Portsmouth to Norfolk, Virginia.[3] In support of its application, Rust avers that WKLX has lost substantial amounts of money since the assignment of the license to Rust in August 1970. Rust computes its aggregate loss at in excess of $670,000 for slightly more than four years of operation. This condition is attributable to factors other than station management, avers Rust; the applicant cites the Commission's report, "AM–FM Broadcast Financial Data for 1972," which reveals that the three Portsmouth broadcast stations sustained an average loss of $117,739 per station in 1972. Rust contrasts this figure to the aggregate profit of $311,689 which accrued to the four standard broadcast stations assigned to Norfolk. Rust concludes from this comparison that "[t]he financial problems of WKLX could be alleviated by permitting it to be licensed to Norfolk." [4]

3. Rust further alleges that "Portsmouth is overstationed with far less population per station than Norfolk, Newport News, Hampton, Virginia Beach or Chesapeake (the principal communities of what is commonly referred to as "Tidewater," Virginia). That is one of the reasons the Portsmouth stations are in desperate financial straits." [5] To substantiate this claim, Rust supplies a graphic breakdown of the distribution of population of the Tidewater communities on a per station basis for the local broadcast allocations.[6]

4. Finally, Rust attempts to show the effect of its predicament upon the programming broadcast by WKLX. In the application, Rust described the substantial reduction in staff and operation caused by financial difficulties. However, in opposition to the petition to deny, Rust notes that these changes in operation and staff have been largely reversed, and new public affairs programming has been instituted. Nevertheless, Rust maintains that a grant of its application is necessary for the "survival" of WKLX.

5. WGH, in both its pleadings, responds to the position advanced by Rust, and requests that the application be designated for hearing on issues concerning section 307(b) of the Communications Act of 1934, as amended, ascertainment of the community needs of Norfolk, and violations of § 1.65 of the Commission's rules. WGH asserts generally that it is not necessary for WKLX to change its station location from Portsmouth to Norfolk in order to establish itself in the Tidewater market; similar comments were contained in the two informal objections. As all stations licensed to Tidewater communities, as well as several located outside of the immediate area, are received by the entire potential audience, WGH denies that the proposed change is essential to the viability of WKLX.

6. More specifically, WGH presents data to substantiate the requested issues. As to the section 307(b) issue, WGH maintains that the chart and data submitted by Rust concerning population distribution across the Tidewater stations are "hopelessly inaccurate." At first, the petitioner's complaint focused on Rust's failure to include FM broadcast stations in its computations; subsequent to a revision of the data, WGH found that the applicant had incorporated FM station WXRI in the data as a Portsmouth station, when in fact it is licensed to Norfolk. The significance of Rust's graphic representation is minimized by WGH, for the petitioner emphasizes that several stations "outside the market" are apparently suggessful competitors for audience and revenue within Tidewater. WGH additionally submits documentation in an effort to refute Rust's assertions that Portsmouth is a city "in serious economic trouble."

7. WGH notes strenuously that a full ascertainment study was not submitted with the application, despite the specific requirement of question and answer 1(c) of the Commission's Primer on the Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 651 (1971). In response, Rust states that a "supplement" to the ascertainment study undertaken in connection with the last WKLX renewal application, filed in June 1972, demonstrates Rust's continuing awareness of local needs and interests. Further, as the 1975 renewal application will be filed by June 1, 1975, Rust considers the submission, in July 1974, of a full ascertainment study to be "impractical, redundant and inefficient" when such a study will be conducted as a part of the renewal application.

8. The final substantive allegation advanced by WGH concerns the failure of Rust to amend its application, pursuant to § 1.65 of the rules, to reflect a change in the format of the Michael Disson program. This program was described in the application as "the only significant vehicle for coverage" of local problems of the service area. The change noted by the petitioner, and confirmed by Rust, was to eliminate the public affairs portion of the Michael Disson show. Rust, in response, notes that programming was subsequently added to provide for public affairs coverage, with the result that "almost three hours of programming" is now provided in the public affairs category. The change in the format was not, stresses Rust, of decisional significance such that it need be reported to the Commission.

II. Discussion. 9. Both the applicant and the petitioner strenuously argue that the broadcast station-population distribution in the Tidewater area is significant and dispositive of section 307(b) considerations. Rust maintains that a more even distribution will result by a grant of its application; WGH contends that such a grant would create a less equitable distribution of broadcast facilities. A study of our records reveals that the following commercial AM and FM broadcast stations are currently assigned to communities in the Tidewater area: Portsmouth has three stations [WWOC (AM), WPMH(AM), and WKLX(AM)], Hampton has two [WVEC(AM) and WVHR(FM)], Newport News has three [WGH(AM), WGH–FM, and WTID (AM)], and Norfolk has twelve [WCMS (AM), WCMS–FM, WNOR(AM), WNOR–FM, WTAR(AM), WTAR–FM, WRAP(AM), WOWI(FM), WORK(FM), WXRI(FM), WYFI(FM) and WZAM (AM)].[7] Distribution of the population per station in these communities, based on data from the 1970 U.S. census, is as follows:

Community	Population	Stations	Population/ Station
Norfolk	307,951	12	25,662
Portsmouth	110,963	3	36,987
Newport News	138,177	3	46,059
Hampton	120,779	2	60,389

In the event that the Rust proposal is granted, the following distribution would obtain:

Community	Population	Stations	Population/ Station
Norfolk	307,951	13	23,688
Portsmouth	110,963	2	55,481

Clearly, approval of a change in station location for WKLX from Portsmouth to Norfolk would result in a less favorable ratio of population per station than exists at present.

10. Equal distribution of population for each broadcast station is not the sole criterion in the resolution of questions concerning section 307(b) of the Communications Act of 1934, as amended. In fact, this section of the Act was changed

[1] Rust is also the licensee of WHAM and WHFM, Rochester, New York; WRNL and WRXL(FM), Richmond, Virginia; WAEB and WXKW(FM), Allentown, Pennsylvania; WNOW and WNOW(FM), York, Pennsylvania; WPTR, Albany, New York; and WRAW, Reading, Pennsylvania.

[2] The Commission has in addition, two informal complaints filed by WCMS Radio Norfolk, Inc., licensee of stations WCMS(AM) and WCMS–FM, Norfolk, Virginia, and Commonwealth Broadcasting Company, licensee of stations WNOR(AM) and WNOR–FM, Norfolk, Virginia. These objections raise matters regarding the necessity for the change and the effect on the market such a change would cause. As the petition to deny raises all of these matters, in addition to others, consideration will focus on that document.

[3] Rust has been authorized since 1972, to use an on-the-air identification as "Portsmouth-Norfolk, Virginia."

[4] Exhibit A, p. 13, FCC File No. BML–3521.

[5] Ibid., p. 11.

[6] Initially, this breakdown was computed only for standard broadcast stations. In response to WGH's protestations concerning the omission of FM service, Rust submitted a revised chart which was to include all commercial stations. See infra, par. 6.

[7] WZAM(AM) currently holds a construction permit (file No. BP–17268, as modified) but has not yet commenced operation.

in 1936, to reflect a desire for a "fair, efficient and equitable" distribution of broadcast facilities, as contrasted with the "equal" allocation originally specified in the Act.[8] Although the applicant has addressed the issue of availability of transmission services within the area, no data was produced concerning the availability of reception services within the Tidewater region, a significant factor in 307(b) determinations. Therefore, in light of the requirements of section 307(b), and because conflicting evidence has been proffered regarding the economic vitality of Portsmouth and the ability of that community to support three broadcast facilities, an issue will be specified to determine whether a grant of this application will serve the public interest and result in a fair, efficient and equitable distribution of radio service.

11. An issue will also be specified concerning Rust's noncompliance with the requirements of the Primer by failing to conduct a full ascertainment study in connection with its application. See question and answer 1(c) of the Primer. We have determined in the past that an application for a change in station location is not exempt from the requirements of the Primer in this regard. In response to a suggestion to this effect prior to adoption of the Primer, we stated:

> We think the proposed exemption is unwarranted. A station licensed to one community has a primary obligation to that community. If an applicant proposes to shift that obligation to another city, it should do so only after becoming thoroughly aware of the problems of the second community.[9]

12. Notwithstanding the similarity of problems which may be present in an area such as "Tidewater," Rust has clearly failed to comport with the requirements of the Primer. The fact that a survey will be prepared in June 1975, does not exempt Rust from the need to comply with the Primer in connection with an application filed July 3, 1974. Nor does a representation that the subsequent survey will be incorporated in the instant application excuse the failure to conduct a survey now, as required. In the event that this application has not been granted by June 1, 1975, the appropriate emphasis of the WKLX renewal survey would be on the community of Portsmouth, and not Norfolk; consequently, incorporation of the survey would not, ipso facto, alleviate the deficiency in the instant application. Moreover, even if the "supplemental" interviews undertaken by Rust are processed as the necessary ascertainment survey, the failure to contact women and minority interests, to provide a description of the composition of Norfolk, and to provide an adequate proposal of programs to meet the needs and interests ascertained,[10] is more than sufficient to warrant the imposition of an issue against Rust concerning its ascertainment efforts.

13. Finally, WGH requests that an issue be specified concerning the format change in the Michael Disson program, as noted, supra, par. 8. While the failure to report a format change in an individual program may not per se violate § 1.65 of the rules, a more difficult situation is presented when the change has an effect on the overall public affairs proposal advanced by Rust. No amendment was submitted to apprise the Commission of the nature and extent of the new public affairs programming, as required by question and answer 29 of the Primer, which Rust asserts it instituted following the change made in the Disson show. The significant matter underlying the WGH request for this issue, however, is that of programming—not the slight procedural deficiency in compliance with § 1.65. As the entire extent of the Rust proposal for public affairs programming was encompassed by the Michael Disson show, the alteration in the program format of that show necessarily raises a question regarding the nature of the public service programming to be provided by Rust.[11] Therefore, to reach the substantive issue in this matter, no § 1.65 issue will be specified; rather, evidence concerning the public service programming to be provided by Rust will be considered within the scope of the general ascertainment issue specified herein.

14. Accordingly, *it is ordered*, That the petition to deny, filed by Hampton Roads Broadcasting Corporation is granted to the extent indicated herein, and is denied in all other respects.

15. *It is further ordered*, That the application of Rust Communications Group, Inc., is designated for hearing upon the following issues:

1. To determine, in light of section 307(b) of the Communications Act of 1934, as amended, whether the proposal advanced by Rust would provide a fair, efficient and equitable distribution of radio service.

2. To determine the efforts made by Rust to ascertain the community problems of the area to be served and the means by which the applicant proposes to meet those problems.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience and necessity.

16. *It is further ordered*, That, as the matters raised in the informal objections filed in this proceeding are fully subsumed by the petition to deny submitted herein, the informal objections are dismissed as moot. Additionally, Hampton Roads Broadcasting Corporation, licensee of stations WGH(AM) and WGH–FM, Newport News, Virginia; WCMS Radio Norfolk, Inc., licensee of stations WCMS(AM) and WCMS–FM, Norfolk, Virginia; and Commonwealth Broadcasting Company, licensee of stations WNOR(AM) and WNOR–FM, Norfolk, Virginia, are made parties to the proceeding.

17. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicant and parties respondent herein, 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 fixed for the hearing and present evidence on the issues specified in this Order.

18. *It is further ordered*, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: April 17, 1975.

Released: April 25, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[12]
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-11769 Filed 5-5-75;8:45 am]

STATIONS ON THE GREAT LAKES

Maritime Distress Frequency Watch, Rule Waiver

APRIL 29, 1975.

The Chief of the Safety and Special Radio Services Bureau of the Federal Communications Commission granted a temporary rule waiver until May 1, 1976, so that Lorain Electronic, Inc., the licensee of six very high frequency (VHF) public coast stations on the Great Lakes will not be required to maintain a continuous listening watch on the distress, safety and calling frequency (156.8 MHz).

The rule waiver applies to the operation of stations located at Duluth (call sign WAS), Copper Harbor (KVY602) and Grand Marais (KVY603), Michigan, Sturgeon Bay (KVY604), and Port Washington (WAD), Wisconsin and Lorain (WMI), Ohio. This class of station provides common carrier public correspondence service to ships. The waiver will apply only to stations that are a part of a Great Lakes prototype radio communications system that Lorain was authorized on January 22, 1975, to develop, and the interruption of the continuous watch will be only for occasional brief periods. Lorain, in its request for the waiver, had stated that for technical and operational reasons the maintenance of a continuous watch was not feasible in the prototype system.

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[8] See H. R. Rep. No. 2589 and Sen. Rep. No. 1588, 74th Cong., 2d Sess. (1936). The amendment was to bring section 307(b) more closely into conformance with the original intent of the Radio Act of 1927.

[9] *Report and Order, Primer on the Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 651, 654 (1971) (Emphasis supplied).

[10] See discussion, infra, par. 13, concerning the program proposal of Rust.

[11] The Disson program was described as the only "vehicle" for public affairs broadcasts on WKLX.

[12] Commissioner Robinson absent.

In granting the request which had been placed on public notice for 30 days before final decision, Charles Higginbotham, the Bureau Chief, stated that any temporary adverse impact of the rule waiver should be offset by the long range advantages to maritime radiocommunications on the Great Lakes by the successful development of the Lorain system. Mr. Higginbotham also explained that all of the six stations were located near U.S. Coast Guard stations which ordinarily maintain watches on the distress frequency, and also that all ships navigating on the Lakes and operating radio in the VHF band are required to maintain listening watches on the distress frequency.

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

[FR Doc.75-11773 Filed 5-5-75;8:45 am]

VOICE OPERATED RELAY (VOX)

Conditions Specified for Use at Class D Stations

APRIL 23, 1975.

In a recent letter to Radio Shack, A Tandy Corporation Company, the Office of the Chief Engineer provided the following reply in response to a request to permit the use of a feature by which an operator's voice (voice operated relay or VOX) may be used to activate the transmit circuitry of transmitters to be type accepted for use at Class D stations in the Citizens Radio Service under Part 95 of the Commission's rules and regulations:

In response to your request, we have studied the VOX feature you have included with this transmitter. This feature could be included within the meaning of transmit-receive switch permitted by § 95.58(d)(9) of our rules, provided the circuit is designed and adjusted so that no sounds, other than the voice of the operator responsible for proper operation of the station, will be able to place the transmitter in the transmit mode. Any control for the VOX threshold should be internal and not available for adjustment by the operator. In addition, such controls should be included in the warnings required by § 95.58(e) of our rules, as appropriate. Incorporation of this feature should be done in a way which will preclude the possibility of inadvertent actuation of the transmitter. One method you may wish to consider is that of incorporating the VOX circuitry into a noise-cancelling microphone and making the microphone a permanent part of the transmitter, for satisfactory implementation of the VOX feature. * * *

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

[FR Doc.75-11772 Filed 5-5-75;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ALLOCATION OF PETROLEUM IMPORTS FROM CANADA

Change in Hearing Date and Location

On April 18, 1975, the Federal Energy Administration (FEA) issued a notice of hearing and request for comments concerning its proposal to adopt a program for allocating exports from Canada of crude oil and other refinery feedstocks among domestic refiners (40 FR 17783, April 22, 1975). The public hearing in this proceeding was originally scheduled for May 14, 1975, to be continued on the following day if necessary, in Room 2105, 2000 M Street NW., Washington, D.C. However, due to a scheduling conflict within the agency, a change in hearing dates and a change in location on the continuation date is necessary.

The public hearing will now be held at 9:30 a.m., on Monday, May 12, 1975, in Room 2105, 2000 M Street NW., Washington, D.C., and will be continued, if necessary, on Tuesday, May 13, 1975, in the first floor auditorium of the General Services Administration Building, 18th & F Streets NW., Washington, D.C.

In addition, the original notice provided that 100 copies of a person's hearing statement be delivered to FEA before 4:30 p.m. on May 13, 1975. Since the hearing date has been moved to Monday, May 12, 1975, FEA would like to receive copies of hearing statements before 4:30 p.m., on May 9, 1975, if possible, although statements may be submitted prior to the start of the hearings on May 12, 1975.

All other dates and substantive aspects of the April 18 notice (40 FR 17783, April 22, 1975) remain as published in that notice.

Issued in Washington, D.C., May 1, 1975.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.75-11855 Filed 5-1-75;4:28 pm]

ENERGY FORECASTING ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Energy Forecasting Advisory Committee will meet Friday, May 23, 1975 at 10 a.m., Room 3400, 12th & Pennsylvania Avenue, NW., Washington, D.C.

The Committee was established to advise the Administrator, Federal Energy Administration (FEA), with respect to methodologies which will augment and improve forecasts of energy supply and demand.

The agenda for the meeting is as follows:

1. Presentation of Current Forecast Through 1977.
2. Impact of Alternative Conservation Measures.
   a. Decontrol of Old Oil.
   b. A System of Fees and Excise Taxes.
   c. Import Quotas.
3. Impact of Changes in Macro-Economic Conditions on Energy Consumption.

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Advisory Committee Management Officer, (202) 961-7022, at least 5 days before the meeting and reasonable provisions will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection at the Federal Energy Administration, Washington, D.C.

Issued at Washington, D.C. on May 1, 1975.

DAVID G. WILSON,
Acting General Counsel.

[FR Doc.75-11807 Filed 5-1-75;1:52 pm]

FEDERAL MARITIME COMMISSION

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 May 26, 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. 3103-60 has been entered into by the member lines of the Japan/Korea-Atlantic & Gulf Freight Conference for the purpose of amending Article 25(b)(4) of the conference agreement to increase the amounts of liquidated damages to be assessed for breaches of the agreement.

By Order of the Federal Maritime Commission.

Dated: May 1, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-11822 Filed 5-5-75;8:45 am]

NEW YORK FREIGHT BUREAU (HONG KONG)

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 May 16, 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. 5700-23 would modify the New York Freight Bureau (Hong Kong) basic agreement by adding a new subparagraph (v), to paragraph (b) of Article 16 reading as follows:

16(b)(v) *Rate Policy Committee.*

The New York Freight Bureau shall elect a Rate Policy Committee consisting of six (6) members, the composition of which shall be as the parties hereto may from time to time agree. The Bureau shall also elect a Committee Chairman who shall preside over all meetings and who shall be responsible for maintaining the records of the Committee. Meetings of the Committee shall be called by the Committee Chairman upon the request of any member. In lieu thereof, and unless objected to by any member, the Chairman may poll the members and obtain their vote by telephone. The Committee shall have authority to consider and establish rates, including changes in rates (exclusive of rules, regulations and accessorial charges), and, in its discretion, to delegate authority as may be appropriate to the rates committees established under this Article of the Agreement. A quorum shall consist of four members and the Committee Chairman. Final decisions on rates shall be taken by the Committee upon the vote of a majority of those present. Only in case of a tie shall the Committee Chairman be empowered to vote. Rate decisions taken by the Committee shall be promptly reported to the Chairman/Secretary in Hong Kong who shall insure that they are notified to the membership, minuted and filed with the government agency charged with the administration of the U.S. Shipping Act, 1916, as amended. The authority vested herein shall supersede the authority vested under Articles 5 and 6 and paragraph (b), subparagraphs (ii), (iii), and (iv) of this Article to the extent in conflict with this subparagraph. Unless extended by the Bureau membership, the authority vested herein shall terminate on October 31, 1975.

By Order of the Federal Maritime Commission.

Dated: May 1, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-11825 Filed 5-5-75;8:45 am]

[Docket No. 75-13]

NORTH ATLANTIC FRENCH ATLANTIC FREIGHT CONFERENCE AND NORTH ATLANTIC BALTIC FREIGHT CONFERENCE

Petition for Order

Notice is hereby given that the North Atlantic French Atlantic Freight Conference and the North Atlantic Baltic Freight Conference, on February 6, 1975, petitioned the Commission to declare;

* * * that the ninety day proviso of section 14b(2) of the Shipping Act, 1916, is a notice proviso which requires and only requires that increases in tariff rates for the carriage of goods under dual rate contracts shall be filed no less than ninety days prior to their effective date unless a short notice period is otherwise permissible.

In the alternative, * * * that the aforesaid proviso of section 14b(2) is not a notice proviso at all, but rather requires and only requires that once a tariff rate for the carriage of goods under a dual rate contract becomes effective in compliance with the notice provisions of section 18(b)(2), it may not thereafter be increased in less than ninety days unless otherwise permissible.

In any event, * * * that under no circumstances can the ninety day proviso of section 14b(2) be properly deemed or construed to require both ninety days prior notice and ninety days subsequent duration of any increase of a tariff rate for the carrriage of goods under a dual rate contract.

Petitioners have requested oral argument before the Commission. Petitioners have submitted a memorandum in support of their petition, both of which have been filed in the Office of the Secretary of the Commission.

All interested persons, including Hearing Counsel, are invited to reply to the requested declaration, set forth above, addressing themselves both to the substantive issues and to the advisability of permitting oral argument before the Commission.

Replies to the petition shall be filed, if at all, with the Secretary of the Commission on or before June 5, 1975.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-11827 Filed 5-5-75;8:45 am]

SCANDINAVIA BALTIC/U.S. NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813a).

Interested parties may inspect a copy of the current contract form and of the petition, reflecting the changes proposed to be made in the language of said contract, at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126 or at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments with reference to the proposed changes and the petition, including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, on or before May 26, 1975. Any person desiring a hearing on the proposed modification of the contract form and/or the approved contract system 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 petition, (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of Application for Exclusive Patronage (Dual Rate) Contract System Filed by:

Howard A. Levy, Esquire
Suite 727
17 Battery Place
New York, New York 10004

Agreement No. 9982 D.R. is an application by the above-named conference for permission to institute and utilize an exclusive patronage (dual rate) system in the Scandinavia/U.S. North Atlantic Westbound trade employing a spread of 15 percent between contract and non-contract rates.

By Order of the Federal Maritime Commission.

Dated: May 1, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-11826 Filed 5-5-75;8:45 am]

TRANS-PACIFIC FREIGHT CONFERENCE OF JAPAN/KOREA

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 May 26, 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. 150–63 has been entered into by the member lines of the Trans-Pacific Freight Conference of Japan/Korea for the purpose of amending Article 25(b)(4) of the conference agreement to increase the amounts of liquidated damages to be assessed for breaches of the agreement.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

Dated May 1, 1975.

[FR Doc.75-11823 Filed 5-5-75;8:45 am]

TRANS PACIFIC FREIGHT CONFERENCE (HONG KONG)

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 May 16, 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. 14–42 would modify the Trans Pacific Freight Conference (Hong Kong) basic agreement by adding a new subparagraph, (vi), to paragraph (b) of Article 17 reading as follows:

17(b)(vi) *Rate Policy Committee.*

The Trans Pacific Freight Conference (Hong Kong) shall elect a Rate Policy Committee consisting of six (6) members, the composition of which shall be as the parties hereto may from time to time agree. The Conference shall also elect a Committee Chairman who shall preside over all meetings and who shall be responsible for maintaining the records of the Committee. Meetings of the Committee shall be called by the Committee Chairman upon the request of any member. In lieu thereof, and unless objected to by any member, the Chairman may poll the members and obtain their vote by telephone. The Committee shall have authority to consider and establish rates, including changes in rates (exclusive of rules, regulations and accessorial charges), and, in its discretion, to delegate authority as may be appropriate to the rates committees established under this Article of the Agreement. A quorum shall consist of four members and the Committee Chairman. Final decisions on rates shall be taken by the Committee upon the vote of a majority of those present. Only in case of a tie shall the Committee Chairman be empowered to vote. Rate decisions taken by the Committee shall be promptly reported to the Chairman/Secretary in Hong Kong who shall insure that they are notified to the membership, minuted and filed with the government agency charged with the administration of the U.S. Shipping Act, 1916, as amended. The authority vested herein shall supercede the authority vested under Articles 5 and 6 and paragraph (b), subparagraphs (ii), (iii) and (iv) of this Article to the extent in conflict with this subparagraph. Unless extended by the Conference membership, the authority vested herein shall terminate on October 31, 1975.

By order of the Federal Maritime Commission.

Dated: May 1, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-11824 Filed 5-5-75;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CI75-590, etc.]

ASHLAND OIL, INC. ET AL.

Applications, Abandonment of Service and Petitions To Amend Certificates [1]

APRIL 25, 1975.

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 May 23, 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 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
CI75-590 4-7-75	Ashland Oil, Inc., P.O. Box 1503, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., Cheyenne Valley Field and S. W. Lanora Field, Major and Dewey Counties, Okla.	[1] 57.3295	14.65
CI75-607 4-10-75	Texaco, Inc. (Operator) et al., P.O. Box 60252, New Orleans, La. 70160.	Texas Gas Transmission Corp., Jefferson Island Field, Iberia Parish, La.	[2] 61.715	15.025
CI75-608 (G-16371) 4-10-75	Skelly Oil Co. (successor to General American Oil Co. of Texas), P.O. Box 1650, Tulsa, Okla. 74102.	United Gas Pipe Line Co., Cotton Valley Field, Webster Parish, La.	15.07636	15.025
CI75-609 4-14-75	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Mountain Fuel Supply Co., Verne Unit Area, Uinta County, Wyo.	[3] 63.776	14.73
CI75-610 4-14-75	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Northern Natural Gas Co., Hitchland Field, Hansford County, Tex.	[4] [5] 60.875	14.65
CI75-611 4-3-75 [6]	CRA International, Ltd., 5416 South Yale Ave., Tulsa, Okla. 74135.	Natural Gas Pipeline Co. of America, Hansford Field, Hansford County, Tex.	[7] 18.74697	14.65
CI75-612 4-14-75	Chevron Oil Co., Western Division, P.O. Box 599, Denver, Colo. 80201.	Mountain Fuel Supply Co., Spearhead Area, Converse County, Wyo.	[8] 62.9089	15.025
CI75-613 4-14-75	Monsanto Co., 1300 Post Oak Tower, 5051 Westheimer, Houston, Tex. 77027.	Transwestern Pipeline Co., Apollo Field, Winkler County, Tex.	[9] 54.8357	14.65
CI75-614 4-14-75	Texaco, Inc., P.O. Box 60252, New Orleans, La. 70160.	Consolidated Gas Supply Corp., Eugene Island Block 205 Field, offshore La.	[10] [11] 55.0	15.025
CI75-615 4-14-75	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Northern Natural Gas Co., Eugene Island Block 332 Field, offshore La.	[12] 75.0	15.025
CI75-616 4-11-75	Shell Oil Co., P.O. Box 2463, Houston, Tex. 77001.	Pacific Alaska LNG Co., Beluga River Field, Cook Inlet Area, Alaska.	40.0	14.65
CI75-617 4-14-75	Transwestern Gas Supply Co., P.O. Box 2521, Houston, Tex. 77001.	Transwestern Pipeline Co., Apollo Field, Winkler County, Tex.	[13] 80.0	14.65
CI75-618 4-16-75	General American Oil Co., of Texas, Meadows Bldg., Dallas, Tex. 75206.	Natural Gas Pipeline Co. of America, Southeast Mand Area, Bowie County, Tex.	[14] 43.0	14.65
CI75-619 4-17-75 [15]	McCulloch Oil Corp. of Texas, 10880 Wilshire Blvd., Suite 1500, Los Angeles, Calif. 90024.	El Paso Natural Gas Co., Larue No. 1 Well, Hemphill County, Tex.	[16] 51.0	14.73
CI75-620 4-17-75	Perry R. Bass, 3100 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.	Cities Service Gas Co., Granite Wash Field, Buffalo Wallow Area, Hemphill County, Tex.	[17] 53.0	14.65

[1] Includes 2.7296 cents per Mcf upward Btu adjustment.
[2] Includes 2.184 cents per Mcf upward Btu adjustment.
[3] Includes 10.629 cents per Mcf upward Btu adjustment and 2.147 cents per Mcf tax reimbursement.
[4] Includes 6.57 cents per Mcf estimated upward Btu adjustment.
[5] Applicant is willing to accept a certificate in accordance with Section 2.56a of the Commission's General Policy and Interpretations.
[6] Applicant proposes to cover its own interest in the sale of natural gas heretofore authorized to be made by Nafco Oil & Gas, Inc., now holder of a small producer certificate.
[7] Includes 6.5 cents per Mcf upward Btu adjustment and 0.24697 cent per Mcf tax reimbursement.
[8] Includes 5.1699 cents per Mcf State Production Tax and 5.7190 cents per Mcf upward Btu adjustment.
[9] Subject to upward and downward Btu adjustment.
[10] Subject to upward Btu adjustment; estimated adjustment is 10.35 cents per Mcf.
[11] Includes 1 cent per Mcf gathering allowance, excludes 9 cents per Mcf for treatment costs and is subject to upward and downward Btu adjustment and tax reimbursement.
[12] Applicant proposes to continue the sale authorized in Docket No. CI73-622.
[13] Subject to upward and downward Btu adjustment and tax reimbursement.

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[FR Doc.75-11655 Filed 5-5-75;8:45 am]

[Project No. 620]

ALASKA PACKERS ASSOCIATION, INC.

Application for New Minor License (Constructed Project)

APRIL 29, 1975.

Public notice is hereby given that application was filed on November 4, 1974, under the Federal Power Act (16 U.S.C. 791a–825r) by Alaska Packers Association, Inc. (Correspondence to: Mr. J. D. Cooper, Vice President and General Manager, Alaska Packers Association, Inc., P.O. Box AA, Blaine, Washington 98230 with copies to Mr. John S. Trott, Legal Department, Del Monte Corporation, P.O. Box 3575, San Francisco, California 94119) for a new minor license for the constructed Chignik Hydroelectric Project No. 620 located on Indian Creek, a tributary to Chignik Bay, on the Alaska Peninsula, in the vicinity of Chignik, Third Judicial Division, State of Alaska, on lands of the United States.

The existing project consists of: (1) A low timber dam about 90 feet long at the outlet of Upper Lake; (2) a 10-foot wide spillway channel 200 feet long; (3) a wood stave pipeline about 7,700 feet long and 12 inches to 8 inches in diameter conveying water to Applicant's fish cannery and an 80-horsepower waterwheel located therein which is connected to a 50 kW generator, and a pulley which supplies mechanical energy to cannery machinery; (4) short transmission lines; and (5) appurtenant facilities. The present license for the project expires on October 4, 1975.

The energy developed by the project is used in operating Applicant's cannery and its radio station and for domestic purposes in its nearby dwellings and buildings.

Any person desiring to be heard or to make protest with reference to said application should on or before July 14, 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 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.75-11716 Filed 5-5-75;8:45 am]

[Docket No. RP75-88]

ALGONQUIN GAS TRANSMISSION CO.

Proposed Changes in Gas Tariff

APRIL 15, 1975.

Take notice that Algonquin Gas Transmission Company (Algonquin Gas), on April 8, 1975, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1. Algonquin Gas states that the proposed changes would increase revenues from jurisdictional sales and service by $25.3 million based on the 12-month period ending December 31, 1974, as adjusted. Algonquin Gas requests an effective date for the proposed changes of May 23, 1975.

Algonquin Gas further states that of the total increase, $21.3 million applies to Rate Schedule SNG–1, and $4.0 million represents increases applicable to other rate schedules. According to Algonquin Gas, the proposed change in rates is needed in order to meet increased costs of operations under current economic conditions. Algonquin Gas notes that the predominant part of the proposed increase under Rate Schedule SNG–1 reflects increasing costs of feedstock.

Copies of the filing were served upon the company's jurisdictional customers and interested state regulatory 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 April 28, 1975. 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.75-11717 Filed 5-5-75;8:45 am]

[Docket No. CI75-622]

BARTON OIL & GAS CO., INC.

Notice of Application

APRIL 25, 1975.

Take notice that on April 21, 1975, Barton Oil & Gas Company, Inc. (Applicant), P.O. Box 51485, Lafayette, Louisiana 70501, filed in Docket No. CI75-622 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas in interstate commerce to Trunkline Gas Company from production in the Fields Field Area, Beauregard Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that delivery of the gas commenced on April 7, 1975, pursuant to § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29). Applicant proposes to continue the sale of approximately 30,000 Mcf of gas per month at 52.021 cents per Mcf at 15.025 psia, subject to upward and downward Btu adjustment, for one year from the end of the 60-day emergency sale period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

As justification for its proposal Applicant further states that the subject gas is in a reservoir for which indications are that there are less than 100,000 Mcf of total gas reserves. These indications show, according to Applicant, that at current rates of production the reservoir would be depleted within the term for which authorization is sought.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 15, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11718 Filed 5-5-75;8:45 am]

[Docket Nos. E-8855 and E-9037]

BOSTON EDISON CO.

Joint Filing of Settlement Agreement

APRIL 25, 1975.

Take notice that on April 8, 1975, Boston Edison Company (Edison) and New England Power Company (NEPCO) jointly tendered for filing a settlement agreement, designated as Appendix A, between the two parties in Docket No. E-9037. The proposed settlement between Edison and NEPCO concerns a rate for firm power subtransmission service provided by Edison. The rate in question became effective November 1, 1974.

The towns of Concord, Norwood, and Wellesley, intervenors herein, have indicated opposition to the instant proposed settlement agreement.

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 May 13, 1975. 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.75-11719 Filed 5-5-75;8:45 am]

[Docket No. CP75-300]

COLORADO INTERSTATE GAS CO.

Petition for Declaratory Order

APRIL 29, 1975.

Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (CIG) filed on April 11, 1975, pursuant to § 1.7(c) of the Commission's rules of practice and procedure a petition for a declaratory order disclaiming Commission jurisdiction over the sales to CIG by producers delivering gas to CIG from the Latigo Field in Arapahoe County, Colorado. CIG requested the declaratory order to resolve the following issue:

Whether sales to CIG by producers of gas which is produced in Colorado, sold and delivered to CIG in Colorado, transported and resold by CIG in Colorado, and ultimately distributed and consumed in Colorado, all without ever leaving the confines of such State, constitutes sales in interstate commerce subject to the jurisdiction of the Commission under Section 1(b) of the Natural Gas Act.

CIG is a natural gas company under the Natural Gas Act purchasing gas in Texas, Oklahoma, Kansas, Wyoming, Montana, and Colorado. CIG uses this gas to serve its markets in Texas, Oklahoma, Kansas, Wyoming, and Colorado. A portion of the gas purchased in Colorado is delivered into certificated interstate facilities and commingled with gas flowing through such facilities which has originated outside of Colorado. CIG alleges, however, that the direction of flow of gas in CIG's facilities is such that no portion of the gas produced from certain of these Colorado fields has ever left the confines of the State of Colorado. It is this gas which is the subject of the petition for a declaratory order and which CIG claims is not subject to Commission's jurisdiction in spite of the fact that it flows through otherwise certificated facilities and is commingled with interstate gas.

CIG proposes to acquire the subject Latigo Field from several producers who are currently selling gas to CIG. This field is one of the Colorado fields which supplies gas for consumption in the Colorado market. In pending Docket No. CP74-320, CIG has requested authorization under section 7(c) of the Natural Gas Act to acquire the Latigo Field and to construct and operate facilities to develop the field for use as an underground gas storage reservoir. The purpose of such a storage field is to help CIG meet its peak day and winter season gas requirements of its existing customers. CIG projects substantial peak day deficiencies commencing in 1976-77 which will increase progressively from 11,828,000 Mcf in the 1974-75 fiscal year (beginning October 1) to 114,243,000 Mcf in the 1978-79 fiscal year. These facilities would supply gas to offset the peak day deficiencies. In order to allow CIG the opportunity to acquire the facilities in time to accumulate an inventory from the system off peak gas to supply the projected peak day shortfalls in 1975-76, the Commission in its order in the certificate proceeding issued March 14, 1975, found that an emergency existed on the CIG system with the purview of section 7 of the Natural Gas Act, and issued a temporary certificate allowing acquisition of the Latigo field, construction of certain facilities, and injection of gas for peak day use in 1975-76. This certificate was without prejudice to the disposition of the permanent application, the subject of a May 20, 1975, hearing regarding the pricing of the storage service from this field. The Commission further conditioned the certificate in Ordering Paragraph E(3) as follows:

Any producer selling to CIG out of the Latigo Field shall file without prejudice for abandonment under section 7(b) of the

Natural Gas Act and a final decision on any such application shall be a condition precedent to the effectiveness of the temporary certificate herein granted.

This condition was placed upon CIG based upon the finding that the above-described commingling and delivery of gas along with CIG's interstate gas supply was within interstate commerce as set forth by the doctrine in California v. LoVaca Gathering Company, 379 U.S. 366 (1965). In the Commission's concurrent order today, it was stated that the Commission continues to believe that this sale of gas is jurisdictional, and that in order to ascertain the exact nature of the transaction and to determine the scope of Commission jurisdiction, the matter shall be consolidated with our order to show cause, also issued today.

The CIG petition for declaratory order accompanied its April 11, 1975, application for rehearing of our order of March 14, 1975, in Docket No. CP74-320. In that application CIG stated that if its temporary certificate were conditioned on the final outcome of the Commission adjudication of the producers' abandonment applications, it would not be able to acquire the Latigo Field in time to begin operations in order to store off peak seasonal gas for use during the 1975-76 peak day winter period. CIG suggested that this condition be deleted, and in the alternative to condition the temporary certification upon the filing by CIG of a petition for a declaratory order resolving the question of jurisdiction over the sale and abandonement of such gas. In the accompanying order today, the Commission consolidated this declaratory order proceeding with the show cause order in Docket No. CP75-323. The jurisdictional issue which was the concern in the March 14, 1975, order in Docket No. CP74-320 will, thereby, be decided in the consolidated proceeding.

Any person desiring to be heard or to make any protest with reference to said petition for declaratory order should within 30 days file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11720 Filed 5-5-75;8:45 am]

[Dockets Nos. RP75-86, RP75-83, and RP75-85]

COLORADO INTERSTATE GAS CO.

Rate Increase for Filing, Suspending Same, Consolidating Proceedings, Setting Procedural Dates, Granting Waiver, and Granting Interventions

APRIL 30, 1975.

On March 31, 1975, Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (CIG), tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1[1] to become effective May 1, 1975.

CIG states that the proposed rates would increase revenues from jurisdictional sales and service by $6.8 million over those rates presently being collected subject to refund in Docket No. RP74-77, inclusive of appropriate PGA adjustments. CIG states that the proposed increase is based on the twelve-month period ended December 31, 1974, adjusted for known and measurable changes which will occur within the nine months subsequent to that date, as provided for in the Commission's regulations. CIG's proposed rate increase filing has been assigned Docket No. RP75-86.

Also on March 31, 1975, CIG petitioned the Commission for authority to adopt normalized accounting for liberalized tax depreciation for book and rate purposes on all of its utility property eligible for such treatment (Docket No. RP75-83); and petitioned the Commission for authority to change from the average cost to the last in, first out (LIFO) method of accounting for its underground storage gas inventory (Docket No. RP75-85).

The proposed rate increase is based upon, inter alia, the requested change to normalization of depreciation accounting, the requested change to LIFO accounting, and facility costs and expenditures which have not as yet received a certificate of public convenience and necessity. In regard these uncertified facility costs and expenditures, CIG requests waiver of § 154.63(e)(2)(ii) of the Commission's regulations.

Since the petitions in Docket Nos. RP-83, and RP75-85 raise issues which are closely related to the issues of law and fact in Docket No. RP75-86 in that the rates in RP75-86 are based upon the changes requested in Docket Nos. RP75-83, and RP75-85, we will consolidate the proceedings in all three dockets for purposes of hearing and decision. With respect to the uncertificated facility costs and expenditures, we will waive § 154.63(e)(2)(ii) of the regulations upon the following condition, that if these facilities are not certified and placed into service by October 1, 1975, CIG shall file revised tariff sheets adjusting its rates to reflect elimination of such facilities from its section 4(e) application in these proceedings.

Numerous petitions to intervene have been received. (See Appendix B.) Good cause exists to allow these interventions. Our review of CIG's proposed rates, charges, and conditions of service indicates that certain issues are raised which may require development in an evidentiary proceeding. The proposed rates, charges, and conditions of service have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. We shall suspend the use of the proposed changes for five months and defer their use until October 1, 1975.

The Commission finds. (1) Good cause exists to consolidate Docket Nos. RP75-86, RP75-83, and RP75-85 for purposes of hearing and decision.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates, charges, and conditions of service contained in CIG's FPC Gas Tariff, as proposed to be amended in this docket, and that the tendered tariff sheets be accepted for filing and suspended as hereinafter provided.

(3) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

(4) Participation of the above-named petitioners for intervention (See Appendix B) in this proceeding may be in the public interest.

(5) Waiver of § 154.63(e)(2)(ii) of the Commission's regulations subject to the conditions herein specified may be in the public interest.

The Commission orders. (A) The above-named petitioners are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting rights and interest specifically set forth in their respective petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they, or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(B) CIG's tendered tariff sheets are accepted for filing subject to the conditions stated in this order.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations Under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held on September 30, 1975, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol

[1] See Appendix A filed as part of the original.

Street NE., Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classification, and services contained in CIG's FPC Gas Tariff, as proposed to be amended herein, as well as the propriety of granting CIG's petitions in Docket Nos. RP75–83 and RP75–85, which are hereby consolidated with Docket No. RP75–86 for purposes of hearing and decision.

(D) On or before August 22, 1975, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of all intervenors shall be served on or before September 5, 1975. Any rebuttal evidence by CIG shall be served on or before September 12, 1975.

(E) 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, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

(F) Pending hearing and a decision thereon CIG's tariff sheets are suspended for five months and the use thereof deferred until October 1, 1975, or until such further time as they are made effective in the manner provided in the Natural Gas Act provided that CIG must file appropriate substitute rates to reflect only facilities which have been certified and are in service on or before October 1, 1975.

(G) Waiver of § 154.63(e)(2)(ii) of the Commission's regulations is hereby granted to CIG, subject to the conditions set forth above.

(H) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX B

LIST OF INTERVENORS

The City Of Colorado Springs, Colorado.
Greeley Gas Company.
Kansas-Nebraska Natural Gas Company, Inc.
The Public Utilities Commission Of The State of Colorado.
The City Of Fort Morgan, Colorado.

[FR Doc.75-11757 Filed 5-5-75;8:45 am]

[Docket No. RP75-47-2]

COLUMBIA GAS TRANSMISSION CORP.

Order for Expedited Hearing, Permitting Interventions and Establishing Procedures

APRIL 14, 1975.

On December 20, 1974, as supplemented January 22 and 31, 1975, Teledyne Ohiocast (Teledyne), Springfield, Ohio, filed a petition, pursuant to § 1.7 (b) of the Commission's rules of practice and procedure and Commission Order No. 467–C, seeking relief from the currently effective curtailment procedures of Columbia Gas Transmission Corporation (Columbia Transmission). Teledyne requests an exempt allocation of natural gas in the annual volume of 130,480 Mcf for the period of October 15, 1974, through October 14, 1976.

In support of its petition for extraordinary relief, Teledyne alleges that it produces high alloy castings for the petro-chemical industry, the steel industry, the automotive industry, industrial furnace builders, and paper equipment manufacturers. It further alleges that these products are in critically short supply and that it has no existing alternate fuel capabilities.

Teledyne purchases its natural gas supply from Columbia Gas of Ohio, Inc. (Columbia Ohio). At the time of its original filing herein, Teledyne apparently believed that its purchases of natural gas had been incorrectly classified in Priority Category 6 under the Order No. 467–B priority of service classification procedures, but its supplementary filing of January 22, 1975, indicates that Columbia Ohio has classified or agreed to classify 97 percent of Teledyne's purchases in Priority 2 and the remaining 3 percent in Priority 3. However, neither Columbia Transmission nor Columbia Ohio currently curtails in accordance with an Order No. 467–B type of curtailment plan. Teledyne claims that it cannot continue to serve its customers' needs with 65 percent of its previous natural gas purchases.

Pursuant to a notice published in the FEDERAL REGISTER, petitions for and notices of intervention were due on or before March 26, 1975. A timely notice of intervention was filed by the Ohio Public Utilities Commission, and timely petitions for leave to intervene were filed by Chas. Taylor Sons Company, General Motors Corporation and Union Carbide Corporation. Other timely filings were a petition for leave to intervene and request for hearing by Columbia Transmission; petition for leave to intervene with recommended conditions for any grant of immediate or pendente lite extraordinary relief by Elizabethtown Gas Company; and a joint petition of Columbia Gas of Kentucky, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of New York, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of Virginia, Inc., and Columbia Gas of West Virginia, Inc. for leave to intervene, protest and request for hearing. Petitions for leave to intervene out of time were filed by The Dayton Power and Light Company and Washington Gas Light Company.

On March 7, 1975, the Ohio Public Utilities Commission (Ohio PUC) filed a notice of intervention to confer standing upon Teledyne, an indirect customer of Columbia Transmission by virtue of natural gas purchases from Columbia Ohio. Although the Ohio PUC's intervention notice purports neither to support nor to oppose Teledyne's petition herein, we believe that in these circumstances it is appropriate to construe this filing of the Ohio PUC as a request for extraordinary relief on behalf of Teledyne. Accordingly, it appears proper to allow Teledyne to participate as an intervenor in this proceeding. Since the Ohio PUC in its notice to confer standing has evidenced a desire to participate actively in this proceeding, we request the Ohio PUC to direct Teledyne's natural gas distributor, Columbia Ohio, to provide immediately the supportive information required of a distributor pursuant to the procedures set forth in Commission Order No. 467–C issued April 4, 1974.

We conclude that the aforementioned pleadings raise factual and legal issues that require development in a formal evidentiary hearing. Therefore, an expedited hearing shall be scheduled as hereinafter ordered.

The Commission finds. (1) Good cause exists to set for an expedited public hearing the matters raised by Teledyne's petition filed on December 20, 1974, as supplemented January 22 and 31, 1975, and the Ohio PUC's notice of intervention to confer standing filed March 7, 1975.

(2) Good cause exists to construe the notice of the Ohio PUC filed March 7, 1975, as a petition for extraordinary relief on behalf of Teledyne and to allow Teledyne to participate as an intervenor in this proceeding.

(3) The participation of the above-named petitioners in this proceeding may be in the public interest.

The Commission orders. (A) The notice of intervention by the Ohio PUC filed on March 7, 1975, to confer standing upon Teledyne is hereby construed as a petition for extraordinary relief filed under § 1.7(b) of our rules and regulations on behalf of Teledyne.

(B) Teledyne and all of the above-named petitioners are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in the respective petitions to intervene, and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they, or any of them, might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(C) Pursuant to the authority of the Natural Gas Act, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held commencing on May 13, 1975, at 10 a.m. (EDT) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 to determine whether the extraordinary relief sought for Teledyne should be granted.

(D) On or before May 2, 1975, Teledyne, Ohio PUC, Columbia Ohio, and all supporting parties shall file with the Commission and serve on all parties, including the Commission Staff, testimony and exhibits in support of their positions in this proceeding, as well as the data and information to the extent available to each person that is required by our Order No. 467–C. Such evidence should reflect

the flexibility of gas deliveries on the system of Columbia Ohio as well as any other flexibility within the State that may be subject to the jurisdiction of the Ohio PUC.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for the purpose [see Delegation of Authority, 18 CFR 3.5 (d)] shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-11721 Filed 5-5-75;8:45 am]

[Docket No. RP72-89]

COLUMBIA GAS TRANSMISSION CORP.

Order To Extend Interim Curtailment Plan and Permitting Interventions

APRIL 25, 1975.

On April 1, 1975, Columbia Gas Transmission Corporation (Columbia) filed a motion requesting the Commission to extend its currently effective interim curtailment plan, with certain modifications, for a period of six months from May 1, 1975, through October 31, 1975. The proposed modification of the interim plan would exclude the compensation features therein,[1] which the Commission's orders of January 24, 1975, and March 27, 1975, in this proceeding held to be unlawful and to require appropriate filings under sections 4 and 7 of the Natural Gas Act for implementation. Authorization of Columbia's interim plan by the Commission's order issued June 6, 1974, expires April 30, 1975.

In support of its motion, Columbia contends, inter alia, that: (1) The extension of its interim curtailment plan as modified would maintain the status quo to the extent possible, pending resolution of a permanent plan, and would avert unreasonable disruption of customer planning based on the annual entitlement feature for the 12-month fiscal period ending October 31, 1975; (2) implementation of an Order No. 467-B plan on May 1, 1975, would frustrate the lengthy hearings now being held to determine a permanent curtailment plan and be unlawful since consideration would not be given to the extensive record being developed on the merits of 467-B, Columbia's proposed permanent curtailment plan, and other proposed plans; (3) curtailments should not be implemented using an untested Order No. 467-B plan with the unverified end use data currently available; (4) the recent court decisions in State of Louisiana v. FPC, No. 73-3478, issued November 8, 1974, and American Smelting and Refining Company v. FPC, 494 F. 2d 925 (CADC, 1974), hold that the Commission may not amend or replace a pipeline's existing curtailment plan without findings based upon substantial record evidence that such plan is in violation of the Natural Gas Act; and (5) Columbia's interim curtailment procedures have operated very well during the 1974-1975 winter season, during which the Commission was not required to grant any petitions for extraordinary relief and no requests were made by a Columbia customer to implement the exemption provision designed to protect residential and firm commercial consumers.

Notice of Columbia's filing was published in the FEDERAL REGISTER, requiring that comments, protests and/or petitions to intervene be filed on or before April 16, 1975. Petitions for leave to intervene were filed on February 4, 1975, and April 9, 1975, respectively, by The Standard Oil Company (Sohio), an Ohio corporation, and Frito-Lay, Inc. Sohio purchases natural gas from Columbia Gas of Ohio, Inc., which in turn received its natural gas supply from Columbia; Frito-Lay, from Pennsylvania Gas and Water Company and Washington Gas Light Company, which obtain part of their natural gas supply from Columbia. Although the hearing in this proceeding already has begun, we shall allow these petitioners to intervene at this time, but shall condition our grant of intervention upon their acceptance of the record as it now stands.

A large number of comments were received in answer to the Commission's notice regarding Columbia's motion for a six month extension of its interim plan as modified to render the compensation features inoperative. The majority of those comments support Columbia's motion although several of them favor continuation of the present compensation provisions. In view of our conclusion in our order issued November 12, 1974, in Transcontinental Gas Pipe Line Corporation, Docket No. RP72-99, that a compensation plan similar to the one incorporated in Columbia's interim plan was unacceptable as a matter of law, further discussion of this issue would appear to serve no useful purpose. Since this Commission fully intends to take such appropriate action as may be required in the public interest if its position regarding the compensation feature in curtailment plans is not upheld on judicial review, a specific ruling herein to take care of that eventuality as suggested by one Columbia customer has not been shown to be justified.

Those parties opposing extension of Columbia's interim plan maintain principally that: (1) The curtailment plan that Columbia proposes to be placed into effect for the six month period commencing May 1, 1975, is in reality a new proposed pro rata plan rather than the interim plan which is currently effective; (2) there is no question of Commission imposition of an Order No. 467-B type of plan upon Columbia because Columbia is free to make any filing that it wishes for the period subsequent to April 30, 1975, when its present interim plan expires; (3) the Commission has consistently refused to allow interim plans not reflecting end-use considerations to continue in effect; (4) high priority end uses would be prejudiced by the extension of a pro rata interim plan; (5) complete resolution of all end-use data problems is not necessarily a prerequisite to Commission determination of a proper interim curtailment plan; and (6) the exemption provision in Columbia's interim plan does not assure the protection of residential and commercial consumers.

On April 21, 1975, Columbia filed a motion for leave to file a response, together with a response, to answers in opposition to its motion for a six month extension of its interim curtailment plan without the compensation features. We shall consider the arguments set forth in that document.

As indicated, the majority of Columbia's customers in response to its motion support a six month continuation commencing May 1, 1975, of Columbia's interim pro rata curtailment plan without the currently effective compensation features. The interim plan has been in effect on the Columbia system for nearly three years. Columbia's customers have gained operating experience under that plan since Columbia's curtailment reached substantial proportions during the 1974-1975 winter heating season. Moreover, the imposition of a different curtailment method for the remaining six months of Columbia's summer season period, which began April 1, 1975, might well disrupt at least a portion of the resale customers' planning with regard to their annual entitlements under the interim plan for the fiscal year November 1, 1974, through October 31, 1975. On the other hand, the hearing record on the permanent curtailment plan now before the Administrative Law Judge shows that the end-use classification data requisite to the implementation of an Order No. 467-B plan is still undergoing cross-examination. In these circumstances, we shall grant Columbia's motion to extend its interim plan without the compensation features for the six month period commencing May 1, 1975, and ending October 31, 1975, or the date of a Commission determination of a just and reasonable interim plan, whichever is sooner.

Notwithstanding Columbia's apparent position that its agreement not to invoke the compensation provisions of the interim plan in sections 14.3 (c) and (d) of the General Terms and Conditions of its FPC Gas Tariff will obviate the need for making an implementing tariff filing, we shall require Columbia to file appropriate tariff sheets to its FPC Gas Tariff reflecting the elimination of the interim plan's compensation features in order to show clearly the precise means by which the interim plan is being implemented after April 30, 1975. We note that Columbia's proposed extension of its interim plan without the aforesaid compensation provisions was filed on April 1, 1975, but we shall waive the notice requirements of § 154.22 of our regulations in order that the interim plan may become effective on May 1, 1975.

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[1] Columbia states that it intends to support the compensation features insofar as they relate to Columbia's proposed permanent curtailment plan now in hearing before the Administrative Law Judge.

Although Columbia's interim arrangement does contain an exemption from pro rata curtailment if a customer's firm, non-industrial high priority consumers are threatened thereby, we believe that the hearing on Columbia's permanent curtailment plan now before the Administrative Law Judge should be expedited to the extent that the record therein will provide an adequate basis for determination of a just and reasonable interim curtailment plan for the Columbia system by the time that its 1975–1976 winter heating season begins on November 1, 1975. Accordingly, we urge that the Presiding Administrative Law Judge endeavor to eliminate all cumulative proffered testimony and essentially repetitive cross-examination in order that he will be able to render his initial decision in the permanent curtailment proceeding on or before September 1, 1975, on all issues except those relating to the National Environmental Policy Act of 1969, if the record in that regard is not complete.

The Commission finds. (1) Good cause has been shown for our granting Columbia's motion for extension of its interim curtailment plan without the currently effective compensation provisions after April 30, 1975, for the six month period ending October 31, 1975, or the date of a Commission determination of a just and reasonable interim curtailment plan, whichever is sooner.

(2) It is necessary and proper that Columbia be required to file within 10 days after the date of issuance of this order appropriate tariff sheets to its FPC Gas Tariff reflecting the tariff provisions (excluding the currently effective compensation features and modifying provisions affected thereby) that will be utilized to implement its interim curtail ment plan after April 30, 1975.

(3) The participation as conditioned of the above-named petitioners in this proceeding may be in the public interest.

The Commission orders. (A) The motion filed on April 1, 1975, by Columbia for extension of its interim curtailment plan without the currently effective compensation provisions after April 30, 1975, is hereby granted for the period ending October 31, 1975, or the date of a Commission determination of a just and reasonable interim curtailment plan, whichever is sooner.

(B) The motion filed April 21, 1975, by Columbia for leave to file a response to answers in opposition to its motion for a six month extension of its interim curtailment plan without the compensation features is hereby granted.

(C) Within 10 days after the date of issuance of this order, Columbia shall file appropriate tariff sheets to its FPC Gas Tariff reflecting the tariff provisions (excluding the currently effective compensation features and modifying provisions affected thereby) that will be utilized to implement its interim curtailment plan after April 30, 1975.

(D) The notice requirements of § 154.22 of the Commission's regulations under the Natural Gas Act are hereby waived to permit Columbia's interim curtailment plan to be effective on May 1, 1975.

(E) The Presiding Administrative Law Judge shall render his initial decision on or before September 1, 1975, on all issues regarding Columbia's permanent curtailment plan except those relating to the National Environmental Policy Act of 1969 if the record in that regard is not complete.

(F) The above-named petitioners are conditionally permitted to intervene in this proceeding as hereinbefore discussed, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; *Provided, further,* 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 or orders issued by the Commission in this proceeding; and *Provided, further,* That said participation by such interveners shall be conditioned upon acceptance of the record in this proceeding as it now stands.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-11723 Filed 5-5-75;8:45 am]

[Dockets Nos. RP74-82, RP74-81]

COLUMBIA GAS TRANSMISSION CORP. AND COLUMBIA GULF TRANSMISSION CO.

Settlement Conference

APRIL 24, 1975.

Take notice that on Wednesday, May 7, 1975, and Thursday, May 8, 1975, a conference of all interested parties in the above-referenced dockets will be convened at 10 a.m., in a conference room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. See the bulletin board on the second floor for the room number.

The conference will be held pursuant to § 1.18 (Conferences, Offers of Settlement) of the Commission's rules of practice and procedure (18 CFR 1.18). Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, such attendance at the conference will not be deemed to authorize such intervention as a party in the proceedings.

In accordance with the provisions of § 1.18 of the rules, all parties will be expected to come fully prepared to discuss the merits of all issues concerning the lawfulness of Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company's proposed tariff changes, any procedural matters preparatory to a full evidentiary hearing, or to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference. Failure to attend the conference shall constitute a waiver of all objections to stipulations and agreements reached by the parties in attendance at the conference.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-11722 Filed 5-5-75;8:45 am]

[Docket No. RP75-8 PGA75-3]

COMMERCIAL PIPELINE CO., INC.

Notice of PGA Filing

APRIL 25, 1975.

Take notice that on April 11, 1975, Commercial Pipeline Company, Inc. (Commercial) tendered for filing Fifth and Sixth Revised Sheets No. 3A reflecting Purchased Gas Adjustments and effective dates as set out below:

Sheet No.	Current adjustments	Cumulative adjustment	Effective date
3A—5th revised	$0.0094	$0.0624	Feb. 24, 1975
6th revised	.0006	.0628	Apr. 23, 1975

Commercial states that these revisions track precisely similar revisions in the tariff of Cities Service Gas Company, its sole supplier. Commercial requests waiver of notice to the extent required to permit said tariff sheets to become effective as proposed.

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 May 13, 1975. Protests will be considered by the Commission in determining the appropriate action 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 Commision and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-11724 Filed 5-5-75;8:45 am]

[Docket No. RP72-6]

EL PASO NATURAL GAS CO.

Extension of Time

APRIL 24, 1975.

On April 23, 1975, Arizona Public Service Company, Pacific Gas and Electric Company, Southern California Gas Company, Southern Union Gas Company, Southwest Gas Corporation, and Tucson Gas and Electric Company jointly filed a motion to extend the date for filing comments on the compliance filings of tariff sheets made by El Paso Natural Gas Company as noticed on April 15,

1975 in the above-designated matter. The motion states that Staff Counsel and El Paso Natural Gas Company have been notified and have no objection.

Upon consideration, notice is hereby given that the date for filing protests or petitions to intervene is extended to and including May 9, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11726 Filed 5-5-75;8:45 am]

[Docket No. RP75-42-2]

EL PASO NATURAL GAS CO.

Emergency Relief From Curtailment, Providing for Hearing, and Prescribing Procedures

APRIL 25, 1975.

On March 27, 1975, Community Public Service Company (Community), submitted a request for temporary emergency relief from curtainment imposed by El Paso Natural Gas Company (El Paso) for two six week periods in the Spring and Fall of 1975. The request is for approximately 3,900 Mcf per day so that Community can obtain sufficient natural gas to operate its gas turbine generator while either of the two oil fired steam turbine units at its Lordsburg generating plant are being overhauled and inspected.

Community asserts that such relief is essential so that power outages may be avoided while the steam turbines undergo necessary overhauls. As a result Community will be able to remove its No. 3 oil fired steam unit from service between April 15 to June 1, 1975, and its unit No. 4 between September 1 to October 15, 1975. Thus, when each of these is removed from service, the reliability of the gas fired turbine unit will be assured in order to take up the generating slack. Without relief, Community asserts that if any one of its five connecting transmission lines is tripped, there would be a hazard of an extended, complete power outage. However, if the gas turbine can operate with one of the steam units, service to most of the residential and small commercial loads in the area could be maintained. Community does not anticipate that it will need emergency relief of this type after 1975 because it is in the process of building a 345 kilowatt transmission line from Greenlee, Arizona, to the Lordsburg, New Mexico area which will provide power to the area with or without the Lordsburg generating plant in operation.

By a petition filed April 14, 1975, the City of Lordsburg (Lordsburg), which purchases the gas from El Paso for resale to Community, indicated its support of Community's request. However, since Lordsburg is the distributor herein, we will require Lordsburg, as is consistent with Commission policy, to submit the information required by Order No. 467-C pertaining to extraordinary relief on behalf of Community.

Since Community would have no alternatives other than to operate the two steam units with the substantial risk of failure if relief is not given, the Commission is of the opinion that the temporary relief requested should be provided for the initial period subject to paybacks in order to prevent a potential power outage and to avoid the shedding of a firm electric load. However, we also believe that this relief should be granted subject to Lordsburg complying with the requirements of Order No. 467-C. In addition, there are factual and legal matters pertaining to this request which require resolution in an evidentiary hearing.

The Commission finds. (1) Good cause exists to grant temporary emergency relief from curtailment for Community on the condition that Lordsburg promptly files information corresponding to that required in Order No. 467-C.

(2) Good cause exists to set this matter for formal hearing because of factual and legal questions raised by the instant petition.

The Commission orders. (A) The temporary emergency relief requested by Community in its petition herein is granted for the initial time period requested, and in the volumes requested. Community's gas fired turbine electric generator at its Lordsburg plant shall have delivered to it volumes necessary to maintain reliable service (about 3,900 Mcf/d) during the period April 15–June 1, 1975.

(B) On or before May 15, 1975, Lordsburg shall file information corresponding to that required by Order No. 467-C on behalf of Community's petition. In addition, the gas delivered by El Paso to Lordsburg for the requested service to Community shall be subject to a payback obligation for volumes actually delivered over and above any volumes to which Community may be entitled under El Paso's currently effective curtailment plan.

(C) The gas deliveries from El Paso to Lordsburg for resale to Community shall not be effected at any given time if to do so would jeopardize residential and commercial service elsewhere on El Paso's system.

(D) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act [18 CFR, Chapter 1], a public hearing shall be held commencing May 29, 1975, in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the propriety of permitting a temporary exemption from curtailment as requested in the instant petition.

(E) On or before May 15, 1975, Community shall file and serve its testimony and exhibits comprising its case-in-chief upon all parties to this proceeding including Commission Staff.

(F) An 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 hearings in this proceeding and shall prescribe relevant procedural matters not herein provided.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11727 Filed 5-5-75;8:45 am]

[Docket No. CP75-290]

EL PASO NATURAL GAS CO.

Notice of Application

APRIL 25, 1975.

Take notice that on April 9, 1975, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP75-290 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the wellhead sale in interstate commerce for resale of natural gas by El Paso to Michigan Wisconsin Pipeline Company (Mich Wis) from production of certain leasehold interests acquired by El Paso, by assignment in Dewey County, Oklahoma, and subject to prior dedication to Mich Wis, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that in order for El Paso to develop and attach additional quantities of gas to its interstate system, El Paso acquired, through assignment, various leasehold interests required for the exploration and development of the Hunton Formation in Dewey County, Oklahoma. It is said that production from certain of such leasehold interests acquired by El Paso had been previously dedicated to Mich Wis by long-term gas purchase contracts with the interest owners. Therefore, El Paso requests appropriate sales authorization as required by such gas purchase contracts.

El Paso states that a percentage of its interest in production from each of three wells, the Ray Hammer No. 1-19, the Grace Chain No. 1-25, and the Oscar Chain No. 1-30, is subject to previous dedication to Mich Wis. El Paso estimates daily well production from the three wells to be 10,800 Mcf of gas of which approximately 985 Mcf is dedicated to Mich Wis. El Paso further states that the initial rate it will charge for gas produced from acerage it acquired from Sarkeys, Inc. (the Ray Hammer No. 1-19 and the Oscar Chain No. 1-130 Wells) shall be 21 cents per Mcf, adjusted for Btu content and production taxes.[1] For the gas produced from acreage it acquired from Exxon Corporation (Grace Chain No. 1-25 well) and for the gas produced from acreage it acquired from Joseph K. Morford, II (the Ray Hammer No. 1-19 well) El Paso states the applicable initial rate shall be 19.5 cents per

[1] The rate is said to be the Hugoton-Anadarko area rate set forth in § 154.106 of the Commission's regulations (18 CFR 157.106) for gas sold under contracts dated on or after November 1, 1969.

Mcf, adjusted for Btu content and production taxes.[3] Based upon expected annual volumes of 356,193 Mcf of gas for each of the first three full years of the proposed sale, El Paso estimates annual revenues of $69,283.

El Paso states that it will require no additional facilities to effectuate the proposed sale of gas.

Any person desiring to be heard or to make any protest with reference to said application should, on or before May 15, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the authorization is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for El Paso to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11728 Filed 5-5-75;8:45 am]

[Docket Nos. RP72-150, RP73-104, RP73-109, and RP74-57]

EL PASO NATURAL GAS CO.

Extension of Procedural Dates

APRIL 29, 1975.

On April 18, 1975, El Paso Natural Gas Company filed a motion to extend the procedural dates fixed by order issued February 8, 1974, as most recently modified by notice issued January 23, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Intervenor's Testimony, June 6, 1975.
Service of Company Rebuttal, July 10, 1975.
Prehearing Conference, July 22, 1975.
Hearing, July 29, 1975 (10 a.m. e.d.t.).

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11729 Filed 5-5-75;8:45 am]

[Docket No. CP73-258, et al.]

EL PASO EASTERN CO., ET AL.

Order Granting and Postponing Local Hearing; Amendment

APRIL 29, 1975.

By order issued March 21, 1975, in the above-titled proceeding, we directed, inter alia, that a local hearing be convened at a federal facility in Philadelphia, Pennsylvania, to allow the presentation by local citizens of statements and evidence pertaining to the liquefied natural gas (LNG) facilities proposed to be built by Transco Terminal Company (Transco Terminal) in Gloucester County, New Jersey. By motion of April 23, 1975, the Public Advocate of the State of New Jersey, Concerned Citizens on Logan Township Safety (COLTS), Borough of Swedesboro, New Jersey, and Logan Township, New Jersey, all intervenors, requested that the local hearings be held in Gloucester County, New Jersey. The motion states that many interested citizens of the area will be unable to make the trip to Philadelphia, the location of the nearest adequate federal facilities. Accordingly, in order to ensure the citizenry in the area adjacent to the proposed facilities full opportunity to participate and present their views at the hearings provided for, we hereby direct that the local hearings heretofore scheduled shall convene at the Gloucester County College, Tanyard Road, Sewell, New Jersey or at a similarly situated and adequate facility.

Because the facilities at the Gloucester County College, suggested by the intervenor, are unavailable May 1, 1975, we shall direct the Presiding Administrative Law Judge to reschedule the hearings at that site at a date to be determined by the Law Judge.

The Commission orders. (A) Our order of March 21, 1975, directing that a local hearing be convened at a Federal facility in Philadelphia, Pennsylvania, is hereby amended so that the local hearings provided for shall convene at the Goucester County College, Tanyard Road, Sewell, New Jersey, or at a similarly situated and adequate facility.

(B) The May 1, 1975, date for local hearings is postponed to be rescheduled by the Presiding Administrative Law Judge at the above location.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11725 Filed 5-5-75;8:45 am]

[Docket No. RI73-60]

GEORGE MITCHELL & ASSOCIATES

Date for Prehearing Conference

APRIL 25, 1975.

On February 2, 1973, the Commission issued Opinion No. 649[1] which granted a petition for special relief submitted pursuant to § 154.109(f) of the Commission's regulations by George Mitchell & Associates (Mitchell) in Docket No. RI73-60. Petitions for rehearing of the opinion were denied in Opinion No. 649-A, issued June 25, 1973.[2] The proceeding was then appealed to the Circuit Court of Appeals for the District of Columbia. On September 19, 1974, the Circuit Court in MacDonald v. F.P.C., 505 F. 2d 355 (D.C. Cir. 1974) remanded the case to the Commission for reconsideration.

The opinion in MacDonald indicates several issues that must be fully developed by the parties on remand. In order to determine the most expeditious way to proceed further and to delineate those legal and factual issues that must be decided, a prehearing conference will be held.

The Commission orders. (A) Pursuant to the authority of the Natural Gas Act, a public hearing shall be held concerning the issues presented herein.

(B) On May 7, 1975, a prehearing conference shall be held in accordance with § 1.18 of the rules of practice and procedure to resolve the issues herein in a hearing room of the Federal Power Commission, Washington, D.C., at 10 a.m. (e.d.t.).

(C) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose shall convene the prehearing conference in the proceeding.

(D) The Administrative Law Judge may in his discretion grant recesses from time to time if he deems a settlement or submission of the issues upon stipulated facts to be possible. If no stipulation or settlement can be reached by the parties hereto after reasonable time and provisions have been made for the same, the Presiding Administrative Law Judge shall establish the time for the submission of evidence by any party desiring so to do, and the commencement of the hearing, and shall prescribe relevant procedural matters not herein provided.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11733 Filed 5-5-75;8:45 am]

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[3] The rate is said to be the Hugoton-Anadarko area rate set forth in § 154.106 for gas sold under contracts dated prior to November 1, 1969.

[1] Opinion and Order Granting Special Relief and Terminating Proceedings, Opinion No. 649, George Mitchell & Associates, Docket No. RI73-60, 49 FPC 424 (issued February 21, 1973).

[2] Opinion No. 649-A, Opinion and Order Granting Interventions And Denying Rehearing, George Mitchell & Associates, Docket No. RI73-60, 49 FPC 1434 (issued June 25, 1973).

[Rate Schedule 1]

HUNT OIL CO.

Rate Change Filing

APRIL 29, 1975.

Take notice that the producer listed in the Appendix below has filed a proposed increased rate to the applicable new gas national ceiling based on the interpretation of vintaging concepts set forth by the Commission in it Opinion No. 699–H, issued December 4, 1974.

The information relevant to this sale is listed in the Appendix.

Any person desiring to be heard or to make any protest with reference to said filing should on or before May 9, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Filing date	Producer	Rate schedule No.	Buyer	Area
Apr. 14, 1975...	Hunt Oil Co., 1401 Elm St., Dallas, Tex. 75202.	1	Texas Gas Transmission Corp.	Other southwest.

[FR Doc.75–11730 Filed 5–5–75;8:45 am]

[Docket No. E–8997]

IOWA-ILLINOIS GAS AND ELECTRIC CO.

Further Extension of Procedural Dates

APRIL 28, 1975.

On April 24, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued September 27, 1974, as most recently modified by notice issued February 7, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, July 1, 1975.
Service of Intervenor's Testimony, July 15, 1975.
Service of Company Rebuttal, July 29, 1975.
Hearing, August 12, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75–11731 Filed 5–5–75;8:45 am]

[Docket No. E–9349]

KANSAS GAS AND ELECTRIC CO.

Filing and Approving Proposed Rate Increase and Fuel Adjustment Clause

APRIL 30, 1975.

On March 31, 1975, Kansas Gas and Electric Company (Kansas G&E) submitted for filing proposed changes in its FPC Electric Service Tariff PWM–173 (FPC Rate Schedule Nos. 32, 55, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, and 133) which would increase wholesale electrical rates to fifteen customers.[1] Kansas G&E states that its present revenues are inadequate to provide a fair return on the investment. The proposed rate changes would increase revenues from jurisdictional sales and service by $400,904. or 22.98 percent, based on the twelve-month period ended December 31, 1974.

In addition to its proposed rate increase, Kansas G&E's filing includes a fuel adjustment clause applicable to the proposed rates which was filed pursuant to Order No. 517. Kansas G&E requests the Commission to grant an effective date of April 30, 1975, for its proposed rate increase.

Kansas G&E's March 31, 1975 filing was noticed on April 7, 1975, with any protests, comments, or petitions to intervene due on or before April 25, 1975. No comments, protests or petitions to intervene have been received.

Our review of Kansas G&E's filing indicates that the proposed increase is just and reasonable. Our review of the proposed fuel clause indicates that it conforms to our regulations as amended by Order No. 517. We shall therefore accept Kansas G&E's March 31, 1975, filing and permit it to become effective May 1, 1975, thirty days after the date of its submittal for filing.

The Commission finds. (1) It is necessary and appropriate in the public interest and to aid in the enforcement of the Federal Power Act, particularly section 205 thereof, that the Commission accept for filing Kansas G&E's March 31, 1975, proposed rate increase, and permit it to become effective May 1, 1975, thirty days after its submittal for filing.

(2) It is necessary and appropriate in the public interest and to aid in the enforcement of the Federal Power Act particularly section 205 thereof, that the Commission accept for filing Kansas G&E's proposed fuel adjustment clause and permit it to become effective May 1, 1975, concurrently with the effectiveness of Kansas G&E's proposed rate increase.

[1] The Kansas Power and Light Company, Missouri Public Service Company, Cities of Arma, LaHarpe, Elsmore, Blue Mound, Moran, Mulberry, Bronson, Savonburg, Haven, Mount Hall, Arcadia, Mindenmines, and Erie. (See Appendix A for Supplement Designations.)

The Commission orders. (A) Pursuant to the authority of the Federal Power Act, particularly section 205 thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act, the Commission hereby accepts for filing Kansas G&E's March 31, 1975, proposed rate increase and permits it to become effective May 1, 1975, thirty days after the submittal for filing.

(B) The Commission hereby accepts for filing and permits to become effective on May 1, 1975, Kansas G&E's proposed fuel adjustment clause, submitted for filing on March 31, 1975.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

Designations	*Other party*
Supplement No. 13 to Rate Schedule FPC No. 32 (Supersedes Supplement No. 12).	The Kansas Power & Light Co., Topeka, Kans.
Supplement No. 8 to Rate Schedule FPC No. 55 (Supersedes Supplement No. 7).	Missouri Public Service Co., Kansas City, Mo.
Supplement No. 4 to Rate Schedule FPC No. 114 (Supersedes Supplement No. 3).	City of Arma, Arma, Kans.
Supplement No. 3 to Rate Schedule FPC No. 115 (Supersedes Supplement No. 2).	City of LaHarpe, LaHarpe, Kans.
Supplement No. 3 to Rate Schedule FPC No. 116 (Supersedes Supplement No. 2).	City of Elsmore, Elsmore, Kans.
Supplement No. 3 to Rate Schedule FPC No. 117 (Supersedes Supplement No. 2).	City of Blue Mound, Blue Mound, Kans.
Supplement No. 3 to Rate Schedule FPC No. 118 (Supersedes Supplement No. 2).	City of Moran, Moran, Kans.
Supplement No. 4 to Rate Schedule FPC No. 119 (Supersedes Supplement No. 3).	City of Mulberry, Mulberry, Kans.
Supplement No. 3 to Rate Schedule FPC No. 120 (Supersedes Supplement No. 2).	City of Bronson, Bronson, Kans.
Supplement No. 2 to Rate Schedule FPC No. 121 (Supersedes Supplement No. 1).	City of Savonburg, Savonburg, Kans.
Supplement No. 3 to Rate Schedule FPC No. 122 (Supersedes Supplement No. 2).	City of Haven, Haven, Kans.
Supplement No. 3 to Rate Schedule FPC No. 123 (Supersedes Supplement No. 2).	City of Mount Hall, Mount Hall, Kans.
Supplement No. 4 to Rate Schedule FPC No. 124 (Supersedes Supplement No. 3).	City of Arcadia, Arcadia, Kans.
Supplement No. 3 to Rate Schedule FPC No. 125 (Supersedes Supplement No. 2).	City of Mindenmines, Mindenmines, Mo.
Supplement No. 3 to Rate Schedule FPC No. 133 (Supersedes Supplement No. 1).	City of Erie, Erie, Kans.

[FR Doc.75-11758 Filed 5-5-75;8:45 am]

[Docket No. E-8264]

MAINE PUBLIC SERVICE CO.

Notice of Compliance Filing

APRIL 29, 1975.

Take notice that on April 10, 1975, Maine Public Service Company (MPSC) tendered for filing additional information intended to render its proposed fuel adjustment clause in conformance with § 35.14 of the Commission's rules and regulations, as amended by Order No. 517. This latest filing is made pursuant to a deficiency letter issued by the Secretary of the Federal Power Commission dated March 27, 1975.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 14, 1975. 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.75-11732 Filed 5-5-75;8:45 am]

[Docket No. CS75-383]

NELEH GAS & OIL CORP.

Notice of Application

APRIL 14, 1975.

Take notice that on March 27, 1975, Neleh Gas & Oil Corporation (Applicant), P.O. Box 2189, San Angelo, Texas 76901, filed in Docket No. CS75-383 an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder (18 CFR 157.40) for a small producer certificate of public convenience and necessity authorizing sales of natural gas in interstate commerce, all as more fully set forth in the application.

Applicant states that its total jurisdictional sales on a nationwide basis for 1974 were 875,832 Mcf of natural gas and requests a small producer exemption to cover all existing and future jurisdictional sales which do not raise Applicant's total jurisdictional sales on a nationwide basis above 10,000,000 Mcf of gas at 14.65 psia during any calendar year. Applicant states that it presently holds a certificate of public convenience and necessity which was issued in Docket No. CI60-268. Applicant states further that it owns no interest in outstanding certificates or rate schedules of others.

The application indicates that on January 28, 1960, Applicant, as seller, entered into a gas purchase contract with Northern Natural Gas Company (Northern), as buyer. Applicant states that said contract covers the gathering, transportation and sale of natural gas produced from certain acreage in the Crosset West, El Cinco, Roberdeau, Northwest Sheffield, Sheffield, Thigpin, Tippett and Wentz Fields, among others, located in Crane, Crockett, Pecos and Upton Counties, Texas. Applicant states said contract was the subject of its application in Docket No. CI60-268 for which Applicant was issued a certificate of public convenience and necessity on October 7, 1964. Applicant states further that by order issued on July 20, 1966, in Docket No. CS66-121 Applicant received a small producer exemption. The application continues that by order issued January 11, 1968, in Docket No. CI68-603, the Commission authorized a partial succession from Applicant to MAPCO, Inc. (MAPCO) [then MAPCO Production Company], of a one-half interest in the gathering lines, compressor stations and treating facilities under its January 28, 1960, contract with Northern and issued MAPCO a certificate of public convenience and necessity. Applicant relates that by letter dated January 19, 1970, Applicant requested termination of its small producer status and by order issued April 17, 1970, the Commission terminated said small producer exemption and authorized the inclusion of Applicant's interest under MAPCO's FPC Rate Schedule No. 15.

Applicant states that effective February 1, 1975, MAPCO sold its one-half interest in the above described contract with Northern back to Applicant. Applicant alleges that this sale is at a price reflecting only the salvage value for MAPCO's portion of the gathering facilities. Applicant submits that while the gathering system has residual gas purchase contracts with producers for whom it transports gas, the reserves that are the subject of those contracts were not developed by MAPCO but simply provided the supply support for the system when Applicant originally owned it in its entirety and as such their resale to Applicant would not constitute a purchase of developed reserves in place from a large producer. Applicant requests, in the alternative, if the Commission should conclude the above transaction with MAPCO constitutes a purchase of developed reserves in place from a large producer within the contemplation of § 157.40(c) of the Commission's regulations under the Natural Gas Act (18 CFR 157.40(c)) that it be granted a waiver of said section.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 30, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11734 Filed 5-5-75;8:45 am]

[Dockets Nos. RP73-8 and PGA75-10]

NORTH PENN GAS CO.

Proposed Changes in Gas Tariff

APRIL 29, 1975.

Take notice that North Penn Gas Company (North Penn) on April 15, 1975, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA clause for rates to be effective June 1, 1975. The proposed rate change will decrease jurisdictional revenues by $143.1 thousand for the period June 1, 1975 through November 30, 1975.

North Penn's filing reflects a surcharge credit of 2.678¢ per Mcf proposed to be effective for the six-month period June 1, 1975 through November 30, 1975, and reflects the amounts accumulated in its unrecovered purchased gas account for the period September 1, 1974 through February 28, 1975.

North Penn states that copies of this filing were served upon North Penn's jurisdictional customers, as well as 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 May 12, 1975. 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.75-11736 Filed 5-5-75;8:45 am]

[Docket No. E-9155]

NORTHERN STATES POWER CO.

Extension of Procedural Dates

APRIL 28, 1975.

On April 23, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued February 5, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

PHASE I

Service of Staff's Testimony, June 30, 1975.
Service of Intervenor's Testimony, July 2, 1975.
Service of Company Rebuttal, July 28, 1975.
Hearing, September 9, 1975 (10 a.m. e.d.t.).

PHASE II

Service of Intervenor's Testimony, July 21, 1975.
Service of Staffs Testimony, August 4, 1975.
Service of Company's Testimony, August 18, 1975.
Service of Intervenor's Rebuttal, September 1, 1975.
Hearing, September 16, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11735 Filed 5-5-75;8:45 am]

[Docket No. CP75-309]

NORTHWEST PIPELINE CORP.

Notice of Application

APRIL 29, 1975.

Take notice that on April 16, 1975, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP75-209 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of a new point of delivery for the sale and delivery of natural gas to Southwest Gas Corporation (Southwest), an existing customer of Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to provide a new point of delivery for the sale and delivery of volumes of natural gas which Southwest will purchase from Applicant pursuant to Rate Schedule TS-1. The proposed point of delivery will be an existing, though presently inactive, interconnection between the 24-inch mainline of El Paso Natural Gas Company (El Paso) and the 26-inch mainline of Applicant adjacent to Applicant's Ignacio Gasoline Plant in La Plata County, Colorado. Applicant relates that the volumes of natural gas to be delivered at the delivery point will be delivered to El Paso for the account of Southwest and that El Paso will transport for Southwest the volumes delivered by Applicant and redeliver equivalent volumes to Southwest.

Applicant states that it is presently authorized to sell and deliver to Southwest a maximum daily quantity of 122,720 Mcf of gas pursuant to Rate Schedules ODL-1 and SGS-1 and that Applicant's transmission facilities serving Southwest have a maximum daily delivery capability of approximately 124,000 Mcf of gas. By order issued February 26, 1975, in Docket No. CP73-332, Applicant was authorized to import from Westcoast Transmission Company Limited up to 55,000 Mcf of gas per day for sale and delivery to certain of Applicant's customers including Southwest. Applicant proposes that Southwest's portion of the imported volumes will be 4,750 Mcf per day.[1]

Applicant states that when the 4,750 Mcf per day which Southwest proposes to purchase from Applicant is added to the present volumes it is authorized to sell and deliver to Southwest, the total volume, 127,740 Mcf of gas per day, exceeds the capacity of Applicant's facilities serving Southwest. The stated purpose of the new point of delivery is to make available to Southwest's Southern Nevada Division the additional 4,750 Mcf of natural gas which Southwest will purchase from Applicant and which cannot be delivered or which is not required on Southwest's Northern Nevada Division. Applicant states that the requirements of Southwest's Northern Nevada Division will first be met and to the extent any volumes are surplus to such requirements, or cannot be delivered to Southwest for its Northern Nevada Division, the surplus volumes will be delivered to El Paso at the proposed delivery point for subsequent delivery by El Paso to Southwest's Southern Nevada Division. This situation could exist on a day when Applicant is curtailing Southwest by an amount less than the volume of natural gas which Southwest is eligible to purchase from Applicant pursuant to Rate Schedule TS-1.

Applicant further states that it does not require any additional facilities on its transmission system to effectuate the new point of delivery for Southwest. Applicant proposes to operate the proposed

[1] The order of February 26, 1975, authorized an allocation of 4,000 Mcf of gas per day to Southwest. Applicant states that because certain of Applicant's customers have requested a reallocation of the imported volumes, Applicant now proposes that 4,750 Mcf of gas be allocated to Southwest.

delivery point for the period commencing October 1, 1975, and continuing through April 30, 1977.

Any person desiring to be heard or to make any protest with reference to said application should, on or before May 16, 1975, file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11737 Filed 5-5-75;8:45 am]

[Docket No. CP75-140]

PACIFIC ALASKA LNG CO.

Application Amendment

APRIL 29, 1975.

Take notice that on April 11, 1974, Pacific Alaska LNG Company (Applicant), P.O. Box 54790, Terminal Annex, Los Angeles, California 90054, filed in Docket No. CP75-140 an amendment to its application [1] filed in the subject docket pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities, the transportation of natural gas in interstate commerce and the sale of such natural gas to Southern California Gas Company (SoCal) by requesting authorization to construct and operate additional facilities, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

In its application dated November 11, 1975, Applicant proposes to undertake a project designed to transport natural gas from producing areas in Alaska to southern California for sale to SoCal. Applicant states therein that it proposes to purchase natural gas from the gas fields in the Cook Inlet area of south Alaska and transport such gas through pipelines proposed to be constructed by Applicant from a central point in the various fields to Applicant's proposed liquefaction plant.

The application proposes a two-phase project: Phase I to encompass facilities to liquefy, transport and sell 200,000 Mcf of natural gas per day, and Phase II to encompass the additional facilities for an additional 200,000 Mcf per day. Under the procedure requested by Applicant, Phase II construction and sales would be conditioned on a supplemental showing by Applicant of the required gas supply to support Phase II.

Applicant states that on November 8, 1974, Applicant entered into a gas sale and purchase agreement with Union Oil Company of California (Union) providing for the sale to Applicant by Union of Union's interest in proved reserves in the Beaver Creek field in south Alaska. Applicant states that the agreement provides for the sale and delivery by Union to Applicant of natural gas at an average rate of 15,480 Mcf per day. Applicant states that a request for authorization for pipeline facilities required to transport the Beaver Creek gas to Applicant's liquefaction plant was not included in the original application. Applicant states, therefore, that in addition to the pipeline facilities proposed in Applicant's original filing, it is necessary for Applicant to request authorization to construct and operate pipeline facilities from the Beaver Creek field to Applicant's proposed liquefaction plant.

By the instant amendment Applicant requests Commission authorization to construct and operate additional pipeline facilities consisting of 12.4 miles of 10-inch pipeline from the Beaver Creek field to Applicant's proposed liquefaction plant in Nikiski, Alaska. Applicant states that it estimates that the total capital cost for its project will not be increased by the addition of the Beaver Creek pipeline facilities due to an offsetting reduction in the cost of Phase I facilities proposed to receive gas from Beluga River and Ivan River. Applicant states, therefore, that the total estimated cost of facilities filed in its original application is not changed by the addition of the pipeline facilities proposed in this amendment.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 16, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Any person who has heretofore filed a petition to intervene, notice of intervention or protests to the granting of the application in this proceeding need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11738 Filed 5-5-75;8:45 am]

[Docket No. E-9397]

PACIFIC POWER AND LIGHT CO.

Notice of Application

APRIL 29, 1975.

Take notice that on April 24, 1975, Pacific Power and Light Company (Applicant), filed an application pursuant to section 203 of the Federal Power Act, with the Federal Power Commission for authorization to sell to the City of Springfield, Oregon, a municipal corporation of the State of Oregon, certain electric transmission facilities, all of which are located within that State. The applicant proposes to sell to the city certain electric transmission utility plant, including transmission substations, poles, lines, transformers, related transmission facilities and all easements necessary for the operation thereof, owned, operated and maintained by applicant in the City of Springfield, Oregon, including applicant's water system serving that city for a purchase price of $10,500,000.

Applicant is incorporated under the laws of the State of Maine, with its principal business office at Portland, Oregon and is qualified to transact business in the States of Oregon, Wyoming, Washington, California, Montana and Idaho. Applicant is engaged primarily in the business of generating, purchasing, transmitting, and distributing electric energy.

Applicant represents that the proposed sale of properties and facilities will minimize duplication of services and facilities in areas where both applicant and the city provide service.

Any person desiring to be heard or to make any protest with reference to said application should, on or before May 23, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or 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. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file

[1] Notice of the application was published in the FEDERAL REGISTER on November 29, 1974 (39 FR 41582).

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.75-11739 Filed 5-5-75;8:45 am]

[Docket No. CI75-52]

PHILADELPHIA OIL CO.

Postponement of Hearing

APRIL 28, 1975.

On April 21, 1975, The Pittston Company filed a motion to postpone the hearing date fixed by order issued March 26, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the hearing date in the above matter is postponed to May 14, 1975, at 10 a.m. (e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11740 Filed 5-5-75;8:45 am]

[Docket No. E-8882]

PUBLIC SERVICE CO. OF COLORADO

Further Extension of Procedural Dates

APRIL 28, 1975.

On April 22, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued August 20, 1974, as most recently modified by notice issued March 6, 1975, in the above-designated matter. The motion states that the parties have been notifid and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, May 6, 1975.
Service of Intervenor's Testimony, May 13, 1975.
Service of Company, Rebuttal (unchanged), May 20, 1975.
Hearing (unchanged), June 3, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11741 Filed 5-5-75;8:45 am]

[Dockets Nos. E-8850, E-8893, and E-8994]

PUGET SOUND, POWER & LIGHT CO.

Postponement of Hearing

APRIL 28, 1975.

On April 22, 1975, Staff Counsel filed a motion to postpone the hearing date fixed by order issued November 15, 1974, as most recently modified by notice issued February 24, 1975, in the above-designated matter.

Upon consideration, notice is hereby given that the hearing date in the above matter is postponed until May 27, 1975, at 10 a.m. (e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11742 Filed 5-5-75;8:45 am]

[Docket No. R-389-B]

RATES FOR SALES OF NATURAL GAS FROM WELLS AND DEDICATIONS TO INTERSTATE COMMERCE

Order Declaring Petitions Moot

APRIL 30, 1975.

On March 7, 1975, the Commission issued an order clarifying certain aspects of Opinion No. 699-H with respect to what constituted a "new reservoir" as that term was used in Opinions Nos. 699 and 699-H. The effect of this order was to detail some of the circumstances under which a natural gas producer could qualify for the nationwide rate. Due to the uncertainty of certain parties, petitions for reconsideration and clarification of the March 7, 1975, order were filed. The issues raised by these petitions were fully dealt with in our order issued March 31, 1975.

On the same day as the issuance of the March 31, 1975, order, and subsequent thereto, additional petitions for reconsideration, rehearing, and/or clarification of the March 7, 1975, order have been filed by "Shell Oil Company and Certain Producer and Pipeline Respondents"[1] and El Paso Natural Gas Company, Southern Union Production Company, Amoco Production Company, State of New Mexico, and Mesa Petroleum Company. Each and every question raised by these parties was fully and completely dealt with in our March 31, 1975, order. Therefore, the petitions of the named parties for reconsideration, rehearing, and/or clarification have been rendered moot by said order.

The Commission orders. The petitions of Shell and Certain Producer and Pipeline Respondents, El Paso, Southern Union, Amoco, State of New Mexico, and Mesa Petroleum, are deemed moot for the reason that all issues raised in these petitions were disposed of by the Commission order of March 31, 1975.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11755 Filed 5-5-75;8:45 am]

[Docket No. RI72-196]

SHELL OIL CO.

Order Accepting Rate Increase, Terminating Proceeding, and Ordering Refund

APRIL 25, 1975.

Shell Oil Company (Shell) filed on March 19, 1975, a notice of change in rate and a related new contract, designated as Supplements Nos. 13 and 12 to its FPC Gas Rate Schedule No. 2 respectively, for sales of natural gas in the Texas Gulf Coast Area to Natural Gas Pipeline Company of America from the Clayton Field, Live Oak County, Texas. The proposed rate change provides for a rate of 55.23358 cents per Mcf, which is the national ceiling provided in Opinion No. 699, as amended. The new contract filed herein by Shell is dated February 19, 1975.

Shell's previous unilateral increase which Shell proposed to make effective at the expiration of its contract was to the 24 cents per Mcf new gas ceiling rate, but was suspended until April 2, 1972, and thereafter collected subject to refund in the above-entitled proceeding pending determination as to whether the "old" or "new" gas ceiling under Opinion No. 595 was applicable.[2] Shell has also collected since October 1, 1973, subject to refund in Docket No. RI72-196 a 25 cents per Mcf rate reflecting the 1.0 cent per Mcf increase in the "new" gas ceiling under Opinion No. 595.

In Opinion No. 639,[3] we announced our intention to apply literally the "vintaging" provisions of previous area rate opinions by using the date of a new contract for purposes of determining the applicable ceiling where the original contract has expired by its own terms. That same policy was followed in Opinion No. 699, as amended. Inasmuch as the present rate change filing is based on a contract executed on or after January 1, 1973, and the original contract under which the gas had previously been sold has expired by its own terms, the subject rate increase and the new contract conform with the provisions set forth in Opinion No. 699, as amended, and should therefore be accepted as of the date of filing.

Since the new contract was not submitted until March 19, 1975, there is no justification for relieving Shell of its refund obligation under the suspension proceeding for the period prior to the submittal of the new contract.[4] During that period the collection of 24 cents and 25 cents per Mcf was in conflict with the moratorium provisions of Opinion No. 595 prohibiting rate filings in excess of the rate ceilings prescribed therein.

We interpret the filings by Shell as a withdrawal of its claim that the gas sold from acreage dedicated under the original contract after the expiration of such contract was never committed and thus qualifies as "new" gas.[5] Accordingly, we shall require refunds of amounts collected in excess of 19 cents per Mcf prior to October 1, 1973, and 20 cents per Mcf on and after October 1, 1973 (the applicable flowing gas ceiling under Opinion

[1] *See* Appendix A filed as part of the original.

[2] Opinion and Order Determining Just and Reasonable Rates for Natural Gas in the Texas Gulf Coast Area, Docket Nos. AR64-2, et al., issued May 6, 1971, 45 FPC 674 (1971).

[3] Opinion and Order Denying Petitions to Amend Regulation Covering Sales in Interstate Commerce of Natural Gas Produced in the Appalachian and Illinois Basin Areas, Docket No. R-371 issued December 12, 1972.

[4] See Mobil Oil Corporation, FPC Gas Rate Schedule No. 84 order issued March 15, 1973; Mobil Oil Corporation, Docket No. RI73-3, et al., order issued May 10, 1973.

[5] Our interpretation applies only to the subject sales and is without prejudice to Shell's position in any other pending cases. However, if Shell wishes to continue the litigation of this matter for the period prior to March 19, 1975, it may so indicate in an application for rehearing.

No. 595) in the suspension proceeding for the period prior to the acceptance of the current filing.

A petition to intervene in Docket No. RI72–196 was filed by Natural Gas Pipeline Company of America.

The Commission orders. (A) Supplements Nos. 12 and 13 to Shell's Gas Rate Schedule No. 2 are accepted for filing, to be effective as of March 19, 1975.

(B) The suspension proceeding in Docket No. RI72–196 is hereby terminated.

(C) Shell, within 60 days of the issuance of this order shall file a refund report, in accordance with Ordering Paragraph (E) of Opinion No. 595, as amended, showing all amounts collected for the subject sales in Docket No. RI72–196 in excess of 19 cents per Mcf for the period prior to October 1, 1973, and 20 cents per Mcf for the period from October 1, 1973, until March 19, 1975, with interest at 7 percent per annum calculated to the date of filing of the refund report. Shell shall retain such refund amounts pursuant to either Ordering Paragraph (F) or (G) of Opinion No. 595.

(D) The petition to intervene filed by Natural Gas Pipeline Company of America is hereby granted. *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75–11743 Filed 5–5–75;8:45 am]

[Docket No. CP75–144]

SOUTHERN NATURAL GAS CO.

Application Amendment

APRIL 25, 1975.

Take notice that on April 7, 1975, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP75–144 an amendment to its application filed in the subject docket pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain receiving station facilities in LaFourche and West Carroll Parishes, Louisiana, by which amendment Applicant withdraws that part of the application for abandonment regarding the Bully Camp receiving station in LaFourche Parish, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

In the application permission and approval to abandon the Bully Camp receiving station is sought because it is claimed that the station was destroyed by fire and no gas has been received therefrom since February 1975. As a result, Applicant claims, the gas for which the Bully Camp receiving station was constructed, continues to be produced with Applicant unable to take its share because of the burned-out facilities. However, Applicant states that it is presently attempting to work out an exchange agreement for its share of said gas with another pipeline in the field, and Applicant anticipates that gas deliveries to it from the Bully Camp Field will resume.

Any person desiring to be heard or to make any protest with reference to said amendment to application should on or before May 12, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Any person who has heretofore filed a protest, petition to intervene or notice of intervention in the subject proceeding need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75–11744 Filed 5–5–75;8:45 am]

[Docket No. RP73–49; PGA No. 75–4(a)]

SOUTH GEORGIA NATURAL GAS CO.

Tariff Revision

APRIL 29, 1975.

Take notice that on April 17, 1975, South Georgia Natural Gas Company (South Georgia) tendered for filing as part of Original Volume No. 1 to its FPC Gas Tariff the following revised tariff sheets:

Substitute Eleventh Revised Sheet No. 3A.
Substitute Thirty-Sixth Revised Sheet No. 5.
Substitute Thirty-Fifth Revised Sheet No. 6.
Substitute Twenty-Seventh Revised Sheet No. 9.
Substitute Twenty-Sixth Revised Sheet No. 11.
Substitute Thirtieth Revised Sheet No. 12B.

South Georgia states that the above sheets represent a substitute rate change under its PGA Clause, such clause approved to become effective April 14, 1973, by Commission Order in FPC Docket No. RP73–49 issued April 13, 1973. The Company further states that it proposed to increase its rates $1,326,623 for the purpose of tracking a substitute rate increase filing made by Southern Natural Gas Company (Southern), on April 11, 1975. The instant filing will increase South Georgia's cost of gas $2,040,777 annually and is in lieu of the filing made on February 21, 1975. An effective date of March 1, 1975, is requested.

South Georgia has requested waiver of the forty-five (45) day notice requirements as set forth in section 14.2(e) of the General Terms and Conditions of South Georgia's FPC Gas Tariff. South Georgia states that good cause exists for waiver of the notice requirements to permit the instant substitute filing to become effective on the same date as the substitute reduced rate increase proposed by Southern.

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 May 13, 1975. 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.75–11745 Filed 5–5–75;8:45 am]

[Docket No. CP73–27]

STINGRAY PIPELINE CO.

Tariff Filing

APRIL 25, 1975.

Take notice that on April 14, 1975, Stingray Pipeline Company (Stingray), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP73–27, Second Revised Sheet No. 4 to Original Volume No. 1 of its FPC Gas Tariff to become effective on April 1, 1975.

Stingray states that the rate level reflected in Second Revised Sheet No. 4 utilizes a 9.0 percent cost of debt capital (7½ percent x 1.2) for the 75 percent portion of Stingray's capitalization which consists of debt. The interest charge of 9.0 percent for the Second quarter of 1975 has been established pursuant to the terms of the Revolving Credit and Term Loan Agreement, dated April 1, 1973, which was introduced as Exhibit No. 8 in the record in Docket No. CP73–27, et al.

Any person desiring to be heard or to make any protest with reference to said tariff filing should on or before May 13, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the

Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11746 Filed 5-5-75;8:45 am]

[Docket No. CP75-301]

TENNESSEE GAS PIPELINE CO.

Application

APRIL 29, 1975.

Take notice that on April 14, 1975, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP75-301 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline facilities necessary to connect to Applicant's system gas purchased from various producers in the South Marsh Island Area Blocks 249 and 250, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into separate advance payment agreements covering certain working interests in gas produced in the South Marsh Island Area Blocks 249 and 250 with The California Company, a Division of Chevron Oil Company, Murphy Oil Corporation, Pelto Oil Company, Ocean Oil & Gas Company, Ocean Drilling & Exploration Company, General American Oil Company of Texas, Dalco Oil Company, and Aztec Oil & Gas Company. Applicant estimates that approximately 89,800,000 Mcf (14.73 psia) of recoverable gas reserves, excluding 22,069,000 Mcf retained by the producers, with estimated deliverability of 28,000 Mcf of gas per day, will be available to it as a result of said gas commitments in Blocks 249 and 250.

Applicant seeks authorization to construct and operate approximately 33.7 miles of 12-inch pipeline and metering facilities to connect the gas purchased from the aforementioned producers to Applicant's existing pipeline system. Applicant states that the proposed pipeline will originate at Chevron Oil Company's production platform in the South Marsh Island Area Block 249 and extend northwestwardly to a point of connection to the Blue Water Project (jointly owned by Applicant and Columbia Gulf Transmission Company) onshore at Pecan Island, Louisiana.

Applicant states that in addition to the volumes to become available as a result of the present commitment of reserves in South Marsh Island Blocks 249 and 250 which are owned by the aforementioned producers, Applicant plans to negotiate for a dedication of the 20 percent combined interest in both blocks of Superior Oil Company and Canadian Superior Oil (U.S.) Ltd. Furthermore, Applicant states that it has acquired or plans to acquire rights to purchase gas to be produced in the vicinity of the proposed project at South Marsh Island Blocks 243, 244, 251, 252, and 258.

Applicant estimates the cost of the proposed facilities to be $10,905,500 which will be financed initially from funds on hand and/or short term borrowings under Applicant's revolving credit agreements.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 16, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determiing the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11747 Filed 5-5-75;8:45 am]

[Docket No. CP75-297]

TENNESSEE GAS PIPELINE CO.

Application

APRIL 29, 1975.

Take notice that on April 11, 1975, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP75-297 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a 12,000 HP compressor station and additional gas dehydration and liquid handling and storage facilities at its Cocodrie facility in Terrebonne Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the proposed facilities, which are additions to the Blue Water Project (jointly owned by Applicant with Columbia Gulf Transmission Company), are necessary to enable Applicant to exchange with and transport for Texas Eastern Transmission Corporation (Texas Eastern) approximately 140,000 Mcf of gas per day. Applicant further states that said exchange with and transportation for Texas Eastern are pending certification before the Commission in Docket No. CP75-127 as part of a proposal by Applicant and Texas Eastern jointly to construct and operate certain offshore facilities extending from the Blue Water Project offshore pipeline in Ship Shoal Block 198 to Eugene Island Block 349.[1] The proposal in Docket No. CP75-127 also calls for Applicant to transport daily volumes of natural gas to be received from Texas Eastern at Ship Shoal Block 198 to shore by means of Applicant's Blue Water Project facilities and to deliver equivalent volumes to Texas Eastern at a point of interconnection of Applicant's Muskrat Line and Texas Eastern's Callilou Island pipeline in Terrebonne Parish, Louisiana. Applicant states that the application in Docket No. CP75-127 contemplates that Tennessee would file an application for authorization for additional facilities on its Blue Water Project system which would permit Applicant to handle and maintain adequate capacity for the transportation of 140,000 Mcf of gas per day for Texas Eastern. Applicant points out that the proposed 12,000 HP compressor station will provide Applicant with additional capacity in the Blue Water Project for 154,600 Mcf of gas per day.

Applicant estimates that the proposed facilities will cost approximately $6,255,200 which cost will be financed initially from funds on hand or short term borrowing under revolving credit agreements.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 15, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the

[1] Notice of the application in Docket No. CP75-127 was published in the FEDERAL REGISTER on November 25, 1974 (39 FR 41216).

Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11748 Filed 5-5-75;8:45 am]

[Docket No. CP75-306]

TEXAS EASTERN TRANSMISSION CORP.

Application

APRIL 25, 1975.

Take notice that on April 15, 1975, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 7001, filed in Docket No. CP75-306 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a portion of its interstate gas transmission facilities for the purpose of using such abandoned facilities in connection with the transportation of petroleum products, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant requests authorization to abandon its Provident City-Beaumont pipeline in Texas. Applicant states that this pipeline is not essential to join the two integrated segments of its main gas transmission system but serves only as a gathering system for area gas supplies, which, according to Applicant, are now limited and diminishing. Applicant further states that the instant proposal will not jeopardize its ability to secure any future gas supplies to be made available in the area traversed by the single 16-inch portion of the Provident City-Beaumont pipeline, and that, furthermore, developments in recent years do not indicate any substantial packages of gas to be available. Applicant contends that in the event it is able to secure future contracts in the area traversed by this segment of the subject pipeline, such gas can readily be added to Applicant's gas supply by virtue of exchange arrangements it has, or can enter into, with other interstate gas transmission companies whose systems traverse this area. Applicant further contends that any future gas supplies adjacent to the 20-inch segment of the Provident City-Beaumont line can be connected to the parallel 30-inch McAllen-Beaumont pipeline.

Applicant intends to reconnect gas supplies currently being transported through its Provident City-Beaumont line. Applicant states that the 600 Mcf of gas per day available to the western 16-inch portion of the line can be reconnected to adjacent mainline pipelines of other interstate transmission companies by exchange agreements and that the remaining gas supply sources east of Houston, approximately 5,800 Mcf per day, on the Provident City-Beaumont line can be reconnected to Applicant's parallel 30-inch McAllen line. The existing sources of gas supply or exchange gas now connected to the Provident City-Beaumont line will, therefore, have to be reconnected, after abandonment, either to Applicant's system or the systems of other interstate pipeline companies. Applicant further states that sufficient capacity will be available on the McAllen-Beaumont and Provident City-Huntsville pipelines to accommodate attaching any supplies likely to be developed adjacent to those lines.

In order to accomplish the foregoing Applicant requests authorization to abandon the following facilities:

16.21 miles of 16-inch pipeline No. 23, looping the Wilcox Trend pipeline No. 21, terminating at the Provident City junction, located in Lavaca County, Texas;

109.05 miles of 16-inch pipeline No. 5, Provident City to Baytown, located in Lavaca, Colorado, Wharton, Fort Bend, Galveston and Harris Counties, Texas;

61.58 miles of 20-inch pipeline No. 8, Baytown to Beaumont, located in Harris, Chambers, and Jefferson Counties, Texas;

2,200 H.P. Booth Compressor Station located on the 16-inch pipeline No. 5 in Fort Bend County, Texas;

4,000 H.P. Hankamer Compressor Station (Station B) located on the 20-inch pipeline No. 8 in Chambers County, Texas.

15.6 miles of gathering line and miscellaneous facilities.

In order to reconnect existing sources of supply, Applicant states that the following changes will have to be accomplished on its system.

(1) On the 16-inch line No. 23 loop west of Provident City reconnect the 6-inch Salem, 6-inch North Morales, and Biohm Laterals to the 16-inch line No. 21.

(2) On the 16-inch line No. 5, Provident City to Baytown:

(a) Gas supply sources, M&R 581, 1647, 1515, 1611, 1656, will be reconnected to the system of Tennessee Gas Pipeline Company, a Division of Tenneco Inc., for exchange. Authorization for such exchange will be sought by application to be filed substantially concurrently herewith, according to Applicant.

(b) Relocate a delivery of gas (M&R 1633) made for the account of Natural Gas Pipeline Company of America for exchange. An amendment of the existing authorization will be requested in Docket No. CP73-297, according to Applicant.

(c) Eliminate an exchange interconnection with Trunkline Gas Company (Trunkline). Applicant states that this small volume exchange point has been inactive for some time and that Trunkline has agreed that any future use of this exchange location is doubtful. An amendment to the existing authorization will be requested in Docket G-6506, according to Applicant.

(3) On the 20-inch line No. 8, Baytown to Beaumont:

(a) Reconnect supply sources 207, 210, 393, 233, 228 to the 30-inch McAllen pipeline No. 16.

(b) Eliminate the exchange point M&R 076, for exchange deliveries to United Gas Pipe Line Company (United). Applicant states that this small volume exchange point has been inactive for some time and that United has agreed that any future use of this exchange location is doubtful. An amendment of the existing authorization will be requested in Docket No. CP67-26, according to Applicant.

Applicant estimates the total cost of these reconnections at $605,000, which cost will be borne by the Texas Eastern Products Pipeline Division and will not be included in Applicant's rate base. Applicant states that it currently intends that the authorization for such reconnections will be secured under separate exchange applications, amendments to existing exchange arrangements, or under the budget-type gas supply authorizations, as appropriate.

Applicant states that after abandonment it will transfer the Provident City-Beaumont line to its Products Pipeline Division for use as a common carrier of Petroleum products. The Products Pipeline Division operates, subject to the jurisdiction of the Interstate Commerce Commission, one of the nation's major common carrier products pipeline systems, extending from the Gulf Coast to the Midwest and Northeast, terminating in Lebanon, Ohio, Applicant states

According to its application, Applicant will remove the net depreciated cost of the facilities to be abandoned from its gas plant in service account and transfer such cost to the Products Pipeline Division. Applicant states that in addition to the cost transfer, the cost of conversion of said pipeline to a products pipeline and the cost of reconnection of the gas supply facilities as discussed above will be borne by the Products Pipeline Division. Applicant further states that the total gross amount of investment attributable to the facilities proposed to be abandoned is $13,183,700, and that as a result of the removal from Applicant's gas plant in service account there will be a reduction in Applicant's net rate base of $2,831,900.

Applicant justifies its proposed abandonment and consequent conversion of the subject facilities by the perceived benefit to gas customers from the optimization of available capacity, by reduction in the cost of service with no effect on the level of service to existing gas customers, and by the perceived benefit to the markets served by the products pipeline.

Applicant contends that the Commission in the past has recognized that determination of the public interest in abandonment proceedings like the present one may transcend questions of gas transmission service alone.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 16,

1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11749 Filed 5-5-75;8:45 am]

[Docket No. CP75-127]

TEXAS EASTERN TRANSMISSION CORP., ET AL.

Application Amendment

APRIL 25, 1975.

Take notice that on April 15, 1975, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1610, Owensboro, Kentucky 42301 (Applicants) filed in Docket No. CP75-127 an amendment to the application filed by Texas Eastern and Tennessee in the subject docket pursuant to section 7(c) of the Natural Gas Act for authorization to construct and operate facilities and to transport and exchange natural gas in interstate commerce offshore Louisiana, in order to include Texas Gas as an applicant in the subject proceeding, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

By application filed October 29, 1975,[1] Texas Eastern and Tennessee sought authorization to construct and operate certain facilities including approximately 32.25 miles of 30-inch pipeline extending from Block 349, Eugene Island Area, to Tennessee's existing offshore pipeline facilities in Block 198, Ship Shoal Area, and 0.3-mile of 16-inch lateral pipeline to connect the Block 342 Field, Eugene Island Area, to the 30-inch pipeline. According to the application, the cost of construction and operation of the said 30-inch pipeline was to be borne 50 percent each by Tennessee and Texas Eastern and the capacity of such pipeline was to be shared equally by them; and the cost of the 0.3-mile lateral pipeline was to be borne 100 percent by Tennessee.

Applicants state that Texas Eastern and Tennessee have entered into an agreement with Texas Gas whereby Texas Gas will own an undivided 15 percent interest in the proposed 30-inch pipeline and Texas Eastern and Tennessee will each own an undivided 42.5 percent interest in that pipeline and Texas Gas and Tennessee will each be a 50 percent owner of the 0.3-mile 16-inch lateral pipeline connecting Block 342 to the 30-inch line. The amendment provides that each of the three parties has the right to use the 30-inch pipeline and that Tennessee and Texas Gas each has the right ot use the 0.3-mile 16-inch lateral for the transportation of its gas supplies up to its respective interest in the capacity thereof, which for the 30-inch line is estimated to be 56,100 Mcf of gas per day for Texas Gas and 158,950 Mcf of gas per day for Texas Eastern and Tennessee. Applicants state that each party will pay its pro rata share of the costs of these facilities, and Tennessee will continue to be responsible for the construction, operation and maintenance of the facilities.

The amendment indicates that the proposed change has been brought about because Texas Gas has acquired gas supplies in the Eugene Island Block 342 Field from Texaco Inc.[2] which Texas Gas proposes will be transported through the 16-inch lateral and the 30-inch pipeline to Tennessee's facilities in Ship Shoal Block 198 and delivered to Texas Gas onshore through presently authorized transportation arrangements with Columbia Gulf Transmission Company. The amendment indicates that Texas Gas' ownership in the proposed facilities will also provide it with sufficient capacity to transport the gas which it will purchase from Texas Gas Exploration Corporation in the Block 271 Field, Ship Shoal Area, and that Texas Gas will construct the facilities necessary to connect the Block 271 Field to the proposed 30-inch line under its budget certificate authority.

Applicants state that the total cost for all the construction proposed in the application, including 45.45 miles of 30-inch pipeline and related facilities, is now estimated to be $64,912,000 rather than $65,605,000 as originally estimated.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 16, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Any person who has heretofore filed a petition to intervene, notice of intervention or protest to the granting of the application in this proceeding need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11750 Filed 5-5-75;8:45 am]

[Docket No. E-9145]

UTAH POWER AND LIGHT CO.

Proposed Rate Increase; Order for Filing and Suspending; Granting Interventions and Establishing Procedures

APRIL 29, 1975.

On November 29, 1974, Utah Power and Light Company (Utah) tendered for filing revisions[1] to its FPC Electric Tariff, Original Volume No. 1, Resale Service Rates. Utah states that the proposed changes would increase revenues for the test year 1974 by $311,000. Utah requests an effective date of January 1, 1975.

Utah alleged that the increased rates were necessary to offset steeply rising costs in all categories, particularly in the cost of fuel, labor, materials, and capital. Utah further alleged that the proposed rates were designed to recoup only fuel cost increases already encountered, adding that the proposed fuel clause was expected to recover future fuel increases.

On April 4, 1975, Utah tendered supplemental data intended to make complete its original filing of November 29, 1974, in the above referenced docket in response to a deficiency letter issued December 24, 1974, by the Secretary of the Federal Power Commission.

Utah's November 29, 1974, filing was noticed on December 5, 1974, with protests or petitions due on or before December 20, 1974, and Utah's April 4, 1975, filing was noticed on April 9, 1975, with

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[1] Notice of the application was published in the FEDERAL REGISTER on November 25, 1974 (39 FR 41216).

[2] Texas Gas estimates that initial deliveries from Texaco Inc. from the Block 342 Field will be approximately 20,000 Mcf of gas per day.

[1] See Appendix A filed as part of the original.

protests and petitions due on or before April 22, 1975.

The Lincoln Service Company (Lincoln), Mt. Wheeler Power, Incorporated (Mt. Wheeler), and the Sierra Pacific Power Company (Sierra) filed petitions to intervene on December 20, 1974. The California-Pacific Utilities Company (California-Pacific) filed its petition to intervene on December 23, 1974.

In its petition Lincoln objects to Utah's proposed rates stating, inter alia, that they are discriminatory against Lincoln in that they include transmission costs not incurred in serving Lincoln and that the fuel clause in Utah's proposed rates is discriminatory in Wyoming because no such clause is contained in similar Utah rate schedules subject to the jurisdiction of the Wyoming Public Service Commission. Mt. Wheeler states that the proposed rates are excessive as they apply to Sierra, who supplies Mt. Wheeler with power. Utah filed answers to the petitions filed by Lincoln, Mt. Wheeler and California-Pacific on January 2, 1975, December 30, 1974, and January 27, 1975, respectively. Lincoln filed a Reply to Utah's Answer on January 3, 1975.

Upon review of the filing and the subsequent pleadings we find that the proposed rate has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall suspend the proposal for thirty days, and establish hearing procedures to determine the justness and reasonableness of Utah's filing. Furthermore, having reviewed the above-mentioned petitions to intervene, we believe that the petitioners have sufficient interest in these proceedings to warrant their intervention in same.

The Commission finds. (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Utah's revised tariff sheets proposed in this docket and that the tendered tariff sheets be suspended as hereinafter provided.

(2) It is desirable and in the public interest to allow the above-named petitioners to intervene.

The Commission orders. (A) Pending a hearing and a decision thereon, Utah's proposed changes in its rates and charges, tendered on November 29, 1974, and completed on April 4, 1975, are accepted for filing as of April 4, 1975, and suspended for thirty days, the use thereof deferred until June 3, 1975, subject to refund.

(B) Pursuant to authority of the Federal Power Act, particularly section 205 thereof, and the Commission's rules and regulations (18 CFR, Chapter I), a public hearing for the purposes of cross-examination concerning the lawfulness and reasonableness of the rates and charges in Utah's FPC Electric Tariffs, as proposed to be amended herein shall be held commencing on October 21, 1975, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

(C) On or before September 9, 1975, the Commission Staff shall serve its prepared testimony and exhibits. Any intervenor evidence will be filed on or before September 23, 1975. Any rebuttal evidence by Utah shall be served on or before October 7, 1975.

(D) The above mentioned petitioners are hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in the respective petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(E) Nothing contained herein shall be construed as limiting the rights or parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11751 Filed 5-5-75;8:45 am]

[Docket No. E-8619]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Further Postponement of Hearing and Scheduling Further Procedural Dates

APRIL 29, 1975.

On April 17, 1975, the intervenors filed a motion to postpone the hearing date fixed by order issued April 19, 1974, as most recently modified by notice issued April 17, 1975, in the above-designated matter, and requesting the scheduling of new procedural dates. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's and Intervenor's Surrebuttal, June 10, 1975.
Service of Company Response, June 20, 1975.
Hearing, July 8, 1975 (10 a.m. e.d.t.).

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11752 Filed 5-5-75;8:45 am]

[Docket No. E-9393]

PARTIAL-RECOVERY FUEL ADJUSTMENT CLAUSES IN WHOLESALE RATE SCHEDULES

Filing of Motion

APRIL 29, 1975.

Take notice that ElectriCities of North Carolina and the Cities of Anaheim, Riverside, Banning, Colton and Azuza, California (hereafter referred to as "Municipal Systems")[1] filed on March 27, 1975, a motion requesting the Federal Power Commission to institute a proceeding and to seek comments on Municipal Systems' proposal to amend § 35.14 of the regulations under the Federal Power Act (18 CFR § 35.14, as amended by Order No. 517 in Docket No. R-479 issued November 13, 1974) by adding a paragraph (a)(11) to paragraph (a) thereof to provide:

> When the Fuel Adjustment Factor developed according to this procedure results in a negative factor per kwh of sales, such factor shall be applied as the Applicable Fuel Adjustment Factor. When the Fuel Adjustment Factor developed according to this procedure results in a positive factor per kwh of sales, such factor shall be multiplied by 0.75 to determine the Applicable Fuel Adjustment Factor.

Municipal Systems states that such an amendment is necessary based on two principal grounds: (1) That a full-recovery fuel clause removes incentives for efficiency and economy of operations and for utilities to bargain intensively for low cost fuel and (2) that regulation of fuel clauses is not sufficiently tight, and cannot be sufficiently tight without significant additional staffing by the FPC, to warrant full-recovery fuel clauses.

Any person desiring to be heard or to protest said motion should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 22, 1975. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this motion are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11754 Filed 5-5-75;8:45 am]

FEDERAL RESERVE SYSTEM

BANKSHARES OF FLORIDA, INC.

Order Approving Formation of Bank Holding Company

Bankshares of Florida, Inc., Hollywood, Florida ("Applicant"), has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of at least 80 percent of the voting shares of First National Bank of Hollywood; Hollywood National Bank; First National Bank of Hallandale; First National Bank of Moore Haven; and First National Bank of Miramar ("Banks"), each located in the indicated Florida city or town. Applicant would become the successor by merger to Florida

[1] Municipal Systems states that ElectriCities of North Carolina is an unincorporated association whose members are representatives of all municipalities in North Carolina and certain municipalities in Virginia (the Towns of Blackstone, Culpeper, Iron Gate, Manassas, and Wakefield, the City of Franklin and the Harrisonburg Electric Commission).

Bankshares, Inc., Hollywood ("Delaware Corporation").

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 Federal Reserve Bank of Atlanta has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a newly formed corporation organized for the purpose of acquiring Banks. The primary purpose of this corporate reorganization is to change the site of the corporate domicile from Delaware to Florida, and the result of the proposed transaction would be that Applicant would succeed to all the operations and interests of Delaware Corporation.

The banking subsidiaries of Delaware Corporation have $105.1 million in deposits in the Greater Miami banking market representing 1.8 percent of total commercial bank deposits in the market. (All banking data are as of June 30, 1974.) The Moore Haven bank is located in a separate banking market comprised of Glades County and a portion of Hendry County, west of Lake Okeechobee. The Moore Haven bank has $815,000 in deposits, 4.1 percent of the market. Since this is a corporate reorganization, consummation of the proposal would not eliminate existing or future competition, and would have no adverse effect on other area banks.

The financial and managerial resources of Applicant, which are dependent upon those of Delaware Corporation and Banks, are considered to be satisfactory. Banking factors are considered to be consistent with approval herein. The proposed acquisition represents a change in corporate domicile of the parent bank holding company, and there are no significant proposed changes in the operation or services of Banks. Considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It is this Federal Reserve Bank's judgment that consummation of the proposed acquisition is in the public interest and that the acquisition should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be completed (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, unless the period described in (b) is extended for good cause by the Board, or by this Federal Reserve Bank pursuant to delegated authority.

By order of the Federal Reserve Bank of Atlanta acting under delegated authority for the Board of Governors of the Federal Reserve System, effective April 28, 1975.

[SEAL] KYLE K. FOSSUM,
First Vice President.

[FR Doc.75-11842 Filed 5-5-75;8:45 am]

COMMERCIAL BANKSHARES, INC.

Formation of Bank Holding Company

Commercial Bankshares, Inc., Grand Island, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 88 percent or more of the voting shares of Commercial National Bank & Trust Company of Grand Island, Grand Island, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

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 May 30, 1975.

Board of Governors of the Federal Reserve System, April 28, 1975.

[SEAL] ROBERT SMITH, III,
Assistant Secretary of the Board.

[FR Doc.75-11843 Filed 5-5-75;8:45 am]

FIRST ARKANSAS BANKSTOCK CORP.

Order Approving Acquisition

First Arkansas Bankstock Corporation, Little Rock, Arkansas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), to acquire all of the voting shares of Consumers Protective Life Insurance Company ("Company"), Phoenix, Arizona, a company that would engage de novo in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance directly related to extensions of credit[1] by Applicant's credit-granting subsidiaries. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(10)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (40 F.R. 839 (1975)). The time for filing comments and views has expired, and the Board has considered the application and all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)). The Insurance Commissioner for the State of Arkansas scheduled a hearing for the purpose of reviewing Applicant's proposal to determine whether it would violate relevant Arkansas statutes. On March 26, 1975, the Insurance Commissioner issued an order approving Applicant's proposed reinsurance agreement. Accordingly, the Arkansas statutes do not present any impediment to the Board's approval of the application.

Applicant, the largest banking organization in Arkansas, controls three subsidiary banks with aggregate deposits of approximately $394 million, representing approximately 7.8 per cent of the total commercial bank deposits in the State.[2] Applicant also engages, through nonbank subsidiaries, in real and personal property leasing, consumer finance, mortgage banking, data processing, and travel agency activities, and financial institution advisory services.

Consumers will engage de novo in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance directly related to extensions of credit by Applicant's subsidiary banks, and by Applicant's industrial loan subsidiary, National Credit Corporation, Pine Bluff, Arkansas.[3] Consumers will be qualified to underwrite insurance directly only in Arizona, and accordingly, the insurance sold by Applicant's subsidiaries in Arkansas will be directly underwritten by an unaffiliated insurance company qualified to do business in Arkansas and will thereafter be assigned or ceded to Consumers under a reinsurance agreement. Since this proposal involves a de novo acquisition, consummation of the transaction would not have any adverse effects on existing or potential competition in any relevant market.

Credit life and credit accident and health insurance is generally made available by banks and other lenders and is designed to assure repayment of a loan in the event of death or disability of the borrower. In connection with the addition of the underwriting of such insurance to the list of permissible activities for bank holding companies, the Board has stated:

> To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which the applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally, such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service.

Applicant has stated that it will provide reducing term credit life insurance

[1] These extensions of credit include loans secured by second mortgages on real estate. Such loans would be essentially equivalent to consumer finance loans, and in this instance range from six months to seven years in maturity and from $500 to $6,000 in amount. Age is not a factor in the rate charged for credit life insurance related to such loans. Such loans are not considered "long term" or "high value" within the meaning of footnote 1 in the Board's Order of May 21, 1973 approving the application of Northwest Bancorporation to acquire Banco Credit Life Insurance Company, 38 FR 14205 (1973).

[2] Banking data are as of June 30, 1974.

[3] Officers and directors of Applicant control indirectly the First National Bank in Mena, Mena, Arkansas. The instant application does not include the First National Bank in Mena, and, accordingly, Consumers would not reinsure credit life and credit accident and health insurance sold in connection with extensions of credit by First National Bank in Mena.

at rates which are 6.67 percent below those presently being charged by Applicant's subsidiaries.[4] Applicant also states that it will reduce the rates which its subsidiaries presently charge for credit accident and health insurance by 5 percent. The Board views the proposed reductions in the premiums charged for such insurance as a consideration favorable to the public interest. The Board concludes, therefore, that Applicant's proposal is procompetitive and in the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of St. Louis, pursuant to authority hereby delegated.

By order of the Board of Governors,[5] effective April 28, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-11844 Filed 5-5-75;8:45 am]

FIRST NATIONAL BANCORPORATION, INC.

Order Approving Acquisition

First National Bancorporation, Inc., Denver, Colorado, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire indirectly, through its wholly-owned subsidiary, First Denver Insurance Agency, Inc. ("First Denver"), certain assets of The Grand Valley Agency, Inc. ("Agency"), Grand Junction, Colorado. Agency presently engages in general insurance agency activities on the premises of one of Applicant's banking subsidiaries, United States Bank of Grand Junction ("Bank"). However, following consummation of the proposal, Agency's insurance activities would be limited to acting as agent for the sale of credit life and credit accident and health insurance which is directly related to extensions of credit by Bank. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(9)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (40 F.R. 7968 (1975)). The time for filing comments and views has expired, and the Board has considered the application and all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)).

Applicant, the largest banking organization in Colorado, controls eleven subsidiary banks with aggregate deposits of approximately $1.2 billion, representing about 16.8 percent of the total commercial bank deposits in the State.[1] Applicant also engages, through nonbank subsidiaries, in investment advisor activities for a real estate investment trust, and mortgage banking activities. First Denver is engaged in credit-related insurance activities at ten of Applicant's subsidiary banks and at the branch offices of Applicant's mortgage company subsidiary.

Agency is currently owned under a partnership arrangement by former principal shareholders and present officers of Bank, who seek to transfer their interests in Agency to Applicant. At the present time, Agency operates a general insurance agency on Bank's premises. Applicant proposes to acquire this insurance business, and upon consummation, to limit Agency's activities to the sale of credit life and credit accident and health insurance which is directly related to extensions of credit by Bank. Applicant would discontinue Agency's non-credit related insurance activities. In view of the existing relationship between Applicant and Agency's owners, the limited nature of Applicant's proposed insurance activities, and the large number of insurance agencies which compete with Agency, it does not appear that consummation of the proposed acquisition would have any adverse effects on competition in any relevant market. Furthermore, it is anticipated that consummation of the proposed transaction would enable Agency to make available to Bank's customers increased credit life coverage which would insure the borrower for the entire amount of credit extended. At the present time Agency cannot always be assured of making such full coverage available to its customers. Applicant also proposes to improve Agency's servicing and payment of claims.

There is no evidence in the record to indicate that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or other adverse effects upon the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be consummated not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to authority hereby delegated.

By order of the Board of Governors,[2] effective April 23, 1975.

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

[FR Doc.75-11845 Filed 5-5-75;8:45 am]

HAWKEYE BANCORP.

Order Approving Acquisition of Bank

Hawkeye Bancorporation, Des Moines, Iowa, 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 51 per cent or more of the voting shares of Farmers & Merchants State Bank, Lake Mills, Iowa ("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 third largest banking organization in Iowa, controls 14 banks with aggregate desposits of $341 million, representing 3.5 per cent of total deposits in commercial banks in the State.[1] Acquisition of Bank ($10.9 million in deposits) would increase Applicant's share of total commercial bank deposits by 0.1 of one per cent and would not significantly increase the concentration of banking resources nor alter Applicant's ranking among banking organizations in the State.

[4] Applicant had applied to reinsure level term credit life insurance on single payment loans. However, the March 26, 1975 order of the Insurance Commissioner of the State of Arkansas found that the policies to be reinsured shall consist solely of reducing term policies.

[5] Voting for this action: Chairman Burns and Governors Mitchell, Bucher, Holland, Wallich and Coldwell. Absent and not voting: Governor Sheehan.

[1] Banking data are as of December 31, 1974.

[2] Voting for this action: Governors Sheehan, Bucher, Holland, and Wallich. Absent and not voting: Chairman Burns and Governors Mitchell and Coldwell.

[1] All banking data are as of June 30, 1974, and reflect bank holding company formations and acquisitions approved by the Board through March 31, 1975.

Bank is the only bank in Lake Mills, an agricultural community (population of approximately 2200 persons) located in the extreme north central portion of the State. Bank is the fifth largest of 10 banks in the relevant banking market[2] and controls approximately 13 percent of the deposits therein. The two largest banks in the market control about 19.5 and 19 percent, respectively, of total market deposits. Applicant's subsidiary closest to Bank is located in Mason City, about 40 miles southeast of Bank, in a separate but adjacent banking market. It appears that there is no significant existing competition between Bank and any of Applicant's present subsidiaries, and it is unlikely that any would develop in the future. Finally, in view of Bank's relative size and its market position, the Board views the proposed acquisition as a foothold entry by Applicant into the relevant banking market. Accordingly, based on these and other facts of record, 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 generally satisfactory, particularly in view of Applicant's commitment to inject additional equity capital into certain of its subsidiary banks. Those same factors relating to Bank also appear to be generally satisfactory. Therefore, considerations relating to the banking factors are consistent with approval of the application. In addition, affiliation with Applicant would enable Bank to expand and improve banking services presently being offered. Accordingly, the Board regards considerations relating to the convenience and needs of the community to be served as being consistent with approval of the application. 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, 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 Chicago pursuant to delegated authority.

By order of the Board of Governors,[3] effective April 28, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-11846 Filed 5-5-75;8:45 am]

[2] The relevant banking market is approximated by Winnebago County plus the northwest-north central portion of Worth County, Iowa and the towns of Emmons and Kiester, Minnesota.

[3] Voting for this action: Chairman Burns and Governors Mitchell, Bucher, Holland, Wallich and Coldwell. Absent and not voting: Governor Sheehan.

MERCANTILE BANCORPORATION, INC.

Acquisition of Bank

Mercantile Bancorporation, Inc., St. Louis, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Home Trust Company, Perryville, Missouri. 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 St. Louis. 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 June 2, 1975.

Board of Governors of the Federal Reserve System, April 29, 1975.

ROBERT SMITH, III,
Assistant Secretary of the Board.

[FR Doc.75-11847 Filed 5-5-75;8:45 am]

NCNB CORP.

Order Approving Proposal To Operate a Trust Company

NCNB Corporation, Charlotte, North Carolina, a bank holding company within the meaning of the Bank Holding Company Act, has proposed under Section 4(c)(8) of the Act and § 225.4(b)(1) of the Board's Regulation Y, to engage indirectly de novo in the performance of certain activities that may be performed by a trust company, including acting as executor, administrator, receiver, assignee, trustee and in any other fiduciary capacity, acting as an investment and financial adviser, manager, and counselor, investing, re-investing and generally managing the funds entrusted to it in its fiduciary or advisory capacity, and other incidental activities necessary to conduct a general trust company business. These activities would be performed by the American Trust Company, Inc., Camden, South Carolina, a wholly-owned subsidiary of NCNB Corporation.

After notice and hearing, the Board approved Applicant's proposal on March 9, 1973[1] to the extent permitted by South Carolina law. On that date, certain South Carolina statutes appeared to prohibit any corporation controlled by a non-South Carolina corporation from serving as an executor, administrator, or testamentary trustee in South Carolina.[2] On April 6, 1973, Applicant petitioned for review of the Board's Order in the United States Court of Appeals for the District of Columbia. On May 31, 1973, Applicant and American Trust Company instituted suit in the United States District Court for the District of South Carolina for a declaratory judgment that the pertinent South Carolina statutes were invalid on the ground that they contravened the Constitution of the United States. On September 3, 1974, that Court entered an order declaring that the pertinent statutes denied the American Trust Company equal protection of the laws in violation of the Fourteenth Amendment of the United States Constitution, and permanently enjoining certain South Carolina public officials "from prohibiting American Trust Company from serving as an executor, administrator, or testamentary trustee of the estate of any person domiciled in South Carolina at the time of his death because it is controlled by [Applicant]." On December 30, 1974, the U.S. Court of Appeals for the District of Columbia remanded this matter to the Board.

In its Statement accompanying its Order of March 9, 1973, the Board indicated that, but for the pertinent South Carolina statutes, it would have approved the entire proposal. The invalidity of those statutes now having been established, the Board, for reasons set forth in the Board's Statement of March 9, 1973 has determined, in accordance with section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)), that consummation of Applicant's proposal can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. Accordingly, the proposal is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be consummated not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Richmond.

By order of the Board of Governors,[3] April 29, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-11848 Filed 5-5-75;8:45 am]

[1] Board's Order of March 9, 1973 Conditionally Approving Proposal of NCNB Corporation to Operate a Trust Company in South Carolina, 59 Fed. Reg. Bulletin 305 (1973), 38 FR 7364 (1973).

[2] *Code of Laws of South Carolina*, Sections 19-592 and 67-53(a)(3) (1972 Supp.).

UNITED MISSOURI BANCSHARES, INC.

Order Denying Acquisition of Bank

United Missouri Bancshares, Inc., Kansas City, Missouri, 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

[3] Voting for this action: Chairman Burns and Governors Mitchell, Bucher, Holland, Wallich and Coldwell. Absent and not voting: Governor Sheehan.

the voting shares of Westport Bank, Kansas City, Missouri ("Bank").

Notice of receipt of the application, affording opportunity for interested persons to submit comments and views with respect to the proposed transaction, was published in the FEDERAL REGISTER (39 FR 7998). As required by § 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Finance of the State of Missouri and requested his views and recommendations thereon. Within 30 days of the receipt of that notice, the Commissioner submitted in writing a statement expressing disapproval of the application. Accordingly, as required by section 3(b) of the Act, the Board directed that a public hearing be held commencing on April 3, 1974, at the Federal Reserve Bank of Kansas City before the Honorable John G. Liebert, Administrative Law Judge. Notice of the hearing was published in the FEDERAL REGISTER (39 FR 10190), and all persons desiring to give testimony, present evidence, or otherwise participate in the hearing held in Kansas City, Missouri, on April 3, 1974, and July 23 through July 25, 1974, were afforded an opportunity to do so. The hearing and related proceedings have been conducted in accordance with the Board's rules of practice for formal hearings (12 CFR 263).[1]

In a recommended decision of December 30, 1974, the Administrative Law Judge concluded that the evidence supported approval of the application and found that the financial and managerial resources and future prospects of Applicant, Applicant's present affiliates, and Bank are satisfactory and consistent with approval of the application. Accordingly, he recommended that the Board of Governors determine that the proposed acquisition satisfies the requirements of section 1842(c) of the Act and that the application be approved.

While the Board recognizes that little or no controversy exists as to many of the relevant facts cited by the Administrative Law Judge, the Board does disagree with the conclusions, inferences, and legal conclusions to be drawn from these facts. Accordingly, the Board having considered the entire record of the hearing, including the transcript, exhibits, rulings, all briefs, and memoranda filed in connection with the hearing and the recommended decision, findings of fact, and conclusions of law filed by the Administrative Law Judge, together with the exceptions taken thereto, and having determined that the subject application should be denied, all findings of the Administrative Law Judge inconsistent with the Board's findings and determination herein are hereby vacated. The Board now makes the following findings of fact and conclusions of law.

Applicant is the fifth largest banking organization in Missouri where it controls 17 banks holding aggregate deposits of $720.9 million, representing 4.8 percent of the total commercial bank deposits in the State.[2] Acquisition of Bank, with deposits of $36.1 million, would increase Applicant's share of the State's total commercial bank deposits to approximately 5 percent and would not alter Applicant's rank among Missouri banking organizations.

Bank, which is located in a suburban area about four miles from downtown Kansas City, competes in the Kansas City banking market (approximated by the Kansas City Standard Metropolitan Statistical Area less Ray County and the southern portion of Cass County) and controls approximately 0.8 of 1 per cent of total market deposits. Applicant is also represented in the Kansas City banking market and ranks therein as the third largest banking organization with five subsidiaries in the market controlling approximately 11.9 per cent of the total market deposits. Upon consummation of the proposed transaction, Applicant's share of the market's total deposits would increase to 12.7 per cent. The resulting organization's share of IPC demand deposits in accounts under $20,000 would increase from 7.8 per cent to 9.3 per cent of the market total (as of June 30, 1972).

As noted above, Applicant is already represented in the relevant market, and the record indicates that its lead bank is located approximately four miles north of Bank. Four other subsidiary banks of Applicant, also located in the Kansas City banking market, have their main offices located five, nine, twelve, and sixteen miles, respectively, from Bank. Moreover, the record discloses that the service area overlap of deposits and loans by the Applicant's five banking subsidiaries and Bank is substantial. Applicant's subsidiaries derive approximately $18.3 million of total IPC deposits from the service area of Bank. The majority of this total, however, or $97.5 million, is accounted for by Applicant's lead bank; 12.3 per cent of this total ($12 million) is in accounts less than $10,000. Applicant's subsidiaries derive total loans of approximately $96.8 million from the service area of Bank of which $86.5 million are accounted for by Applicant's lead bank.[3] In the Board's view, the proposed acquisition would eliminate substantial existing competition between Applicant's subsidiary banks and Bank in the Kansas City banking market. Furthermore, the proposal would foreclose the development of future competition by removing Bank as an independent competitor. Accordingly, the Board is of the view that consummation of the proposal would have adverse effects on both present and future competition.

On the basis of the foregoing and other facts of record, the Board concludes that competitive considerations relating to this application weigh sufficiently against approval so that it should not be approved unless the anticompetitive effects are outweighed by other positive considerations reflected in the record, such as the financial and managerial resources and future prospects of Applicant and Bank or the convenience and needs of the communities to be served.

The financial and managerial resources and prospects of Applicant, its subsidiaries, and Bank are regarded as generally satisfactory. Although Bank suffered a decline of $1.5 million in total deposits during 1973, its deposit growth appears to have been satisfactory in the period 1968 to 1972. In the Board's judgment, Bank's future prospects appear favorable. It does not appear that a possible management succession problem at Bank is critical; nor does the record contain any evidence to show that Bank has explored any alternatives to this acquisition for providing successor management. Accordingly, managerial and financial considerations lend only slight weight toward approval of the application. Applicant proposes to assist Bank by upgrading its trust department and by offering additional expertise in the areas of accounts receivable financing, freight payment arrangements, equipment leasing, computer services, and international financing. Applicant also proposes to offer a "Blue Banner Account" program, which includes a package of retail banking services for a monthly fee. While convenience and needs considerations lend some weight for approval of the application, they do not, in the Board's judgment, outweigh the anticompetitive effects of the proposal. Accordingly, the Board finds that neither the considerations relating to the banking factors nor those relating to convenience and needs outweigh the adverse competitive effects the Board finds present in Applicant's proposal.

On the basis of all the facts in the record and in light of the factors set forth in section 3(c) of the Act, it is the Board's judgment that approval of the proposal would not be in the public interest. Accordingly, the application is denied for the reasons summarized above.

By order of the Board of Governors,[4] effective April 28, 1975.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-11849 Filed 5-5-75;8:45 am]

[1] Board counsel's participation in the hearing was confined to "represent[ing] the Board in a nonadversary capacity for the purpose of developing for the record information relevant to the issues to be determined by the presiding officer and the Board" (12 CFR 263.6(d)).

[2] All banking data, unless otherwise indicated, are as of December 31, 1973, and reflect acquisitions of existing banks approved by the Board through July 15, 1974. All such data is taken from the record certified by the Administrative Law Judge.

[3] Approximately one-half of the loans are greater than $1 million.

[4] Voting for this action: Chairman Burns and Governors Mitchell, Holland, and Coldwell. Absent and not voting: Governors Sheehan, Bucher, and Wallich.

YORK STATE CO.

Order Approving Formation of Bank Holding Company

York State Company, York, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 100 per cent of the voting shares (less directors' qualifying shares) of York State Bank, York, Nebraska ("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, a nonoperating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company through the acquisition of Bank. Bank (deposits of $21 million) is the smaller of two banks in York and the second largest of seven banks operating in the relevant banking market,[1] controlling approximately 29 percent of the total deposits in commercial banks in the market.[2] Upon acquisition of Bank, Applicant would control approximately 0.4 percent of the total commercial bank deposits in the State. Since the purpose of the proposed transaction is essentially a reorganization to effect a transfer of the ownership of the shares of Bank from an individual to a corporation owned by the same individual, consummation of the proposal would not eliminate any existing competition, nor would it appear to have any adverse effects on other banks or on the development of potential competition in the relevant market. Therefore, competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant are dependent upon those of Bank. Those of Bank are regarded as satisfactory. Although Applicant will assume debt in acquiring the shares of Bank, it appears that income from Bank will provide sufficient revenue to service the debt adequately without impairing the financial condition of Bank. Considerations relating to the banking factors are consistent with approval of the application. Although consummation of the transaction would have no immediate effect on area banking needs, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It is the Board's judgment that consummation of the proposed transaction would be consistent with 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 April 24, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-11850 Filed 5-5-75;8:45 am]

[1] The relevant banking market is approximated by York County.

[2] Banking data are as of June 30, 1974.

[3] Dissenting Statement of Governor Coldwell filed as part of the original document. Copies 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: Governors Sheehan, Bucher, Holland and Wallich. Voting against this action: Governor Coldwell. Absent and not voting: Chairman Burns and Governor Mitchell.

NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY

COUNCIL WORKING SESSION

Notice

MAY 1, 1975.

A committee of the National Advisory Council on Economic Opportunity, authorized by section 605 of the Community Services Act of 1974, will hold a two-day Council working session at its offices at 1016 16th Street NW. (room 601), Washington, D.C. The working sesssions will begin at 9:30 a.m. on Tuesday, May 13, 1975 and Wednesday, May 14, 1975 and are open to the public.

The committee will discuss the findings and observations of their recent field activities and discuss alternative recommendations for inclusion in the Council's forthcoming Eighth Annual Report.

We are printing the above information in the FEDERAL REGISTER as required by section 9 of the Federal Advisory Committee Act of 1972.

JOSEPH A. DOOLING,
Chairman, Advisory Council Committee.

[FR Doc.75-11803 Filed 5-5-75;8:45 am]

NATIONAL COMMISSION FOR THE REVIEW OF FEDERAL AND STATE LAWS RELATING TO WIRETAPPING AND ELECTRONIC SURVEILLANCE

MEETINGS

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 85 Stat. 770), notice hereby is given that the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, established under the authority of Sec. 804 of Pub. L. 90-351, June 19, 1968, as amended by Sec. 20 of Pub. L. 91-644, January 2, 1971, and as further amended by Pub. L. 93-609, will meet in Washington, D.C. on the following dates for the purpose of taking testimony from the witnesses indicated concerning various aspects of wiretapping and electronic surveillance under Federal (18 U.S.C. 2510-20) and State laws:

May 19-21, 1975.—To receive testimony from selected U.S. Attorneys, Federal Strike Force Chiefs, and Federal Investigators.

June 10-11, 1975.—To receive testimony from selected critics of wiretapping, such as professors of law, representatives of American Civil Liberties Union, National Lawyers Guild, and other similar organizations. A portion of the meeting will be devoted to receiving testimony from prosecuting attorneys from States without wiretap authority, but with a significant organized crime problem.

June 25-27, 1975.—To receive testimony from selected witnesses with respect to illegal wiretapping, telephone service monitoring, telephone company monitoring for fraud, etc.

The hearings will be scheduled for 9:30 a.m. to 4:30 p.m. each day, with a recess for lunch. Meeting rooms have not been obtained, but it is expected that all hearings will take place in House or Senate Office Buildings. More specific information concerning the hearings and the meeting rooms can be obtained from the Commission staff during the two-week period prior to each hearing. (Telephone: (202) 382-6782.)

The hearings will be open to the public, and interested persons are invited to attend. Under the rules of the Commission, copies of which may be obtained from its offices, any person desiring to present any matter to the Commission shall request authorization therefor by filing a written request with the Offices of the Commission at 1875 Connecticut Avenue NW., Washington, D.C. 20009, not later than seven days prior to the hearing. The request shall include a concise description of the material to be presented. Within three days of receipt of such a request, the Chairman will notify the requesting person of his decision on the request.

KENNETH J. HODSON,
Executive Director.

[FR Doc.75-11780 Filed 5-5-75;8:45 am]

NATIONAL COMMISSION FOR MANPOWER POLICY

MANPOWER POLICIES AND PROGRAMS

Meeting; Agenda

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will have its third meeting on May 21, 1975. The meeting will be held at the Commission's headquarters located in Suite 300, 1522 K Street, NW., Washington, D.C., starting at 10 a.m.

The National Commission for Manpower Policy was established pursuant

to Title V of the Comprehensive Employment and Training Act of 1973 (Pub. L. 93-204). The Act charges the Commission with the broad responsibility of advising the Congress, the President, the Secretary of Labor and other Federal agency heads on national manpower issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's Manpower policies and programs.

The agenda for the Commission's meeting on May 21, 1975, will take up the following matters:

1. Assessment of the current economic and employment situation.
2. Discussion of selected manpower and related issues.
3. Discussion of public service employment and job creation.
4. Discussion on the interface of energy policies and employment and manpower.
5. Report on the status of other Commission activities.

The meeting is open to the general public. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided such statements are in reproduceable form and further provided that such statements are submitted to the Director no later than two days before or seven days after the meeting. In addition, oral statements may be made to the Commission if time permits. Such oral statements must be germane to the agenda, and a written application to make an oral statement must be submitted to the Director three days before the meeting.

Minutes of the meeting, working papers and other documents prepared for the meeting will be available for public inspection at the Commission's headquarters.

Signed at Washington, D.C., this 2nd day of May, 1975.

ROBERT T. HALL,
Director, National Commission for Manpower Policy.

[FR Doc.75-11801 Filed 5-5-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-463 and 50-464]

PHILADELPHIA ELECTRIC COMPANY FULTON GENERATING STATION, UNITS 1 AND 2

Availability of Final Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed Fulton Generating Station, Units 1 and 2, to be constructed by the Philadelphia Electric Company in Fulton Township, Lancaster County, Pennsylvania, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and in the Lancaster County Library, 125 N. Duke Street, Lancaster, Pennsylvania. The Final Statement is also being made available at the Pennsylvania State Clearinghouse, 624 Main Capitol Building, Harrisburg, Pa., the Department of State Planning, 301 W. Preston Street, Baltimore, Maryland, and at the Lancaster County Planning Commission, 900 E. King Street, Lancaster, Pennsylvania.

The notice of availability of the Draft Environmental Statement for the Fulton Station, Units 1 and 2, with request for comments from interested persons was published in the FEDERAL REGISTER on May 10, 1974 (39 FR 16917). The comments received from Federal, State and local officials and interested members of the public have been included as an appendix to the Final Environmental Statement.

Single copies of the Final Environmental Statement (Document No. NUREG-75/033) may be purchased from the National Technical Information Service, Springfield, Va. 22161, at a cost of $7.50 for printed copies and $2.25 for microfiche.

Dated at Rockville, Maryland, this 30th day of April, 1975.

For the Nuclear Regulatory Commission.

B. J. YOUNGBLOOD,
Chief, Environmental Projects Branch 3 Division of Reactor Licensing.

[FR Doc.75-11828 Filed 5-5-75;8:45 am]

REGULATORY GUIDES

Issuance and Availability

The Nuclear Regulatory 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 NRC 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 1.70.27, "Information for Safety Analysis Reports—Radioactive Waste Management;" Regulatory Guide 1.70.28, "Information for Safety Analysis Reports—Steam and Feedwater System Materials;" Regulatory Guide 1.70.29, "Information for Safety Analysis Reports—Meteorology;" and Regulatory Guide 1.70.30, "Information for Safety Analysis Reports—Pump Flywheel Integrity," 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 NRC 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 1.70.27, 1.70.28, 1.70.29, and 1.70.30 will, however, be particularly useful in developing the forthcoming revision of the Standard Format if received by July 7, 1975.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 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, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 522(a))

Dated at Rockville, Maryland, this 29th day of April 1975.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Acting Director, Office of Standards Development.

[FR Doc.75-11829 Filed 5-5-75;8:45 am]

OFFICE OF TELECOMMUNICATIONS POLICY

FREQUENCY MANAGEMENT ADVISORY COUNCIL

Meeting

Notice is hereby given that the Frequency Management Advisory Council (FMAC) will meet at 10 a.m., in Room 712, of the Office of Telecommunications Policy, 1800 G Street NW., Washington, D.C., May 8, 1975.

The principal agenda items will be: (1) A discussion of the status of the preparatory work for the 1979 ITU World General Radio Conference, the 1977 ITU

Aeronautical WARC, the 1977 ITU Broadcasting Satellite WARC, and the restructuring of the ITU Radio Regulations, (2) review of the results of the recent OTP-sponsored biological side effects symposium, (3) impact of electric power facilities on terrestrial communications systems, (4) a discussion of radio astronomy sharing of spectrum with other radio services, and (5) a discussion on radio receiver characteristics.

The meeting will be open to the public; any member of the public will be permitted to file a written statement with the Council, before or after the meeting. The Office of Telecommunications Policy has provided direct notice to those individuals normally attending FMAC meetings, in order to compensate for an unintended delay in providing published advance notice.

The names of the members of the Council, a copy of the agenda, a summary of the meeting, and other information pertaining to the meeting may be obtained from Mr. L. R. Raish, Office of Telecommunications Policy, Washington, D.C. 20504 (telephone: 202-395-5623).

Dated: April 30, 1975.

BROMLEY SMITH,
Advisory Committee Management Officer.

[FR Doc.75-11808 Filed 5-5-75;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 May 1, 1975, (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.

Requests for extension which appear to raise no significant issues 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

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Liquid Hydrogen Safety Survey:
Other (see SF-83), engineers and scientists, Caywood, D.P., 395-3443.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service:
Request for Long-Term Agreement (Forestry Incentives Program), FIP-11, on occation, farms, Caywood, D.P., 395-3443.

DEPARTMENT OF DEFENSE

Department of the Air Force:
Questionnaire: Information on Construction of Retail Buildings, single-time, merchants in 9 SMSA's, Sunderhauf, M.B., 395-4911.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control:
Study of Gonococcal and Nongonococcal Urethritis in Males (Seattle—King County, Washington), CDCBSS0131, on occasion, physicians in Seattle—King County, Wash., Dick Eisinger, 395-4716.

DEPARTMENT OF LABOR

Bureau of Labor Statistics:
Occupational Wage Surveys in the Metal Working Industries for IBM, BLS 3063, annually, private industry establishments in selected areas, Strasser, A., 395-3880.

Bureau of Labor Statistics:
Employment Impact of Mass Transit System Construction, BLS 3061, single-time, firms holding contracts with MBTA, Strasser, A., 395-3880.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration:
Questionnaire for Study of Improved Highway Access, single-time, second homeowners at selected recreation areas, Strasser, A., 395-3880.

EXTENSIONS

U.S. CIVIL SERVICE COMMISSION

Minority Group Employment Census, CSC 1058, CSC 1059, CSC 1063, on occasion, Planchon, P., 395-3898.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

New Communities:
Report on Budgetary Status and Project Balance Sheet, HUD-6250, semi-annually community and veterans affairs division, 395-3532.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75-11893 Filed 5-5-75; 8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 8773]

CHEMICAL FUND, INC., ET AL.

Filing of Application for Exemption

APRIL 29, 1975.

In the matter of Chemical Fund, Inc., 61 Broadway, New York, New York 10006; Dana Associates, 195 Washington Street, Brewer, Maine 04412; 812-3766.

Notice is hereby given, That Chemical Fund, Inc. ("Chemical"), an open-end diversified management investment company registered under the Investment Company Act of 1940 ("Act"), and Dana Associates ("Dana"), a closed-end investment company registered under the Act (collectively "Applicants"), filed an application on February 24, 1975, and an amendment thereto on April 15, 1975, pursuant to section 17(b) of the Act for an order of exemption from the provisions of section 17(a) of the Act to permit Chemical to acquire the assets of Dana in exchange for shares of Chemical. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

On January 27, 1975, Applicants entered into an Agreement and Plan of Reorganization ("Agreement") whereby substantially all of the cash and securities owned by Dana, with a value of approximately $5,528,126 (including a reserve for state and Federal income taxes on unrealized appreciation) as of February 28, 1975, will be transferred to Chemical in exchange for shares of Chemical's capital stock.

Pursuant to the Agreement, the number of shares of Chemical to be issued to Dana is to be determined on the basis of the value of the assets of Dana to be sold, less the applicable sales charge payable to Chemical's distributor, and the net asset value per share of Chemical, both to be determined as of the close of the New York Stock Exchange on the date of the meeting of Dana stockholders.

No adjustment in the net asset values of Applicants will be made to compensate for any potential Federal income tax impact on the shareholders of Applicants which may result from differences between Chemical and Dana in the percentages of their respective net unrealized capital appreciation to net asset value. Applicants contend that any potential consequence therefrom is hypothetical and cannot be effectively evaluated at the time of the transaction. Chemical asserts that it could cell certain of its portfolio securities to offset realized losses therefrom against securities to be acquired which have unrealized appreciation. Moreover, Chemical states that other unrealized appreciation in the securities to be acquired will not result in any tax liability to Chemical shareholders until Chemical changes its investment policies with regard to such securities.

When received by Dana, the Chemical shares will be distributed to the Dana shareholders. Since the exchange is expected to be tax-free for Dana and its shareholders, Chemical's cost basis for tax purposes for the assets acquired from Dana will be the same as Dana's cost basis.

Chemical presently intends to sell, after acquisition thereof, securities of Dana having a market value on February 28, 1975, not exceeding $350,000. The remainder of the assets of Dana (in excess of 90 percent) is expected to be retained in Chemical's portfolio.

Dana is a personal holding company for Federal income tax purposes, and its shares are almost exclusively held by five branches of descendants of one individual. One of such descendants is Robert C. Porter ("Porter") who owns 3.6 percent of the shares of Dana directly and

whose immediate family owns an additional 6.2 percent of the shares of Dana. Porter is also a director and a member of the portfolio committee of Dana. In addition, Porter is a director and the president of Chemical and is a director and the president of Chemical's investment adviser.

Section 17(a) of the Act, in pertinent part, prohibits an affiliated person of a registered investment company, or an affiliated person of such affiliated person, from knowingly selling any security or other property to, or purchasing any security or other property from, such registered investment company. Section 17(b) of the Act, however, permits the Commission, upon application, to exempt a proposed transaction from section 17 (a) if it finds that (i) the terms of the transaction are reasonable and fair, (ii) the transaction is consistent with the policy of each registered investment company concerned, and (iii) the transaction is consistent with the general purposes of the Act.

Applicants assert that the terms of the proposed transaction are fair and reasonable because the valuation of their assets will occur at the same time and will be based on market values. Dana will be charged the sales load applicable to such purchase of Chemical shares. The Dana Board, which had considered several other offers to acquire the Dana assets, decided that the acceptance of the Chemical offer best served the interests of the Dana shareholders, notwithstanding the imposition of a sales charge. Had the transaction been consummated on February 28, 1975, Dana would have paid a sales charge of approximately $28,500. The application states that Dana shareholders will benefit from the transaction since the Dana shares currently sell at a discount and in a limited market, and since Dana's net asset value is subject to a substantial reserve for Federal income tax because of Dana's status as a personal holding company. As a result of the transaction, the Dana shareholders will receive redeemable shares of an open-end company. Chemical will receive securities over 90 percent of which are compatible with its portfolio and thus will realize a net brokerage savings of approximately $27,000.

Chemical's costs, estimated at $20,000 to $25,000, will be borne by its distributor and Dana will bear its own expenses, estimated at $19,000.

Applicants state that the transaction is consistent with the long-term growth policies of each Applicant, although, the Dana shareholders, in approving the transaction, will in effect adopt a somewhat more restrictive investment policy; and that the transaction is consistent with the general purposes of the Act.

Notice is further given, That any interested person may, not later than May 20, 1975, at 12:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his request, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the addresses stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-11804 Filed 5-5-75;8:45 am]

[Release 34-11382]

AMENDED SPECIAL OFFERING PLANS AND EXCHANGE DISTRIBUTION PLANS

New York Stock Exchange and American Stock Exchange

The Securities and Exchange Commission has announced that it has declared effective amended Special Offering Plans and Exchange Distribution Plans filed by the New York Stock Exchange ("NYSE") and the American Stock Exchange ("Amex") pursuant to the provisions of § 10b-2(d) (17 CFR 240.10b-2(d)) under the Securities Exchange Act of 1934.

The Special Offering Plans of the NYSE and Amex provide for the sale of a block of a listed security on those exchanges at a fixed price under certain conditions when the exchange cannot absorb the block within a reasonable time and at a reasonable price or prices. The Plans contain certain anti-manipulative controls and require members, member firms and member corporations to make certain disclosures concerning the offering to persons whose orders are solicited.

The Exchange Distribution Plans of the NYSE and Amex authorize those exchanges to grant approval to members to offer a block of securities "at the market" on the exchange when the regular market on the exchange cannot otherwise absorb the block of securities within a reasonable time and at a reasonable price or prices. Those Plans also contain certain anti-manipulative controls and require participating members to make certain disclosures to persons solicited to buy the securities being offered.

The amendments to these Special Offering and Exchange Distribution Plans were proposed to conform them to the requirements of Securities Exchange Act Rule 19b-3 (17 CFR 240.19b-3). Under Rule 19b-3, national securities exchanges may not after May 1, 1975, adopt or retain any rule that requires, or otherwise, directly or indirectly, require, their members, or any person associated with their members, to charge any person any fixed rate of commission (other than commissions for floor brokerage for members) for transactions effected on, or effected by the use of the facilities of, exchanges.

The text of the Commission's action follows:

The Securities and Exchange Commission acting pursuant to the Securities Exchange Act of 1934, particularly sections 10(b) and 23(a) thereof and Rule 10b-2(d) (17 CFR 240.10b-2(d)) thereunder, deeming it necessary for the exercise of the functions vested in it, and having due regard for the public interest and for the protection of investors, hereby declares effective the Special Offering Plan and the Exchange Distribution Plan of the New York Stock Exchange, as amended by amendments filed on April 10, 1975, and the Special Offering Plan and Exchange Distribution Plan of the American Stock Exchange, as amended by amendments filed on April 18, 1975, on the condition that if at any time it appears to the Commission to be necessary or appropriate in the public interest or for the protection of investors so to do, the Commission may suspend or terminate the effectiveness of any of or all such Special Offering Plans or Exchange Distribution Plans by sending at least 10 days written notice to the particular exchange or exchanges involved. The Commission finds that notice and public procedure pursuant to sections 4(a) and 4(b) of the Administrative Procedure Act are unnecessary since the amendments will conform those plans to the requirements of Securities Exchange Act Rule 19b-3 which was adopted by the Commission after notice and public procedure (See Securities Exchange Act Release No. 11203 (Jan. 23, 1975)). The Commission further finds that Rule 10b-2(d) (17 CFR 240.10b-2(d)) and the action taken hereunder have the effect of relieving restriction and granting exemption and that, therefore, this action may be and is hereby effective on May 1, 1975 pursuant to section 4(c) of the Administrative Procedure Act.

Effective May 1, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

APRIL 29, 1975.

[FR Doc.75-11806 Filed 5-5-75;8:45 am]

[Rel. No. 8774]

VANCE, SANDERS AND CO., INC.

Application for Exemption

APRIL 29, 1975.

In the Matter of VANCE, SANDERS & COMPANY, INC., THE EXCHANGE FUND OF BOSTON, INC. VANCE, SANDERS SPECIAL FUND, INC., One Beacon Street, Boston, Massachusetts 02108 812-3765.

Notice is hereby given, That Vance, Sanders & Company, Inc. ("VS"), a Maryland corporation, and The Exchange Fund of Boston, Inc., and Vance, Sanders Special Fund, Inc. ("Funds"), open-end investment companies registered under the Investment Company Act of 1940 ("Act"), filed an application on February 24, 1975, and an amendment

thereto on April 1, 1975, for an order of the Commission pursuant to section 6(c) of the Act exempting VS and the Funds from the provisions of Section 15(a) of the Act. (VS and the Funds are hereinafter collectively referred to as "Applicants"). All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

VS acts, pursuant to contracts now in effect, as investment adviser to Leverage Fund of Boston, Inc., a closed-end investment company registered as such under the Act, and as investment adviser to the Funds and to the following open-end investment companies, all of which are registered as such under the Act: Capital Exchange Fund, Inc., Depositors Fund of Boston, Inc., Diversification Fund, Inc., Fiduciary Exchange Fund, Inc., Second Fiduciary Exchange Fund, Inc., Vance, Sanders Investors Fund, Inc., Vance, Sanders Income Fund, Inc., and Vance, Sanders Common Stock Fund, Inc. In addition, VS acts, pursuant to contracts now in effect, as national distributor and underwriter for the shares of the following open-end investment companies registered under the Act: Vance, Sanders Investors Fund, Inc., Vance, Sanders Common Stock Fund, Inc., Vance, Sanders Special Fund, Inc., and Vance, Sanders Income Fund, Inc.

Pursuant to an Agreement and Declaration of Trust ("Agreement") dated November 23, 1959, as amended, the holders of all of the outstanding voting stock of VS have deposited their voting stock in a Voting Trust created thereby in exchange for voting trust receipts. At the date of the application the Voting Trustees are Messrs. John D. Wilson, John E. Lotspiech, Landon T. Clay, Eric Pierce and M. Dozier Gardner. On March 29, 1968, the term of the Trust created under the Agreement was extended until June 30, 1974, and on April 26, 1973 the term was further extended until December 31, 1977. The Voting Trustees for many years have been five in number and during the period July 14, 1970 to January, 1973, were Messrs. Wilson, Lotspiech, Clay, Pierce and John A. McCandless. In January, 1973, Mr. M. Dozier Gardner was appointed as a Voting Trustee to fill the vacancy caused by the resignation of Mr. McCandless. New investment advisory contracts with VS have been approved subsequent to Mr. Gardner's appointment in January, 1973, as Voting Trustee (the last person to be so appointed) by the shareholders of all of the eleven investment companies for which VS presently acts as investment adviser, with the exception of the Funds.

Mr. Lotspiech has announced his intention to resign as a Voting Trustee, and it is expected that the vacancy created by such resignation will be filled by Benjamin A. Rowland, Jr., a Vice President and Director of VS.

Section 2(a)(4) of the Act defines the word "assignment" to include, in part, any direct or indirect transfer or hypothecation of a contract by the assignor or a controlling block of the assignor's outstanding voting securities by a security holder of the assignor.

While Applicants believe that Mr. Lotspiech's resignation and the filling of the vacancy in the number of Voting Trustees created thereby should not have any effect on the investment advisory contracts between VS and the Funds, they are filing the application for an exemptive order in order to eliminate any possible doubt which might arise as to such contracts. Applicants state that such doubt could arise from a contention that the resignation of Mr. Lotspiech and the filling of the vacancy in the number of Voting Trustees created thereby following, as it will, the replacement of Mr. McCandless as a Voting Trustee by Mr. Gardner, could be construed to constitute a change in "control" of VS as defined in section 2(a)(9) of the Act, thereby resulting in an assignment as defined in section 2(a)(4) of the Act of the existing investment advisory contracts between VS and the Funds, thereby terminating said contracts as provided therein in accordance with the requirements of section 15(a)(4) of the Act. Section 15(a) of the Act provides in part that it shall be unlawful for anyone to act as investment adviser of a registered investment company except pursuant to a written contract, which contract has been approved by the vote of a majority of the outstanding voting securities of such registered investment company.

Of the two Funds involved, one has scheduled its annual meeting in September 1975, and one in October 1975. If the requested exemption is granted, shareholders of the Funds will not be able to approve the contracts prior to Mr. Lotspiech's resignation and replacement, but will be asked to give such approval at the respective annual meetings or special meetings in lieu thereof held not later than thirty days following the dates of the annual meetings as fixed in the bylaws of the Funds, occurring in 1975.

Applicants contemplate that prior to Mr. Lotspiech's resignation, the new investment advisory contracts (and with respect to Vance Sanders Special Fund, Inc., the distribution contract) will be presented to the Boards of Directors of the Funds for approval by them. Applicants assert that such approval by the requisite majority of the Directors of the Funds, including a majority of the Directors who are not interested persons of the Funds or VS, will constitute compliance by the Funds with section 15(c) of the Act.

Applicants, therefore, seek an order of exemption pursuant to section 6(c) of the Act from the provisions of section 15 of the Act to the extent its provisions would prevent VS from acting as investment adviser to either of the Funds under a contract relating to each Fund subsequent to the resignation of Mr. Lotspiech and the filling of the vacancy thereby created. The terms of each contract will be identical to the existing contracts except for effective dates and expiration dates.

Applicants have agreed that, notwithstanding any adjournments of the meetings, the exemptions requested will expire forty-five days after the dates of the annual meetings or special meetings in lieu thereof of the Funds.

Applicants represent that the granting of the exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act for the reasons that:

1. The Funds will be spared the expense of calling and holding special shareholders' meetings to approve the contracts referred to above.

2. Shareholders of each Fund will have an opportunity to vote upon a new contract with VS within a reasonable time after Mr. Lotspiech's resignation and replacement.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any persons or transactions from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given, That any interested person may, not later than May 22, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the Application will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-11805 Filed 5-5-75;8:45 am]

DEPARTMENT OF LABOR

Labor-Management Services Administration

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Distribution of EBS–1 Form; Intent To Publish Certain Final Regulations for Reporting and Disclosure Requirements

Notice is hereby given that the Department of Labor will be mailing to plan administrators of employee benefit plans, from May 5 through May 16, 1975, the Department's EBS–1 Plan Description reporting form.

Notice is also hereby given that certain final regulations concerning covered plans, plan descriptions and summary plan descriptions under Title I of the Employee Retirement Income Security Act of 1974 will appear in the FEDERAL REGISTER on or before May 15, 1975.

Issued in Washington, D.C., on May 2, 1975.

PAUL J. FASSER, Jr.,
Assistant Secretary of Labor for Labor-Management Relations.

[FR Doc.75–11955 Filed 5–5–75;8:45 am]

Occupational Safety and Health Administration

[V–74–44, 57]

AMERICAN BRIDGE, ET AL.

Grant of Variance

I. *Background.* The following companies have made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and for an interim order pending a decision on the application for a variance, from the safety standards prescribed in 29 CFR 1926.451(a) (4), (5), and (10). The standards set general requirements for scaffolding. Companies affected by this application are:

American Bridge
Division of United States Steel Corp.
600 Grant Street
Pittsburgh, Pa. 15230

PSF Industries, Inc.
65 South Horton Street
Seattle, Washington 98124

Bethlehem Steel Corporation
Fabricated Steel Construction Division
Bethlehem, Pa. 18016

The places of employment affected by these applications are all construction projects where the applicants are engaged in construction operations.

Notice of applications submitted by American Bridge and Bethlehem Steel Corp., and of the granting of interim orders, was published in the FEDERAL REGISTER on September 17, 1974 (39 FR 33422). Notice of the application submitted by PSF Industries, and of the granting of an interim order, was published in the FEDERAL REGISTER on November 22, 1974 (39 FR 41002). The notices invited interested persons, including employers and employees who believe they would be affected by the grant or denial of the applications for variance, to submit written data, views, and arguments regarding the applications. In addition, affected employers and employees were notified of their right to request a hearing on a particular application for variance. No written comments or requests for a hearing have been received.

II. *Facts.* The applicant's business, which is part of the tank building industry, involves the erection of relatively large steel plate segments of circumferential rings. Due to the unique nature of the construction involved, special procedures, including special scaffolding, have been developed. For example, as opposed to more conventional scaffolds, tank scaffolds must be highly portable and have a relatively low density of occupancy by workmen. These scaffolds are raised up the shell of the tank as new rings of steel are added and work is completed at the level below.

Most plate structures are fabricated from standard length plates obtained from steel mills. These plates, each approximately 31.416 feet long, normally have brackets welded to them while they are on the ground prior to being placed into position on the tank wall. Scaffolding and guardrail supports are then attached to these brackets. If the applicants were to comply with § 1926.451(a) (5) which requires that guardrail supports be at intervals not to exceed 8 feet, and Table L–3 in § 1926.451(a) (10) which sets the maximum permissible span (distance between planking supports) for 2 x 10 inch full thickness undressed lumber at 10 feet, they assert it would be necessary to lay out each steel plate into sections with the brackets located approximately 7.854 feet apart. Instead, the applicants wish to lay out the plate into three equal sections with brackets located approximately 10'6" apart.

The planks which American Bridge proposes to use are rough full-dimensioned 2" x 12" x 12' planks of Douglas Fir or Southern Yellow Pine of Select Structural Grade. Bethlehem Steel intends to use the same types of planking, except it proposes to use a 10" width. PSF Industries has limited its request to the above-mentioned Douglas Fir of 2" x 12" x 12' dimensions.

The Douglas Fir has a fiber stress of 1,900 and a modulus of elasticity of 1,900,000, while the Southern Yellow Pine has a 2,500 fiber stress and a modulus of elasticity of 2,000,000. These characteristics of both types of planking meet the requirements of Scaffold Grade in § 1926.451(a) (10).

The tank scaffolds do not have toeboards as required by § 1926.451(a) (4) and (5). Instead, applicants have stated that most tools are placed in well-designed "loose tool" containers provided for that purpose. The area directly below and far enough away from the base of the scaffold to contain anything that falls from above is roped off. Because the contour of the steel plates of the tank face is curved and the adjacent edge of the scaffold platform is straight, there is an open space between them. As a result, applicants have installed taut wire rope on the scaffold brackets that extends midway between the innermost edge of the scaffold platform and the curved plate structure of the tank face to serve as a safety line in lieu of an inner guardrail assembly.

According to the applicants, less than 10 percent of the plank surface on the scaffold serves as a work location at any one time, and is normally occupied by approximately one person per 30 feet of scaffold length. About one-third of the employees work alone on the scaffolds, and the others work in groups of 2 or 3 with only one group located within a 10'6" bracket span. The employees carry their tools and equipment from one location to the next as work progresses.

In addition, the applicants propose to attach the guardrail support brackets at the 10'6" brackets rather than at 8' intervals as required by the standard. Angle irons would be used for supports and American Bridge and Bethlehem Steel propose to use wire rope cables for the guardrails, while PSF Industries proposes to use ⅜" Manila rope.

III. *Decision.* Section 1926.451(a) (4) and (5) requires toeboards with a minimum height of 4" on all open sides and ends of platforms more than 10 feet above the ground or floor. This is intended to keep tools and equipment from falling off the scaffold injuring people below. The applicants' system of keeping most tools in containers and roping off the area under and in close proximity to the scaffold accomplishes this purpose and thus provides a place of employment as safe as that required by the toeboard requirements of § 1926.451(a) (4) and (5).

Table L–3 in § 1926.451(a) (10) sets the maximum permissible span between planking supports at 10 feet for 2 x 10 inch or wider planks of full thickness undressed lumber. The applicants have proposed to use Douglas Fir or Southern Yellow Pine of Select Structural Grade on 10'6" spans. While American Bridge and PSF Industries have proposed to utilize planking of full thickness 2" x 12" x 12' dimensions, Bethlehem Steel has requested a variance which includes the use of planking of full-thickness 2" x 10" x 12' dimensions.

The 12" width provides a modulus for nominal section of 5.06 and a collapse point of 900 lbs as compared to a modulus of 4.8 and collapse point of 700 lbs for a 10" width of the planking. This approximately 25 percent greater strength in span, together with the limited number of employees on a plank at one time provides planking at least as strong and safe as that which would be obtained by complying with the span requirements contained in Table L–3 of § 1926.451(a) (10). The 10" width requested by Bethlehem Steel Corp. would not provide a sufficient margin of safety for the extra span and would not be acceptable.

Section 1926.451(a) (5) also requires that guardrail supports be placed at no

more than 8 foot itervals. While applicants could comply with this requirement by attaching guardrail supports to the scaffolds, the applicants normally attach the guardrail supports, as well as the scaffolding supports to the brackets which are welded to the steel plates at 10'6" intervals. This practice affords considerably more stable attachments for the guardrail assembly than would exist with wooden 2 x 4s attached to the scaffold at 8 foot intervals. Moreover, the wire rope cables used for guardrails and the angle irons used for supports are at least as strong as the wooden 2 x 4s permitted by § 1926.451(a)(5). The Manila rope proposed to be used by PSF Industries does not provide the same strength and margin of safety, and would not be permitted. Therefore, it is determined that the guardrail assemblies made of angle irons and wire rope cables, and supported by the brackets at 10'6" intervals are as safe as those required by § 1926.451(a)(5).

IV. *Order.* Pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, section 107 of the Contract Work Hours and Safety Standards Act, as amended (83 Stat. 96; 40 U.S.C. 333), 29 CFR Part 1905, 29 CFR 1926.2 and Secretary of Labor's Order No. 12–71 (36 FR 8754), it is ordered that the above listed applicants be, and they are hereby, authorized to use the scaffolds described in their applications in their tank-building process at all construction projects where the applicants are engaged in construction operations, provided that:

(a) The applicants' loose tools and equipment shall be kept in well-designed tool containers. This does not include fit-up bar, key plates, key channels, or long handled maul which may be placed on the scaffold plank during the time they are required for work. The loose tool containers shall be secured to prevent their upset or dislodgment from the scaffold area.

(b) Areas beneath and far enough away from the base of the scaffold to contain anything that falls from above shall be roped off and posted with clearly visible signs stating: "Danger Overhead Work."

(c) A taut wire rope supported on the scaffold brackets shall be installed at the scaffold plank level between the innermost edge of the scaffold platform and the curved plate structure of the tank shell to serve as a safety line in lieu of an inner guardrail assembly. In the event the open space on either side of the rope exceeds 12", a second wire rope appropriately placed, or guarding in accordance with 29 CFR 1926.451(a)(5), shall be installed.

(d) Not more than 3 employees shall be working on a 10'6" span of scaffold planking at any time.

(e) The maximum distance between brackets to which scaffolding and guardrail supports are attached shall be 10'6". These brackets shall be welded to the steel plates.

(f) Scaffold planks of rough full-dimensioned 2" x 12" x 12' Douglas Fir or Southern Yellow Pine of Select Structural Grade shall be used. The Douglas Fir shall have at least 1,900 fiber stress and 1,900,000 modulus of elasticity, while the Yellow Pine shall have at least 2,500 fiber stress and 2,000,000 modulus of elasticity.

(g) All planking shall be secured from movement or overlapped in accordance with § 1926.451(a)(12).

(h) Guardrails shall be constructed of taut wire rope, and shall be supported by angle irons attached to brackets welded to the steel plates. These guardrails shall be at least of equivalent strength, stability and height as those required for the 8 foot span of 2" x 4" wood rails by 29 CFR 1926.451(a)(5). Guardrail supports shall be located at no greater than 10'6" intervals.

As soon as possible, the applicants shall give notice to affected employees of the terms of this order by the same means used to inform them of the application for variance.

Effective date. This order shall become effective on May 6, 1975, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970.

Signed at Washington, D.C., this 29th day of April, 1975.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.75-11818 Filed 5-5-75;8:45 am]

[V-75-5]

STAUFFER CHEMICAL CO.

Application for Variance and Interim Order; Grant

I. *Notice of Application.* Notice is hereby given that Stauffer Chemical Company, Westport, Connecticut 06880 has made application pursuant to section 6(b)(6)(A) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.10 for a variance and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.93q(g)(4)(i) concerning respirators for unknown exposures or those over 3600 ppm, § 1910.93q(g)(6)(ii) concerning the installation of a continuous sequential monitoring and alarm system, and in § 1910.93q(m)(2) and (n)(3) insofar as they require the use of the continuous sequential monitoring system.

The address of the place of employment that will be affected by the application is as follows:

Stauffer Chemical Company
Plastics Division
Polymers West
2112 East 223rd Street
Carson, California 90745

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 unable to comply with the requirements of § 1910.93q(g)(4)(i) and (g)(6)(ii) by the effective date of the standard due to the unavailability of equipment needed to come into compliance.

The Stauffer Chemical Company acquired this facility from the American Chemical Corporation on December 1, 1974. Since that date Stauffer has been working to achieve compliance with § 1910.93q.

Concerning the respirators required by § 1910.93q(g)(4)(i) for unknown exposures or those over 3600 ppm, the applicant states that it has 39 open-circuit, self-contained respirators of the demand type with full facepiece. In September 1974 the American Chemical Corporation contacted MSA to determine whether it would be possible to convert these to the pressure demand type required by the standard. In mid-January it was determined that the conversion was feasible and the converter equipment was ordered. Delivery of this equipment is scheduled for July 1, 1975. Four additional respirators meeting the requirements of this standard were ordered in December 1974. These also have a scheduled delivery date of July 1, 1975.

In the interim the applicant will provide protection to employees in unknown exposures or in exposures exceeding 3600 ppm by providing them with open-circuit, self-contained breathing apparatus of the demand type with full facepiece.

Concerning the installation of a continuous sequential monitoring system, the applicant states that the American Chemical Corporation began the process of determining its monitoring needs, selecting, purchasing, and installing an appropriate system in February 1974. The installation is expected to be complete and the system in operation by August 1, 1975.

In the interim the applicant has stated that it will perform weekly monitoring in each regulated area with hand-held equipment. All employees working in areas where exposure may exceed permissile limits will be provided with respirators meeting the requirements of § 1910.93q(g)(4)(iii) for protection to 1,000 ppm.

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
9470 Federal Building
450 Golden Gate Avenue—P.O. Box 36017
San Francisco, California 94102

U.S. Department of Labor
Occupational Safety and Health Administration
Hartwell Building—Room 401
19 Pine Avenue
Long Beach, California 90802

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 June 5, 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 June 5, 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. Therefore it is ordered, pursuant to authority in section 6(b)(6)(A) of the Williams-Steiger Occupational Safety and Health Act of 1970, and 29 CFR 1905.10 that Stauffer Chemical Company be, and it is hereby, authorized to use its present open-circuit self-contained breathing apparatus, demand type with full facepiece until it is able to obtain equipment to convert them to pressure demand type on July 1, 1975, and to operate its named plant without the continuous monitoring and alarm systems required by 29 CFR 1910.93q(g)(6)(ii) with the following provisions:

1. All employees working in regulated areas where exposure may exceed the permissible limits shall be provided with respirators meeting the requirements of § 1910.93 (g)(4)(iii);

2. Monitoring of the work environment shall be performed weekly using portable equipment;

3. The reporting and recordkeeping requirements of § 1910.93q (m)(2) and (n)(3) shall be complied with to the extent possible under this portable monitoring system.

4. An evacuation plan shall be available for the removel of employees in the event of an inadvertent leak which may produce exposure levels above the permissible limits for the respirators in use. Employees shall not return to the area until they are properly protected from such concentrations or until monitoring shows that the levels are reduced to permissible limits for the devices in use.

Stauffer Chemical Company 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 May 6, 1975, and shall remain in effect until a decision is rendered on the application for variance.

Signed at Washington, D.C., this 29th day of April, 1975.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.75-11819 Filed 5-5-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 759]

ASSIGNMENT OF HEARINGS

MAY 1, 1975.

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.

MC 139253 Sub-1, Southeastern Warehousing Distribution Corporation, now assigned May 12, at Elizabethton, Tenn., is canceled and application dismissed.

I & S 9031, Baltimore and Ohio Railroad Company, now assigned May 13, 1975, at Washington, D.C. is canceled.

I & S M-28469, Minimum Charges, Pacific Inland Tariff Bureau, now assigned May 28, 1975, at Washington, D.C., is canceled. Ex Parte No. 277 Sub 3, Adequacy of Intercity Rail Passenger Service, continued to August 4, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 136828 Sub-3, Cox & Shay, Inc., now assigned May 14, 1975, at Dallas, Texas, is canceled and application dismissed.

MC 113843 Sub-212, Refrigerated Food Express, Inc., now assigned June 3, 1975 at Washington, D.C., is canceled and application dismissed.

MC 116763 Sub-297, Carl Subler Trucking, Inc., now assigned June 10, 1975, at San Francisco, Calif., is canceled and application dismissed.

MC 114569 Sub-117, Shaffer Trucking, Inc., now being assigned July 29, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 21060 Sub-15, Iowa Parcel Service, Inc., now assigned July 7, 1975, at Des Moines, Iowa is postponed indefinitely.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-11858 Filed 5-5-75;8:45 am]

[Notice No. 284]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

MAY 6, 1975.

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 May 26, 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-75683. By order of April 22, 1975 the Motor Carrier Board approved the transfer to Fisher Service Trucking, Inc., Monticello, N.Y., of the operating rights in Certificates No. MC 95008, MC 95008 (Sub-No. 2) and MC 95008 (Sub-No. 7) issued July 21, 1942, December 6, 1950 and October 27, 1966 respectively to David Fisher, doing business as Fisher Service Trucking, Monticello, N.Y., authorizing the transportation of various commodities from, to and between specified points in New York, New Jersey, Pennsylvania, and Maryland. Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y., 11368, attorney for applicants.

No. MC-FC-75735. By order of April 24, 1975, the Motor Carrier Board approved the transfer to Broes Trucking Co., Inc., Verga, N.J., of the operating rights in Certificate No. MC 67403 acquired pursuant to application No. MC-FC-75258, consummated August 12, 1974, by Ray Slater, Inc., Philadelphia, Pa., authorizing the transportation of steel and metals from Philadelphia, Pa., to points in New Jersey and Delaware, scrap metal from points in New Jersey and Delaware to Philadelphia, and soap, sizes and softeners from Philadelphia, Pa. to points in New Jersey. Ira G. Megdal, 499 Cooper Landing Rd., Cherry Hill, N.J., 08002, attorney for applicants.

No. MC-FC-75770. By order entered April 24, 1975, the Motor Carrier Board approved the transfer to Joseph M. Booth, doing business as Booth's Tow Service, Kansas City, Mo., of the operating rights set forth in Certificate No. MC 116111, issued February 8, 1971, to J & N Investment Company, doing business as North Kansas City Tow (Third National Bank, Successor-in-Interest), Sedalia, Mo., authorizing the transportation of wrecked, disabled, or repossessed motor vehicles, and replacement motor vehicles for wrecked or disabled motor vehicles, in secondary movements, between Kansas City, Mo., on the one hand, and, on the other, points in Kansas, Iowa, Missouri, Nebraska, Oklahoma, Arkansas, Illinois, Colorado, Indiana, Kentucky, New Mexico, Ohio, Tennessee, and Texas. Edward F. Aylward, Commerce Bank Building, Kansas City, Mo. 64106, attorney for applicants.

No. MC-FC-75786. By order of April 22, 1975, the Motor Carrier Board approved the transfer to Earl Koch Trucking, Inc., Sabetha, Kan., of the operating rights in Certificate No. MC 84574 issued September 30, 1974, to Earl Koch, doing business as Earl Koch Trucking, Sabetha, Kan., authorizing the transportation of various commodities from, to and between specified points and areas in Kansas, Nebraska, and Missouri. Duane L. Stromer, 300 NSEA Bldg., Lincoln, Nebr., 68501, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-11859 Filed 5-5-75;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

APRIL 30, 1975.

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), 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 May 16, 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-notces 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 61592 (Sub-No. E1), filed April 8, 1974. Applicant: JENKINS MOTOR LINE, INC., P.O. Box 697, Jeffersonville, Ind. 47130. Applicant's representative: Bob Jenkins (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (except truck tractors and except those which because of size or weight require the use of special equipment), from New Orleans, La., to points in Illinois on and north of U.S. Highway 40 (Moline, Ill.*); (2) *agricultural and garden tractors* and agricultural implements in mixed loads with tractors (except truck tractors and commodities the transportation of which because of size or weight requires the use of special equipment), from Savannah, Ga., to points in Illinois, Mo. (O'Fallon Park, Mo.*); (3) *agricultural* and *garden tractors*, from Charles City, Iowa, to points in Florida (facilities of White Farm Equipment at Atlanta and Decatur, Ga.*); (4) *lumber*, from Sheridan, Ark., to points in Wisconsin, Minneapolis, and St. Paul, Minn., and points in Illinois on and north of a line beginning at the Missouri line along U.S. Highway 36, to junction Illinois Highway 54, thence along Illinois Highway 54 to junction U.S. Highway 136, thence along U.S. Highway 136 to the Illinois-Indiana State line (points in Iowa east of U.S. Highway 65*). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 61592 (Sub-No. E18), filed June 13, 1974. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, Ind. 47136. Applicant's representative: Bob Jenkins (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastics, plastic products and pipe fittings* (except commodities in bulk, and except commodities which because of size or weight require the use of special equipment), from Glenville, W. Va., to points in Alabama on and south of a line beginning at Bexar along U.S. Highway 78, to junction U.S. Highway 278, thence along U.S. Highway 278 to the Georgia-Alabama State line; points in Arizona on and south of U.S. Highway 60; points in California on and south of a line beginning at San Francisco extending along U.S. Highway 50 to junction U.S. Highway 120, thence along U.S. Highway 120 to the Nevada-California State line; Louisiana, Mississippi on and south of U.S. Highway 82; points in Texas on and south of a line beginning at the New Mexico-Texas State line extending along U.S. Highway 180 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Louisiana-Texas State line. The purpose of this filing is to eliminate the gateway of Social Circle, Ga.

No. MC 88368 (Sub-No. E23), filed May 15, 1974. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Ave., Grandview, Mo. 64030. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission: (1) From points in, south and east of Baltimore, Anne Arundel and Prince Georges Counties, Md., to points in California in Del Norte, Siskiyou, Humboldt, Trinity, and Shasta Counties. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., Steubenville, Ohio, Clinton, Ill., Newton, Kans., Sterling, Colo., Dallesport, Wash.; (2) from points in, south and east of Baltimore, Howard and Prince Georges Counties, Md., to points in Colorado. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., Steubenville, Ohio, Clinton, Ill., Newton, Kans.; (3) from points in, south and east of Baltimore, Anne Arundel and Prince Georges Counties, Md., to points in Idaho on, north and west of a line beginning at the Idaho-Nevada State line near Idavada, Idaho and extending along Highway 93 to Shoshone, Idaho; thence along Alternate Highway 93 to Arco, Idaho; thence along Highway 22 to Dubois, Idaho; thence along Highway 91 to the Idaho-Montana State line. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., Steubenville, Ohio, Clinton, Ill., Newton, Kans., Sidney, Nebr., Cheyenne, Wyo., Monida, Mont.

(4) From points in, south and east of Baltimore, Howard, and Prince Georges Counties, Md., to Bloomington, Ill., and points within 25 miles of Bloomington, Ill. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., and Steubenville, Ohio; (5) from points in, south and east of Baltimore, Howard, and Prince Georges Counties, Md., to Harland, Iowa, and points within 15 miles thereof. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., Steubenville, Ohio, and Chenda, Ill.; (6) from points in, south and east of Baltimore, Anne Arundel, and Prince Georges Counties, Md., to points in Kansas. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., Steubenville, Ohio, Clinton, Ill.; (7) from points in, south and east of Baltimore, Anne Arundel, and Prince Georges Counties, Md., to points in Missouri on and west of a line beginning at the Missouri-Illinois State line near Louisiana, Mo., and extending along U.S. Highway 54 to the intersection of Missouri Highway 5; thence along Missouri Highway 5 to the Missouri-Arkansas State line. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., Steubenville, Ohio, Clinton, Ill.; (8) from points in Cecil, Kent, Queen Anne, Talbot, Caroline, Dorchester, Wicomico, Worchester, and Somerset Counties, Md., to points in Missouri. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa., Steubenville, Ohio, Clinton, Ill.; (9) from points in, south and east of Baltimore, Anne Arundel, and Prince Georges Counties, Md., to points in Montana west of the Continental Divide. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa., Steubenville, Ohio, Clinton, Ill., Newton, Kans., Sidney, Nebr., Casper, Wyo.

(10) From points in, south and east of Baltimore, Anne Arundel, and Prince Georges Counties, Md., to points in Nebraska in Kimball, Banner, and Cheyenne Counties. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa., Steubenville, Ohio, Clinton, Ill., Newton, Kans.; (11) from points in, south and east of Baltimore, Howard, and Prince Georges Counties, Md., to points in New Mexico. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., Steubenville, Ohio, Clinton, Ill., Arkansas City, Kans., El Reno, Okla.; (12) from points in, south and east of Baltimore, Anne Arundel, and Prince Georges Counties, Md., to points in Oklahoma on and west of a line beginning at the Oklahoma-Kansas State line near Chilocco, Okla., and extending along U.S. Highway 177 to U.S. Highway 70; thence along U.S. Highway 70 to U.S. Highway 377; thence along U.S. Highway 377 to the Oklahoma-Texas State line. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., Steubenville, Ohio, Clinton, Ill., Arkansas City, Kans.; (13) from points in, south and east of Baltimore, Anne Arundel, and Prince Georges Counties, Md., to points in Oregon in and west of Umatilla, Morrow, Wheeler, Crook, Deschutes, and Klamath Counties.

The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., Steubenville, Ohio, Clinton, Ill., Newton, Kans., Sterling, Colo., Walla Walla,

Wash., Maryhill, Wash., Dallesport, Wash.; (14) from points on, south and east of Baltimore, Howard, and Prince Georges Counties, Md., to points in Texas on and west of U.S. Highway 277. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., Steubenville, Ohio, Clinton, Ill., Arkansas City, Kans.

(15) From points in, south and east of Baltimore, Howard, and Prince Georges Counties, Md., to points in Washington. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., Steubenville, Ohio, Clinton, Ill., Newton, Kans., Sterling, Colo.; (16) from points in, south and east of Baltimore, Anne Arundel, and Prince Georges Counties, Md., to points in Wyoming in and west of Park, Hot Springs, Fremont, Natrona, Albany, and Laramie Counties. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., Steubenville, Ohio, Clinton, Ill., Newton, Kans., Sidney, Nebr.

No. MC 88368 (Sub-No. E73), filed May 15, 1974. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Ave., Grandview, Mo. 64030. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Ave., Suite 600, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission: (1) from points in and south of Vernon, Rapides, and Avoyelles, Parishes, La., to points in and north Humboldt, Trinity, Shasta, and Modoc Counties, Calif. The purpose of this filing is to eliminate the gateways of Jacksonville, Tex., Arkansas City, Kans., Sterling, Colo., Dallesport, Wash., Walla Walla, Wash.; (2) from points in Louisiana west of a line beginning at the Arkansas-Louisiana State line at Junction City, La., thence south on U.S. Highway 167 to Alexandria, La., thence east on State Highway 1 to Lettsworth, La., thence north on State Highway 15 to Torras, La., to points in Delaware. The purpose of this filing is to eliminate the gateways of Huntsville, Ala., Bledsoe, Ky., Steubenville, Ohio, Philadelphia, Pa.; (3) from points in Louisiana on and west and south of a line beginning at the Louisiana-Arkansas State line near Haynesville, La., and extending along U.S. Highway 79 to Minden, La., thence along Highway 7 to Coushatta, La., thence along Highway 71 to intersection of Highway 190; thence along Highway 190 to the Louisiana-Mississippi State line to points in and north of Kent County, Del. The purpose of this filing is to eliminate the gateways of Florence, Ala., Bledsoe, Ky., Steubenville, Ohio, Philadelphia, Pa., Birmingham, Ala.

(4) From points in Louisiana in and east of West Feliciana, Pointe Coupee, St. Landry, Lafayette, and Vermilion Parishes to points in Illinois in and north of Randolph, Perry, Franklin, Hamilton, and White Counties. The purpose of this filing is to eliminate the gateways of Florence, Ala., Corinth, Miss., Birds Point, Mo., Farmer City, Ill.; (5) from points in Louisiana in, south and east of Concordia, Avoyelles, Evangeline, Allen, and Calcasieu Parishes to points in Indiana in and north of Knox, Daviess, Martin, Lawrence, Jackson, Bartholomew, Decatur, Ripley, and Dearborn Counties. The purpose of this filing is to eliminate the gateways of Florance, Ala., Corinth, Miss., Birds Point, Mo.; (6) from points in Louisiana to points in Indiana in and north of Allen, Whitley, Kosciusko, Marshall, Starke, Porter, and Lake Counties. The purpose of this filing is to eliminate the gateways of Florence, Ala., Corinth, Miss., Birds Point, Mo.; (7) from Louisiana points on and south of Highway 190 to points in Iowa. The purpose of this filing is to eliminate the gateways of Florence, Ala., Corinth, Miss., St. Louis, Mo., Jacksonville, Tex., Arkansas City, Kans.; (8) from points in Louisiana to points in Kansas. The purpose of this filing is to eliminate the gateways of Jacksonville, Tex., Huoo, Okla., Arkansas City, Kans.; (9) from points in Louisiana in and south of Sabine, Natchitoches, Grant, Lasalle, Catahoula, and Concordian Parishes to points in Michigan. The purpose of this filing is to eliminate the gateways of Florence, Ala., Corinth, Miss., Birds Point, Mo., Bloomington, Ill.; (10) from points in Louisiana in and south of Caddo, Bossier, Red River, Natchitoches, Rapides and Avoyelles Parishes to points in Minnesota on and north of U.S. Highway 12. The purpose of this filing is to eliminate the gateways of Jacksonville, Tex., Arkansas City, Kans., Harlan, Iowa; (11) from points in and south and west of Vernon, Rapides, Avoyelles, Pointe Coupee, East Baton Rouge, Iberville, Assumption and St. Mary Parishes, La., to points in Minnesota. The purpose of this filing is to eliminate the gateways of Jacksonville, Tex., Arkansas City, Kans., Harlan, Iowa.

(12) From points on and south of a line beginning at the Louisiana-Texas State line and extending along U.S. Highway 190 to the Louisiana-Mississippi State line in Louisiana to Missouri, points in and north of Jefferson, Franklin, Gasconade, Osage, Cole, Moniteau, Pettis, Johnson, and Cass Counties. The purpose of this filing is to eliminate the gateways of Jacksonville, Tex., Broken Bow, Okla., Florence, Ala., Chesterfield, Tenn., Jackson, Tenn.; (13) from points in, south, and west of Bossier, De Soto, Sabine, Vernon, Beauregard, Allen, Evangeline, St. Landry, Pointe Coupee, East Baton Rouge, Livingston, Tangipahoa, and St. Tammany Parishes in Louisiana to Missouri, points in and west of Shuyler, Adair, Macon, Randolph, Howard, Boone, Cooper, Morgan, Benton, St. Clair, Vernon, Barton, Jasper, Newton, and McDonald Counties. The purpose of this filing is to eliminate the gateways of Troup, Tex., Broken Bow, Okla., Jacksonville, Tex.; Hugo, Okla.; (14) from points in Louisiana to points in South Dakota. The purpose of this filing is to eliminate the gateways of Jacksonville, Tex., Arkansas City, Kans., Yorkshire, Iowa; (15) from points in Louisiana to Tennessee, points in and east of McNairy, Hardin, Decatur, Perry, Humphreys, Houston, and Stewart Counties. The purpose of this filing is to eliminate the gateways of Florence, Ala.; (16) from points in Louisiana to New York, points in, east, and south of Orange, Ulster, Greene, Schoharie, Montgomery, Fulton, Hamilton, Essex, and Clinton Counties. The purpose of this filing is to eliminate the gateways of Florence, Ala., Bledsoe, Ky., Steubenville, Ohio, Philadelphia, Pa.

(17) From points in Louisiana to Oklahoma, points in and west of Kay, Noble, Payne, Lincoln, Pottawatomie, Garvin, Murray, Carter, and Love Counties. The purpose of this filing is to eliminate the gateway of Jacksonville, Tex.; (18) from points in Louisiana to North Carolina, points in and north of Watauga, Caldwell, Alexander, Iredell, Rowan, Davidson, Randolph, Chatham, Lee, Harnett, Cumberland, Sampson, Dublin, and Onslow Counties. The purpose of this filing is to eliminate the gateways of Florence, Ala., Harlan, Ky., Birmingham, Ala.; (19) from points in and south of Caddo, Red River, Natchitoches, Grant, Rapides, Avoyelles, Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, and Washington Parishes in Louisiana to Oklahoma, points in and west of Nowata, Rogers, Tulsa, Creek, Lincoln, Seminole, Pottawatomie, McClain, Garvin, Murray, Carter, and Love Counties. The purpose of this filing is to eliminate the gateway of Jacksonville, Tex.; (20) from points in, south, and east of Vernon, Rapides, Avoyelles, Pointe Coupee, and West Feliciana Parishes, La. points in, east, and south of Clinton, Essex, Hamilton, Herkimer, Oneida, Madison, Chenango, and Broome Counties, N.Y. The purpose of this filing is to eliminate the gateways of Florence, Ala., Bledsoe, Ky., Steubenville, Ohio, Philadelphia, Pa.

No. MC 88368 (Sub-No. E74), filed May 15, 1974. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Ave., Grandview, Mo. 64030. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission: (1) from points in and west of Toole, Pondera, Teton, Cascade, Judith Basin, Fergus, Musselshell, Yellowstone, and Carbon Counties, Mont., to points in Delaware; (2) from points on and west of a line beginning at the United States-Canada International Boundary line near Sweetgrass, Mont., and extending along Interstate Highway 15 to Great Falls, Mont., thence along U.S. Highway 87 to Billings, Mont., thence along U.S. Highway 212 to the Montana-Wyoming State line near Alzada, Mont., in Montana to points in Connecticut; (3) from points in Montana to points in Florida; (4) from points in Montana to points in Harlan County, Ky.; (5) from points in and west of Hill, Chouteau, Fergus, Musselshell, Rosebud, Powder River, and Carter Counties in Montana to points in Kentucky in and east of Christian, Hopkins, Webster, and

Henderson Counties; (6) from points in and west of Toole, Pondera, Teton, Cascade, Judith Basin, Fergus, Musselshell, Yellowstone, Big Horn, Powder River, and Carter Counties, Mont., to points in Maine; (7) from points in and west of Toole, Chouteau, Fergus, Golden Valley, Yellowstone, and Big Horn Counties, Mont., to points in Massachusetts; (8) from points in and west of Toole, Pondera, Teton, Cascade, Meagher, Wheatland, Golden Valley, Yellowstone, and Carbon Counties, Mont., to points in New Hampshire.

(9) From points in and west of Toole, Pondera, Teton, Cascade, Meagher, Wheatland, Golden Valley, Yellowstone, and Carbon Counties, Mont., to points in New York on, east, and south of a line beginning at the New York-New Jersey State line at Port Jervis, N.Y., and extending along U.S. Highway 87 to the northern boundary of Greene County, N.Y., thence in an easterly direction along the northern boundaries of Greene and Columbia Counties to the New York-Massachusetts State line; (10) from points west of the Continental Divide in Montana to points in New York in, east, and south of Orange, Ulster, Greene, Albany, Schenectady, and Rensselaer Counties; (11) from points in and west of Toole, Chouteau, Fergus, Musselshell, Yellowstone, and Carbon Counties, Mont., to points in New Jersey; (12) from points in and west of Toole, Pondera, Teton, Cascade, Meagher, Wheatland, Golden Valley, Yellowstone, and Carbon Counties, Mont., to points in Ohio in and south of Preble, Montgomery, Clark, Madison, Franklin, Licking, Coshocton, Tuscarawas, Harrison, and Jefferson Counties; (13) from points in Montana to points in Oklahoma in, south, and east of Harper and Ellis Counties; (14) from points in and west of Toole, Pondera, Teton, Cascade, Meagher, Wheatland, Golden Valley, Yellowstone, and Carbon Counties, Mont., to points in Pennsylvania; (15) from points in and west of Toole, Liberty, Chouteau, Fergus, Musselshell, Yellowstone, and Big Horn Counties, Mont., to points in Rhode Island; (16) from points in and west of Toole, Liberty, Chouteau, Fergus, Musselshell, Yellowstone, and Carbon Counties, Mont., to points in South Carolina in and south of Aiken, Lexington, Richland, Sumter, Florence, and Dillon Counties; (17) from points in and west of Carbon, Yellowstone, Musselshell, Petroleum, Phillips, and Valley Counties, Mont., to points in Texas on and east of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 83 to junction Texas Highway 70, thence along Texas Highway 70 to junction U.S. Highway 277, thence along U.S. Highway 277 to Del Rio, Tex., thence along an unnumbered highway in a southwesterly direction to the United States-Mexico International Boundary line.

(18) From points west of the Continental Divide, Mont., to points in Maryland in, east, and south of Baltimore, Anne Arundel, and Prince Georges Counties; and (19) from points west of the Continental Divide, Mont., to points in West Virginia on and east of Interstate Highway 77. The purpose of this filing is to eliminate the gateways of: in (1) Sheridan, Wyo., Sidney, Nebr., Newton, Kans., Clinton, Ill., Steubenville, Ohio, and Philadelphia, Pa.; in (2) Sheridan, Wyo., Sidney, Nebr., Newton, Kans., Clinton, Ill., Steubenville, Ohio, Philadelphia, Pa., and New Castle, Wyo.; in (3) Sterling, Colo., Salina, Kans., Corinth, Mass., Florence, Ala., Hays, Kans., Tupelo, Miss., Birmingham, Ala., and Valdosta, Ga.; in (4) Casper, Wyo., Sidney, Nebr., Shelby, Iowa, Bloomington, Ill., and Indianapolis, Ind.; in (5) Sheridan, Wyo., Sidney, Nebr., Newton, Kans., Clinton, Ill., New Castle, Wyo., and Casper, Wyo.; in (6) New Castle, Wyo., Sidney, Nebr., Newton, Kans., Clinton, Iowa, Steubenville, Ohio, Philadelphia, Pa., Lawrence, Mass., Sheridan, Wyo., Boston, Mass., and Casper, Wyo.; in (7) Sterling, Colo., Newton, Kans., Clinton, Ill., Steubenville, Ohio, and Philadelphia, Pa.; in (8) Sheridan, Wyo., Sidney, Nebr., Newton, Kans., Clinton, Ill., Steubenville, Ohio, Philadelphia, Pa., Fairlawn, Mass., Casper, Wyo.; in (9) Sheridan, Wyo., Sidney, Nebr., Newton, Kans., Clinton, Ill., Steubenville, Ohio, Philadelphia, Pa., and Casper, Wyo.; in (10) Casper, Wyo., Sidney, Nebr., Newton, Kans., Clinton, Ill., Steubenville, Ohio, and Philadelphia, Pa.; in (11) Sheridan, Wyo., Sidney, Nebr., Newton, Kans., Clinton, Ill., Steubenville, Ohio, Philadelphia, Pa., and Casper, Wyo.; in (12) Sheridan, Wyo., Sidney, Nebr., Newton, Kans., Clinton, Ill., and Casper, Wyo.; in (13) New Castle, Wyo., Sidney, Nebr., Halstead, Kans., Casper, Wyo., and Newton, Kans.; (14) Sheridan, Wyo., Sidney, Nebr., Newton, Kans., Clinton, Ill., Steubenville, Ohio, and Casper, Wyo.; in (15) Sheridan, Wyo., Sidney, Nebr., Newton, Kans., Clinton, Ill., Steubenville, Ohio, Philadelphia, Pa., South Attleboro, Mass., and Casper, Wyo.; in (16) Sterling, Colo., Hays, Kans., Corinth, Miss., Florence, Ala., and Valdosta, Ga.; (17) Gillette, Wyo., Sidney, Nebr., Newton, Kans., Arkansas City, Kans., Casper, Wyo., Oklahoma City, Okla., and Altus, Okla.; (18) Casper, Wyo., Sidney, Nebr., Newton, Kans., Clinton, Ill., Steubenville, Ohio, and Philadelphia, Pa.; and in (19) Casper, Wyo., Sidney, Nebr., Newton, Kans., Clinton, Ill., and Emerson, Ohio.

No. MC 88368 (Sub-No. E75), filed May 15, 1974. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Ave., Grandview, Mo. 64030. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Ave., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, (1) from points in and north of Jefferson, Franklin, Gasconade, Osage, Cole, Moniteau, Pettis, Johnson and Cass Counties, Mo. to Louisiana, points in, and south of a line beginning at the Louisiana-Texas State line and extending along U.S. Highway 190 to the Louisiana-Mississippi State line; (2) from points in and west of Schuyler, Adair, Macon, Randolph, Howard, Boone, Cooper, Morgan, Benton, St. Clair, Vernon, Barton, Jasper, Newton, and McDonald Counties, Mo., to points in, south, and west of Bossier, De Soto, Sabine, Vernon, Beauregard, Allen, St. Landry, East Baton Rouge, Livingston, Tangipahoa, and St. Tammany Parishes, La.; (3) from points in Missouri to points in Texas; (4) from points in and west of Butler, Wayne, Madison, St. Francois, and Jefferson Counties, Mo. to points in and east of Henry, Franklin, Roanoke, and Craig Counties, Va.; (5) from points in Missouri to points in Harlan County, Ky.; (6) from points in Missouri to points in, east and south of Delaware, Schoharie, Montgomery, Fulton, Hamilton, Essex and Clinton Counties, N.Y.; (7) from points in and north of Pike, Audrain, Callaway, Cole, Miller, Camden, Hickory, Polk, Dade and Jasper Counties, Mo. to points in and east of Trimble, Henry, Franklin, Woodford, Jessamine, Garrard, Rockcastle, Knox, and Bell Counties, Ky.; (8) from points in, north, and west of Pike, Montgomery, Callaway, Osage, Maries, Phelps, Texas, Douglas, and Ozark Counties, Mo. to points in, south, and east of Baltimore, Anne Arundel, and Prince Georges Counties, Md.

(9) From points in Missouri to points in Michigan; (10) from points in Missouri to points in, north, and west of Perkins, Lincoln, Dawson, Buffalo, Hall, Hamilton, York, Polk, Platte, Madison, Pierce, and Cedar Counties, Nebr.; (11) from points in, east, and south of Schuyler, Adair, Knox, Shelby, Monroe, Audrain, Boone, Moniteau, Morgan, Benton, Henry, and Bates Counties, Mo. to Nebraska, points on and west of U.S. Highway 81. The purpose of this filing is to eliminate the gateways of Jacksonville, Tex., Broken Bow, Okla., Florence, Ala., Chesterfield, Tenn. in (1) above. The purpose of this filing is to eliminate the gateways of Troup, Tex., Broken Bow, Okla., Jacksonville, Tex., Hugo, Okla. in (2) above. The purpose of this filing is to eliminate the gateways of Roland, Okla., Tom, Okla., Arkansas City, Kans., Talihina, Okla., Hugo, Okla. in (3) above. The purpose of this filing is to eliminate the gateways of Clinton, Ill., Lynch, Ky., Jackson, Tenn., Florence, Ala., Crummies, Ky., Cumberland, Ky., Bloomington, Ill., Harlan, Ky. in (4) above. The purpose of this filing is to eliminate the gateway of Evansville, Ind. in (5) above. The purpose of this filing is to eliminate the gateways of Clinton, Ill., Steubenville, Ohio, Philadelphia, Pa. in (6) above. The purpose of this filing is to eliminate the gateways of Clinton, Ill., Evansville, Ind. in (7) above. The purpose of this filing is to eliminate the gateways of Clinton, Ill., Steubenville, Ohio, Philadelphia, Pa. in (8) above. The purpose of this filing is to eliminate the gateways of Bloomington, Ill., Morton, Ill. in (9) above. The purpose of this filing is to eliminate the gateways of Avoca, Iowa, Harlan, Iowa, Newton,

Kans. in (10) above. The purpose of this filing is to eliminate the gateways of Avoca, Iowa, Newton, Kans. in (11) above.

No. MC 95540 (Sub-No. E473), filed May 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, 5299 Roswell Rd., NE., Suite 212, Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, and frozen vegetables*, from all points in New Jersey, to all points in Texas on and south of a line beginning at the New Mexico-Texas State line and extending along U.S. Highway 70 to U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 183, thence along U.S. Highway 183 to the Texas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC 107295 (Sub-No. E232), filed May 9, 1974. Applicant: PRE FAB TRANSIT CO., P.O. Box 148, Farmer City, Ill. Applicant's representative: Richard D. Vollmer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated building*, complete, knocked down, or in sections, (1) from points in Texas to points in Connecticut, Delaware, Rhode Island, South Carolina, Vermont, and the District of Columbia, (2) from points in that part of Texas in and west of Wichita, Archer, Young, Stephens, Eastland, Brown, McCulloch, Menard, Kimble, Edwards, Kinney, and Maverick Counties, to points in that part of Alabama in and east of Lauderdale, Lawrence Cullman, Blount, St. Clari, Talladega, Clay, Tallapoosa, Macon, Bullock, Barbour, Henry, and Houston Counties, and points in that part of Florida in and east of Jackson, Calhoun, and Gulf Counties and points in Georgia. The purpose of this filing is to eliminate the gateway of Pine Bluff, Ark.

No. MC 107295 (Sub-No. E234), filed May 9, 1974. Applicant: PRE-FAB TRANSIT CO., P.O. Box 148, Farmer City, Ill. 61042. Applicant's representative: Richard D. Vollmer (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, including all component parts thereof and *equipment and materials* incidental to the erection and completion of such buildings, (1) from points in Kansas to points in Alabama, Florida, Georgia, Mississippi, South Carolina, and points in that part of Louisiana in and east of Claiborne, Bienville, Winn, Grant, Rapides, Evangeline, Acadia, and Vermilion Parishes; (2) from points in Kansas to points in Kentucky and in that part of Tennessee in and east of Dyer, Crockett, Madison, Chester, and McNairy Counties; (3) from points in Kansas to points in that part of Tennessee in and west of Dyer, Crockett, Madison, Chester, and McNairy Counties, (4) from points in Kansas to points in that part of Iowa in, east and south of Lee, Henry, Washington, Johnson, Linn, Buchanan, Clayton, and Allamakee Counties and points in Michigan; (5) from points in that part of Kansas in and north of Meade, Ford, Edwards, Stafford, Reno, Harvey, Marion, Morris, Wahounsee, Shawnee, Jackson, Brown and Doniphan Counties, to points in that part of Missouri in, south and east of Cape Girardeau, Bollinger, Madison, Iron, Wayne, and Butler Counties; (6) from points in Kansas to points in Reynolds, Carter, Ripley, Oregon, Phelps, Shannon, Deat, Crawford, Pulaski, Texas, Wright, Howell, Douglas, and Ozark Counties, Mo.; (7) from points in that part of Kansas in and west of Doniphan, Atchison, Jackson, Pottawatomie, Wabaunsee, Morris, Marion, Harvey, Sedgwick, and Sumner Counties to points in Perry, St. Genevieve, St. Francois, and Washington Counties, Mo.; (8) from points in Kansas to points in Lincoln, Montgomery, Warren, St. Charles, St. Louis, St. Louis City, Jefferson, Franklin Counties, Mo. The purpose of this filing is to eliminate the gateways of Pine Bluff, Ark., points in Illinois, points in Arkansas, and points in Arkansas.

No. MC 107403 (Sub-No. E692), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry commodities* (except fly-ash, cement), in bulk, from points in Kentucky on and west of U.S. Highway 65 to points in both Ohio and West Virginia within 150 miles of Monongahela, Pa. The purpose of this filing is to eliminate the gateway of Zanesville, Ohio.

No. MC 107515 (Sub-No. E564), filed January 27, 1975. 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 Chambersburg, Pa., to California, Arizona, New Mexico, Utah, Idaho, Colorado, Washington, Oregon and points in Wyoming on or south of Interstate Highway 80, (B) from Milton, Pa., to California, Arizona, New Mexico, Utah, Idaho, Washington, Oregon, points in Colorado on, south or west of a line beginning at the Colorado-Kansas State line and extending along U.S. Highway 40 to junction Colorado Highway 71, thence along Colorado Highway 71 to the Colorado-Nebraska State line. Restriction: The service authorized herein is subject to the following conditions. The authority granted herein is restricted against the tacking of authorities at Milton, Pa., or the interlining of freight with other carriers at Milton, Pa., by carrier to provide any through service. The purpose of this filing is to eliminate the gateway of Dyersburg, Tenn.

No. MC 110420 (Sub-No. E95), filed June 4, 1974. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wisc. 53158. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup*, in bulk, in tank vehicles, from the facilities of Grain Processing Corporation (or its subsidiary Kent Feeds) at Muscatine, Iowa, (A) to points in New York and Pennsylvania, (B) to points in Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, Virginia and West Virginia, (C) to points in Texas and the District of Columbia, (D) to points in Maryland and Utah, and (E) to points in North Dakota. The purpose of this filing is to eliminate the gateways of Chicago, Pekin, and Granite City, Ill., North Kansas City, Mo., Hammond, Ind., and Cedar Rapids, Iowa.

No. MC 110420 (Sub-No. E96), filed June 4, 1974. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wisc. 53158. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup*, in bulk, in tank vehicles, from Clinton, Iowa, (A) to points in New York, Pennsylvania, Virgina, and West Virginia; (B) to points in Kansas, Kentucky and South Dakota; (C) to points in Maryland and Utah; (D) to points in Alabama, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina and Tennessee; and (E) to points in North Dakota, Oklahoma, and Texas. The purpose of this filing is to eliminate the gateways of Chicago, Ill., Cedar Rapids, Iowa, Pekin, Ill., North Kansas City, Mo., and Hammond, Ind.

No. MC 110420 (Sub-No. E97), filed June 4, 1974. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup*, in bulk, in tank vehicles, from North Kansas City, Mo., (A) to points in New York and Pennsylvania; (B) to points in Tennessee; (C) to points in Mississippi and Oklahoma; (D) to points in Alabama, Georgia, and points in Louisiana in and east of West Feliciana, Pointe Coupe, Iberville, St. Martin and Iberia Parishes; (E) to points in North Carolina, South Carolina, Virginia and West Virginia; (F) to points in North Dakota in and north of McKenzie, Mountrail, Ward, McHenry, Pierce, Benson, Ramsey and Walsh Counties; (G) to points in Maryland; (H) to the District of Columbia. The purpose of this filing is to eliminate the gateways of Chicago and East St. Louis, Ill., St. Louis

and Kansas City, Mo., Pekin, Ill., Cedar Rapids, Iowa, Hammond, Ind., and Granite City, Ill.

No. MC 110420 (Sub-No. E100), filed June 4, 1974. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup*, in bulk, in tank vehicles, from St. Louis, Mo.; (a) to points in Indiana in and north of Benton, White, Carroll, Howard, Grant, Blackford, and Jay Counties, points in Iowa in and north and west of Page, Montgomery, Cass, Adair, Madison, Warren, Marion, Mahaska, Keokuk, Washington, and Louisa Counties, and points in Nebraska in and north and west of Red Willow, Frontier, Gosper, Phelps, Kearney, Adams, Hall, Hamilton, York, Seward, Butler, Saunders, and Sarpy Counties; (b) to points in North Carolina in and east of Granville, Durham, Wake, Harnett, Cumberland, Bladen, and Columbus Counties; points in Virginia in and east of Craig, Roanoke, Bedford, and Pittsylvania Counties and points in West Virginia in and east of Wetzel, Harrison, Lewis, Upshur, Randolph, and Pocahontas Counties; (c) to points in Pennsylvania; (d) to points in North Dakota; (e) to points in Utah and points in Maryland (except Garrett and Allegany Counties); (f) to points in South Dakota, Texas, and the District of Columbia; (g) to points in New York and Ohio; (h) to points in Kentucky and Tennessee; (i) to points in Arkansas; and (j) to points in Minnesota and Wisconsin. The purpose of this filing is to eliminate the gateways of Pekin, Ill., the facilities of Lonza, Inc., at or near Mapleton, Ill., Cedar Rapids, Iowa, Hammond, Ind., North Kansas City, Mo., Granite City, Ill., and the facilities of Union Starch and Refining Co., Inc., at Granite City, Ill.

No. MC 111320 (Sub-No. E10), filed May 31, 1974. Applicant: KEEN TRANSPORT, INC., P.O. Box 668, Hudson, Ohio 44236. Applicant's representative: L. E. Gresh (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled road building equipment and parts thereof*, in driveaway and truckaway service, (1) between points in that part of Pennsylvania on and west of a line beginning at the Pennsylvania-West Virginia State line, thence along U.S. Highway 119 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Ohio-Pennsylvania State line, on the one hand, and, on the other, points in that part of Ohio on, west and north of a line beginning at Lake Ontario, thence along Interstate Highway 280 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction U.S. Highway 224, thence along U.S. Highway 224 to the Ohio-Indiana State line (2) between points in that part of Pennsylvania on, east and north of a line beginning at the West Virginia-Pennsylvania State line, thence along U.S. Highway 119 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Pennsylvania-Ohio State line, on the one hand, and, on the other, points in that part of Ohio on and west of a line beginning at Lake Ontario, thence along Interstate Highway 71 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Ohio-Kentucky State line. The purpose of this filing is to eliminate the gateway of Lorain, Ohio.

No. MC 113855 (Sub-No. E183), filed January 17, 1975. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such bulldozers, tractors* (not including truck tractors), *mining machinery, air-powered locomotives, scrapers, filter machines, power loading and unloading machinery*, which are *material handling equipment, winches, compaction and road making equipment, rollers, mobile cranes and highway freight trailers, and attachments for and parts of the specified commodities* moving with but not necessarily belonging to the particular units being transported, from the facilities of the Hyster Company at or near Crawfordsville, Ind., to points in Alaska. The purpose of this filing is to eliminate the gateway of Salt Lake City, Utah.

No. MC 113855 (Sub-No. E184), filed April 3, 1975. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, N.D. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Guy anchor rods, fence posts, pull rods, coiled rods, woven wire fencing, poultry nettings, nails, staples, fence posts, fence gates, wire* (including barbed wire), and *wire reinforcing mesh* which are iron and steel articles as described in Appendix V to the Report of the Commission in Ex Parte No. 45, *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209, from Bartonville, Ill. and Crawfordsville, Ind., to points in California, Oregon, Washington and Nevada. The purpose of this filing is to eliminate the gateway of Wyoming.

No. MC 113855 (Sub-No. E185), filed April 3, 1975. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, N.D. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel roofing and siding*, (a) from points in Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Mendocino, Tehama, Plumas, Glenn, Butte, Sutter, Colusa, Lake, Sonoma, Napa, Yolo, Sacramento, Solano, Marin, Contra Costa, San Joaquin, San Francisco, San Mateo, Alameda, Stanislaus, Santa Cruz, Santa Clara, Merced, Madera, Fresno, San Benito and Monterey Counties, Calif., to points in Connecticut, Delaware, Maryland, Maine, Massachusetts, Michigan, Minnesota, North Dakota, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Wisconsin, and the District of Columbia, (b) from points in Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Mendocino, Tehama, Plumas, Glenn, Butte, Sutter, Colusa, Lake, Sonoma, Napa, Yolo, Sacramento, Solano, Marin, Contra Costa, San Joaquin, San Francisco, San Mateo, Alameda, Stanislaus, Santa Cruz and Santa Clara Counties, Calif., to points in Ohio, Virginia and West Virginia. The purpose of this filing is to eliminate the gateway of Spokane County, Wash.

No. MC 115841 (Sub-No. E69), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and frozen berries*, in vehicles equipped with mechanical refrigeration, from Ranson, W. Va., to points in Arkansas, California, Louisiana, Mississippi, Oregon, and Washington. The purpose of this filing is to eliminate the gateway of Birmingham, Ala., or Chattanooga, Tenn.

No. MC 115841 (Sub-No. E70), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and frozen fruits, berries, and vegetables*, when moving in mixed loads with frozen foods, in vehicles equipped with mechanical refrigeration, from points in New York on and west of U.S. Highway 11 to points in Oklahoma and Texas. The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC 115841 (Sub-No. E71), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and frozen fruits, berries, and vegetables*, when moving in mixed loads with frozen foods, in vehicles equipped with mechanical refrigeration, from Albion, Avon, Fulton, Genesee, Holley, Leroy, Medina, Mt. Morris, Oswego, Waterport, and Wayland, N.Y., to points in Arkansas, California, Georgia, Oklahoma, Texas, and Kansas on and east of U.S. Highway 81. Restriction: Shipments destined to points in

Kansas are restricted to transportation of shipments of frozen foods, except frozen fruits, vegetables, and berries. The purpose of this filing is to eliminate the gateways of Chattanooga or Memphis, or Nashville, Tenn., or Birmingham, Ala.

No. MC 115841 (Sub-No. E104), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cheese products* and (2) *meats*, except canned meats, described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, restricted against transportation of said commodities when frozen, from the warehouses utilized by Armour and Co. and Klarer of Kentucky, Inc. at Indianapolis, Ind. to points in Texas on and south of Interstate Highway 20 and points in Arkansas on and south of Interstate Highway 40. The purpose of this filing is to eliminate the gateway of Birmingham, Ala. or Nashville, Tenn.

No. MC 115841 (Sub-No. E105), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INC., P.O. Box 10327, Birmingham, Ala. 35202. 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: *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, in vehicles equipped with mechanical refrigeration (except commodities in bulk and liquid commodities in bulk, in tank vehicles), from Bristol, Va. to points in Alabama, Arkansas, California, Georgia, Louisiana, Mississippi, Oklahoma, Missouri, Washington, Oregon, Texas, Wisconsin, and Minnesota. The purpose of this filing is to eliminate the gateway of Chattanooga, Tenn., or Birmingham, Ala. or Nashville, Tenn. or Montgomery, Ala.

No. MC 115841 (Sub-No. E106), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INC., P.O. Box 10327, Birmingham, Ala. 35202. 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: *Meats, meat products, and meat by-products* (except in bulk, in tank vehicles) as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 from Brundidge, Ala. and points in Alabama bounded on the north by a line beginning at the Mississippi-Alabama State line, thence along U.S. Highway 78 to junction U.S. Highway 278, thence along U.S. Highway 278 to the Alabama-Georgia State line and U.S. Highway 80 on the south to points in Illinois, Indiana, Kentucky, Michigan, North Carolina, Ohio, West Virginia, and Wisconsin. Restriction: Restricted against the transportation of traffic originating at Cullman, Ala. and further restricted against the transportation of traffic destined to points in North Carolina, except when such traffic originates at Brundidge, Ala. The purpose of this filing is to eliminate the gateways of Birmingham, Ala. and Chattanooga or Nashville, Tenn.

No. MC 115841 (Sub-No. E107), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INC., P.O. Box 10327, Birmingham, Ala. 35202. 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: *Frozen foods*, from points in the lower peninsula of Michigan to points in that part of California located on and south of a line beginning at the Nevada-California State line, thence along Interstate Highway 15 to junction California Highway 58, thence along California Highway 58 to California Highway 99, thence along California Highway 99 to junction California Highway 152, thence along California Highway 152 to the Pacific Ocean. The purpose of this filing is to eliminate the gateway of Birmingham, Ala.

No. MC 115841 (Sub-No. E108), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INC., P.O. Box 10327, Birmingham, Ala., 35202. 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: *Frozen foods*, in vehicles, equipped with mechanical refrigeration, from Nashville, Tenn. to points in California, Oregon, Washington and to New Orleans, La. The purpose of this filing is to eliminate the gateway of Birmingham, Ala.

No. MC 115841 (Sub-No. E109), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INC., P.O. Box 10327, Birmingham, Ala. 35202. 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: *Frozen foods*, (except meats, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 109 and 766), in vehicles equipped with mechanical refrigerations, from Kansas City, Mo.-Kansas to points in Connecticut, Florida, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island. The purpose of this filing is to eliminate the gateway of Nashville, Tenn. or Birmingham, Ala.

No. MC 115841 (Sub-No. E110), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INC., P.O. Box 10327, Birmingham, Ala. 35202. 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: *Grape juice, jams, jellies, preserves, fruit beverages, fruit sauces, and frozen juices and frozen concentrates*, in vehicles equipped with mechanical refrigeration (except commodities in bulk), in mixed loads with frozen foods, from Springdale, Ark. to points in Georgia, North Carolina, South Carolina, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateway of Chattanooga, Tenn.

No. MC 115841 (Sub-No. E111), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INC., P.O. Box 10327, Birmingham, Ala. 35202. 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: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from Chattanooga, Tenn. to points in California, Oregon, Washington, Missouri, Iowa and points in Kansas and Nebraska on and east of U.S. Highway 81. Restriction: Shipments to points in Iowa, Kansas and Nebraska are restricted to shipments of frozen foods, except frozen fruits, vegetables, and berries. The purpose of this filing is to eliminate the gateway of Birmingham, Ala. or Nashville, Tenn.

No. MC 115841 (Sub-No. E112), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INC., P.O. Box 10327, Birmingham, Ala. 35202. 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: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from Prattsville, N.Y. to points in Arkansas, California, Missouri, Oklahoma, Oregon, Texas, and Washington. The purpose of this filing is to eliminate the gateway of Birmingham, Ala. or Norfolk, Va., or Nashville, Tenn.

No. MC 115841 (Sub-No. E113), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INC., P.O. Box 10327, Birmingham, Ala. 35202. 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: *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, in vehicles equipped with mechanical refrigeration (except liquid commodities in bulk), from Chattanooga, Tenn. to points in Delaware,

Maryland, and to the District of Columbia. The purpose of this filing is to eliminate the gateway of Knoxville, Tenn.

No. MC 115841 (Sub-No. E114), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INC., P.O. Box 10327, Birmingham, Ala. 35202. 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: *Frozen foods*, including frozen fruits, berries, and vegetables when moving in mixed loads with frozen foods from New Orleans and Violet, La. to points in that part of Oklahoma located on and north of a line beginning at the Arkansas-Oklahoma State line, thence along Interstate Highway 40 to junction U.S. Highway 277, thence along U.S. Highway 277 to the Oklahoma-Texas State line. The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC 115841 (Sub-No. E115), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INC., P.O. Box 10327, Birmingham, Ala. 35202. 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: *Frozen foods*, including frozen fruits, berries, and vegetables when moving in mixed loads with frozen foods, from Biloxi, Gulfport, Ocean Springs, and Bay St. Louis, Miss. to points in Arkansas, Delaware, Iowa, Missouri, and to points in Kansas and Nebraska on and east of U.S. Highway 81. Restriction: Shipments destined to points in Delaware and Iowa are restricted to the transportation of frozen foods, except frozen fruits, berries, and vegetables. The purpose of this filing is to eliminate the gateway of Memphis or Nashville, Tenn.

No. MC 115841 (Sub-No. E132), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INC., P.O. Box 10327, Birmingham, Ala. 35202. 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: *Bananas*, in vehicles equipped with mechanical refrigeration, from Gulfport, Miss., to points in California,Connecticut, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, South Carolina, and Washington, and Atlanta, Ga. The purpose of this filing is to eliminate the gateways of points in Tennessee or Birmingham, Ala.

No. MC 115841 (Sub-No. E133), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INC., P.O. Box 10327, Birmingham, Ala. 35202. 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: *Bananas*, and *pineapples* and *coconuts* when moving in mixed loads with bananas, from New Orleans, La., to points in Connecticut, Illinois, Indiana, Kentucky, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Rhode Island. The purpose of this filing is to eliminate the gateway of Nashville, Tenn.

No. MC 115841 (Sub-No. E134), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INC., P.O. Box 10327, Birmingham, Ala. 35202. 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: *Bananas*, in vehicles equipped with mechanical refrigeration, from Mobile, Ala., to points in California, Connecticut, Georgia, Indiana, Kentucky, Massachusetts, Michigan, New Jersey, New York, Ohio, Oregon, Washington, Pennsylvania, Illinois, South Carolina, and Tennessee. The purpose of this filing is to eliminate the gateway of points in Alabama or Tennessee.

No. MC 115841 (Sub-No. E135), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INCORPORATED, P.O. Box 10327, Birmingham, Ala. 35202. 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: *Confectionary products* (except when frozen or in liquid commodities, in bulk, and in tank vehicles), in vehicles equipped with mechanical refrigeration, from Pittsburgh, Pa., to points in Texas and points in Oklahoma on and south of Interstate Highway 40. The purpose of this filing is to eliminate the gateway of Chattanooga, Tenn.

No. MC 115841 (Sub-No. E136), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INCORPORATED, P.O. Box 10327, Birmingham, Ala. 35202. 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: *Confectionary products*, except when frozen, as encompassed in prepared foods and foodstuffs, in vehicles equipped with mechanical refrigeration, from points in that part of New York on and west of U.S. Highway 11 and from New York, N.Y., Union City, and Jersey City, N.J., to points in Oklahoma and Texas. The purpose of this filing is to eliminate the gateway of Chattanooga, Tenn.

No. MC 115841 (Sub-No. E141), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INCORPORATED, P.O. Box 10327, Birmingham, Ala. 35202. 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: *Frozen poultry, frozen seafoods*, and *frozen fruits and vegetables* when in mixed loads with frozen poultry and frozen seafoods, from points in Delaware, Maryland, and points in Virginia east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal to points in Oklahoma and Texas. The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC 115841 (Sub-No. E142), filed June 4, 1974. Applicant: COLONIAL REFRIGERATION TRANSPORTATION INCORPORATED, P.O. Box 10327, Birmingham, Ala. 35202. 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: *Frozen fruits, frozen berries*, and *frozen vegetables*, in vehicles equipped with mechanical refrigeration, from points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, and points in California located on and south of a line beginning at the Nevada-California State line, thence along Interstate Highway 15 to junction California Highway 58, thence along California Highway 58 to junction California Highway 99, thence along California Highway 99 to junction California Highway 152, thence along California Highway 152 to the Pacific Ocean. The purpose of this filing is to eliminate the gateway of Birmingham, Ala., or Nashville, Tenn.

No. MC 116915 (Sub-No. E13), filed February 24, 1975. Applicant: ECK MILLER TRANSPORTATION CORP., Owensboro, Ky. Applicant's representative: William P. Sullivan, Federal Bar Bldg. West, 1819 H. Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum oil well and mine machinery, aluminum pipe and supplies and equipment, materials and supplies* used in the manufacture and processing of the foregoing commodities, between points in Georgia on and west of U.S. Highway 441, on the one hand, and, on the other, points in Pennsylvania and New York on, north and west of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 6 to junction Pennsylvania Highway 957 at Columbus, Pa., thence along Pennsylvania Highway 957 to Sugargrove, Pa., thence along unnumbered highway to Jamestown, N.Y., thence along New York Highway 17 to junction New York Highway 219, thence along New York Highway 219 to Great Valley, N.Y., and thence along New York Highway 58 to Gouveneur, N.Y., and thence along U.S. Highway 11 to Rouses Point, N.Y. The purpose of this filing is to eliminate the gateway of Hawesville, Ky.

No. MC 117344 (Sub-No. E64), (Correction), filed May 21, 1974, published in the

FEDERAL REGISTER March 27, 1975. Applicant: THE MAXWELL COMPANY, 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Thomas L. Maxwell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Dearborn County, Ind., Boone County, Ky., and points in Kentucky on and east of U.S. Highway 25 within 100 miles of Cincinnati, Ohio, to points in Wisconsin. The purpose of this filing is to eliminate the gateways of Cincinnati, Ohio, and Jackson County, Ind. The purpose of this correction is to correct the origin points.

No. MC 117344 (Sub-No. E72) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER April 8, 1975. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Thomas L. Maxwell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, in bulk, in tank vehicles, from Dearborn County, Ind., to points in Illinois and from Switzerland County, Ind., to points in Illinois on and north of U.S. Highway 36. The purpose of this filing is to eliminate the gateway of Cincinnati, Ohio. The purpose of this correction is to correct the origin points.

No. MC 117344 (Sub-No. E99), filed May 19, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Thomas L. Maxwell (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 Delaware County, Ohio, to points in Illinois on and south of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 36 to Decatur, thence along Illinois Highway 121 to Peoria, thence along U.S. Highway 150 to Galesburg, thence along U.S. Highway 34 to the Illinois-Iowa State line (except points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone as defined by the Commission). The purpose of this filing is to eliminate the gateway of Jackson County, Ind.

No. MC 117344 (Sub-No. E100), filed May 19, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Thomas L. Maxwell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegeable oils*, in bulk, in tank vehicles, from points in Kentucky on and west of a line beginning at the Kentucky-Ohio State line and extending along U.S. Highway 27 to Paris, Ky., thence along Interstate Highway 75 to the Kentucky-Tennessee State line (except Louisville), to points in Ohio on and north of U.S. Highway 50. The purpose of this filing is to eliminate the gateway of Cincinnati, Ohio.

No. MC 117344 (Sub-No. E101), filed May 19, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Thomas L. Maxwell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Dearborn and Ohio Counties, Ind., on and south of U.S. Highway 50 to points in Wisconsin. The purpose of this filing is to eliminate the gateways of Cincinnati, Ohio, and Jackson County, Ind.

No. MC 117344 (Sub-No. E102), filed May 19, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Thomas L. Maxwell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from Columbia Park (Hamilton County), Ohio, to points in Tennessee on and west of U.S. Highway 127. The purpose of this filing is to eliminate the gateway of Jackson County, Ind.

No. MC 117344 (Sub-No. E103), filed May 19, 1974. Applicant: THE MAXWELL COMPANY, 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Thomas L. Maxwell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquid hydrogen), in bulk, in tank vehicles, from Louisville, Ky., to points in Illinois on, north, and west of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 50 to junction U.S. Highway 45, thence along U.S. Highway 45 to Vienna, thence along Illinois Highway 146 to junction Illinois Highway 37, thence along Illinois Highway 37 to the Illinois-Kentucky State line, to points in Indiana on and north of U.S. Highway 50 and to points in Ohio (except points within 150 miles of Cincinnati). Restriction: The service authorized herein is restricted against the transportation of petro-chemicals, dry, to points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone as defined by the Commission. The purpose of this filing is to eliminate the gateway of Jackson County, Ind.

No. MC 117344 (Sub-No. E104), filed May 19, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Thomas L. Maxwell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paints, resins*, and *varnishes*, in bulk, in tank vehicles, from Dayton, Ohio, to points in Illinois, on, south, and west of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 50 to Olney, thence along Illinois Highway 130 to Newton, thence along Illinois Highway 33 to Effingham, thence along Interstate Highway 57 to Chicago, to points in Indiana on and south of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 52 to junction Indiana Highway 46, thence along Indiana Highway 46 to Spencer, thence along Indiana Highway 67 to junction Indiana Highway 54, thence along Indiana Highway 54 to junction U.S. Highway 41, thence along U.S. Highway 41 to Indiana Highway 154, thence along Indiana Highway 154 to the Indiana-Illinois State line and *paints* and *varnishes*, in bulk, in tank vehicles, to points in Arkansas. The purpose of this filing is to eliminate the gateway of Covington, Ky. (a point in the Cincinnati, Ohio, commercial zone).

No. MC 117344 (Sub-No. E105), filed May 19, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Thomas L. Maxwell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Vegetable oils*, in bulk, in tank vehicles, from points in Indiana on and north of Interstate Highway 70, on and east of a line beginning at Indianapolis and extending along U.S. Highway 31 to Kokomo, thence along U.S. Highway 35 to Logansport, and on and south of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 224 to Huntington, thence along U.S. Highway 24 to Logansport (except Indianapolis) to points in New York on, east, and south of a line beginning New York-Pennsylvania State line and extending along New York Highway 79 to New York Highway 7, thence along New York Highway 7 to the New York-Vermont State line and points in Pennsylvania on and east of U.S. Highway 11; and (2) *Vegetable oils*, in bulk, in tank vehicles, from points in Indiana north of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 224 to Huntington, thence along U.S. Highway 224 to Huntington, thence along U.S. Highway 24 to Logansport, on and east of U.S. Highway 35 extending to Michigan City, and on, west, and south of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 30 to Ft. Wayne, thence along U.S. Highway 33 to the Indiana-Michigan State line to points in New York on and east of U.S. Highway 209, thence along U.S. Highway 209 to junction Interstate Highway 87, thence along Interstate Highway 87 to junction New York Highway 23 and on and south of New York Highway 23 and to points in Pennsylvania on, east, and south of a line beginning at the Pennsylvania-Maryland State line and extending along U.S. Highway 15 to Harrisburg, thence along U.S. Highway 22 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateway of Cincinnati, Ohio.

No. MC 117344 (Sub-No. E106), filed May 19, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Thomas L. Maxwell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over

irregular routes, transporting: (1) *Vegetable oils*, in bulk, in tank vehicles, from points in Illinois on and south of U.S. Highway 136 (except Decatur), and points in Indiana on and south of a line beginning at the Indiana-Illinois State line and extending along U.S. Highway 36 to Indianapolis, thence along Interstate Highway 74 to the Indiana-Ohio State line (except Indianapolis), and *Soya bean oil*, in bulk, in tank vehicles, from Decatur, Ill., to points in Ohio on and east of Illinois Highway 4; and (2) *Vegetable oils*, in bulk, in tank vehicles, from points in Illinois north of U.S. Highway 136 and on and south of Interstate Highway 74 (except Bloomington), and *Soya bean oil*, from Bloomington, Ill., to points in Ohio on, south, and east of a line beginning at Cincinnati, and extending along Ohio Highway 4 to Bucyrus, thence along U.S. Highway 30N to Mansfield, thence along U.S. Highway 42 to Ashland, thence along Ohio Highway 58 to Lorain. The purpose of this filing is to eliminate the gateway of Cincinnati, Ohio.

No. MC 117344 (Sub-No. E107), filed May 19, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Stiverson & Alden, P.O. Box 5241, Columbus, Ohio 45212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, which are chemicals, in bulk, in tank vehicles (1) from points in Indiana within 50 miles of Cincinnati, Ohio and on and south of U.S. Highway 50 to points in Michigan on, east and north of a line beginning at the Michigan-Ohio State line and extending along U.S. Highway 127 to junction U.S. Highway 27 at Lansing, Mich., and extending along U.S. Highway 27 to Clare, Mich., thence along U.S. Highway 10 to Ludington, Mich., (except the port of entry at or near Port Huron, Mich.), (2) from points in Dearborn and Ohio Counties, Ind., to points in Michigan (except Grand Rapids, Kalamazoo and the port of entry at or near Port Huron, Mich.), and (3) from Franklin County, Ind., to points in Michigan on, east and north of a line beginning at the Michigan-Ohio State line and extending along U.S. Highway 127 to the junction of U.S. Highway 27 at Lansing, Mich., and extending along U.S. Highway 27 to Clare, Mich., thence along U.S. Highway 10 to Ludington, Mich. (except the port of entry at or near Port Huron, Mich.). The purpose of this filing is to eliminate the gateways of Cincinnati, Ohio and the plant site of the American Agriculture Chemical Company near Cairo, Ohio.

No. MC 117344 (Sub-No. E108), filed May 19, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Stiverson & Alden, P.O. Box 5241, Columbus, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soya bean oil*, in bulk, in tank vehicles, from Louisville, Ky., to points in Michigan on, east and north of a line beginning Michigan-Indiana State line and extending along U.S. Highway 131 to Michigan Highway 89, thence along Michigan Highway 89 to Lake Michigan. The purpose of this filing is to eliminate the gateway of Cincinnati, Ohio.

No. MC 117344 (Sub-No. E109), filed May 19, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Stiverson & Alden, P.O. Box 5241, Columbia, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the Report in *Descriptions in Motor Carrier Certificates*, 61, M.C.C. 209, in bulk, in tank vehicles, from Boone County, Ky.; Campbell County, Ky., and Kenton County, Ky. and points in Kentucky on and east of U.S. Highway 27 and on and north of State route 32 within 100 miles of Cincinnati, Ohio to points in Indiana. The purpose of this filing is to eliminate the gateway of Cincinnati, Ohio, and Warren County, Ohio.

No. MC 117344 (Sub-No. E110), filed May 19, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Stiverson & Alden, P.O. Box 5241, Columbus, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, in bulk, in tank vehicles (1) from points in Illinois on and south of a line beginning at the Illinois-Indiana State line and extending west along U.S. route 24 to Peoria thence west along Interstate route Interstate Highway 74 to the Illinois-Iowa State line (except Decatur and Bloomington) to points in New York and Pennsylvania; (2) from points in Illinois north of the line described in (1) above and on and south of U.S. route 52 to points in New York on and east of a line beginning at the New York-Pennsylvania State line and extending north along State route 14 to Elmira, thence north along State route 13 to Ithaca, thence north along State route 34 to its junction with State route 104 thence north along State route 34 to its junction with points in Pennsylvania on south and east of a line beginning at the Pennsylvania-West Virginia State line and extending east along U.S. route 22 to its junction with U.S. route 220 thence northeast along U.S. route 220 to the Pennsylvania-New York state line. The purpose of this filing is to eliminate the gateway of Cincinnati, Ohio.

No. MC 117344 (Sub-No. E111), filed May 19, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Stiverson & Alden, P.O. Box 5241, Columbus, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar* and *coal tar products*, in bulk, in tank vehicles, from Lawrence County, Ohio to points in Indiana and those in Tennessee on and west of U.S. route 231. The purpose of this filing is to eliminate the gateway of Covington, Ky. (a point in the Cincinnati, Ohio Commercial Zone).

No. MC 117344 (Sub-No. E112), filed May 19, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Stiverson & Alden, P.O. Box 5241, Columbus, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, in bulk, in tank vehicles, from Cincinnati, Ohio to points in Missouri (except those east of a line beginning at Festus, Mo. and proceeding southwest along State route 21–A to its junction with State route 21, thence southwest along State route 21 to the Missouri-Arkansas boundary). The purpose of this filing is to eliminate the gateway of Mrs. Tucker's Foods, Division of Anderson Clayton Company near Jacksonville, Ill.

No. MC 117344 (Sub-No. E113), filed May 19, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Stiverson & Alden, P.O. Box 5241, Columbus, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquid hydrogen) in bulk, in tank vehicles; (1) from Boone, Kenton and Campbell Counties, Ky. and points in Kentucky on and east of U.S. Route 25 and on and north of State route 32 within 100 miles of Cincinnati, Ohio to points in Illinois; (2) from points in Kentucky on and east of U.S. route 25 and south of State route 32 within 100 miles of Cincinnati, Ohio to points in Illinois on west and north of a line beginning at the Illinois-Indiana State line and extending west along U.S. Highway 36 to Decatur thence southwest along State route 48 to Interstate Highway 55 thence south along Interstate Highway 55 to East St. Louis, Ill.; (3) from points in Dearborn and Ohio Counties, Ind. on and east of a line beginning at the Indiana-Ohio line and extending southwest along U.S. route 50 to Aurora thence southwest along State route 56 to the Ohio-Switzerland County line to points in Illinois except Vermilion County. Restriction: The service authorized herein is restricted against the transportation of Petrochemicals, dry, to points in the St. Louis, Mo.-East St. Louis, Ill. Commercial Zone as defined by the Commission. The purpose of this filing is to eliminate the gateway of Cincinnati, Ohio & Jackson County, Ind.

No. MC 117344 (Sub-No. E114), filed May 19, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Stiverson & Alden, P.O. Box 5241, Columbus, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar chemicals*, in bulk, in tank vehicles, from Lawrence County, Ohio, to points in Alabama,

Arkansas, Iowa, Kansas, Louisiana, Mississippi, Missouri (except points in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone as defined by the Commission), Oklahoma and Texas. The purpose of this filing is to eliminate the gateway of the facilities of the Polymers & Chemical Division of W. R. Grove & Co., at Owensboro, Ky.

No. MC 117344 (Sub-No. E115), filed May 19, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Stiverson & Alden, P.O. Box 5241, Columbus, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar chemicals*, in bulk, in tank vehicles, from Lawrence County, Ohio to points in Illinois (except points in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone, as defined by the Commission) and Wisconsin. The purpose of this filing is to eliminate the gateway of Covington, Ky. (a point in the Cincinnati, Ohio Commercial Zone) and Jackson County, Ind.

No. MC 117493 (Sub-No. E1), filed May 25, 1974. Applicant: DIAL MOTOR LINES, INC., 901 Woodline Avenue, Cornwells Heights, Pa. 19020. Applicant's representative: Harvey Weiner (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, Class A and B explosives, automobiles, dairy products, livestock, fish, poultry, petroleum products, baggage, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between the plant site of the Charmin Paper Division of Proctor and Gamble located near Mehoopany, Pa., on the one hand, and, on the other, Pennsauken, N.J. The purpose of this filing is to eliminate the gateway of Trenton, N.J.

No. MC 117574 (Sub-No. E4) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER April 1, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, Pa. 17013. Applicant's representative: E. S. Moore, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, which because of size or weight, require the use of special equipment (except boats and machinery, equipment, materials, and supplies, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines), between points in Rhode Island, on the one hand, and, on the other, points in Florida, Georgia, South Carolina, and North Carolina (except points in the North Carolina Counties of Gates, Chowan, Washington, Pamlico, Carteret, Craven, Beaufort, Currituck, Camden, Pasquotank, Perquimans, Tyrrell, Hyde, Dare, Hertford, Bertie, Martin, Pitt, Jones, and Onslow) (points in that part of Pennsylvania on and east of U.S. Highway 219, to the junction with U.S. Highway 322, thence on and north of a line beginning at Grampian, Pa., and extending along U.S. Highway 322 through Clearfield and State College, Pa., to Lewistown, Pa., thence along U.S. Highway 522 to Selinsgrove, Pa., and on and west of U.S. Highway 11 to the New York-Pennsylvania State line; points in Pennsylvania on and east of U.S. Highway 15 in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa.; points in Susquehanna, Wayne, Wyo., Lackawanna, Pike, Columbia, Luzerne, Monroe, Carbon, Schuylkill, Lebanon, and Berks Counties, Pa., and points in those parts of Bradford, Sullivan, Lycoming, Montour, York, Northumberland, Dauphin, and Lancaster Counties, Pa., east of a line beginning at the Pennsylvania-Maryland State line near New Freedom, Pa., and extending along York, Hummelstown, Trevorton, Opp, and East Smithfield, Pa., to the Pennsylvania-New York State line; and points in Northampton, Bucks, Montgomery, Philadelphia, Delaware, Lehigh, and Chester Counties, Pa.)*. The purpose of this filing is to eliminate the gateway indicated by asterisks above. The purpose of this filing is to correct territorial destination in part 1 and the remainder is correct.

No. MC 117574 (Sub-No. E13) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER March 26, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, Pa. 17013. Applicant's representative: E. S. Moore, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Self-propelled stone crushing equipment and self-propelled automatic loading equipment*, each weighing 15,000 pounds or more, and *stone crushing equipment* and *automatic loading equipment* which because of size or weight requires the use of special equipment, between points in Maine, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, District of Columbia, and points in Virginia east of the Chesapeake Bay, on the one hand, and, on the other, all points in Arizona, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming, and those points in Tennessee in and west of the counties of Robertson, Davidson, Williamson, Maury, Marshall, and Giles. Restriction: The operations authorized herein are subject to the following conditions: Said operations are restricted to the transportation of commodities which are transported on trailers. Said operations are restricted against the transportation of machinery, equipment, materials, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines (points and places in a Pennsylvania area bounded on the north by the New York-Pennsylvania State line, thence by highways beginning at junction of the New York-Pennsylvania State line with U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction U.S. Highway 219, thence along U.S. Highway 219 to the Pennsylvania-New York State line, including points on the indicated highways, Galion, Ohio, Gettysburg, Pa., and points within 80 miles of Columbia, Ohio)*; and (4) *Stone crushing equipment and automatic loading equipment*, which because of size or weight, require the use of special equipment, or is self-propelled, each weighing 15,000 pounds or more, between (a) points in Michigan in and east of the counties of Ottawa, Allegan, Van Buren, Kalamazoo, Berrien, Cass, and St. Joseph, on the one hand, and, on the other, all points in North Carolina, and those in Tennessee in and east of the counties of Clay, Jackson, Putnam, White, Van Buren, Sequatchie, and Hamilton, and (b) between points in Ohio in and west of the counties of Lucas, Wood, Hancock, Hardin, Logan, Champaign, Clark, Green, Warren, and Hamilton, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island, Delaware, Maryland, New York, New Jersey, Pennsylvania (except Erie County), and points in Virginia on and east of Interstate Highway 95. Restriction: The operations authorized herein are restricted to commodities which are transported on trailers (Galion, Ohio, and 80 miles radius of Columbus, Ohio)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above. The purpose of this correction is to include (4) (b) above.

No. MC 117574 (Sub-No. E19) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER March 26, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, Pa. 17013. Applicant's representative: E. S. Moore, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heating and steam generating equipment*, and *related accessories and equipment* used in connection with heating and steam generating equipment, the transportation of which because of size or weight, requires the use of special equipment, and (B) *Heating and steam generating equipment*, and *related accessories and equipment*, the transportation of which because of size or weight, does not require the use of special equipment, when moving in the same vehicle or as part of the same shipment with commodities specified in (1) above; (a) between points in Connecticut, Massachusetts, Rhode Island, New Jersey, Delaware, points in Pennsylvania east of a line beginning at the Pennsylvania-Maryland State line near New Freedom, Pa., and extending north through York,

Hummelstown, Trevorton, Opp, and East Smithfield, Pa., to the Pennsylvania-New York State line, points in Maryland in Baltimore, Harford, Cecil, Kent, Queen Annes, Talbot, Caroline, and Dorchester Counties, and those in New York on and east of a north-south line drawn along U.S. Highway 11 from the Pennsylvania-New York State line to New York Highway 3, thence along New York Highway 3 to the shore of Lake Ontario, on the one hand, and, on the other, all points in Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Texas, and points in South Carolina, on and south of a line drawn along U.S. Highway 521 to junction U.S. Highway 52, thence along U.S. Highway 52 to Charleston, S.C., those in Tennessee in and west of Fentress, Morgan, Roane, Loudon, Monroe, and Polk Counties; and (b) between points in Connecticut, Massachusetts, Rhode Island, points in New Jersey in and north of Mercer and Middlesex Counties, points in Pennsylvania east of a line beginning at the Pennsylvania-Maryland State line near New Freedom, Pa., and extending north through York, Hummelstown, Trevorton, Opp, and East Smithfield, Pa., to the Pennsylvania-New York State line, those in New York on and east of New York Highway 7, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Michigan, Minnesota, South Carolina, Tennessee, Wisconsin, points in Ohio (except in Ashtabula, Lake, Geauga, and Trumbull Counties), points in North Carolina in and west of Carteret, Jones, Kinston, Greene, Edgecombe, Halifax, and Northampton Counties, and points in West Virginia on and west of Interstate Highway 77. The purpose of this filing is to eliminate the gateway of the facilities of Cleaver-Brooks Co., near Manheim, Pa. The purpose of this correction is to include (b) above.

No. MC 117574 (Sub-No. E27) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER April 1, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, Pa. 17013. Applicant's representative: E. S. Moore, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, between the plant site of the Bethlehem Steel Corporation located at Burns Harbor, Porter County, Ind., on the one hand, and, on the other, points in West Virginia, and those points in Kentucky in and east of the counties of Mason, Fleming, Rowan, Morgan, Wolfe, Breathitt, Perry, Leslie, and Bell, restricted to the transportation of traffic originating at said plant site (Franklin County, Ohio) *; and (2) *Iron and steel articles*, which because of size or weight, require the use of special equipment (except machinery, equipment, materials, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines), between the plant site of the Bethlehem Steel Corporation at Burns Harbor, Porter County, Ind., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and those in Virginia in and east of the counties of Highland, Augusta, Nelson, Amherst, Campbell, and Halifax, and the District of Columbia (Gettysburg, Adams County, Pa., Bradford, McKean County, Pa., and Lancaster, Lancaster County, Pa.) *. The purpose of this filing is to eliminate the gateways indicated by asterisks above. The purpose of this correction is to correct the territorial description.

No. MC 117574 (Sub-No. E42) (Correction), filed November 18, 1974, published in the FEDERAL REGISTER March 26, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, Pa. 17013. Applicant's representative: E. S. Moore, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (3) (a) *Agricultural implements, agricultural machinery, tractors* (other than truck-tractors), *incidental machinery*, which are also mechanical equipment, and *attachments* and *parts* of such mechanical lifting equipment, when moving with such implements, machinery, and tractors (except that which because of size or weight requires the use of special equipment), (b) *Mechanical lifting equipment* for sewage, water, and refuse treatment systems, the transportation of which because of size or weight requires the use of special equipment, and *attachments* and *parts* for mechanical lifting equipment, used in connection with the erection and construction of sewage, water, and refuse treatment systems (except commodities in bulk), between points in Maine, New Hampshire, and Vermont, on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Minnesota, Mississippi, Wisconsin, Michigan, (except points in Hillsdale, Lakeland, Lenawee, Monroe, Washtenaw, and Wayne Counties), Ohio (except points north of a line beginning at the Ohio-Pennsylvania State line on Interstate Highway 80, thence along Interstate Highway 80 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction U.S. Highway 224 at Lodi, Ohio, thence along U.S. Highway 224 to junction Ohio Highway 19, thence along Ohio Highway 19 to junction Ohio Highway 235, thence along Ohio Highway 235 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Ohio-Indiana State line), points in Maryland west of Washington County, points in North Carolina in and west of Bladen, Brunswick, Caswell, Chatham, Columbus, Cumberland, Harnett, Lee, and Orange Counties, and points in Virginia in or west of Amherst, Augusta, Clarke, Campbell, Page, Pittsylvania, Rockbridge, Rockingham, and Warren Counties; and (5) (a) *Agricultural implements, agricultural machinery, tractors* (other than truck-tractors), *incidental machinery*, which are also mechanical equipment, and *attachments* and *parts* of such mechanical lifting equipment, when moving with such implements, machinery, and tractors (except that which because of size or weight requires the use of special equipment), (5) (b) *Mechanical lifting equipment* for sewage, water, and refuse treatment systems, the transportation of which because of size or weight, requires the use of special equipment, used in connection with for mechanical lifting equipment, used in connection with the erection and construction of sewage, water, and refuse treatment systems (except commodities in bulk), between points in New Castle County, Del., points in the Maryland Counties of Baltimore, Carroll, Cecil, Frederick, Harford, Kent, and Washington, and those in New York in and east of the counties of Cayuga, Chemung, Oswego, Seneca, and Schuyler, on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Iowa, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, those in West Virginia (except points in the counties of Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, Morgan, and Pendleton), and those in North Carolina on and west of a line from the North Carolina-South Carolina State line extending along U.S. Highway 321 to junction U.S. Highway 21, thence along U.S. Highway 21 to the Atlantic Ocean, and those in Virginia in the counties of Bland, Buchanan, Carroll, Dickenson, Grayson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe. The purpose of this filing is to eliminate the gateway of the facilities of Fulton Industries at or near McConnellsburg, Pa. The purpose of this partial correction is to correct the territorial description. The remainder of this letter-notice remains as previously published.

No. MC 117574 (Sub-No. E44) (Correction), filed November 18, 1974, published in the FEDERAL REGISTER March 26, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, Pa. 17013. Applicant's representative: E. S. Moore, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mechanical lifting equipment*, (which is also heavy machinery and building or contractor's equipment, or, heavy and bulky articles, or articles requiring specialized handling or rigging because of size or weight), between points in Pennsylvania, on and east of Interstate Highway 81 on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Illinois, Iowa, Kentucky, Louisiana, Upper Peninsula of Michigan, Minnesota, Mississippi, Missouri, South Carolina, Tennessee, Wisconsin and points in Indiana (except points in Steuben County), points in Maryland in the Counties of Allegany, Garrett and Washington, points in North Carolina in and west of the Counties of Alamance, Caswell, Chatham, Cumberland, Harnett and Robeson, Points in Ohio on and south of a line commencing at the Indiana-Ohio State line on U.S.

Highway 33, thence easterly along U.S. Highway 33 to its junction with U.S. Highway 50, thence along U.S. Highway 50 to the Ohio-West Virginia State line, points in West Virginia on and south of a line beginning at the Ohio-West Virginia State line near Parkersburg, West Virginia on U.S. Highway 50, thence along U.S. 50 to the Virginia-West Virginia State line, and points in Virginia West Virginia State line, and points in Virginia on, south and west of a line beginning at the Virginia-West Virginia State line on U.S. Highway 50, thence along U.S. Highway 50 to its intersection with Interstate Highway 81, thence along Interstate Highway 81 to its intersection with U.S. Highway 60, thence easterly along U.S. Highway 60 to U.S. Highway 29, thence in a southerly direction along U.S. Highway 29 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateway of (facilities of Fulton Industries at or near McConnellsburg, Pennsylvania*). The purpose of this correctiion is to correct the territorial description.

No. MC 118130 (Sub-No. E3), filed June 6, 1974. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, Tex. 76115. Applicant's representative: Billy R. Reid, 6108 Sharon Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from New Orleans, La., to points in Arizona, California, Colorado, Nebraska, New Mexico, Oregon, and Utah. The purpose of this filing is to eliminate the gateway of Houston, Tex.

No. MC 118130 (Sub-No. E4), filed June 6, 1974. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, Tex. 76115. Applicant's representative: Billy R. Reid, 6108 Sharon Rd., Fort Worth, Tex. 76116. 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 (except commodities in bulk), from Garden City, Kans., to all points in Florida, Georgia, North Carolina, and South Carolina, and all points in Alabama on and south of U.S. Highway 80. The purpose of this filing is to eliminate the gateway of Lubbock, Tex.

No. MC 118130 (Sub-No. E7), filed June 6, 1974. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Forth Worth, Tex. 76115. Applicant's representative: Billy R. Reid, 6108 Sharon Rd., Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Gulfport, Miss., to all points in California, Minnesota, Nebraska, and Utah; all points in Iowa on and west of U.S. Highway 71 beginning at the Minnesota-Iowa State line, to junction Interstate Highway 80, thence along Interstate Highway 80 to the Nebraska-Iowa State line; and all points in Kansas on and west of Interstate Highway 35. The purpose of this filing is to eliminate the gateway of Houston, Tex.

No. MC 119493 (Sub-No. E2), filed June 3, 1974. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular transporting: *Manufactured animal and poultry feeds*, from points in that part of Kansas on or bounded by a line beginning at the Kansas-Nebraska State line extending along Kansas Highway 161 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Kansas Highway 68, thence along Kansas Highway 68 to the Kansas-Missouri State line, thence along the Kansas-Missouri State line to junction U.S. Highway 54, thence along U.S. Highway 54 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Kansas Highway 57, thence along Kansas Highway 57 to junction Kansas Highway 150, thence along Kansas Highway 150 to junction U.S. Highway 56, thence along U.S. Highway 56 to junction Kansas Highway 96, thence along Kansas Highway 96 to the Colorado-Kansas State line; (a) to points in Illinois, Tennessee, and Mississippi; (b) to points in Arkansas east of U.S. Highway 167; and (c) to points in that part of Louisiana south and east of a line beginning at the Arkansas-Louisiana State line extending along U.S. Highway 165 to junction Louisiana Highway 28, thence along Louisiana Highway 28 to junction Louisiana Highway 8, thence along Louisiana Highway 8 to the Louisiana-Texas State line. The purpose of this filing is to eliminate the gateway of Missouri.

No. MC 119493 (Sub-No. E10), filed May 17, 1974. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cottonseed meal, soybean meal*, and *such other by-products* of cottonseed and soybeans as are used as animal or poultry feeds (except in bulk, in tank or hopper type vehicles), from points in Indiana to points in Oklahoma, and points in that part of Kansas on and south of a line beginning at the Kansas-Colorado State line extending along U.S. Highway 70 to junction U.S. Highway 35W, thence along U.S. Highway 35W to junction U.S. Highway 54, thence along U.S. Highway 54 to the Kansas-Missouri State line. The purpose of this filing is to eliminate the gateways of Joplin, Mo., and points in Missouri within 5 miles thereof.

No. MC 119493 (Sub-No. E12), filed May 17, 1974. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, and *canned goods* in mixed loads with canned packaged animal feed, from the facilities of Mavar Shrimp & Oyster Co., Ltd., at or near Biloxi, Miss., to points in North Dakota. The purpose of this filing is to eliminate the gateway of the facilities of Allen Canning Co., at Siloam Springs and Gentry, Ark., and at a point 10 miles east of Siloam Springs, Ark.

No. MC 119493 (Sub-No. E15), filed May 17, 1974. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fish meal*, in bulk and in bags, restricted to fish meal which is used as animal or poultry feed, from points in Texas to points in Minnesota. The purpose of this filing is to eliminate the gateway of Joplin, Mo.

No. MC 119493 (Sub-No. E19), filed May 17, 1974. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured animal and poultry feeds, dehydrated and suncured alfalfa*, and *such oat and corn by-products* as are used as animal or poultry feeds or ingredients thereof, from points in that part of Iowa north of a line beginning at the Iowa-South Dakota State line extending along U.S. Highway 20 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction Iowa Highway 163, thence along Iowa Highway 163 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Iowa-Missouri State line, and points in that part of Nebraska north of a line beginning at the Nebraska-Wyoming State line extending along U.S. Highway 26 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 77, thence along U.S. Highway 77 to the Nebraska-Kansas State line, to points in Louisiana and points in that part of Arkansas east of a line beginning at the Arkansas-Missouri State line extending along U.S. Highway 65 to junction U.S. Highway 167, thence along U.S. Highway 167 to the Arkansas-Louisiana State line. The purpose of this filing is to eliminate the gateway of Missouri.

No. MC 119493 (Sub-No. E21), filed May 17, 1974. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New containers* (except glass and

cardboard containers), from points in that part of Kansas north of a line beginning at the Kansas-Colorado State line extending along Kansas Highway 96 to junction U.S. Highway 283, thence along U.S. Highway 283 to junction U.S. Highway 56, thence along U.S. Highway 56 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction U.S. Highway 160, thence along U.S. Highway 160 to the Kansas-Missouri State line and from points in that part of Iowa west of a line beginning at the Iowa-Missouri State line extending along U.S. Highway 71 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction Iowa Highway 330, thence along Iowa Highway 330 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Iowa Highway 13, thence along Iowa Highway 13 to the Wisconsin-Iowa State line, to points in Louisiana and to points in that part of Mississippi on and west of a line beginning at the Mississippi-Arkansas State line extending along U.S. Highway 82 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction Mississippi Highway 27, thence along Mississippi Highway 27 to junction Mississippi Highway 28, thence along Mississippi Highway 28 to junction Mississippi Highway 13, thence along Mississippi Highway 13 to junction Mississipi Highway 11, thence along Mississippi Highway 11 to junction Mississippi Highway 53, thence along Mississippi Highway 53 to junction U.S. Highway 49, thence along U.S. Highway 49 to junction U.S. Highway 90, thence along U.S. Highway 90 to the Alabama-Mississippi State line. The purpose of this filing is to eliminate the gateways of points in Missouri on and bounded by a line beginning at the Missouri-Oklahoma State line extending along U.S. Highway 60 to junction U.S. Alternate Highway 71, thence along U.S. Alternate Highway 71 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Missouri Highway 126, thence along Missouri Highway 126 to the Kansas-Missouri State line.

No. MC 119493 (Sub-No. E22), filed May 17, 1974. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New bags and containers* (except glass and cardboard containers), from points in Alabama, Mississippi, and Tennessee to points in Nevada (except Las Vegas and Henderson). The purpose of this filing is to eliminate the gateways of points in Missouri on or bounded by a line beginning at the Missouri-Oklahoma State line extending along U.S. Highway 60 to junction U.S. Alternate Highway 71, thence along U.S. Alternate Highway 71 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Missouri Highway 126, thence along Missouri Highway 126 to the Kansas-Missouri State line.

No. MC 119493 (Sub-No. E23), filed May 17, 1974. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty containers* used in transporting commercial fertilizer, from points in North Dakota, South Dakota, and points in that part of Nebraska on and north of a line beginning at the Arkansas-Nebraska State line extending along U.S. Highway 30 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction Nebraska Highway 14, thence along Nebraska Highway 14 to the Kansas-Nebraska State line, to points in Louisiana and points in that part of Texas on and bounded by a line beginning at the Texas-Oklahoma State line extending along U.S. Highway 75 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction Texas Highway 9, thence along Texas Highway 9 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateways of Horn, Mo., and points in Jasper and Newton Counties, Mo., within 10 miles thereof.

No. MC 119493 (Sub-No. E24), filed May 17, 1974. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New bags*, from St. Louis, Mo., to; (a) points in that part of Missouri on or bounded by a line beginning at the Oklahoma-Missouri State line extending along U.S. Highway 60 to junction Alternate U.S. Highway 71, thence along Alternate U.S. Highway 71 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Missouri Highway 160, thence along Missouri Highway 160 to the Missouri-Kansas State line; (b) points in that part of Kansas on or bounded by a line beginning at the Kansas-Missouri State line extending along Kansas Highway 126 to junction U.S. Highway 160, thence along U.S. Highway 160 to the Cherokee-Labette County line, thence along the Cherokee-Labette County line to the Kansas-Oklahoma State line; and (c) points in that part of Oklahoma on or bounded by a line beginning at the Kansas-Oklahoma State line extending along Oklahoma Highway 2 to junction U.S. Highway 44, thence along U.S. Highway 44 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Oklahoma-Missouri State line. The purpose of this filing is to eliminate the gateway of Joplin, Mo.

No. MC 119493 (Sub-No. E25), filed May 17, 1974. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New containers* (except glass and cardboard containers), from points in North Dakota, South Dakota, and points in that part of Nebraska east of a line beginning at the Nebraska-South Dakota State line extending along U.S. Highway 83 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 77, thence along U.S. Highway 77 to the Nebraska-Kansas State line, to points in that part of Texas east of a line beginning at the Texas-Oklahoma State line extending along U.S. Highway 75 to junction U.S. Highway 35E, thence along U.S. Highway 35E to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 281, thence along U.S. Highway 281 to the United States-Mexico International Boundary line. The purpose of this filing is to eliminate the gateway of Greene, Jasper, and Newton Counties, Mo.

No. MC 119493 (Sub-No. E26), filed MAY 31, 1974. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty containers*, used in transporting commercial fertilizer, from points in Minnesota, St. Joseph, Mo., and Sioux City, Iowa, to points in that part of Mississippi south of a line beginning at the Mississippi-Arkansas State line extending along Mississippi Highway 8 to junction Mississippi Highway 1, thence along Mississippi Highway 1 to junction Mississippi Highway 12, thence along Mississippi Highway 12 to junction Mississippi Highway 35, thence along Mississippi Highway 35 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Alabama-Mississippi State line, and to points in that part of Alabama south of a line beginning at the Mississippi-Alabama State line extending along U.S. Highway 81 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Alabama-Georgia State line. The purpose of this filing is to eliminate the gateway of Horn, Mo., and points in Jasper and Newton Counties, Mo., which are within ten miles thereof.

No. MC 119493 (Sub-No. E28), filed May 17, 1974. Applicant: MONKEN COMPANY, INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New bags*, from St. Louis, Mo., to points in Texas, and points in that part of Louisiana on and west of a line beginning at the Arkansas-Louisiana State line extending along U.S. Highway 71 to junction U.S. Highway 171, thence along U.S. Highway 171 to junction U.S. Highway 90, thence along U.S. Highway 90 to the Louisiana-Texas State line. The purpose of this filing is to eliminate the gateways of Joplin, Mo., and points within 5 miles thereof.

No. MC 119493 (Sub-No. E31), filed May 17, 1974. Applicant: MONKEN COMPANY, INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New prefabricated bags*, from Tulsa, Okla., to the facilities of Trojan Powder Co., at or near Wolf Lake, Ill., and the facilities of U.S. Powder Company at or near Terre Haute, Ind. The purpose of this filing is to eliminate the gateway of Joplin, Mo., and points within 5 miles thereof.

No. MC 119493 (Sub-No. E32), filed May 17, 1974. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New bags* used in the transportation of commercial fertilizer, from St. Louis to Military, Kans. The purpose of this filing is to eliminate the gateway of points within 10 miles of Horn, Mo., which are within 5 miles of Joplin, Mo.

No. MC 119493 (Sub-No. E33), filed May 17, 1974. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New bags*, from St. Louis, Mo., to points in Nevada (except Las Vegas and Henderson). The purpose of this filing is to eliminate the gateways of Joplin, Mo., and points in Missouri within five miles thereof.

No. MC 119493 (Sub-No. E34), filed May 17, 1974. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New prefabricated containers* (except glass and cardboard containers), from points in North Dakota, South Dakota, and Nebraska to points in Alabama, Mississippi, and Louisiana. The purpose of this filing is to eliminate the gateways of Greene, Jasper, and Newton Counties, Mo.

No. MC 119493 (Sub-No. E36), filed May 17, 1974. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty containers* used in the transportation of commercial fertilizer, from points in Missouri on and south of U.S. Highway 70, points in Arkansas and points in that part of Oklahoma on and east of a line beginning at the Kansas-Oklahoma State line extending along U.S. Highway 75 to junction Indian Nation Turnpike, thence along the Indian Nation Turnpike to the Texas-Oklahoma State line, to points in Nevada (except Las Vegas and Henderson). The purpose of this filing is to eliminate the gateway of the facilities of the Spencer Chemical Co., at or near Military, Kans.

No. MC 119493 (Sub-No. E37), filed May 17, 1974. Applicant: MON KEM CO., INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty prefabricated containers*, used in transporting commercial fertilizer from points in Kansas, Nebraska, North Dakota, and South Dakota to points in Alabama and Mississippi. The purpose of this filing is to eliminate the gateways of Horn, Mo., and points in Jasper and Newton Counties, Mo., within 10 miles thereof.

No. MC 119493 (Sub-No. E39), filed June 3, 1974. Applicant: MON KEM COMPANY, INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured animal feed* (except in bulk, in tank or hopper-type vehicles), from the facilities of Usen Products Company at or near Golden Meadow and Lockport, La., to points in Minnesota. The purpose of this filing is to eliminate the gateways of Texas and Joplin, Mo.

No. MC 119493 (Sub.No. E41), filed June 3, 1974. Applicant: MON KEM COMPANY, INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cottonseed meal, such by-products of cottonseed and soybeans* as are used as animal feeds, in containers, from New Orleans, La., to Nebraska, Kansas, and points in that part of Iowa on, north and west of a line beginning at the Iowa-Nebraska State line extending along U.S. Highway 34 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 149, thence along Iowa Highway 149 to junction Iowa Highway 150, thence along Iowa Highway 150 to the Iowa-Minnesota State line. The purpose of this filing is to eliminate the gateways of Texas and Joplin, Mo.

No. MC 119493 (Sub-No. E45), filed June 3, 1974. Applicant: MON KEM COMPANY, INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured animal feed*, in containers, from New Orleans, La., to points in Nebraska, Kansas, and points in that part of Iowa on, north and west of a line beginning at the Iowa-Nebraska State line extending along U.S. Highway 34 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 149, thence along Iowa Highway 149 to junction Iowa Highway 150, thence along Iowa Highway 150 to the Iowa-Minnesota State line. The purpose of this filing is to eliminate the gateways of Texas and Joplin, Mo.

No. MC 119531 (Sub-No. E129), filed June 4, 1974. Applicant: SUN EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Paul F. Beery, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper cartons* used in the packaging of glassware and glass containers, from Winchester, Ind., to points in (1) New Jersey and New York, (2) West Virginia, (3) Maryland, (4) Tennessee, (5) Pennsylvania. Restriction: The service authorized above is restricted to shipments originating at Winchester, Ind. The purpose of this filing is to eliminate the gateways of (1) Cleveland, Ohio; (2) Circleville, Ohio; (3) Mt. Vernon, Ohio; (4) Cincinnati, Ohio; and (5) Worthington, Ohio.

No. MC 119641 (Sub-No. E2), filed May 9, 1974. Applicant: RINGLE EXPRESS, Inc., P.O. Box 335, Moline, Ill. 61265. Applicant's representative: Robert C. Doran (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery and parts*, from points in Missouri to points in Illinois on and northeast of a line beginning at the Iowa-Illinois State line extending along Illinois Highway 92 to junction Illinois Highway 192, thence along Illinois Highway 192 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction Illinois Highway 127, thence along Illinois Highway 127 to the Illinois-Kentucky State line. The purpose of this filing to to eliminate the gateway of Shelbyville, Ill.

No. MC 119656 (Sub-No. E1), filed May 31, 1974. Applicant: NORTH EXPRESS, INC., 219 E. Main Street, Winamac, Ind. 46996. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such metal tubing* as in building materials, roofing materials, hardware, or merchandise, from Chicago, Ill., to Warren, Lester, Eddystone, Essington, Philadelphia, and Mountaintop, Pa., Harrison, N.J., Wichita, Kans., and points in Ohio, that part of New York on and west of a line beginning at Oswego, thence along New York Highway 57 to Syracuse, thence along U.S. Highway 11 to the New York-Pennsylvania State line, and that part of Michigan on, south and east of a line beginning at Lake Huron, thence along unnumbered highway to Roseburg, thence along unnumbered highway to junction Michigan Highway 19, thence along Michigan Highway 19 to junction Michigan Highway 90, thence along Michigan Highway 90 to Brown City, thence along unnumbered highway to Allentown, thence along unnumbered highway to New Haven, thence along

unnumbered highway to New Baltimore. The purpose of this filing is to eliminate the gateway of the plant site of Plymouth Tube Division of Van Pelt Corporation at or near Winamac, Ind.

No. MC 119656 (Sub-No. E2), filed May 31, 1974. Applicant: NORTH EXPRESS, INC., 219 E. Main Street, Winamac, Ind. 46996. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Finished and semi-finished steel springs*, from Chicago, Ill., to points in Kentucky (except Louisville and the Commercial Zone thereof as defined by the Commission), Pennsylvania, Missouri, Tennessee, Alabama, Oklahoma, Kansas, North Dakota, and Texas. The purpose of this filing is to eliminate the gateway of Winamac, Ind.

No. MC 119968 (Sub-No. E2) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER February 11, 1975. Applicant: A. J. WEIGAND, INC., 3966 Pearl Road, Cleveland, Ohio 44109. Applicant's representative: Paul F. Beery, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are manufactured and sold by chemical manufacturing plants* (except petroleum products, in bulk, in tank trucks), when moving to or from warehouses or other facilities of chemical manufacturing plants, that are included in machinery, equipment, materials, and supplies used by chemical manufacturing plants, in bulk, between points in Erie County, Pennsylvania, on the one hand, and, on the other, points in Illinois; Kentucky, those points in Indiana south of a line beginning at Gary, Indiana, and extending south along Interstate Highway 65 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction Indiana Highway 14, thence along Indiana Highway 14 to junction Indiana Highway 5, thence along Indiana Highway 5 to junction U.S. Highway 224, thence along U.S. Highway 224 to junction U.S. Highway 33, thence along U.S. Highway 33 to the Indiana-Ohio State line; those points in Ohio south and west of a line beginning at the Indiana-Ohio State line and extending east along U.S. Highway 33 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Ohio Highway 39, thence along Ohio Highway 39 to junction Interstate Highway 77, thence along Interstate Highway 77 to the Ohio-West Virginia State line; and those points in West Virginia on and west of Interstate Highway 77. The purpose of this filing is to eliminate the gateway of Dover, Ohio. The purpose of this filing is to expand the territorial destinations.

No. MC 119968 (Sub-No. E5) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER February 10, 1975. Applicant: A. J. WEIGAND, INC., 3966 Pearl Rd., Cleveland, Ohio 41109. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such commodities as are manufactured and sold by chemical manufacturing plans (except petroleum products, in bulk, in tank trucks), when moving to or from warehouses or other facilities of chemical manufacturing plants, that are included in machinery, equipment, materials, and supplies used by chemical manufacturing plants), in bulk, between points in the counties of Armstrong, Beaver, Butler, and Lawrence Counties, Pa., on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, the Southern Peninsula of Michigan, those in Ohio west of a line beginning at Toledo, Ohio, and extending south and east along Ohio Highway 2 to junction U.S. Highway 250, thence along U.S. Highway 250 to junction Ohio Highway 4, thence along Ohio Highway 4 to junction U.S. Highway 224, thence along U.S. Highway 224 to junction Ohio Highway 60, thence along Ohio Highway 60 to junction Ohio Highway 39, thence along Ohio Highway 39 to junction Interstate Highway 77, thence along Interstate Highway 77 to the Ohio-West Virginia State line, those in West Virginia on and west of Interstate Highway 77. The purpose of the filing is to eliminate the gateway of Dover, Ohio. The purpose of this filing is to correct the territorial destination.

No. MC 119968 (Sub-No. E16) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER February 11, 1975. Applicant: A. J. WEIGAND, INC., 3966 Pearl Rd., Cleveland, Ohio 44109. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are manufactured and sold by chemical manufacturing plants* (except petroleum products, in bulk, in tank trucks), when moving to or from warehouses or other facilities of chemical manufacturing plants, that are included in machinery, equipment, materials, and supplies used by chemical manufacturing plants, that are included in machinery, equipment, materials, and supplies used by chemical manufacturing plants, in bulk, between points in Ohio on, west, and south of a line beginning at Sandusky, Ohio, and extending south along U.S. Highway 250 to junction Ohio Highway 18, thence along Ohio Highway 18 to junction Ohio Highway 183, thence along Ohio Highway 183 to junction Ohio Highway 43, thence along Ohio Highway 43 to junction Ohio Highway 9, thence along Ohio Highway 9 to junction U.S. Highway 250, thence along U.S. Highway 250 to the Ohio-West Virginia State line, those points in West Virginia on and west of a line beginning at the Ohio-West Virginia State line, and extending east along U.S. Highway 250 to junction West Virginia Highway 2, thence along West Virginia Highway 2 to junction U.S. Highway 60, thence along U.S. Highway 60 to the West Virginia-Kentucky State line, those points in Kentucky on and north of a line beginning at the Kentucky-West Virginia State line and extending west along U.S. Highway 60 to intersection U.S. Highway 23, thence along U.S. Highway 23 to junction Kentucky Highway 10, thence along Kentucky Highway 10 to junction Kentucky Highway 8, thence along Kentucky Highway 8 to its termination near North Bend, Ohio, on the one hand, and, on the other, points in that part of Connecticut on and north of a line beginning at the Massachusetts-Connecticut State line and extending south along U.S. Highway 7 to junction U.S. Highway 44, thence along U.S. Highway 44 to junction Connecticut Highway 44 to junction Connecticut Highway 2, thence along Connecticut Highway 2 to junction Connecticut Highway 85, thence along Connecticut Highway 85 to New London, Conn., Rhode Island, Massachusetts, those points in New York bounded by a line beginning at junction New York Highway 12 and New York Highway 58 near Morristown, N.Y., thence south along New York Highway 12 to junction New York Highway 7, thence along New York Highway 7 to junction New York Highway 23, thence along New York Highway 23 to the New York-Massachusetts State line, thence north along the New York State line to the United States-Canada International Boundary line, thence along the New York State line to points of origin. The purpose of this filing is to eliminate the gateway of Dover, Ohio. The purpose of this filing is to correct the territorial destination.

No. MC 123685 (Sub-No. E20) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER March 26, 1975. Applicant: PEOPLES CARTAGE, INC., 8045 Navarre Road, SW., Massillon, Ohio 44646. Applicant's representative: James W. Muldoon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer ingredients, and pesticides*, in bags, and in bulk, in dump vehicles, between points in Franklin County, Ohio, on the one hand, and, on the other, points in New York, those points in Pennsylvania on and north and east of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 224 to junction Interstate Highway 79, thence along Interstate Highway 79 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Pennsylvania-Maryland State line, and those points in Michigan on and north of Sheboygan and Emmet Counties Road C-66. The purpose of this filing is to eliminate the gateway of Orrville, Ohio. The purpose of this correction is to extend the highway descriptions.

No. MC 124211 (Sub-No. E26), filed April 22, 1974. Applicant: HILT TRUCK LINES, INC., P.O. Box 988 D. T. S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as

above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats* (except commodities in bulk, and frozen foods), from the plant site and storage facilities of Missouri Beef Packers, Inc., at or near Phelps City, Mo., to those points in Oklahoma on and west of a line beginning at the Kansas-Oklahoma State line and extending along U.S. Highway 81 to junction Oklahoma Highway 3, thence along Oklahoma Highway 3 to Oklahoma City, Okla., thence along U.S. Highway 77 to the Oklahoma-Texas State line and those points in Texas on and west of U.S. Highway 75. The purpose of this filing is to eliminate the gateway of Lincoln, Nebr.

No. MC 124211 (Sub-No. E27), filed April 22, 1974. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D. T. S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass containers*, from the plant site of Anchor Hocking Glass Corp., at Gurnee, Ill., to points in California and those in Texas on and west of U.S. Highway 75. The purpose of this filing is to eliminate the gateways of Alliance, David City, Fairtown, Fremont, Lincoln, McCook, Norfolk, Omaha, and Scottsbluff, Nebr.

No. MC 136247 (Sub-No. E1) (Correction), filed May 28, 1974, published in the FEDERAL REGISTER April 2, 1975. Applicant: WRIGHT TRUCKING, INC., 1303–10th Street SE., Jamestown, North Dakota 58401. Applicant's representative: Gerald D. Wright (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* and *articles* dealt in by wholesale beverage distributors, (2) from Milwaukee, Wis., to points in that part of North Dakota located on and west of a line beginning at the South Dakota-North Dakota State line thence along North Dakota Highway to junction North Dakota Highway 27, thence along North Dakota Highway 27 to junction North Dakota Highway 32, thence along North Dakota Highway 32 to junction North Dakota Highway 46, thence along North Dakota Highway 46 to junction North Dakota Highway 38, thence along North Dakota Highway 38 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction North Dakota Highway 18, thence along North Dakota Highway 18 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction Interstate Highway 29, thence along Interstate Highway 29 to junction U.S. Highway 81, thence along U.S. Highway 81 to the North Dakota-Canada International Boundary line. The purpose of this filing is to eliminate the gateway of Jamestown, N.D. The purpose of this filing is to correct the territorial destination in part 2 and the remainder is correct.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-11857 Filed 5-5-75;8:45 am]

federal register

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PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS ADVISORY GROUPS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 101]

PROFESSIONAL STANDARDS REVIEW ADVISORY GROUPS

Notice of Proposed Rulemaking

Notice is hereby given that the Assistant Secretary for Health of the Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, proposes to add a new Subpart U, entitled "Membership, Organization and Functions of Advisory Groups to Professional Standards Review Organizations" to Part 101 of Title 42, Code of Federal Regulations. The purpose of the new Subpart U of Part 101 is to establish regulations governing the membership, organization and functions of Advisory Groups to Professional Standards Review Organizations in States with no Statewide Professional Standards Review Council, under section 1162(e) of the Social Security Act (42 U.S.C. 1320c–11(e)). Regulations concerning Advisory Groups to Statewide Professional Standards Review Councils will be published at a later date following resolution of questions concerning the relationship between Statewide Professional Standards Review Councils and their respective Advisory Groups.

Interested persons are invited to submit written comments, suggestions or objections concerning the proposed regulations to the Director, Bureau of Quality Assurance, Health Services Administration, Room 16A–55, 5600 Fishers Lane, Rockville, Maryland 20852, on or before June 5, 1975. All comments received in timely response to this notice will be considered and will be available for public inspection in the above-named office during regular business hours.

It is proposed to make this regulation effective upon republication in the FEDERAL REGISTER.

Dated: April 7, 1975.

THEODORE COOPER,
Acting Assistant Secretary for Health.

Approved: April 29, 1975.

CASPAR W. WEINBERGER,
Secretary.

It is therefore proposed to amend 42 CFR Part 101 by adding a new Subpart U as set forth below.

Subpart U—Membership, Organization and Functions of Advisory Groups to Professional Standards Review Organizations

Sec.
101.2101 Scope.
101.2102 Membership.
101.2103 Organizational Requirements.
101.2104 Reporting Requirements.
101.2105 Duties and Functions.

AUTHORITY: Secs. 1102 and 1162(e), Social Security Act (42 U.S.C. 1302, 1320c–11(e)).

Subpart U—Membership, Organization and Functions of Advisory Groups to Professional Standards Review Organizations

§ 101.2101 Scope.

Section 1162(e) of the Social Security Act (hereinafter termed "the Act") provides that each Professional Standards Review Organization in any State not having a Statewide Professional Standards Review Council shall be advised and assisted in carrying out its functions by an Advisory Group. This subpart establishes the requirements for Professional Standards Review Organizations to follow in establishing and utilizing such Advisory Groups.

§ 101.2102 Membership.

(a) *Composition, Terms and Qualifications.* (1) Each Advisory Group shall have a minimum of seven and a maximum of eleven members.

(2) Advisory Group members shall be appointed for terms of one or two years. An appointed member shall not be eligible to serve continuously for more than two terms. No more than one-half of the members of an Advisory Group shall be appointed for an initial term in any year subsequent to the first year.

(3) The membership of each Advisory Group shall consist of representatives of health care practitioners (other than physicians), of hospitals and of other health care facilities which provide within the Professional Standards Review Organization area health care services for which payment, in whole or in part, may be made under titles V, XVIII, of XIX of the Act and who are knowledgeable about the types of health care services being reviewed in the Professional Standards Review Organization area. In addition, the membership of each Advisory Group shall meet the following requirements:

(i) *Representatives of health care practitioners (other than physcians).* At least one-half of the members of each Advisory Group shall be representatives of health care practitioners (other than physicians). For purposes of this subpart, health care practitioners (other than physicians) are those health professionals who do not hold a Doctor of Medicine or Doctor of Osteopathy degree, meet all applicable State requirements for practice of their profession, and are actively involved in the delivery of direct patient care services which are directly or indirectly reimbursed under titles V, XVIII and/or XIX of the Act. Each such representative shall practice his or her profession in the Professional Standards Review Organization area.

(ii) *Representatives of hospitals.* One or more members of each Advisory Group shall be representatives of hospitals. Each such representative shall be actively involved in the administration of or provision of services in a hospital which is located in the Professional Standards Review Organization area, and which has arrangements for reimbursement for services under titles V, XVIII and/or XIX of the Act.

(iii) *Representatives of other health care facilities.* One or more members of each Advisory Group shall be representatives of health care facilities other than hospitals. At least one such member shall be a representative of a skilled nursing facility (as defined in section 1861(j) of the Act) or of an intermediate care facility (as defined in 45 CFR 249.10(b)(15)). Each such representative shall be actively involved in the administration of or provision of services in a health care facility other than a hospital which is located in the Professional Standards Review Organization area and which has in effect arrangements for reimbursement for services under titles V, XVIII and/or XIX of the Act.

(b) *Selection procedures.* (1) Each Professional Standards Review Organization in a State not having a Statewide Professional Standards Review Council shall have a standing committee, called the Advisory Group Nominating Committee, which shall solicit recommendations and nominate persons for Advisory Group membership. Each Advisory Group Nominating Committee shall have no fewer than five members and shall include at least three members of the governing body of the Professional Standards Review Organization.

(2) Each Professional Standards Review Organization shall develop a written plan for the selection of Advisory Group members. Such plan shall be submitted to the Secretary no later than 90 days after the date of execution of an agreement between the Secretary and the Professional Standards Review Organization under section 1152(a) of the Act, and must be approved by the Secretary prior to the selection of any Advisory Group members. Such plan shall include the following provisions:

(i) Specification of the composition of the Advisory Group, including plans to rotate membership among practitioner and health care facility groups.

(ii) Specification of the organizations of health care practitioners (other than physicians), of hospitals and of other health care facilities from which recommendations will be sought by the Advisory Group Nominating Committee. If there are organizations comprised of practitioners or facilities within the Professional Standards Review Organization area, such organizations shall be included.

(iii) Criteria and procedures for review of recommendations by the Advisory Group Nominating Committee.

(iv) Criteria and procedures for selection of Advisory Group members by the governing body of the Professional Standards Review Organization.

§ 101.2103 Organizational requirements.

(a) Each Advisory Group shall establish its own organizational structure, elect its own chairperson, and develop written operating procedures, consistent with this subpart.

(b) Each Advisory Group shall meet as a whole at least quarterly.

(c) Minutes shall be recorded for all Advisory Group meetings and shall be available to the membership and the public except where such meetings deal with review cases, sanctions, or appeals.

(d) Each Professional Standards Review Organization shall provide its Advisory Group with staff support sufficient to enable the Advisory Group to carry out its duties and functions under this subpart.

(e) Expenses reasonably and necessarily incurred, as determined by the Secretary, by an Advisory Group in carrying out its duties and functions under this subpart shall be considered to be expenses necessarily incurred by its Professional Standards Review Organization.

§ 101.2104 Reporting requirements.

(a) Each Professional Standards Review Organization shall include in its annual progress report to the Secretary the following information:

(1) The Plan described in § 101.2102 (b)(2).

(2) The membership of the Advisory Group Nominating Committee.

(3) The membership of the Advisory Group.

(4) The organization of the Advisory Group.

(5) The Advisory Group's activities for the year, including the number of meetings, a descrfption of specific projects, accomplishments, and recommendations made by the Advisory Group to its Professional Standards Review Organization.

(b) Each Advisory Group shall prepare an annual report assessing the involvement of health care practitioners (other than physicians), and of hospitals and other health care facilities in the Professional Standards Review Organization program in its Professional Standards Review Organization area. The annual report shall be submitted to the Secretary as part of the annual progress report of its Professional Standards Review Organization referred to in § 101.2104(a).

§ 101.2105 Duties and functions.

(a) Each Advisory Group shall advise and assist its Professional Standards Review Organization in the performance of its functions, specifically in the following areas and in any other areas considered appropriate by the Professional Standards Review Organization:

(1) In assuring maximum effective involvement of health care practitioners (other than physicians) in the Professional Standards Review Organization activities in its Professional Standards Review Organization area.

(2) In developing effective relationships with organizations representing health care practitioners (other than physicians), hospitals and/or health care facilities within the Professional Standards Review Organization area.

(3) In carrying out the functions of the Professional Standards Review Organization under section 1160(c) of the Act.

(4) In developing any modifications of the formal plan pursuant to section 1154 of the Act.

(b) An Advisory Group may undertake other activities with the approval of its Professional Standards Review Organization.

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PART III

DEPARTMENT OF DEFENSE

CORPS OF ENGINEERS

and

ENVIRONMENTAL PROTECTION AGENCY

■

NAVIGABLE WATERS PROCEDURES AND GUIDELINES FOR DISPOSAL OF DREDGED OR FILL MATERIAL

DEPARTMENT OF DEFENSE

Corps of Engineers

[33 CFR Part 209]

PERMITS FOR ACTIVITIES IN NAVIGABLE WATERS OR OCEAN WATERS

Proposed Policy, Practice and Procedure

Notice is hereby given that alternative regulations set forth in tentative form below are proposed by the Secretary of the Army (acting through the Chief of Engineers) to supersede portions of present regulations in 33 CFR 209.120.

All of these proposed changes pertain to those activities, all or a portion of which involve the disposal of dredged or fill material into waters of the United States. This would include activities involving the disposal of dredged material in water, and also on land if part of that dredged material runs back into the water. With respect to fill material, it would include any activity involving the creation of fastland to preclude the inundation of water, such as bulkhead and filling and other types of similar activities involving the extension of real property into a waterbody or the protection of land from erosion. The creation of planned elevations in a water's underlying bed would also be included in the types of activities to be regulated under this proposed regulation even if those planned elevations are not intended to preclude the water from regular or periodic inundation of the area.

Certain of these proposed regulations, if adopted, will require a Department of the Army permit for the water disposal of dredged or fill material in virtually every natural and artificial water in the United States. This would include low lying areas such as marshes, swamps, bogs, and inland and coastal shallows contiguous to these waters, regardless of whether these areas are regularly or only periodically inundated by water. The other proposed regulations would limit the types of waters and areas for which a Department of the Army permit would be required for these types of activities.

The proposed regulations are being published within prescribed time constraints pursuant to the order of the United States District Court for the District of Columbia in NRDC v. Callaway, et al, Civil Action No. 74-1242 (D.C.D.C. March 27, 1975). As a result of these judicially imposed time constraints, this Agency has not been able to prepare an environmental assessment or environmental impact statement pursuant to the National Environmental Policy Act and the Guidelines of the Council on Environmental Quality, or an inflation impact statement pursuant to Executive Order.

On 3 April 1974, the Department of the Army (acting through the Chief of Engineers) published final regulations in the FEDERAL REGISTER which prescribed the policy, practice, and procedure to be followed by all Corps of Engineers installations and activities in connection with applications for permits for activities in navigable waters and ocean waters.

These regulations provided revisions to the existing Corps of Engineers Regulatory Permit Program for structures or work in navigable waters of the United States under section 9 and 10 of the River and Harbor Act of 1899 (33 USC 401, 403), and also implemented the new regulatory permit program required by section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 USC 1344) with respect to the disposal of dredged or fill material in navigable waters, and section 103 of the Marine Protection Research and Sanctuaries Act of 1972 (33 USC 1413) with respect to the transportation of dredged material for disposal in ocean waters.

The FWPCA defines "navigable waters" as "waters of the United States, including the territorial seas." The 3 April 1974 regulation administratively defined this term (para. d) to mean "navigable waters of the United States", and provided that Department of the Army permits for the disposal of dredged or fill material in such waters would be required pursuant to section 404 of the FWPCA. The term "navigable waters of the United States" has been administratively defined by the Corps of Engineers in another regulation (which was published in the FEDERAL REGISTER on 9 September 1972 and is now codified in 33 CFR 209.260) to include all waters which are presently used, or were used in the past, or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate commerce shoreward to their ordinary high water mark. In addition, all waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark (mean higher high water mark on the west coast) are included in this definition of navigable waters of the United States.

The position that section 404 of the FWPCA is limited to only waters encumbered by the Federal navigation servitude (i.e., navigable waters of the United States) was challenged by the Natural Resources Defense Council and the National Wildlife Federation in a suit filed against the Secretary of the Army, the Chief of Engineers, and Administrator of the Environmental Protection Agency on 16 August 1974. Subsequently, the State of Florida intervened in this litigation on behalf of the plaintiffs. This suit alleged that the Department of the Army, acting through the Chief of Engineers, had failed to implement the full statutory mandate of the FWPCA by limiting its jurisdiction under section 404 of the FWPCA to only navigable waters of the United States. On 27 March 1975, the District Court for the District of Columbia ordered the revocation and rescission of that part of the Department of the Army's regulation "which limits the permit (section 404) jurisdiction of the Corps by definition or otherwise to other than the waters of the United States." The Court further ordered publication of proposed regulations within 15 days (later amended to 40 days) which clearly recognize the full regulatory mandate of the FWPCA with respect to section 404, and final regulations within 30 days of the date of the order (later amended to within 40 days of the date of the publication of proposed regulations).

The meaning of the term "waters of the United States" as used in the FWPCA has never been further defined by statute or court decision. The legislative history of the FWPCA as contained in the Conference Report to the FWPCA indicates that the term "navigable waters" was "to be given its broadest possible constitutional interpretation unencumbered by agency determinations which have been made or may be made for administrative purposes." pretation unencumbered by agency determinations which have been made or may be made for administrative purposes." S. Rep. No. 1236, 92d Cong., 2d Sess., at 144 (Sep. 8, 1972). The Environmental Protection Agency has defined this term in its regulations implementing the NPDES pollutant discharge permit program under section 402 of the FWPCA (33 USC 1342) to include the following waters (40 CFR 125.1(o)):

a. All navigable waters of the United States;

b. Tributaries of navigable waters of the United States;

c. Interstate waters;

d. Intrastate lakes, rivers, and streams which are utilized by interstate travelers for recreational or other purposes;

e. Intrastate lakes, rivers, and streams from which fish or shellfish are taken and sold in interstate commerce; and

f. Intrastate lakes, rivers, and streams which are utilized for industrial purposes by industries in interstate commerce.

In addition, three recent court decisions have addressed a particular fill or pollutant discharge activity occurring at a particular site, and have concluded in each case that the site was "waters of the United States" within the meaning of the FWPCA (see U.S. v. Ashland Oil, 504 F. 2d 137 (5th Cir. 1974), extending section 311 of the FWPCA to the disposal of oil in tertiary tributaries; U.S. v. Holland, 373 F.S. 665, (M.D. Fla. 1974) extending the FWPCA to the disposal of fill material in areas inundated 50-100 times per year by tidal waters: and Leslie Salt v. Froehlke, Civil Action No. 73-2294 (N.D. Calif. 1975) extending the jurisdiction of the FWPCA to areas below the mean higher high water mark on the West Coast inundated daily by tidal water.

The term "waters of the United States" has not been further defined judicially or further clarified legislatively. Since the Department of the Army's present definition of this term has been judicially overruled, a broader definition of this term to include waters beyond those which fall within the traditional definition of "navigable waters of the United States" is required. Accordingly, four different alternative regulations, each of which contains either a broad or more

limited definition of this term, are being offered for review and public comment to assist in the implementation of the recent order of NRDC v. Callaway, supra. For purposes of clarification and understanding, the entire Corps of Engineers regulation on permits for work in navigable and ocean waters is being republished, with the four different alternatives replacing paragraphs d, e, and f of the existing regulation. Asterisks precede each of these paragraphs where a change has been made from the existing regulation. While any of these four alternatives could be adopted, the Department of the Army favors the adoption of proposed Alternative IV. However, public review and comment is urged on all four alternatives. The following is a summary of the four alternatives which are proposed:

Alternative 1. Under this alternative the Department of the Army's regulatory jurisdiction over the disposal of dredged or fill material would extend to virtually every coastal and inland artificial or natural waterbody. This would include all navigable waters of the United States, as discussed above, up to their headwaters and all tributaries of navigable waters of the United States up to their headwaters. It would also include all natural or artificial interstate waters and all natural or artificial intrastate lakes, rivers and streams utilized by interstate travelers for recreational or other purposes, utilized for the removal of fish sold in interstate commerce, utilized for industrial purposes by industries in interstate commerce, or used to produce or aid in the production of agricultural commodities sold or transported in interstate commerce. Jurisdiction over these particular waters would extend to the ordinary high water mark (which is that line impressed on land adjacent to the waterbody established by physical characteristics such as erosion, shelving, changes in the character of the soil, destruction of terrestrial vegetation or its inability to grow, the presence of litter and debris, or other appropriate means which consider the characteristics of the surrounding area) or to the "aquatic vegetation line", whichever extends further shoreward. The "aquatic vegetation line" is the line beyond which plants which depend on periodic inundation of the waterbody for growth, are unable to thrive.

Army jurisdiction under this Alternative would also extend to all coastal, riverine, estuarine and lake waters subject to the ebb and flow of the tide shoreward to the "aquatic vegetation line" or "mean monthly high tide line", whichever extend further shoreward. The "mean monthly high tide line" is the line on shore established by averaging the highest tide which occurs each month over an 18.6 year period.

The effect of this alternative, therefore, would be to regulate all disposal of dredged or fill material in virtually every wetland contiguous to coastal waters, rivers, estuaries, lakes, streams, and artificial waters regardless of whether those wetlands are regularly or only periodically inundated by saltwater, brackish water, or fresh water.

Alternative 1 proposes a Federal regulatory program over the disposal of dredged or fill material in all these waters similar to the program which is presently administered by the Corps of Engineers in navigable waters of the United States. It recognizes that State certifications and authorizations also may be required for these same types of activities, and indicates that as a matter of policy Department of the Army permits will be denied when these State authorizations and certifications have been denied. However, in the opposite case (where State authorization or certification has been granted), it contemplates that the Army permit may still be denied even though a favorable State decision has already been made on the proposed action.

As a general rule, the average Department of the Army permit now requires about four months to process provided the proposed activity is minor in nature and noncontroversial. This time period includes a 30-day public notice period as well as the additional period of time required to evaluate the various comments received from this public notice. The comments include those received from the various State and Federal agencies including the Environmental Protection Agency, U.S. Fish and Wildlife Service of the Department of the Interior, the National Marine Fisheries Service of the Department of Commerce, the Council on Environmental Quality and the Advisory Council on Historic Preservation, as mandated by Federal legislation such as the National Environmental Policy Act, the Fish and Wildlife Coordination Act, the Marine Protection, Research and Sanctuaries Act of 1972, the National Historic Preservation Act, the Endangered Species Act, and the FWPCA. This time period is further increased if a public hearing is held as required by section 404 of the FWPCA, and may be even further increased to a period of well over a year if an environmental impact statement must be prepared following a conclusion that the proposed disposal of dredged or fill material, if authorized, will cause a significant impact to the environment.

Applications for section 404 permits would be processed under Alternative I through the issuance of a public notice, but would not be processed further until all required State authorizations and certifications have been obtained by the applicant and furnished to the District Engineer. Thereafter, the processing of the permit would proceed to a conclusion, and a decision would be made to issue or deny the permit. The outcome of this decision will be based on the application of guidelines which have been developed by the Administrator, Environmental Protection Agency in conjunction with the Secretary of the Army. These guidelines are also being published for public comment in this issue of the FEDERAL REGISTER. Accordingly, the public is requested to review all alternatives, in conjunction with these guidelines, in order to comprehend the full impact of each of these alternatives.

Alternative 2. This alternative contemplates a more limited definition of "waters of the United States." With respect to coastal waters, it includes all such waters subject to the ebb and flow of the tide shoreward to the mean high water mark (mean higher high water mark on the west coast) or the salt water vegetation line, whichever extends further shoreward. The salt water vegetation line is the line beyond which plant species, which depend on salinity conditions for vigorous growth and survival, do not thrive. The mean high water mark (or mean higher high water mark on the West Coast), on the other hand, is the line on shore established by the average of all high tides preferably over a period of 18.6 years. However, in the absence of such tidal data, less precise methods will be used such as physical markings or a comparison of the area in question with areas having similar physical characteristics for which tidal data is already available.

Jurisdiction over inland waters under this limited definition would include all navigable waters of the United States up to their headwaters and all primary tributaries of such waters up to their headwaters. In addition, no section 404 permits would be required for the discharge of dredged or fill material amounting to 100 cubic yards or less into primary tributaries of navigable waters of the United States or into waters beyond the head of navigation of navigable waters of the United States. Army jurisdiction over inland waters falling within this more limited jurisdiction would extend shoreward to their ordinary high water mark. Primary tributaries of this Alternative are defined as the main stems of tributaries which directly connect to navigable waters of the United States, and do not include any additional tributaries which extend off of these main stem tributaries.

While the extent of jurisdiction of this alternative is more limited, the Federal review and decision-making procedures specified in Alternative 1, above would remain identical.

Alternative 3. This alternative adopts the broad definition of the "waters of the United States" discussed in Alternative 1, above, but contemplates a different policy with respect to the processing of permits for the disposal of dredged or fill material in waters other than navigable waters of the United States. (Activities for the disposal of dredged or fill material in navigable waters of the United States will continue to be processed in accordance with existing procedures which are generally identical to those proposed in Alternatives 1 and 2). Under this procedure, no applications for a section 404 permit in waters which are not navigable waters of the United States will be processed (including the issuance of a public notice) until the applicant has furnished the District Engineer in writing a water quality certification from the State pursuant to section 401 of the FWPCA (33

USC 1341) and also a determination from a State agency designated by the Governor or law of the State that there is no objection to the proposed water disposal of dredged or fill material. If a favorable determination is received, the District Engineer may then process the section 404 application to conclusion, and in the absence of overriding national factors of the public interest which may be revealed during this processing, a section 404 permit will generally be issued following receipt of a favorable State determination. The failure of the responsible State agency to furnish evidence of its approval of the proposed dredged or fill disposal within one year will be regarded as an expression of State disapproval, and the application will be returned to the applicant without processing by the District Engineer. In addition, the waiver by the State of its right to certify this discharge from a water quality standpoint will not be regarded as a favorable State determination. This approach is intended to interject the States into the decision-making process at the initial stages of the application and to give heavy weight to the State decision rather than using that decision as a vehicle to only reflect local factors of the public interest in the overall decision-making process. Such an approach would be consistent with the direct involvement of the States in the control of water pollution at its source as envisioned by FWPCA.

Alternative 4. This alternative, which is favored by the Department of the Army, adopts the limited definition of Alternative 2, and the initial State certification and authorization requirements of Alternative 3 prior to any processing of the section 404 application for the disposal of dredged or fill material in waters other than navigable waters of the United States.

All of these alternatives pertain to the extent of the Army jurisdiction under section 404 of the FWPCA and to the decision-making policies and procedures which will be followed by the Corps of Engineers in the processing of permits under section 404. However, the Environmental Protection Agency still has the right to veto or restrict a particular disposal site under section 404(c) even if the Army initially concludes that a section 404 permit can be issued. This veto or restriction may be exercised by the Administrator, EPA, after notice and opportunity for a public hearing, if he concludes that the proposed water disposal will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas) wildlife, or recreation areas.

The aforementioned alternative proposed changes to this regulation pertain only to activities involving the disposal of dredged or fill material in navigable waters, and do not pertain to other types of activities performed in navigable waters of the United States including the placement of structures such as piers, wharfs, pilings, dikes and dams, or the performance of work such as dredging (unless the dredging operation involves a runoff or overflow back into the water). These types of activities are exclusively covered by sections 9 and 10 of the River and Harbor Act of 1899, and the Department of the Army's jurisdiction over these types of activities is limited to those in or affecting navigable waters of the United States as defined by 33 CFR 209.260 and paragraph d(1) of 33 CFR 209.120.

Prior to the adoption of one of the four proposed alternative regulations outlined above, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, ATTN: DAEN-CWO-N, on or before 6 June 1975. In view of the major impact of these proposed regulations it is strongly recommended that they be carefully studied by all affected and concerned persons, industries, and governmental agencies. During the time of public review of these proposed regulations, Corps District offices will also be reviewing them and commenting upon them with respect to the feasibility of their immediate implementation from a manpower and funds standpoint. While the entire regulation has been published to enable the public to fully comprehend the impact of these four alternatives, only those comments which pertain to the changes in this regulation will be considered.

Applications for disposal of dredged or fill material in waters other than navigable waters of the United States will be accepted but not processed by Corps District Engineers until final revisions to 33 CFR 209.120 have been published in the FEDERAL REGISTER.

Dated: May 2, 1975.

KENNETH E. MCINTYRE,
Brigadier General, USA,
Deputy Director of Civil Works.

It is proposed to amend § 209.120 as follows:

§ 209.120 Permits for activities in Navigable Waters or Ocean Waters.

(a) *Purpose.* This regulation prescribes the policy, practice, and procedure to be followed by all Corps of Engineers installations and activities in connection with applications for permits authorizing structures and work in or affecting navigable waters of the United States, the discharge of dredged or fill material into navigable waters, and the transportation of dredged material for the purpose of dumping it into ocean waters.

(b) *Laws requiring authorization of structures or work.* (1) Section 9 of the River and Harbor Act approved March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401) prohibits the construction of any dam or dike across any navigable water of the United States in the absence of Congressional consent and approval of the plans by the Chief of Engineers and the Secretary of the Army. Where the navigable portions of the waterbody lie wholly within the limits of a single State, the structure may be built under authority of the legislature of that State, if the location and plans or any modification thereof, are approved by the Chief of Engineers and by the Secretary of the Army. The instrument of authorization is designated a permit. Section 9 also pertains to bridges and causeways but the authority of the Secretary of the Army and Chief of Engineers with respect to bridges and causeways was transferred to the Secretary of Transportation under the Department of Transportation Act on October 16, 1966 (80 Stat. 941, 49 U.S.C. 1165g(6)(A)).

(2) Section 10 of the River and Harbor Act approved March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403) prohibits the unauthorized obstruction or alteration of any navigable water of the United States. The construction of any structure in or over any navigable water of the United States, the excavation from or depositing of material in such waters, or the accomplishment of any other work affecting the course, location, condition, or capacity of such waters are unlawful unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of the Army. The instrument of authorization is designated a permit or letter of permission. The authority of the Secretary of the Army to prevent obstructions to navigation in the navigable waters of the United States was extended to artificial islands and fixed structures located on the outer continental shelf by section 4(f) of the Outer Continental Shelf Lands Act of 1953 (67 Stat. 463; 43 U.S.C. 1333(f)).

(3) Section 11 of the River and Harbor Act approved March 3, 1899 (30 Stat. 1151; 33 U.S.C. 404) authorizes the Secretary of the Army to establish harbor lines channelward of which no piers, wharves, bulkheads, or other works may be extended or deposits made without approval of the Secretary of the Army. Regulations (ER 1145-2-304) have been promulgated relative to this authority and published at § 209.150. By policy stated in those regulations effective May 27, 1970, harbor lines are guidelines only for defining the offshore limits of structures and fills insofar as they impact on navigation interests. Except as provided in paragraph (e)(1) of this section below, permits for work shoreward of those lines must be obtained in accordance with section 10 of the same Act, cited above.

(4) Section 13 of the River and Harbor Act approved March 3, 1899 (30 Stat. 1152; 33 U.S.C. 407) provides that the Secretary of the Army, whenever the Chief of Engineers determines that anchorage and navigation will not be injured thereby, may permit the discharge of refuse into navigable waters. In the absence of a permit, such discharge of refuse is prohibited. While the prohibition of this section, known as the Refuse Act, is still in effect, the permit authority of the Secretary of the Army has been superseded by the permit authority provided the Administrator, Environmental Protection Agency, under sections 402 and 405 of the Federal Water Pollution Control Act (PL 92-500, 86 Stat. 816, 33 U.S.C. 1342 and 1345).

(5) Section 14 of the River and Harbor Act approved March 3, 1899 (30 Stat. 1152; 33 U.S.C. 408) provides that the Secretary of the Army on the recommendation of the Chief of Engineers may grant permission for the temporary occupation or use of any sea wall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the United States. This permission will be granted by an appropriate real estate instrument in accordance with existing real estate regulations.

(6) Section 1 of the River and Harbor Act of June 13, 1902 (32 Stat. 371; 33 U.S.C. 565) allows any persons or corporations desiring to improve any navigable river at their own expense and risk to do so upon the approval of the plans and specifications by the Secretary of the Army and the Chief of Engineers. Improvements constructed under this authority, which are primarily in Federal project areas, remain subject to the control and supervision of the Secretary of the Army and the Chief of Engineers. The instrument of authorization is designated a permit.

(7) Section 404 of the Federal Water Pollution Control Act (PL 92-500, 86 Stat. 816, 33 U.S.C. 1344) authorizes the Secretary of the Army, acting through the Chief of Engineers, to issue permits, after notice and opportunity for public hearings, for the discharge of dredged or fill material into the navigable waters at specified disposal sites. The selection of disposal sites will be in accordance with guidelines developed by the Administrator of the Environmental Protection Agency (EPA) in conjunction with the Secretary of the Army. Furthermore, the Administrator can prohibit or restrict the use of any defined area as a disposal site whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such areas will have an unacceptable adverse effect on municipal water supplies, shell fish beds and fishery areas, wildlife or recreational areas.

(8) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (PL 92-532, 86 Stat. 1052, 33 U.S.C. 1413) authorizes the Secretary of the Army to issue permits, after notice and opportunity for public hearings, for the transportation of dredged material for the purpose of dumping it in ocean waters. However, similar to the EPA Administrator's limiting authority cited in paragraph (b)(7) of this section, the Administrator can prevent the issuance of a permit under this authority if he finds that the dumping of the material will result in an unacceptable adverse impact on municipal water supplies, shellfish beds, wildlife, fisheries or recreational areas.

(9) The New York Harbor Act of June 29, 1888, as amended (33 U.S.C. 441 et seq.) provides for the issuance of permits by the Supervisors of the New York, Baltimore, and Hampton Roads Harbors for the transportation upon and/or discharge in those harbors of a variety of materials including dredgings, sludge and acid. The District Engineers of New York, Baltimore and Norfolk have been designated the Supervisors of these harbors, respectively. However, section 511 (b) of the Federal Water Pollution Control Act (PL 92-500, 86 Stat. 816) provides that the discharge of these materials into navigable waters shall be regulated pursuant to that Act and not the New York Harbor Act except as to the effect on navigation and anchorage. In addition, section 106(a) of the Marine Protection, Research and Sanctuaries Act of 1972 (PL 92-532, 86 Stat. 1052) provides that all permits for discharges in ocean waters shall only be issued in accordance with the Act after April 23, 1973. Therefore, the supervisors of these three harbors will no longer issue permits under the authority of the New York Harbor Act, as amended, for transportation and/or discharge of these materials.

(c) *Related Legislation.* (1) Section 401 of the Federal Water Pollution Control Act (PL 92-500; 86 Stat. 816, 33 U.S.C. 1411) requires any applicant for a Federal license or permit to conduct any activity which may result in a discharge into navigable waters to obtain a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that the discharge will comply with the applicable effluent limitations and water quality standards. A certification obtained for the construction of any facility must also pertain to the subsequent operation of the facility.

(2) Section 307(c)(3) of the Coastal Zone Management Act of 1972 (PL 92-583, 86 Stat. 1280, 16 U.S.C. 1456(c)(3)) requires any applicant for a Federal license or permit to conduct an activity affecting land or water uses in the State's coastal zone to furnish a certification that the proposed activity will comply with the State's coastal zone management program. Generally, no permit will be issued until the State has concurred with the applicant's certification. This provision becomes effective upon approval by the Secretary of Commerce of the State's coastal zone management program.

(3) Section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 (Pub. L. 92-532, 86 Stat. 1052, 16 U.S.C. 1432) authorizes the Secretary of Commerce, after consultation with other interested Federal agencies and with the approval of the President, to designate as marine sanctuaries those areas of the ocean waters or of the Great Lakes and their connecting waters or of other coastal waters which he determines necessary for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values. After designating such an area, the Secretary of Commerce shall issue regulations to control any activities within the area. Activities in the sanctuary authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with the purposes of Title III of the Act and can be carried out within the regulations for the sanctuary.

(4) The National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) declares the national policy to encourage a productive and enjoyable harmony between man and his environment. Section 102 of that Act directs that "to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall * * * insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision making along with economic and technical considerations * * *." See also paragraph (l)(1) of this section on environmental statements.

(5) The Fish and Wildlife Act of 1956 (16 U.S.C. 742a, et seq.), the Migratory Marine Game-Fish Act (16 U.S.C. 760c-760g) and the Fish and Wildlife Coordination Act (16 U.S.C. 661-666c) and other acts express the concern of Congress with the quality of the aquatic environment as it affects the conservation, improvement and enjoyment of fish and wildlife resources. Reorganization Plan No. 4 of 1970 transferred certain functions, including certain fish and wildlife-water resources coordination responsibilities, from the Secretary of the Interior to the Secretary of Commerce. Under the Fish and Wildlife Coordination Act and Reorganization Plan No. 4, any Federal Agency which proposes to control or modify any body of water must first consult with the United States Fish and Wildlife Service, the National Marine Fisheries Service, as appropriate, and with the head of the appropriate State agency exercising administration over the wildlife resources of the affected State.

(6) The Federal Power Act of 1920 (41 Stat. 1063; 16 U.S.C. 791a et seq.), as amended, authorizes the Federal Power Commission (FPC) to issue licenses for the construction, operation and maintaining of dams, water conduits, reservoirs, power houses, transmission lines, and other physical structures of a power project. However, where such structures will affect the navigable capacity of any navigable waters of the United States (as defined in 16 U.S.C. 796), the plans for the dam or other physical structures affecting navigation must be approved by the Chief of Engineers and the Secretary of the Army. In such cases, the interests of navigation should normally be protected by a recommendation to the FPC for the inclusion of appropriate provisions in the FPC license rather than the issuance of a separate Department of the Army permit under 33 U.S.C. 401 et seq. As to any other activities in navigable waters not constituting construction, operation and maintenance of physical structures licensed by the FPC under the Federal Power Act of 1920, as amended, the provisions of 33 U.S.C. 401 et seq. remain fully applicable. In all cases involving the discharge of dredged or fill material into navigable waters or the transportation of dredged material for the purpose of dumping in ocean waters,

Department of the Army permits under section 404 of the Federal Water Pollution Control Act, or under section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 will be required.

(7) The National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470) created the Advisory Council on Historic Preservation to advise the President and Congress on matters involving historic preservation. In performing its function the Council is authorized to review and comment upon activities licensed by the Federal Government which will have an effect upon properties listed in the National Register of Historic Places.

(8) The Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701 et seq.) prohibits any developer or agent from selling or leasing any lot in a subdivision unless the purchaser is furnished in advance a printed property report including information which the Secretary of Housing and Urban Development may, by rules or regulations, require for the protection of purchasers. In the event the lot in question is in a wetlands area, the report is required by Housing and Urban Development regulation to state that no permit has been granted by the Corps of Engineers for the development under Section 10 of the River Harbor Act of 1899.

(9) The Water Resources Planning Act (42 U.S.C. 1962 et seq.) provides for the possible establishment upon request of the Water Resources Council or a State of river basin water and related land resources commissions. Each such commission shall coordinate Federal, State, interstate, local and nongovernmental plans for the development of water and related land resources in its area, river basin, or group of river basins. In the event the proposed Corps of Engineers permits to non-governmental developers or other agencies under section 10 of the River and Harbor Act of 1899 and section 404 of the Federal Water Pollution Control Act may affect the plans of such river basin commissions, the permits will be coordinated with the appropriate concerned river basin commissions. The same is true of Corps of Engineers authorizations to private persons or corporations to improve navigable rivers at their own expense under section 1 of the River and Harbor Act of 1902.

[ALTERNATIVE I]

(d) *Definitions.* For the purpose of issuing or denying authorizations under this regulation:

*(1) *"Navigable waters of the United States".* The term, "navigable waters of the United States", as used herein for purposes of the River and Harbor Act of 1899, is administratively defined to mean waters which have been used in the past, are now used, or are susceptible to use as a means to transport interstate commerce shoreward to their ordinary high water mark and up to the head of navigation as determined by the Chief of Engineers, and also waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark (mean higher high water mark on the Pacific Coast). See 33 CFR 209.260 (ER 1165-2-302) for a more definitive explanation of this term.

*(2) *Navigable waters.* (i) The term, "navigable waters", as used herein for purposes of section 404 of the Federal Water Pollution Control Act, is administratively defined to mean waters of the United States including the territorial seas with respect to the disposal of fill material and excluding the territorial seas with respect to the disposal of dredged material and shall include the following waters:

(*a*) All inland rivers, lakes, streams, and artificially created waterbodies which are navigable waters of the United States up to their headwaters and shoreward to their ordinary high water mark (see paragraph (d)(1), of this section) or to the aquatic vegetation line, whichever extends further shoreward and all tributaries of such waters up to their headwaters and shoreward to their ordinary high water mark, or to the aquatic vegetation line, whichever extends further shoreward;

(*b*) All coastal, riverine, estuarine and lacustrine waters subject to the ebb and flow of the tide shoreward to the mean monthly high tide line or to the aquatic vegetation line, whichever extends further shoreward;

(*c*) All inland natural or artificial interstate waters shoreward to their ordinary high water mark, or to the aquatic vegetation line, whichever extends further shoreward;

(*d*) All inland natural or artificial intrastate lakes, rivers and streams which are utilized by interstate travelers for recreational or other purposes, shoreward to their ordinary high water mark, or to the aquatic vegetation line, whichever extends further shoreward;

(*e*) All inland natural or artificial intrastate lakes, rivers and streams from which fish are taken and sold in interstate commerce shoreward to their ordinary high water mark, or to the aquatic vegetation line, whichever extends further shoreward;

(*f*) All inland natural or artificial intrastate lakes, rivers and streams which are utilized for industrial purposes by industries in interstate commerce, shoreward to their ordinary high water mark, or to the aquatic vegetation line, whichever extends further shoreward; and

(*g*) All inland natural or artificial intrastate lakes, rivers and streams which are used to produce or aid in the production of agricultural commodities sold or transported in interstate commerce, shoreward to their ordinary high water mark, or to the aquatic vegetation line, whichever extends further shoreward.

(ii) The following additional terms are defined as follows;

(*a*) "Ordinary high water mark" means the natural or clear line impressed on the land adjacent to the water body. It may be established by erosion or other easily recognized characteristics such as shelving, change in the character of the soil, destruction of terrestrial vegetation or its inability to grow, the presence of litter and debris, or other appropriate means which consider the characteristics of the surrounding area.

(*b*) "Mean monthly high tide line" means the line on shore established by averaging each month's highest tide over an 18.6 year period.

(*c*) "Aquatic vegetation line" is the line beyond which aquatic plants, dependent on periodic inundation for growth, do not thrive.

(3) *Ocean waters.* The term "ocean waters", as defined in the Marine Protection Research and Sanctuaries Act of 1972 (Pub. L. 92-532, 86 Stat. 1052), means those waters of the open seas lying seaward of the base line from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639).

(4) The term "dredged material" means any material in excess of one cubic meter when used in a single or incidental operation, excavated or dredged from navigable waters, including without limitation, runoff or overflow which occurs during a dredging operation or from a contained land or water disposal area. Excluded is material which is extracted for any commercial use other than fill. Discharges resulting from subsequent material processing operations of the material which is being extracted for any commercial use other than fill are subject to section 402 of the Federal Water Pollution Control Act. However, the extraction of material may require a permit from the Corps of Engineers under section 10 of the River and Harbor Act of 1899.

(5) The term "fill material" means any material discharged into navigable waters for a purpose other than disposal, including without limitation, the creating of fast land, or the production of intended elevation of land beneath the water, but excluding material discharged in navigable waters subject to section 402 of the Federal Water Pollution Control Act.

(6) *Person.* The term "person" means any individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, any interstate body, or any agency or instrumentality of the Federal Government.

(7) *Coastal zone.* The term "coastal zone" means the coastal waters and adjacent shorelands designated by a State as being included in its approved coastal zone management program under the Coastal Zone Management Act of 1972.

(e) *Activities requiring authorizations.* (1) Department of the Army authorizations are required under the River and Harbor Act of 1899 (See paragraph (b), of this section) for all structures or work in navigable waters of the United States except for bridges and causeways (see Appendix A), the placement of aids to navigation by the U.S. Coast Guard, structures constructed in artificial canals within principally residential developments where the canal has been connected to a navigable water of the United States (See paragraph (g)(11) of this

section, and activities which were commenced or completed shoreward of established harbor lines before May 27, 1970 (See § 209.150) other than those activities involving the discharge of dredged or fill material in navigable waters after October 18, 1972.

(i) Structures or work are in the navigable waters of the United States if they are within limits defined in § 209.260. Structures or work outside these limits are subject to the provisions of law cited in paragraph (b) of this section if these structures or work affect the course, location, or condition of the waterbody in such a manner as to significantly impact on the navigable capacity of the waterbody. A tunnel or other structure under a navigable water of the United States is considered to have a significant impact on the navigable capacity of the waterbody.

(ii) Structures or work licensed under the Federal Power Act of 1920 do not require Department of the Army authorizations under the River and Harbor Act of 1899 (See paragraphs (b) and (c) of this section); *Provided, However*, That any part of such structures or work which involves the discharge of dredged or fill material into navigable waters or the transportation of dredged material for the purpose of dumping it into ocean waters will require Department of the Army authorization under section 404 of the Federal Water Pollution Control Act and section 103 of the Marine Protection, Research and Sanctuaries Act, as appropriate.

(2) In addition, Department of the Army authorizations will be required for the discharge of dredged or fill material into the navigable waters, for the transportation of dredged material for the purpose of dumping it into ocean waters, and for artificial islands and fixed structures on the outer continental shelf.

(3) Except as specifically provided in this subparagraph, activities of the type described in paragraph (e) (1) and (2) of this section done by or on behalf of any Federal agency, other than the Corps of Engineers, are subject to the authorization procedures of this regulation. Agreement for construction or engineering services performed for other agencies by the Corps of Engineers do not constitute authorization under this regulation. Division and District Engineers will therefore advise Federal agencies accordingly, and cooperate to the fullest extent in expediting the processing of their applications.

(f) By section 10 of the Act of March 3, 1899 (see paragraph b(2) of this section) Congress has delegated to the Secretary of the Army and the Chief of Engineers the duty of authorizing or prohibiting certain work or structures in navigable waters of the United States. The general legislation by which Federal agencies are empowered to act generally is not considered to the sufficient authorization by Congress to satisfy the purposes of section 10. If an agency asserts that it has Congressional authorization meeting the test of section 10 or would otherwise be exempt from the provisions of section 10, the legislative history and/or provisions of the Act should clearly demonstrate that Congress was approving the exact location and plans from which Congress could have considered the effect on navigable waters of the United States or that Congress intended to exempt that agency from the requirements of section 10. Very often such legislation reserves final approval of plans or construction for the Chief of Engineers. In such cases evaluation and authorization under this regulation are limited by the intent of the statutory language involved.

(ii) The policy provisions set out in paragraph (f) (4) of this section, relating to State or local authorizations, do not apply to work or structures undertaken by Federal agencies, except where compliance with non-Federal authorization is required by Federal law or Executive policy. Federal agencies are required to comply with the substantive State, interstate, and local water quality standards and effluent limitations adopted in accordance with or effective under the provisions of the Federal Water Pollution Control Act, as amended, in the design, construction, management, operation, and maintenance of their respective facilities. (See Executive Order No. 11752, dated 17 December 1973). They are not required, however, to obtain and provide certification of compliance with effluent limitations and water quality standards from State or interstate water pollution control agencies in connection with activities involving discharges into navigable waters.

(f) *General policies for evaluating permit applications.* (1) The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed structure or work and its intended use on the public interest. Evaluation of the probable impact which the proposed structure or work may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process (e.g., see § 209.400, Guidelines for Assessment of Economic, Social and Environmental Effects of Civil Works Projects). That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered; among those are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use classifications, navigation, recreation, water supply, water quality and, in general, the needs and welfare of the people. No permit will be granted unless its issuance is found to be in the public interest.

(2) The following general criteria will be considered in the evaluation of every application:

(i) The relative extent of the public and private need for the proposed structure or work;

(ii) The desirability of using appropriate alternative locations and methods to accomplish the objective of the proposed structure or work;

(iii) The extent and permanence of the beneficial and/or detrimental effects which the proposed structure or work may have on the public and private uses to which the area is suited; and

(iv) The probable impact of each proposal in relation to the cumulative effect created by other existing and anticipated structures or work in the general area.

*(3) Permits will not be issued where certification or authorization of the proposed work is required by State and/or local law and that certification or authorization has been denied. Initial processing of an application for a Department of the Army permit will proceed until definitive action has been taken by the responsible State agency to grant or deny the required certification and/or authorization. Where the required State certification and/or authorization has been denied and procedures for reconsideration exist, reasonable time not to exceed 90 days will be allowed for the applicant to attempt to resolve the problem and/or obtain reconsideration of the denial. If the State denial of authorization cannot be thus resolved, the application will be denied in accordance with paragraph (p) of this section.

*(i) Where officially adopted State, Regional or local land use classifications, determinations, or policies are applicable to the land or water areas under consideration, they shall be presumed to reflect local factors of the public interest.

*(ii) A proposed activity in a navigable water may result in conflicting comments from several agencies within the same State. While many States have designated a single State agency or individual to provide a single and coordinated State position regarding pending permit applications, where a State has not so designated a single source, District Engineers will elicit from the Governor an expression of his views and desires concerning the application (see also paragraph (j) (3) of this section), or in the alternative, an expression from the Governor as to which State agency represents the official State position in this particular case. Even if official certification and/or authorization is not required by State or Federal law, but a State, regional or local agency having jurisdiction or interest over the particular activity comments on the application, due consideration shall be given to those official views as a reflection of local factors of the public interest.

*(iii) The failure of the responsible State agency to take definitive action to grant or deny required authorizations or to furnish comments as provided in paragraph (f) (3) (ii) of this section within six months of the issuance of the public notice by the District Engineer shall be regarded as an expression of no objection

to the proposed activity by the State, and the application shall be processed to a conclusion by the District Engineer.

[ALTERNATIVE II]

(d) *Definitions.* For the purpose of issuing or denying authorizations under this regulation:

*(1) *Navigable waters of the United States.* The term, "navigable waters of the United States", as used herein for purposes of the River and Harbor Act of 1899, is administratively defined to mean waters which have been used in the past, are now used, or are susceptible to use as a means to transport interstate commerce shoreward to their ordinary high water mark and up to the head of navigation as determined by the Chief of Engineers, and also waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark (mean higher high water mark on the Pacific Coast). See 33 CFR 209.260 (ER 1165–2–302) for a more definitive explanation of this term.

*(2) *Navigable waters.* (i) The term, "navigable waters", as used herein for purposes of Section 404 of the Federal Water Pollution Control Act, is administratively defined to mean waters of the United States including the territorial seas with respect to the disposal of fill material and excluding the territorial seas with respect to the disposal of dredged material, and shall include the following waters:

(a) All inland rivers, lakes, streams, and artificially created waterbodies which are navigable waters of the United States up to their headwaters and shoreward to their ordinary high water mark (see paragraph (d)(1), of this section) and all primary tributaries of such waters up to their headwaters and shoreward to their ordinary high water mark;

(b) All ocean and coastal waters subject to the ebb and flow of the tide shoreward to their mean high water mark (mean higher high water mark on the Pacific Coast) or the salt water vegetation line, whichever extends further shoreward;

(ii) The following additional terms are defined as follows:

(a) "Ordinary high water mark" means the natural or clear line impressed on the land adjacent to the waterbody. It may be established by erosion or other easily recognized characteristics such as shelving, change in the character of the soil, destruction of terrestrial vegetation or its inability to grow, the presence of litter and debris, or other appropriate means which consider the characteristics of the surrounding area.

(b) "Mean high water mark" with respect to ocean and coastal waters means the line on the shore established by the average of all high tides. It is established by survey based on available tidal datum (preferably averaged over a period of 18.6 years) because of the variations in tide. In the absence of such datum, less precise methods to determine the mean high water mark may be used such as physical markings or comparison of the area in question with an area having similar physical characteristics for which tidal datum is already available.

(c) "Salt water vegetation line" is the line beyond which plant species, dependent on salinity conditions for vigorous growth and survival, do not thrive.

(d) "Primary tributaries" means the main stem of tributaries directly connecting to navigable waters of the United States up to their headwaters, and do not include any additional tributaries extending off of the main stems of these tributaries.

(3) *Ocean waters.* The term "ocean waters", as defined in the Marine Protection Research and Sanctuaries Act of 1972 (Pub. L. 92–532; 86 Stat. 1052), means those waters of the open seas lying seaward of the base line from which the territorial sea is measured, as provided for in the Convention of the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639).

*(4) The term "dredged material" means any material in excess of one cubic meter when used in a single or incidental operation, excavated or dredged from navigable waters, including without limitation, runoff or overflow which occurs during a dredging operation or from a contained land or water disposal area. Excluded is material which is extracted for any commercial use other than fill. Discharges resulting from subsequent material processing operations of the material which is being extracted for any commercial use other than fill are subject to section 402 of the Federal Water Pollution Control Act. However, the extraction of material may require a permit from the Corps of Engineers under section 10 of the River and Harbor Act of 1899.

*(5) The term "fill material" means any material discharged into navigable waters for a purpose other than disposal, including without limitation, the creating of fast land, or the production of intended elevation of land beneath the water, but excluding material discharged in navigable waters subject to section 402 of the Federal Water Pollution Control Act.

(6) *Person.* The term "person" means any individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, any interstate body, or any agency or instrumentality of the Federal Government.

(7) *Coastal zone.* The term "coastal zone" means the coastal waters and adjacent shorelands designated by State as being included in its approved coastal zone management program under the Coastal Zone Management Act of 1972.

(e) *Activities requiring authorizations.* (1) Department of the Army authorizations are required under the River and Harbor Act of 1899 (See paragraph (b), of this section) for all structures or work in navigable waters of the United States except for bridges and causeways (see Appendix A), the placement of aids to navigation by the U.S. Coast Guard, structures constructed in artificial canals within principally residential developments where the canal has been connected to a navigable water of the United States (See paragraph (g)(11) of this section, and activities which were commenced or completed shoreward of established harbor lines before May 27, 1970 (See § 209.150) other than those activities involving the discharge of dredged or fill material in navigable waters after October 18, 1972.

(i) Structures or work are in the navigable waters of the United States if they are within limits defined in § 209.260. Structures or work outside these limits are subject to the provisions of law cited in paragraph (b) of this section if these structures or work affect the course, location, or condition of the waterbody in such a manner as to significantly impact on the navigable capacity of the waterbody. A tunnel or other structure under a navigable water of the United States is considered to have a significant impact on the navigable capacity of the waterbody.

(ii) Structures or work licensed under the Federal Power Act of 1920 do not require Department of the Army authorizations under the River and Harbor Act of 1899 (See paragraphs (b) and (c) of this section); provided, however, that any part of such structures or work which involves the discharge of dredged or fill material into navigable waters or the transportation of dredged material for the purpose of dumping it into ocean waters will require Department of the Army authorization under section 404 of the Federal Water Pollution Control Act and section 103 of the Marine Protection, Research and Sanctuaries Act, as appropriate.

*(2) In addition, Department of the Army authorizations will be required for the discharge of dredged or fill material into navigable waters except for the discharge of dredged or fill material amounting to 100 cubic yards or less into primary tributaries of navigable waters of the United States and into waters beyond the head of navigation of navigable waters of the United States (see paragraph (d)(2), of this section), for the transportation of dredged material for the purpose of dumping it into ocean waters, and for artificial islands and fixed structures on the outer continental shelf.

(3) Except as specifically provided in this subparagraph, activities of the type described in paragraph (e) (1) and (2) of this section done by or on behalf of any Federal agency, other than the Corps of Engineers, are subject to the authorization procedures of this regulation. Agreement for construction or engineering services performed for other agencies by the Corps of Engineers do not constitute authorization under this regulation. Division and District Engineers will therefore advise Federal agencies accordingly, and cooperate to the fullest extent in expediting the processing of their applications.

(i) By section 10 of the Act of March 3, 1899 (see paragraph b(2), of this section) Congress has delegated to the Secretary of the Army and the Chief of Engineers the duty of authorizing or prohibiting certain work or structures in navigable waters of the United States.

The general legislation by which Federal agencies are empowered to act generally is not considered to the sufficient authorization by Congress to satisfy the purposes of section 10. If an agency asserts that it has Congressional authorization meeting the test of section 10 or would otherwise be exempt from the provisions of section 10, the legislative history and/or provisions of the Act should clearly demonstrate that Congress was approving the exact location and plans from which Congress could have considered the effect on navigable waters of the United States or that Congress intended to exempt that agency from the requirements of section 10. Very often such legislation reserves final approval of plans or construction for the Chief of Engineers. In such cases evaluation and authorization under this regulation are limited by the intent of the statutory language involved.

(ii) The policy provisions set out in paragraph (f) (4) of this section, relating to State or local authorizations, do not apply to work or structures undertaken by Federal agencies, except where compliance with non-Federal authorization is required by Federal law or Executive policy. Federal agencies are required to comply with the substantive State, interstate, and local water quality standards and effluent limitations adopted in accordance with or effective under the provisions of the Federal Water Pollution Control Act, as amended, in the design, construction, management, operation, and maintenance of their respective facilities. (See Executive Order No. 11752, dated 17 Dec. 73). They are not required, however, to obtain and provide certification of compliance with effluent limitations and water quality standards from State or interstate water pollution control agencies in connection with activities involving discharges into navigable waters.

(f) *General policies for evaluating permit applications.* (1) The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed structure or work and its intended use on the public interest. Evaluation of the probable impact which the proposed structure or work may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process)e.g., see § 209.400, Guidelines for Assessment of Economic, Social and Environmental Effects of Civil Works Projects). That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered; among those are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use classifications, navigation, recreation, water supply, water quality and, in general, the needs and welfare of the people. No permit will be granted unless its issuance is found to be in the public interest.

(2) The following general criteria will be considered in the evaluation of every application:

(i) The relative extent of the public and private need for the proposed structure or work;

(ii) The desirability of using appropriate alternative locations and methods to accomplish the objective of the proposed structure or work;

(iii) The extent and permanence of the beneficial and/or detrimental effects which the proposed structure or work may have on the public and private uses to which the area is suited; and

(iv) The probable impact of each proposal in relation to the cumulative effect created by other existing and anticipated structures or work in the general area.

*(3) Permits will not be issued where certification or authorization of the proposed work is required by State and/or local law and that certification or authorization has been denied. Initial processing of an application for a Department of the Army permit will proceed until definitive action has been taken by the responsible State agency to grant or deny the required certification and/or authorization. Where the required State certification and/or authorization has been denied and procedures for reconsideration exist, reasonable time not to exceed 90 days will be allowed for the applicant to attempt to resolve the problem and/or obtain reconsideration of the denial. If the State denial of authorization cannot be thus resolved, the application will be denied in accordance with paragraph (p) of this section.

*(i) Where officially adopted State, Regional or local land use classifications, determinations, or policies are applicable to the land or water areas under consideration, they shall be presumed to reflect local factors of the public interest.

*(ii) A proposed activity in a navigable water may result in conflicting comments from several agencies within the same State. While many States have designated a single State agency or individual to provide a single and coordinated State position regarding pending permit applications, where a State has not so designated a single source, District Engineers will elicit from the Governor an expression of his views and desires concerning the application (see also paragraph (j)(3), of this section), or in the alternative, an expression from the Governor as to which State agency represents the official State position in this particular case. Even if official certification and/or authorization is not required by State or Federal law, but a State, regional or local agency having jurisdiction or interest over the particular activity comments on the application, due consideration shall be given to those official views as a reflection of local factors of the public interest.

*(iii) The failure of the responsible State agency to take definitive action to grant or deny required authorizations or to furnish comments as provided in paragraph (f)(3)(ii) of this section within six months of the issuance of the public notice by the District Engineer shall be regarded as an expression of no objection to the proposed activity by the State, and the application shall be processed to a conclusion by the District Engineer.

[ALTERNATIVE III]

(d) *Definitions.* For the purpose of issuing or denying authorizations under this regulation:

*(1) *Navigable waters of the United States.* The term, "navigable waters of the United States", as used herein for purposes of the River and Harbor Act of 1899, is administratively defined to mean waters which have been used in the past, are now used, or are susceptible to use as a means to transport interstate commerce shoreward to their ordinary high water mark and up to the head of navigation as determined by the Chief of Engineers, and also waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark (mean higher high water mark on the Pacific Coast). See 33 CFR 209.260 (ER 1165-2-302) for a more definitive explanation of this term.

*(2) *Navigable waters.* (i) The term, "navigable waters", as used herein for purposes of Section 404 of the Federal Water Pollution Control Act, is administratively defined to mean waters of the United States including the territorial seas with respect to the disposal of fill material and excluding the territorial seas with respect to the disposal of dredged material and shall include the following waters:

(*a*) All inland rivers, lakes, streams, and artificially created waterbodies which are navigable waters of the United States up to their headwaters and shoreward to their ordinary high water mark (see paragraph (d)(1), of this section) or to the aquatic vegetation line, which extends further shoreward and all tributaries of such waters up to their headwaters and shoreward to their ordinary high water mark; or to the aquatic vegetation line, whichever extends further shoreward;

(*b*) All coastal, riverine, estuarine and lacustrine waters subject to the ebb and flow of the tide shoreward to the mean monthly high tide line or to the aquatic vegetation line, whichever extends further shoreward;

(*c*) All inland natural or artificial interstate waters shoreward to their ordinary high water mark, or to the aquatic vegetation line, whichever extends further shoreward;

(*d*) All inland natural or artificial intrastate lakes, rivers and streams which are utilized by interstate travelers for recreational or other purposes, shoreward to their ordinary high water mark,

or to the aquatic vegetation line, whichever extends further shoreward;

(e) All inland natural or artificial intrastate lakes, rivers and streams from which fish are taken and sold in interstate commerce shoreward to their ordinary high water mark, or to the aquatic vegetation line, whichever extends further shoreward;

(f) All inland natural or artificial intrastate lakes, rivers and streams which are utilized for industrial purposes by industries in interstate commerce, shoreward to their ordinary high water mark, or to the aquatic vegetation line, whichever extends further shoreward; and

(g) All inland natural or artifical intrastate lakes, rivers, and streams which are used to produce or aid in the production of agricultural commodities sold or transported in interstate commerce, shoreward to their ordinary high water mark, or to the aquatic vegetation line, whichever extends further shoreward.

(ii) The following additional terms are defined as follows;

(a) "Ordinary high water mark" means the natural or clear line impressed on the land adjacent to the waterbody. It may be established by erosion or other easily recognized characteristics such as shelving, change in the character of the soil, destruction of terrestial vegetation or its inability to grow, the present of litter and debris, or other appropriate means which consider the characteristics of the surrounding area.

(b) "Mean monthly high tide line" means the line on shore established by averaging each month's highest tide over an 18.6 year period.

(c) "Aquatic vegetation line" is the line beyond which aquatic plants, dependent on periodic inundation for growth, do not thrive.

(3) *Ocean waters.* The term "ocean waters", as defined in the Marine Protection Research and Sanctuaries Act of 1972 (Pub. L. 92–532, 86 Stat. 1052), means those waters of the open seas lying seaward of the base line from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639).

*(4) The term "dredged material" means any material in excess of one cubic meter when used in a single or incidental operation, excavated or dredged from navigable waters, including without limitation, runoff or overflow which occurs during a dredging operation or from a contained land or water disposal area. Excluded is material which is extracted for any commercial use other than fill. Discharges resulting from subsequent material processing operations of the material which is being extracted for any commercial use other than fill are subject to section 402 of the Federal Water Pollution Control Act. However, the extraction of material may require a permit from the Corps of Engineers under section 10 of the River and Harbor Act of 1899.

*(5) The term "fill material" means any material discharged into navigable waters for a purpose other than disposal, including without limitation, the creating of fast land or the production of intended elevation of land beneath the water, but excluding material discharged in navigable waters subject to section 402 of the Federal Water Pollution Control Act.

(6) *Person.* The term "person" means any individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, any interstate body, or any agency or instrumentality of the Federal Government.

(7) *Coastal zone.* The term "coastal zone" means the coastal waters and adjacent shorelands designated by a State as being included in its approved coastal zone management program under the Coastal Zone Management Act of 1972.

(e) *Activities requiring authorizations.* (1) Department of the Army authorizations are required under the River and Harbor Act of 1899 (See paragraph (b) of this section) for all structures or work in navigable waters of the United States except for bridges and causeways (see Appendix A), the placement of aids to navigation by the U.S. Coast Guard, structures constructed in artificial canals within principally residential developments where the canal has been connected to a navigable water of the United States (See paragraph (g)(11) of this section), and activities which were commenced or completed shoreward of established harbor lines before May 27, 1970 (See § 209.150) other than those activities involving the discharge of dredged or fill material in navigable waters after October 18, 1972.

(i) Structures or work are in the navigable waters of the United States if they are within limits defined in § 209.-260. Structures or work outside these limits are subject to the provisions of law cited in paragraph (b) of this section if these structures or work affect the course, location, or condition of the waterbody in such a manner as to significantly impact on the navigable capacity of the waterbody. A tunnel or other structure under a navigable water of the United States is considered to have a significant impact on the navigable capacity of the waterbody.

(ii) Structures or work licensed under the Federal Power Act of 1920 do not require Department of the Army authorizations under the River and Harbor Act of 1899 (See paragraphs (b) and (c) of this section); provided, however, that any part of such structures or work which involves the discharge of dredged or fill material into navigable waters or the transportation of dredged material for the purpose of dumping it into ocean waters will require Department of the Army authorization under section 404 of the Federal Water Pollution Control Act and section 103 of the Marine Protection, Research and Sanctuaries Act, as appropriate.

(2) In addition, Department of the Army authorizations will be required for the discharge of dredged or fill material into the navigable waters, for the transportation of dredged material for the purpose of dumping it into ocean waters, and for artificial islands and fixed structures on the outer continental shelf.

(3) Except as specifically provided in this subparagraph, activities of the type described in paragraph (e)(1) and (2) of this section done by or on behalf of any Federal agency, other than the Corps of Engineers, are subject to the authorization procedures of this regulation. Agreement for construction or engineering services performed for other agencies by the Corps of Engineers do not constitute authorization under this regulation. Division and District Engineers will therefore advise Federal agencies accordingly, and cooperate to the fullest extent in expediting the processing of their applications.

(i) By section 10 of the Act of March 3, 1899 (see paragraph (b)(2) of this section) Congress has delegated to the Secretary of the Army and the Chief of Engineers the duty of authorizing or prohibiting certain work or structures in navigable waters of the United States. The general legislation by which Federal agencies are empowered to act generally is not considered to be sufficient authorization by Congress to satisfy the purposes of section 10. If an agency asserts that it has Congressional authorization meeting the test of section 10 or would otherwise be exempt from the provisions of section 10, the legislative history and/or provisions of the Act should clearly demonstrate that Congress was approving the exact location and plans from which Congress could have considered the effect on navigable waters of the United States or that Congress intended to exempt that agency from the requirements of section 10. Very often such legislation reserves final approval of plans or construction for the Chief of Engineers. In such cases evaluation and authorization under this regulation are limited by the intent of the statutory language involved.

(ii) The policy provisions set out in paragraph (f)(4) of this section, relating to State or local authorizations, do not apply to work or structures undertaken by Federal agencies, except where compliance with non-Federal authorization is required by Federal law or Executive policy. Federal agencies are required to comply with the substantive State, interstate, and local water quality standards and effluent limitations adopted in accordance with or effective under the provisions of the Federal Water Pollution Control Act, as amended, in the design, construction, management, operation, and maintenance of their respective facilities. (See Executive Order No. 11752, dated 17 Dec. 73). They are not required, however, to obtain and provide certification of compliance with effluent limitations and water quality standards from State or interstate water pollution control agencies in connection with activities involving discharges into navigable waters.

(f) *General policies for evaluating permit applications.* (1) The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed structure or work and

its intended use on the public interest. Evaluation of the probable impact which the proposed structure or work may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process (e.g., see § 209.400, Guidelines for Assessment of Economic, Social and Environmental Effects of Civil Works Projects). That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered: among those are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use classifications, navigation, recreation, water supply, water quality and, in general, the needs and welfare of the people. No permit will be granted unless its issuance is found to be in the public interest.

(2) The following general criteria will be considered in the evaluation of every application:

(i) The relative extent of the public and private need for the proposed structure or work;

(ii) The desirability of using appropriate alternative locations and methods to accomplish the objective of the proposed structure or work;

(iii) The extent and permanence of the beneficial and/or detrimental effects which the proposed structure or work may have on the public and private uses to which the area is suited; and

(iv) The probable impact of each proposal in relation to the cumulative effect created by other existing and anticipated structures or work in the general area.

*(3) Permits will not be issued where certification or authorization of the proposed work is required by State or Federal law and that certification and/or authorization has been denied.

*(i) *Activities in navigable waters of the United States.* Initial processing of an application for a Department of the Army permit for work or structures in navigable waters of the United States will proceed until definitive action has been taken by the responsible State agency to grant or deny the required certification and/or authorization. Where the required State certification and/or authorization has been denied and procedures for reconsideration exist, reasonable time not to exceed 90 days will be allowed for the applicant to attempt to resolve the problem and/or obtain reconsideration of the denial. If the State denial of authorization cannot be thus resolved, the application will be denied in accordance with paragraph (p) of this section.

*(a) Where officially adopted State, regional or local land use classifications, determinations or policies are applicable to the land or water areas under consideration, they shall be presumed to reflect local factors of the public interest.

*(b) A proposed activity in a navigable water of the United States may result in conflicting comments from several agencies within the same State. While many States have designated a single State agency or individual to provide a single and coordinated State position regarding pending permit applications, where a State has not so designated a single source, District Engineers will elicit from the Governor an expression of his views and desires concerning the application (see also paragraph (j)(3), of this section), or in the alternative, an expression from the Governor as to which State agency represents the official State position in this particular case. Even if official certification and/or authorization is not required by State or Federal law, but a State, regional or local agency having jurisdiction or interest over the particular activity comments on the application, due consideration shall be given to those official views as a reflection of local factors of the public interest.

*(c) The failure of the responsible State agency to take definitive action to grant or deny required authorizations as provided for in paragraph (f)(3)(i) of this section, or to furnish comments as provided in paragraph (f)(3)(i)(*b*) of this section within six months of the issuance of the public notice by the District Engineer shall be regarded as an expression of no objection to the proposed activity by the State, and the application shall be processed to a conclusion by the District Engineer.

*(ii) *Disposal of dredged or fill material in navigable waters other than navigable waters of the United States.* Applications for Department of the Army permits for the disposal of dredged or fill material in waters other than navigable waters of the United States (see paragraph (d)(2), of this section) will be accepted but not processed until the applicant has furnished the District Engineer, in writing, a water quality certification (see paragraphs (c)(1), of this section and (f)(5), of the section) and a determination from the responsible State agency in whose State the disposal will occur, that there is no objection under any law of the State to the proposed dredge or fill disposal. The procedures for joint public notices specified in paragraph (i)(2), of this section, shall not be applicable to these types of cases.

*(*a*) Proposed disposal of dredged or fill material in navigable waters other than navigable waters of the United States may result in conflicting determinations from several agencies within the State. While many States have designated a single State agency or individual to provide a single coordinated State position regarding pending permit applications, where a State has not so designated a single source, District Engineers will elicit from the Governor a determination as to which State agency represents the official State position in these types of cases.

*(*b*) If a favorable State determination is received, the District Engineer will process the application in accordance with the policies expressed in paragraph (f)(3)(i), above. In the absence of overriding national factors of the public interest which may be revealed during the subsequent processing of the permit application for the disposal of dredged or fill material in these waters, a permit will generally be issued following receipt of a favorable State determination. The failure of the responsible State agency to furnish such a determination within one year of receipt of the application by the District Engineer shall be regarded as an expression of disapproval of the proposed disposal activity by the State, and the application shall be returned to the applicant by the District Engineer. The waiver of the certification requirement of section 401 of the FWPCA by a State shall not be regarded as a favorable determination for purposes of this subparagraph.

[ALTERNATIVE IV]

(d) *Definitions.* For the purpose of issuing or denying authorizations under this regulation:

*(1) *Navigable waters of the United States.* The term, "navigable waters of the United States", as used herein for purposes of the River and Harbor Act of 1899, is administratively defined to mean waters which have been used in the past, are now used, or are susceptible to use as a means to transport interstate commerce shoreward to their ordinary high water mark and up to the head of navigation as determined by the Chief of Engineers, and also waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark (mean higher high water mark on the Pacific Coast). See 33 CFR 209.260 (ER 1165-2-302) for a more definitive explanation of this term.

*(2) *Navigable waters.*

(i) The term, "navigable waters", as used herein for purposes of Section 404 of the Federal Water Pollution Control Act, is administratively defined to mean waters of the United States including the territorial seas with respect to the disposal of fill material and excluding the territorial seas with respect to the disposal of dredged material, and shall include the following waters:

(*a*) All inland rivers, lakes, streams, and artificially created waterbodies which are navigable waters of the United States up to their headwaters and shoreward to their ordinary high water mark (see paragraph (d)(1), of this section) and all primary tributaries of such waters up to their headwaters and shoreward to their ordinary high water mark;

(*b*) All ocean and coastal waters subject to the ebb and flow of the tide shoreward to their mean high water mark (mean higher high water mark on the Pacific Coast) or the salt water vegetation line, whichever extends further shoreward;

(ii) The following additional terms are defined as follows:

(*a*) "Ordinary high water mark" means the natural or clear line impressed

on the land adjacent to the waterbody. It may be established by erosion or other easily recognized characteristics such as shelving, change in the character of the soil, destruction of terrestrial vegetation or its inability to grow, the presence of litter and debris, or other appropriate means which consider the characteristics of the surrounding area.

(b) "Mean high water mark" with respect to ocean and coastal waters means the line on the shore established by the average of all high tides. It is established by survey based on available tidal datum (preferably averaged over a period of 18.6 years) because of the variations in tide. In the absence of such datum, less precise methods to determine the mean high water mark may be used such as physical markings or comparison of the area in question with an area having similar physical characteristics for which tidal datum is already available.

(c) "Salt water vegetation line" is the line beyond which plant species, dependent on salinity conditions for vigorous growth and survival, do not thrive.

(d) "Primary tributaries" means the main stem of tributaries directly connecting to navigable waters of the United States up to their headwaters, and do not include any additional tributaries extending off of the main stems of these tributaries.

(3) *Ocean waters.* The term "ocean waters", as defined in the Marine Protection Research and Sanctuaries Act of 1972 (Pub. L. 92-532, 86 Stat. 1052), means those waters of the open seas lying seaward of the base line from which the territorial sea is measured, as provided for in the Convention of the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639).

*(4) The term "dredged material" means any material in excess of one cubic meter when used in a single or incidental operation, excavated or dredged from navigable waters, including without limitation, runoff or overflow which occurs during a dredging operation or from a contained land or water disposal area. Excluded is material which is extracted for any commercial use other than fill. Discharges resulting from subsequent material processing operations of the material which is being extracted for any commercial use other than fill are subject to section 402 of the Federal Water Pollution Control Act. However, the extraction of material may require a permit from the Corps of Engineers under section 10 of the River and Harbor Act of 1899.

*(5) The term "fill material" means any material discharged into navigable waters for a purpose other than disposal, including without limitation, the creating of fast land, or the production of intended elevation of land beneath the water, but excluding material discharged in navigable waters subject to section 402 of the Federal Water Pollution Control Act.

(6) *Person.* The term "person" means any individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, any interstate body, or any agency or instrumentality of the Federal Government.

(7) *Coastal zone.* The term "coastal zone" means the coastal waters and adjacent shorelands designated by a State as being included in its approved coastal zone management program under the Coastal Zone Management Act of 1972.

(e) *Activities requiring authorizations.* (1) Department of the Army authorizations are required under the River and Harbor Act of 1899 (See paragraph (b), of this section) for all structures or work in navigable waters of the United States except for bridges and causeways (see Appendix A), the placement of aids to navigation by the U.S. Coast Guard, structures constructed in artificial canals within principally residential developments where the canal has been connected to a navigable water of the United States (See paragraph (g)(11) of this section), and activities which were commenced or completed shoreward of established harbor lines before May 27, 1970 (See § 209.150) other than those activities involving the discharge of dredged or fill material in navigable waters after October 18, 1972.

(i) Structures or work are in the navigable waters of the United States if they are within limits defined in § 209.260. Structures or work outside these limits are subject to the provisions of law cited in paragraph (b) of this section if these structures or work affect the course, location, or condition of the waterbody in such a manner as to significantly impact on the navigable capacity of the waterbody. A tunnel or other structure under a navigable water of the United States is considered to have a significant impact on the navigable capacity of the waterbody.

(ii) Structures or work licensed under the Federal Power Act of 1920 do not require Department of the Army authorizations under the River and Harbor Act of 1899 (See paragraphs (b) and (c) of this section); provided, however, that any part of such structures or work which involves the discharge of dredged or fill material into navigable waters or the transportation of dredged material for the purpose of dumping it into ocean waters will require Department of the Army authorization under section 404 of the Federal Water Pollution Control Act and section 103 of the Marine Protection, Research and Sanctuaries Act, as appropriate.

(2) In addition, Department of the Army authorizations will be required for the discharge of dredged or fill material into navigable waters except for the discharge of dredged or fill material amounting to 100 cubic yards or less into primary tributaries of navigable waters of the United States and into waters beyond the head of navigation of navigable waters of the United States (see paragraph (d)(2), above), for the transportation of dredged material for the purpose of dumping it into ocean waters, and for artificial islands and fixed structures on the outer continental shelf.

(3) Except as specifically provided in this subparagraph, activities of the type described in paragraph (e) (1) and (2) of this section done by or on behalf of any Federal agency, other than the Corps of Engineers, are subject to the authorization procedures of this regulation. Agreement for construction or engineering services performed for other agencies by the Corps of Engineers do not constitute authorization under this regulation. Division and District Engineers will therefore advise Federal agencies accordingly, and cooperate to the fullest extent in expediting the processing of their applications.

(i) By section 10 of the Act of March 3, 1899 (see paragraph (b)(2), above) Congress has delegated to the Secretary of the Army and the Chief of Engineers the duty of authorizing or prohibiting certain work or structures in navigable waters of the United States. The general legislation by which Federal agencies are empowered to act generally is not considered to the sufficient authorization by Congress to satisfy the purposes of section 10. If an agency asserts that it has Congressional authorization meeting the test of section 10 or would otherwise be exempt from the provisions of section 10, the legislative history and/or provisions of the Act should clearly demonstrate that Congress was approving the exact location and plans from which Congress could have considered the effect on navigable waters of the United States or that Congress intended to exempt that agency from the requirements of section 10. Very often such legislation reserves final approval of plans or construction for the Chief of Engineers. In such cases evaluation and authorization under this regulation are limited by the intent of the statutory language involved.

(ii) The policy provisions set out in paragraph (f)(4) of this section, relating to State or local authorizations, do not apply to work or structures undertaken by Federal agencies, except where compliance with non-Federal authorization is required by Federal law or Executive policy. Federal agencies are required to comply with the substantive State, interstate, and local water quality standards and effluent limitations adopted in accordance with or effective under the provisions of the Federal Water Pollution Control Act, as amended, in the design, construction, management, operation, and maintenance of their respective facilities. (See Executive Order No. 11752, dated 17 Dec. 73.) They are not required, however, to obtain and provide certification of compliance with effluent limitations and water quality standards from State or interstate water pollution control agencies in connection with activities involving discharges into navigable waters.

(f) *General policies for evaluating permit applications.* (1) The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed structure or work and its intended use on the public interest. Evaluation of the probable impact which the proposed structure or work may have

on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process (e.g., see § 209.400, Guidelines for Assessment of Economic, Social and Environmental Effects of Civil Works Project). That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered; among those are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use classifications, navigation, recreation, water supply, water quality and, in general, the needs and welfare of the people. No permit will be granted unless its issuance is found to be in the public interest.

(2) The following general criteria will be considered in the evaluation of every application:

(i) The relative extent of the public and private need for the proposed structure or work;

(ii) The desirability of using appropriate alternative locations and methods to accomplish the objective of the proposed structure or work;

(iii) The extent and permanence of the beneficial and/or detrimental effects which the proposed structure or work may have on the public and private uses to which the area is suited; and

(iv) The probable impact of each proposal in relation to the cumulative effect created by other existing and anticipated structures or work in the general area.

(f) *General policies for evaluating permit applications.* (1) The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed structure or work and its intended use on the public interest. Evaluation of the probable impact which the proposed structure or work may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process (e.g., see § 209.400, Guidelines for Assessment of Economic, Social and Environmental Effects of Civil Works Projects). That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered: among those are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use classifications, navigation, recreation, water supply, water quality and, in general, the needs and welfare of the people. No permit will be granted unless its issuance is found to be in the public interest.

(2) The following general criteria will be considered in the evaluation of every application:

(i) The relative extent of the public and private need for the proposed structure or work;

(ii) The desirability of using appropriate alternative locations and methods to accomplish the objective of the proposed structure or work;

(iii) The extent and permanence of the beneficial and/or detrimental effects which the proposed structure or work may have on the public and private uses to which the area is suited; and

(iv) The probable impact of each proposal in relation to the cumulative effect created by other existing and anticipated structures or work in the general area.

*(3) Permits will not be issued where certification or authorization of the proposed work is required by State or Federal law and that certification and/or authorization has been denied.

*(i) *Activities in navigable waters of the United States.* Initial processing of an application for a Department of the Army permit for work or structures in navigable waters of the United States will proceed until definitive action has been taken by the responsible State agency to grant or deny the required certification and/or authorization. Where the required State certification and/or authorization has been denied and procedures for reconsideration exist, reasonable time not to exceed 90 days will be allowed for the applicant to attempt to resolve the problem and/or obtain reconsideration of the denial. If the State denial of authorization cannot be thus resolved, the application will be denied in accordance with paragraph (p) of this section.

*(*a*) Where officially adopted State, regional or local land use classifications, determinations or policies are applicable to the land or water areas under consideration, they shall be presumed to reflect local factors of the public interest.

*(*b*) A proposed activity in a navigable water of the United States may result in conflicting comments from several agencies within the same State. While many States have designated a single State agency or individual to provide a single and coordinated State position regarding pending permit applications, where a State has not so designated a single source, District Engineers will elicit from the Governor an expression of his views and desires concerning the application (see also paragraph (j)(3), of this section), or in the alternative, an expression from the Governor as to which State agency represents the official State position in this particular case. Even if official certification and/or authorization is not required by State or Federal law, but a State, regional or local agency having jurisdiction or interest over the particular activity comments on the application, due consideration shall be given to those official views as a reflection of local factors of the public interest.

*(c) The failure of the responsible State agency to take definitive action to grant or deny required authorizations as provided for in paragraph (f)(3)(i) of this section, or to furnish comments as provided in paragraph (f)(3)(i)(*b*) of this section within six months of the issuance of the public notice by the District Engineer shall be regarded as an expression of no objection to the proposed activity by the State, and the application shall be processed to a conclusion by the District Engineer.

*(ii) *Disposal of dredged or fill material in navigable waters other than navigable waters of the United States.* Applications for Department of the Army permits for the disposal of dredged or fill material in waters other than navigable waters of the United States (see paragraph (d)(2), of this section) will be accepted but not processed until the applicant has furnished the District Engineer, in writing, a water quality certification (see paragraphs (c)(1) of this section and (f)(5), of this section) and a determination from the responsible State agency in whose State the disposal will occur, that there is no objection under any law of the State to the proposed dredge or fill disposal. The procedures for joint public notices specified in paragraph (i)(2), below, shall not be applicable to these types of cases.

*(*a*) Proposed disposal of dredged or fill material in navigable waters other than navigable waters of the United States may result in conflicting determinations from several agencies within the State. While many States have designated a single State agency or individual to provide a single coordinated State position regarding pending permit applications, where a State has not so designated a single source, District Engineers will elicit from the Governor a determination as to which State agency represents the official State position in these types of cases.

*(*b*) If a favorable State determination is received, the District Engineer will process the application in accordance with the policies expressed in paragraph (f)(3)(i), of this section. In the absence of overriding national factors of the public interest which may be revealed during the subsequent processing of the permit application for the disposal of dredged or fill material in these waters, a permit will generally be issued following receipt of a favorable State determination. The failure of the responsible State agency to furnish such a determination within one year of receipt of the application by the District Engineer shall be regarded as an expression of disapproval of the proposed disposal activity by the State, and the application shall be returned to the applicant by the District Engineer. The waiver of the certification requirement of section 401 of the FWPCA by a State shall not be

regarded as a favorable determination for purposes of this subparagraph.

(g) *Policies on particular factors of consideration.* In applying the general policies cited above to the evaluation of a permit application, Corps of Engineers officials will also consider the following policies when they are applicable to the specific application:

(1) *Interference with adjacent properties or water resource projects.* Authorization of work or structures by the Department of the Army does not convey a property right, nor authorize any injury to property or invasion of other rights.

(i) (*a*) Because a landowner has the general right to protect his property from erosion, applications to erect protective structures will usually receive favorable consideration. However, if the protective structure may cause damage to the property of others, the District Engineer will so advise the applicant and inform him of possible alternative methods of protecting his property. Such advice will be given in terms of general guidance only so as not to compete with private engineering firms nor require undue use of government resources. A significant probability of resulting damage to nearby properties can be a basis for denial of an application.

(*b*) A landowner's general right of access to navigable waters is subject to the similar rights of access held by nearby landowners and to the general public's right of navigation on the water surface. Proposals which create undue interference with access to, or use of, navigable waters will generally not receive favorable consideration.

(ii) (*a*) Where it is found that the work for which a permit is desired may interfere with a proposed civil works project of the Corps of Engineers, the applicant and the party or parties responsible for fulfillment of the requirements of local cooperation should be apprised in writing of the fact and of the possibility that a civil works project which may be constructed in the vicinity of the proposed work might necessitate its removal or reconstruction. They should also be informed that the United States will in no case be liable for any damage or injury to the structures or work authorized which may be caused by or result from future operations undertaken by the Government for the conservation or improvement of navigation, or for other purposes, and no claims or right to compensation will accrue from any such damage.

(*b*) Proposed activities which are in the area of a civil works project which exists or is under construction will be evaluated to insure that they are compatible with the purposes of the project.

(2) *Non-Federal dredging for navigation.* (i) The benefits which an authorized Federal navigation project is intended to produce will often require similar and related operations by non-Federal agencies (e.g., dredging an access channel to dock and berthing facilities or deepening such a channel to correspond to the Federal project depth). These non-Federal activities will be considered by Corps of Engineers officials in planning the construction and maintenance of Federal navigation projects and, to the maximum practical extent, will be coordinated with interested Federal, State, regional and local agencies and the general public simultaneously with the associated Federal projects. Non-federal activities which are not so coordinated will be individually evaluated in accordance with paragraph (f) of this section. In evaluating the public interest in connection with applications for permits for such coordinated operations, equal treatment will, therefore, be accorded to the fullest extent possible to both Federal and non-Federal operations. Furthermore, permits for non-Federal dredging operations will contain conditions requiring the permittee to comply with the same practices or requirements utilized in connection with related Federal dredging operations with respect to such matters as turbidity, water quality, containment of material, nature and location of approved spoil disposal areas (non-Federal use of Federal contained, disposal areas will be in accordance with laws authorizing such areas and regulations governing their use), extent and period of dredging, and other factors relating to protection of environmental and ecological values. (See also paragraph (g) (17) of this section.)

(ii) A permit for the dredging of a channel, slip, or other such project for navigation will also authorize the periodic maintenance dredging of the project. Authority for maintenance dredging will be subject to revalidation at regular intervals to be specified in the permit. Revalidation will be in accordance with the procedures prescribed in paragraph (n) (5) of this section. The permit, however, will require the permittee to give advance notice to the District Engineer each time maintenance dredging is to be performed.

(3) *Effect on wetlands.* (i) Wetlands are those land and water areas subject to regular inundation by tidal, riverine, or lacustrine flowage. Generally included are inland and coastal shallows, marshes, mudflats, estuaries, swamps, and similar areas in coastal and inland navigable waters. Many such areas serve important purposes relating to fish and wildlife, recreation, and other elements of the general public interest. As environmentally vital areas, they constitute a productive and valuable public resource, the unnecessary alteration or destruction of which should be discouraged as contrary to the public interest.

(ii) Wetlands considered to perform functions important to the public interest include:

(*a*) Wetlands which serve important natural biological functions, including food chain production, general habitat, and nesting, spawning, rearing and resting sites for aquatic or land species;

(*b*) Wetlands set aside for study of the aquatic environment or as sanctuaries or refuges;

(*c*) Wetlands contiguous to areas listed in paragraph (g) (3) (ii) (*a*) and (*b*) of this section, the destruction or alteration of which would affect detrimentally the natural drainage characteristics, sedimentation patterns, salinity distribution, flushing characteristics, current patterns, or other environmental characteristics of the above areas;

(*d*) Wetlands which are significant in shielding other areas from wave action, erosion, or storm damage. Such wetlands often include barrier beaches, islands, reefs and bars;

(*e*) Wetlands which serve as valuable storage areas for storm and flood waters; and

(*f*) Wetlands which are prime natural recharge areas. Prime recharge areas are locations where surface and ground water are directly interconnected.

(iii) Although a particular alteration of wetlands may constitute a minor change, the cumulative effect of numerous such piecemeal changes often results in a major impairment of the wetland resources. Thus, the particular wetland site for which an application is made will be evaluated with the recognition that it is part of a complete and interrelated wetland area. In addition, the District Engineer may undertake reviews of particular wetland areas, in response to new applications, and in consultation with the appropriate Regional Director of the Bureau of Sport Fisheries and Wildlife, the Regional Director of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, the Regional Administrator of the Environmental Protection Agency, the local representative of the Soil Conservation Service of the Department of Agriculture, and the head of the appropriate State agency to assess the cumulative effect of activities in such areas.

(iv) Unless the public interest requires otherwise, no permit shall be granted for work in wetlands identified as important by subparagraph (ii), above, unless the District Engineer concludes, on the basis of the analysis required in paragraph (f) of this section, that the benefits of the proposed alteration outweigh the damage to the wetlands resource and the proposed alteration is necessary to realize those benefits.

(*a*) In evaluating whether a particular alteration is necessary, the District Engineer shall primarily consider whether the proposed activity is dependent upon the wetland resources and environment and whether feasible alternative sites are available.

(*b*) The applicant must provide sufficient data on the basis of which the availability of feasible alternative sites can be evaluated.

(v) In accordance with the policy expressed in paragraph (f) (3) of this section, and with the Congressional policy expressed in the Estuary Protection Act, PL 90-454, state regulatory laws or programs for classification and protection of wetlands will be given great weight. (See also paragraph (g) (18) of this section).

(4) *Fish and wildlife.* (i) In accordance with the Fish and Wildlife Coordination Act (see paragraph (c) (5) of this

section) Corps of Engineers officials will in all permit cases, consult with the Regional Director, U.S. Fish and Wildlife Service, the Regional Director, National Marine Fisheries Service, and the head of the agency responsible for fish and wildlife for the state in which the work is to be performed, with a view to the conservation of wildlife resources by prevention of their loss and damage due to the work or structures proposed in a permit application (see paragraphs (i) (1) (ii) and (j) (2) of this section). They will give great weight to these views on fish and wildlife considerations in evaluating the application. The applicant will be urged to modify his proposal to eliminate or mitigate any damage to such resources, and in appropriate cases the permit may be conditioned to accomplish this purpose.

(ii) The Division Engineer may issue a permit over an unresolved objection based on fish and wildlife considerations by the regional representative of Federal fish and wildlife agencies unless otherwise directed by the Chief of Engineers; provided, however, that the policies and procedures stated in the Memorandum of Understanding between the Department of the Army and the Department of the Interior (Appendix B) will be followed with respect to all activities involving dredging, excavation, filling and other related work.

(5) *Water quality.* (i) Applications for permits for activities which may affect the quality of navigable waters will be evaluated with a view toward compliance with applicable effluent limitations and water quality standards during both the construction and operation of the proposed activity. Certification of compliance with applicable effluent limitations and water quality standards required under provisions of Section 401 of the Federal Water Pollution Control Act will be considered conclusive with respect to water quality considerations unless the Regional Administrator, Environmental Protection Agency (EPA), advises of other water quality aspects to be taken into consideration. If the certification provided is to the effect that no effluent limitation and water quality standards have been established as applicable to the proposed activity, or if certification is not required for the proposed activity, the advice of the Regional Administrator, EPA, on water quality aspects will be given great weight in evaluating the permit application. Any permit issued may be conditioned to implement water quality protection measures.

(ii) If the Regional Administrator, EPA, objects to the issuance of a permit on the basis of water quality considerations and the objection is not resolved by the applicant or the District Engineer, and the District Engineer would otherwise issue the permit, the application will be forwarded through channels to the Chief of Engineers for further coordination with the Administrator, EPA, and decision. (See also paragraphs (b) (7) and (b) (8), above, and (g) (17) and (i) (2) (i) of this section.)

(6) *Historic, scenic, and recreational values.* (i) Applications for permits covered by this regulation may involve areas which possess recognized historic, cultural, scenic, conservation, recreational or similar values. Full evaluation of the general public interest requires that due consideration be given to the effect which the proposed structure or activity may have on the enhancement, preservation, or development of such values. Recognition of those values is often reflected by State, regional, or local land use classifications (see paragraph (f) (3) of this section), or by similar Federal controls or policies. In both cases, action on permit applications should, insofar as possible, be consistent with, and avoid adverse effect on, the values or purposes for which those classifications, controls, or policies were established.

(ii) Specific application of the policy in paragraph (g) (6) (i) of this section, applies to:

(*a*) Rivers named in Section 3 of the Wild and Scenic Rivers Act (82 Stat. 906, 16 U.S.C. 1273 et seq.), and those proposed for inclusion as provided by sections 4 and 5 of the Act, or by later legislation.

(*b*) Historic, cultural, or archeological sites or practices as provided in the National Historic Preservation Act of 1966 (83 Stat. 852, 42 U.S.C. 4321 et seq.) (see also Executive Order 11593, May 13, 1971, and Statutes there cited). Particular attention should be directed toward any district, site, building, structure, or object listed in the National Register of Historic Places. Comments regarding such undertakings shall be sought and considered as provided by paragraph (i) (2) (iii) of this section.

(*c*) Sites included in the National Registry of Natural Landmarks which are published periodically in the FEDERAL REGISTER.

(*d*) Any other areas named in Acts of Congress or Presidential Proclamations as National Rivers, National Wilderness Areas, National Seashores, National Recreation Areas, National Lakeshores, National Parks, National Monuments, and such areas as may be established under Federal law for similar and related purposes, such as estuarine and marine sanctuaries.

(7) *Structures for small boats.* As a matter of policy, in the absence of overriding public interest, favorable consideration will be generally be given to applications from riparian proprietors for permits for piers, boat docks, moorings, platforms and similar structures for small boats. Particular attention will be given to the location and general design of such structures to prevent possible obstructions to navigation with respect to both the public's use of the waterway and the neighboring proprietors' access to the waterway. Obstructions can result from both the existence of the structure, particularly in conjunction with other similar facilities in the immediate vicinity, and from its inability to withstand wave action or other forces which can be expected. District Engineers will inform applicants of the hazards involved and encourage safety in location, design and operation. Corps of Engineers officials will also encourage cooperative or group use facilities in lieu of individual proprietor use facilities.

(i) Letters transmitting permits for structures for small boats will, where applicable, include the following language: "Notice is hereby given that a possibility exists that the structure permitted may be subject to damage by wave wash from passing vessels. Your attention is invited to special condition _____ of the permit." The appropriate designation of the permit condition placing responsibility on the permittee and not on the United States for integrity of the structure and safety of boats moored thereto will be inserted.

(ii) Floating structures for small recreational boats or other recreational purposes in lakes owned and operated by the Corps of Engineers under a Resources Manager are normally subject to permit authorities cited in paragraph (b), above when those waters are regarded as navigable waters of the United States. (See 33 CFR 209.260). However, such structures will not be authorized under this regulation but will be regulated under applicable regulations of the Chief of Engineers published in Chapter III, Part 327.19 of Title 36, Code of Federal Regulations if the land surrounding those lakes is under complete Federal ownership. District Engineers will delineate those portions of the navigable waters of the United States where this provision is applicable and post notices of this designation in the vicinity of the lake Resources Manager's office.

(8) *Aids to navigation.* (i) The placing of non-Federal fixed and floating aids to navigation in a navigable water of the United States is within the purview of section 10 of the River and Harbor Act of 1899. Furthermore, these aids are of particular interest to the U.S. Coast Guard because of their control of marking, lighting and standardization of such navigation aids. Applications for permits for installation of aids to navigation will, therefore, be coordinated with the appropriate District Commander, U.S. Coast Guard, and permits for such aids will include a condition to the effect that the permittee will conform to the requirements of the Coast Guard for marking, lighting, etc. Since most fixed and floating aids to navigation will not ordinarily significantly affect environmental values, the usual form of authorization to be used will be a letter of permission.

(ii) Fishing structures and appliances in navigable waters of the United States will be lighted for the safety of navigation as follows: Lights will be displayed between sunset and sunrise. They will be placed at each end of the structure, except where the inner end terminates at such a point where there could be no practicable navigation between it and the high-water line of the adjacent coast. In such case no inner light will be required. The outer light will be white, and the inner light will be red. The size, capacity, and manner of maintenance of the lights will be specified in the Department of the

Army permit authorizing the erection of the structure or appliances. When several structures or appliances are placed on one line with no navigable passage between them, they will be considered for lighting purposes as one structure.

(9) *Outer continental shelf.* Artificial islands and fixed structures located on the outer continental shelf are subject to the standard permit procedures of this regulation. Where the islands or structures are to be constructed on lands which are under mineral lease from the Bureau of Land Management, Department of the Interior, that agency, in cooperation with other Federal agencies, fully evaluates the potential effect of the leasing program on the total environment. Accordingly, the decision whether to issue a permit on lands which are under mineral lease from the Department of the Interior will be limited to an evaluation of the impact of the proposed work on navigation and national security. The public notice will so identify the criteria (see paragraph (j)(1)(viii) (*b*) of this section).

(10) *Effect on limits of the territorial sea.* Structures or work affecting coastal waters may modify the coast line or baseline from which the three mile belt is measured for purposes of the Submerged Lands Act and International Law. Generally, the coast line or base line is the line of ordinary low water on the mainland; however, there are exceptions where there are islands or low-tide elevations off shore. (See the Submerged Lands Act, 67 Stat. 29, U.S. Code section 1301(c), and United States v. California, 381 U.S. 139 (1965), 382 U.S. 448 (1966)). All applications for structures or work affecting coastal waters will therefore be reviewed specifically to determine whether the coast line or baseline might be altered. If it is determined that such a change might occur, coordination with the Attorney General and the Solicitor of the Department of the Interior is required before final action is taken. The District Engineer will submit a description of the proposed work and a copy of the plans to the Solicitor, Department of the Interior, Washington, D.C. 20240, and request his comments concerning the effects of the proposed work on the outer continental rights of the United States. These comments will be included in the file of the application. After completion of standard processing procedures, the file will be forwarded to the Chief of Engineers. The decision in the application will be made by the Secretary of the Army after coordination with the Attorney General.

(11) *Canals and other artificial waterways connected to navigable waters.* (i) A canal or similar artificial waterway is subject to the regulatory authorities discussed in paragraph (b)(2) of this section if it constitutes a navigable water of the United States, or if it is connected to navigable waters of the United States in a manner which affects their course, condition, or capacity. In all cases the connection to navigable waters of the United States requires a permit. Where the canal itself constitutes a navigable water of the United States, evaluation of the permit application and further exercise of regulatory authority will be in accordance with the standard procedures of this regulation. For all other canals the exercise of regulatory authority is restricted to those activities which affect the course, condition, or capacity of the navigable waters of the United States. Examples of the latter may include the length and depth of the canal; the currents circulation, quality and turbidity of its waters, especially as they affect fish and wildlife values; and modifications or extensions of its configuration.

(ii) The proponent of canal work should submit his application for a permit, including a proposed plan of the entire development, and the location and description of anticipated docks, piers and other similar structures which will be placed in the canal, to the District Engineer before commencing any form of work. If the connection to navigable waters of the United States has already been made without a permit, the District Engineer will proceed in accordance with paragraph (g)(12)(i) of this section. Where a connection has not yet occurred, but canal construction is planned or has already begun, the District Engineer will, in writing, advise the proponent of the need for a permit to connect the canals to navigable waters of the United States. He will also ask the proponent if he intends to make such a connection and will request the immediate submission of the plans and permit application if it is so intended. The District Engineer will also advise the proponent that any work is done at the risk that, if a permit is required, it may not be issued, and that the existence of partially-completed excavation work will not be allowed to weigh favorably in evaluation of the permit application.

(12) *Unauthorized activities.* The following procedures will be followed with respect to activities which are performed without proper authorization.

(i) When the District Engineer becomes aware of any unauthorized activity which is still in progress, he shall immediately issue a cease and desist order to all persons responsible for and/or involved in the performance of the activity. In appropriate cases, the District Engineer may also order interim protective measures to be taken in order to protect the public interest. If there is noncompliance with this cease and desist order, the District Engineer shall forward a factual report immediately to the local U.S. Attorney with a request that a temporary restraining order and/or preliminary injunction be obtained against the responsible persons.

(ii) In all cases, the District Engineer shall commence an immediate investigation to ascertain the facts surrounding the unauthorized activity. In making this investigation, the District Engineer shall solicit the views of appropriate Federal, State and local agencies, and shall request the persons involved in the unauthorized activity to provide appropriate information on this activity which will assist him in evaluating the activity and recommending the course of action to be taken. The District Engineer shall evaluate the information and views developed during this investigation in conjunction with the factors and criteria cited in paragraph (f) of this section and shall formulate recommendations as to the appropriate administrative and/or legal action to be taken, subject to the following:

(*a*) Except where the activity was performed in nontidal waters prior to an administrative, judicial or legislative determination that the water is a navigable water of the United States, the District Engineer is not authorized to process or accept for processing any permit application received.

(*1*) The District Engineer shall in all cases other than those covered by paragraph (g)(12)(ii)(*a*)(2) of this section prepare and forward a report to the Chief of Engineers, ATTN: DAEN-GCK, which shall contain an analysis of the data and information obtained during this investigation and recommend appropriate civil and criminal action. In those cases where the analysis of the facts developed during his investigation, when made in conjunction with the factors and criteria in paragraph (f) of this section leads to the preliminary conclusion that removal of the unauthorized activity is in the public interest, the District Engineer shall also recommend restoration of the area to its original condition.

(2) In those cases to which the provisions of paragraph (m)(3), below, apply, the District Engineer may refer the matter directly to the local United States Attorney for appropriate legal action.

(*b*) If criminal and/or civil action is instituted against the responsible person, the District Engineer shall not accept for processing any application until final disposition of all judicial proceedings, including the payment of all prescribed penalties and fines and/or the completion of all work ordered by the court. Thereafter, the District Engineer may accept an application for a permit; Provided, that with respect to any judicial order requiring partial or total restoration of an area, the District Engineer, if so ordered by the court, shall supervise this restoration effort and may allow the responsible persons to apply for a permit for only that portion of the unauthorized activity for which restoration has not been so ordered.

(*c*) In those cases where the District Engineer determines that the unauthorized activity was performed in nontidal waters, prior to an administrative, judicial or legislative determination that the water is a navigable water of the United States, the District Engineer shall instruct the responsible persons to immediately file for a permit, unless he determines on the basis of all the facts and circumstances that immediate legal action is warranted. In such cases, the District Engineer will follow the procedures of paragraph (g)(12)(ii) (*a*) and (*b*) of this section.

(iii) Processing and evaluation of applications for after-the-fact authoriza-

tions for activities undertaken without the required Department of the Army authorizations will in all other respects follow the standard procedures of this regulation. Thus, authorizations may still be denied in accordance with the policies and procedures of this regulation.

(iv) Where after-the-fact authorization in accordance with this paragraph is determined to be in the public interest, the standard permit form for the activity will be used, omitting inappropriate conditions, and including whatever special conditions the District Engineer may deem appropriate to mitigate or prevent undesirable effects which have occurred or might occur.

(v) Where after-the-fact authorization is not determined to be in the public interest, the notification of the denial of the permit will prescribe any corrective actions to be taken in connection with the work already accomplished and establish a reasonable period of time for the applicant to complete such actions. The District Engineer, after denial of the permit, will again consider whether civil or criminal action is appropriate.

(vi) If the applicant declines to accept the proposed permit conditions, or fails to take corrective action prescribed in the notification of denial, or if the District Engineer determines, after denying the permit application, that legal action is appropriate, the matter will be referred to the Chief of Engineers, ATTN: DAEN-GCK, with recommendations for appropriate action.

(vii) Applications will generally not be required for work or structures completed before 18 December 1968, nor where potential applicants had received expressions of disclaimer prior to the date of this regulation; *provided, however,* That the procedures of paragraph (g) (12) (i) of this section shall apply to all work or structures which were commenced or completed on or after 18 December 1968, and may be applied to all specific cases, regardless of date of construction or previous disclaimers, for which the District Engineer determines that the interests of navigation so require.

(13) *Facilities at the borders of the United States.* (i) The construction, operation, maintenance, or connection of facilities at the borders of the United States are subject to Executive control and must be authorized by the President, Secretary of State, or other delegated official.

(a) Applications for permits for the construction, operation, maintenance, or connection at the borders of the United States of facilities for the transmission of electric energy between the United States and a foreign country, or for the exportation or importation of natural gas to or from a foreign country, must be made to the Federal Power Commission. (See Executive Order 10485, September 3, 1953, 16 U.S.C. 824(a)(e), 15 U.S.C. 717b, and 18 CFR Parts 32 and 153).

(b) Applications for the landing or operation of submarine cables must be made to the Federal Communications Commission. (See Executive Order 10530, May 10, 1954, 47 U.S.C. 34 to 39, and 47 CFR 1.767).

(c) The Secretary of State is to receive applications for permits for the construction, connection, operation, or maintenance, at the borders of the United States, of: (1) pipelines, conveyors belts, and similar facilities for the exportation or importation of petroleum products, coals, minerals, or other products to or from a foreign country; (2) facilities for the exportation or importation of water or sewage to or from a foreign country; (3) monorails, aerial cable cars, aerial tramways and similar facilities for the transportation of persons or things, or both, to or from a foreign country. (See Executive Order 11423, August 16, 1968).

(ii) A Department of the Army permit under Section 10 of the River and Harbor Act of March 3, 1899 is also required for all of the above facilities which affect the navigable waters of the United States, but in each case in which a permit has been issued as provided above, the decision whether to issue the Department of the Army permit will be based primarily on factors of navigation, since the basic existence and operation of the facility will have been examined and permitted as provided by the Executive Orders. Furthermore, in those cases where the construction, maintenance, or operation at the above facilities involves the discharge of dredged or fill material in navigable waters or the transportation of dredged material for the purpose of dumping it into ocean waters, appropriate Department of the Army authorizations under section 404 of the Federal Water Pollution Control Act or under section 103 of the Marine Protection Research and Sanctuaries Act of 1972 are also required. Evaluation of applications for these authorizations will be in accordance with paragraph (g) (17) of this section.

(14) *Power transmission lines.* (i) Permits under section 10 of the River and Harbor Act of March 3, 1899, (33 U.S.C. 403) are required for power transmission lines crossing navigable waters of the United States unless those lines are part of a water power project subject to the regulatory authorities of the Federal Power Commission under the Federal Water Power Act of 1920 (16 U.S.C. 797). If an application is received for a permit for lines which are part of a water power project, the applicant will be instructed to submit his application to the Federal Power Commission. If the lines are not part of a water power project, the application will be processed in accordance with the procedures prescribed in this regulation.

(ii) The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances which would be required by the U.S. Coast Guard for new fixed bridges, in the vicinity of the proposed power line crossing. The clearances are based on the low point of the line under conditions which produce the greatest sag, taking into consideration temperature, load, wind, length of span, and type of supports as outlined in the National Electrical Safety Code.

Nominal system voltage, kV:	*Minimum additional clearance (ft.) above clearance required for bridges*
115 and below	20
138	22
161	24
230	26
350	30
500	35
700	42
750–765	45

(15) *Seaplane operations.* Structures in navigable waters of the United States associated with seaplane operations require Department of the Army permits, but close coordination with the Federal Aviation Administration (FAA), Department of Transportation, is required on such applications.

(i) The FAA must be notified by an applicant whenever he proposes to establish or operate a seaplane base. The FAA will study the proposal and advise the applicant, District Engineer, and other interested parties as to the effects of the proposal on the use of airspace. The District Engineer will therefore refer any objections regarding the effect of the proposal on the use of airspace to the FAA, and give due consideration to their recommendations when evaluating the general public interest.

(ii) If the seaplane base will serve air carriers licensed by the Civil Aeronautics Board, the applicant must receive an airport operating certificate from the FAA. That certificate reflects determination and conditions relating to the installation, operation, and maintenance of adequate air navigation facilities and safety equipment. Accordingly, the District Engineer may, in evaluating the general public interest, consider such matters to have been primarily evaluated by the FAA.

(16) *Foreign Trade Zones.* The Foreign Trade Zones Act (48 Stat. 998–1003, 19 U.S.C. sections 81a to 81u, as amended) authorizes the establishment of foreign-trade zones in or adjacent to United States ports of entry under terms of a grant and regulations prescribed by the Foreign-Trade Zones Board. Pertinent regulations are published at Title 15 of the Code of Federal Regulations, Part 400. The Secretary of the Army is a member of the Board, and construction of a zone is under the supervision of the District Engineer. Laws governing the navigable waters of the United States remain applicable to foreign-trade zones, including the general requirements of this regulation. Evaluation by a District Engineer of a permit application may give recognition to the consideration by the Board of the general economic effects of the zone on local and foreign commerce, general location of wharves and facilities, and other factors pertinent to con-

struction, operation, and maintenance of the zone.

(17) *Discharge of dredged or fill material in navigable waters or dumping of dredged material in ocean waters.* (i) Applications for permits for the discharge of dredged or fill material into navigable waters at specific disposal sites will be reviewed in accordance with guidelines promulgated by the Administrator, EPA, under authority of section 404(b) of the Federal Water Pollution Control Act. If the EPA guidelines alone prohibit the designation of a proposed disposal site, the economic impact on navigation and anchorage of the failure to authorize the use of the proposed disposal site in navigable waters will also be considered in evaluating whether or not the proposed discharge is in the public interest.

(ii) Applications for permits for the transporting of dredged material for the purpose of dumping it into ocean waters will be evaluated to determine that the proposed dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. In making the evaluation, Corps of Engineers officials will apply criteria established by the Administrator, EPA, under authority of section 102 (a) of the Marine Protection, Research and Sanctuaries Act of 1972, and will specify the dumping sites, using the recommendations of the Administrator, pursuant to section 102(c) of the Act, to the extent feasible. (See 40 CFR Part 220). In evaluating the need for the dumping as required by paragraph (f) (2) (i) of this section, Corps of Engineers officials will consider the potential effect of a permit denial on navigation, economic and industrial development, and foreign and domestic commerce of the United States.

(iii) Sites previously designated for use as disposal sites for discharge or dumping of dredged material will be specified to the maximum practicable extent in permits for the discharge or dumping of dredged material in navigable waters or ocean waters unless restricted by the Administrator, EPA, in accordance with section 404(c) of the Federal Water Pollution Control Act or section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972.

(iv) Prior to actual issuance of permits for the discharge or dumping of dredged or fill material in navigable or ocean waters, Corps of Engineers officials will advise appropriate Regional Administrators, EPA, of the intent to so issue permits. If the Regional Administrator advises, within fifteen days of the advice of the intent to issue, that he objects to the issuance of the permits, the case will be forwarded to the Chief of Engineers in accordance with paragraph (s), below, for further coordination with the Administrator, EPA, and decision. The report forwarding the case will contain an analysis for a determination by the Secretary of the Army that there is no economically feasible method or site available other than that to which the Regional Administrator objects. (See also paragraphs (b) (7) and (b) (8) of this section.)

(18) *Activities in coastal zones and marine sanctuaries.* (i) Applications for Department of the Army authorizations for activities in the coastal zones of those States having a coastal zone management program approved by the Secretary of Commerce will be evaluated with respect to compliance with that program. No permit will be issued until the applicant has certified that his proposed activity complies with the coastal zone management program and the appropriate State agency has concurred with the certification or has waived its right to do so (see paragraph (i) (2) (ii) of this section); however, a permit may be issued if the Secretary of Commerce, on his own initiative or upon appeal by the applicant, finds that the proposed activity is consistent with the objectives of the Coastal Zone Management Act of 1972 or is otherwise necessary in the interest of national security.

(ii) Applications for Department of the Army authorization for activities in a marine sanctuary established by the Secretary of Commerce under authority of section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 will be evaluated for impact on the marine sanctuary. No permit will be issued until the applicant provides a certification from the Secretary of Commerce that the proposed activity is consistent with the purposes of Title III of the Marine Protection, Research and Sanctuaries Act of 1972 and can be carried out within the regulations promulgated by the Secretary of Commerce to control activities within the marine sanctuary. Authorizations so issued will contain such special conditions as may be required by the Secretary of Commerce in connection with his certification.

(h) *Applications for authorizations.* (1) Any person proposing to undertake any activity requiring Department of the Army authorization as specified in paragraph (e) of this section, must apply for a permit to the District Engineer in charge of the District where the proposed activity is to be performed. Applications for permits must be prepared in accordance with instructions in the pamphlet entitled "Applications for Department of the Army Permits for Activities in Waterways" published by the Corps of Engineers, utilizing the prescribed application form (ENG Form 4345). The form and pamphlet may be obtained from the District Engineer having jurisdiction over the waterway in which the proposed activity will be located. Local variations of the application form for purposes of facilitating coordination with State and local agencies may be proposed by District or Division Engineers. These variations will be submitted for approval to DAEN-CWO-N and for clearance by the Office of Management and Budget.

(2) Generally, the application must include a complete description of the proposed activity, which includes necessary drawings, sketches or plans, the location, purpose and intended use of the proposed activity; scheduling of the activity; the names and addresses of adjoining property owners and the location and dimensions of adjacent structures; and the approvals required by other Federal, interstate, State or local agencies for the work, including all approvals or denials already made.

(i) If the activity involves dredging in navigable waters of the United States, the application must include a description of the type, composition and quantity of the material to be dredged, the method of dredging, and the site and plans for disposal of the dredged material.

(ii) If the activity includes the discharge of dredged or fill material in the navigable waters or the transportation of dredged material for the purpose of dumping it in the ocean waters, the application must include the source of the material, a description of the type, composition and quantity of the material, the method of transportaton and disposal of the material, and the location of the disposal site. Certification under section 401 of the Federal Water Pollution Control Act is required for such discharges into navigable waters. In addition, applicants for permits for these activities are required to pay a fee of $100 per application if the quantity of the material to be discharged in navigable waters or to be dumped in ocean waters exceeds 2500 cubic yards; if the quantity of material is 2500 cubic yards or less, the fee is $10 per application. Agencies or instrumentalities of Federal, State, or local governments will not be required to pay any fee in connection with applications for permits. This fee structure will be reviewed from time to time.

(iii) If the activity includes the construction of a fill or pile or float-supported platform, the project description must include specific structures to be erected on the fill or platform.

(iv) If the activity includes the construction of a structure the normal use of which may result in a discharge of pollutants, other than dredged or fill material, into navigable waters or ocean waters, the application must include either the identification of the application for the discharge permit assigned by the appropriate water pollution control agency or a copy of that application. Certification under Section 401 of the Federal Water Pollution Control Act is required for such discharges into navigable waters.

(v) If the activity will be located within a marine sanctuary established by the Secretary of Commerce, the application must include a copy of the certification from the Secretary of Commerce that the proposed activity is consistent with the purposes of Title III of the Marine Protection, Research and Sanctuaries Act of 1972 and can be carried out within the regulations promulgated by the Secretary of Commerce to control activities within the marine sanctuary.

(vi) If the activity requires the preparation of an environmental impact statement (see paragraphs (i) (1) (iv)

and (l) of this section), which necessitates the development of data and information which will result in substantial expense to the United States, the District Engineer may, after obtaining written approval from the Division Engineer, charge the applicant for those extraordinary expenses incurred in the development of this information pursuant to 31 U.S.C. 483(a). All money so collected shall be paid into the Treasury of the United States as miscellaneous receipts. In lieu of this assessment, the District Engineer may require reports, data, and other information for the environmental impact statement (see paragraph (h)(3) of this section), to be compiled by an independent third party under contract with the applicant and furnished directly to the District Engineer; *Provided*, In such cases, the District Engineer shall specify the type of information to be developed; *And provided further*, That the information furnished by this third party contractor may not be used by the District Engineer to assist in his preparation of the environmental impact statement unless he has approved the selection of this third party contractor after consulting with interested Federal, State, and local agencies, public interest groups, and members of the general public, as he deems appropriate, to assure objectivity in this selection. In either case, the District Engineer should advise the applicant in writing that there is no assurance that favorable action will ultimately be taken on his application.

(3) In addition to that information indicated in paragraph (h)(2) of this section, the applicant will be required to furnish such additional information as the District Engineer may deem necessary to assist him in his evaluation of the application. Such additional information may include an environmental assessment, including information on alternate methods and sites, as may be necessary for the preparation of an environmental impact statement (see paragraph (l), below).

(4) The application must be signed by the person who desires to undertake the proposed activity; however, the application may be signed by a duly authorized agent if accompanied by a statement by that person designating the agent and agreeing to furnish, upon request, supplemental information in support of the application. In either case, the signature of the applicant will be understood to be an affirmation that he possesses the authority to undertake the activity proposed in his application, except where the lands are under the control of the Corps of Engineers, in which case the District Engineer will coordinate the transfer of the real estate and the permit action. When the application is submitted by an agent, the application may include the activity of more than one owner provided the character of the activity of each owner is similar and in the same general area.

(l) *Processing applications for permits*—(1) *standard procedures.* (i) When an application for a permit is received, the District Engineer shall immediately assign it a number for identification, acknowledge receipt thereof, and advise the applicant of the number assigned to it. He shall review the application for completeness and obtain from the applicant any additional information he deems necessary for further processing.

(ii) When all required information has been provided, the District Engineer will issue a public notice as described in paragraph (j) of this section unless specifically exempted by other provisions of this regulation. The notice will be distributed for posting in post offices or other appropriate public places in the vicinity of the site of the proposed work and will be sent to the applicant, to appropriate city and county officials, to adjoining property owners, to appropriate State agencies, to concerned Federal agencies, to local, regional and national shipping and other concerned business and conservation organizations, and to any other interested parties. If in the judgment of the District Engineer the proposal may result in substantial public interest, the public notice (without drawings) may be published for five consecutive days in the local newspaper, and the applicant shall reimburse the District Engineer for the costs of publication. Copies of public notices will be sent to all parties who have specifically requested copies of public notices, to the U.S. Senators and Representatives for the area where the work is to be performed, the Field Representative of the Secretary of the Interior, the Regional Director of the Bureau of Sport Fisheries and Wildlife, the Regional Director of the National Park Service, the Regional Administrator of the Environmental Protection Agency (EPA), the Regional Director of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration (NOAA), the head of the State agency responsible for fish and wildlife resources, the District Commander, U.S. Coast Guard, and the Office of the Chief of Engineers, Attention: DAEN-CWO-N.

(iii) The District Engineer shall consider all comments received in response to the public notice in his subsequent actions on the permit application. Receipt of the comments will be acknowledged and they will be made a part of the official file on the application. Comments received as form letters or petitions may be acknowledged as a group to the person or organization responsible for the form letter or petition. If comments relate to matters within the special expertise of another Federal agency, the District Engineer may seek the advice of that agency. The applicant must be given the opportunity to furnish the District Engineer his proposed resolution or rebuttal to all objections from Government agencies and other substantive adverse comments before final decision will be made on the application.

(iv) The District Engineer will consider whether or not an environmental impact statement is necessary (see paragraph (l) of this section) at the earliest time during the processing of an application involving an activity which is not already subject to an environmental impact statement. This will be done when he can make an assessment of the environmental impact of a proposed activity, which in some cases may be upon receipt of the application due to the magnitude of the proposed project or the nature of the area involved. This will be reconsidered as additional information is developed; however, at the earliest time that it appears an environmental impact statement may be required, the District Engineer will require the applicant to furnish additional information and an analysis of the environmental impacts of the proposed action. A preliminary determination as to whether an environmental impact statement will be prepared or a statement that an environmental impact statement has already been prepared on the overall activity by the Corps of Engineers or another Federal agency, will be announced in the Public Notice (see paragraph (j) of this section). If the District Engineer determines that an environmental impact statement will not be prepared for the proposed activity, a finding to that effect will immediately be placed in the permit file and, if the public notice has indicated an intent to prepare a statement, will be announced to the public. This finding shall be dated and signed and shall include a brief statement of the facts and reasons for the decision. If the District Engineer believes that granting the permit may be warranted but that the proposed activity would significantly affect the quality of the human environment, he will prepare an environmental impact statement in accordance with § 209.410. In such cases and if a public hearing is to be held (see subparagraph (v), below), the proposed final environmental impact statement must be completed prior to the hearing. If a public meeting is held, however, the draft environmental impact statement will be filed with the Council on Environmental Quality (CEQ) at least 15 days prior to the meeting.

(v) If the proposed activity includes the discharge of dredged or fill material into navigable waters or the transportation of dredged material for the purpose of dumping it in ocean waters and a person or persons having an interest which may be affected by the issuance of a permit requests a hearing, or if a second State objects to issuance of a permit on the basis of water quality and requests a hearing, or if otherwise required by law or directed by the Chief of Engineers, the District Engineer will arrange a public hearing in accordance with applicable Corps of Engineers regulations (§ 209.133). If no public hearing is to be held and the District Engineer determines that public interest warrants and additional information necessary to the proper evaluation of the application would probably be obtained thereby, the District Engineer will hold a public meeting (see paragraph (k) of this section).

(vi) After all above actions have been completed, the District Engineer will determine in accordance with the record and applicable regulations whether or not the permit should be issued. If a per-

mit is warranted, he will determine the conditions and duration which should be incorporated into the permit (see paragraphs (m) and (n) of this section). In accordance with the authorities specified in paragraph (p) of this section the District Engineer will take final action or forward the application with all pertinent comments, records, and studies, including the final environmental impact statement if prepared, and a statement of findings to support his recommendation, through channels to the official authorized to make the final decision. The report forwarding the application for decision will be in the format prescribed in paragraph (s) of this section. Notice that the application has been forwarded to higher headquarters will be furnished the applicant. When the final decision is made, the statement of findings to support that decision will be placed in the permit file. If an environmental impact statement was filed with CEQ, a copy of the statement of findings will be submitted to DAEN-CWO-N for filing with CEQ. In those cases where an environmental impact statement has not been prepared but the application is forwarded for decision in the format prescribed in paragraph(s) of this section, the report will serve as the Statement of Findings.

(vii) If the final decision is to deny the permit, the applicant will be advised in writing of the reason for denial. If the final decision is to issue the permit, the issuing official will forward two copies of the draft permit to the applicant for signature accepting the conditions of the permit. The applicant will return both signed copies to the issuing officials who then signs and dates the permit. The permit is not valid until signed by the issuing official. Final action on the permit application is the signature on the letter notifying the applicant of the denial of his application or signature of the issuing official on the authorizing document.

(viii) The District Engineer will publish monthly a list of permits issued or denied during the previous month. The list will identify each action by public notice number, name of applicant, and brief description of activity involved. This list will be distributed to all persons who received any of the public notices listed.

(ix) If the applicant fails to respond within six months to any request or inquiry of the District Engineer, the District Engineer may advise the applicant by registered letter that his application will be considered as having been withdrawn unless the applicant responds thereto within thirty days of the date of the letter.

(2) *Procedures for particular types of permit situations.* (i) Activities requiring water quality certification:

(*a*) If water quality certification for the proposed activity is necessary under the provisions of the Federal Water Pollution Control Act, the District Engineer shall so notify the applicant and obtain from him either the appropriate certification or a copy of his application for such certification. The District Engineer shall forward one copy of the permit application to the appropriate certifying agency and two copies to the Regional Administrator of the Environmental Protection Agency (EPA). The District Engineer may issue the public notice of the application jointly with the certifying agency if arrangements for such joint notices have been approved by the Division Engineer. When the cerification is received a copy of the certification will be forwarded to the Regional Administrator of EPA who shall determine if the proposed activity may affect the quality of the waters of any State or States other than the State in which the work is to be performed. If he needs supplemental information in order to make this determination, the Regional Administrator may request it from the District Engineer who shall obtain it from the applicant and forward it to the Regional Administrator. The Regional Administrator shall, within thirty days of receipt of the application, certification and supplemental information, notify the affected State, the District Engineer, and the applicant in the event such a second State may be affected. The second State then has sixty days to advise the District Engineer that it objects to the issuance of the permit on the basis of the effect on the quality of its waters and to request a hearing.

(*b*) No authorization will be granted until required certification has been obtained or has been waived. Waiver is deemed to occur if the certifying agency fails or refuses to act on a request for certification within a reasonable period of time after receipt of such request. The request for certification must be made in accordance with the regulations of the certifying agency. In determining whether or not a waiver period has commenced, the District Engineer will verify that the certifying agency has received a valid request for certification. Three months shall generally be considered to be a reasonable period of time. If, however, special circumstances identified by the District Engineer require that action on an application be taken within a more limited period of time, the District Engineer shall determine a reasonable lesser period of time, advise the certifying agency of the need for action by a particular date and that, if certification is not received by that date, it will be considered that the requirement for certification has been waived. Similarly if it appears that circumstances may reasonably require a period of time longer than three months, the District Engineer may afford the certifying agency up to one year to provide the required certification before determining that a waiver has occurred. District Engineers shall check with the cetifying agency at the end of the allotted period of time before determining that a waiver has occurred.

(ii) If the proposed activity will be located in the coastal zone of a State, the District Engineer shall obtain from the applicant a certification that the activity conforms to the coastal zone management program of the State. Upon receipt of the certification, the District Engineer will forward a copy of the permit application and certification to the State agency responsible for implementing the coastal zone management program and request its concurrence or objection. The District Engineer can issue the public notice of the application jointly with the State agency if arrangements for such joint notices have been approved by the Division Engineer. A copy of the certification will also be sent, along with the public notice of the application to the Director, Office of Coastal Zone Management, NOAA, Department of Commerce, Rockville, Maryland 20852. If the State agency fails to concur or object to the certification within six months of receipt of the request, it will be presumed to waive its right to so act and the certification will be presumed to be valid. Before determining that a waiver has occurred, the District Engineer will check with the State agency to verify that it has failed to act. If the State agency objects to the proposed activity, the District Engineer will so advise the Director, Office of Coastal Zone Management, NOAA, and request advice within thirty days whether or not the Secretary of Commerce will review the objection. If the objection will not be reviewed, the permit will be denied. If, however, the Secretary of Commerce indicates he will review the objection, further action on the application will be held in abeyance pending notification of the results of the review. If the objection is sustained, the permit will be denied. If the objection is overruled by the Secretary's finding, however, the processing will be continued.

(iii) If the proposed activity involves any property listed in the National Register of Historic Places (which is published in its entirety in the FEDERAL REGISTER annually in February with addenda published each month), the District Engineer will determine if any aspect of the activity causes or may cause any change in the quality of the historical, architectural, archeological, or cultural character that qualified the property for listing in the National Register. Generally adverse effects occur under conditions which include but are not limited to destruction or alteration of all or part of the property; isolation from or alteration of its surrounding environment; and introduction of visual, audible, or atmospheric elements that are out of character with the property and its setting. If the District Engineer determines that the activity will have no effect on the property, he will proceed with the standard procedures for processing the application. If, however, the District Engineer determines that the activity will have an effect on the property, he will proceed in accordance with the procedures specified in the FEDERAL REGISTER, Volume 37, Number 220, November 14, 1972, pages 24146 to 24148.

(iv) If the proposed activity consists of the dredging of an access channel and/or berthing facility associated with an authorized Federal navigation project, the activity will be included in the planning and coordination of the construction or maintenance of the Federal project to the maximum extent feasible. Separate notice, meeting or hearing, and

environmental impact statement will not be required for activities so included and coordinated; and the public notice issued by the District Engineer for these Federal and associated non-Federal activities will be the notice of intent to issue permits for those included non-Federal dredging activities required by paragraph (g)(17)(iv) of this section. The decision whether to issue or deny such a permit will be consistent with the decision on the Federal project unless special considerations applicable to the proposed activity are identified.

(v) In addition to the general distribution of public notices cited in paragraph (i)(1)(iv) of this section, notices will be sent to other addressees in appropriate cases as follows:

(*a*) If the activity involves structures or dredging along the shores of the sea or Great Lakes, to the Coastal Engineering Research Center, Washington, D.C. 20016.

(*b*) If the activity involves construction of fixed structures or artificial islands on the outer continental shelf or in the territorial seas, to the Deputy Assistant Secretary of Defense (Installations and Housing) Washington, D.C. 20310, the Director, Defense Mapping Agency, Hydrographic Center, Washington, D.C. 20390, Attention, Code N512, and the Director, National Ocean Survey, NOAA, Department of Commerce, Rockville, Maryland 20852.

(*c*) If the activity involves the construction of structures to enhance fish propagation along the Atlantic and Gulf coasts, to the Atlantic Estuarine Fisheries Center, National Marine Fisheries Service, NOAA, Department of Commerce, Beaufort, North Carolina 28416.

(*d*) If the activity involves the construction of structures which may affect aircraft operations or for purposes associated with seaplane operations, to the Regional Director of the Federal Aviation Administration.

(*e*) If the activity is in connection with a foreign-trade zone, to the Executive Secretary, Foreign-Trade Zones Board, Department of Commerce, Washington, D.C. 20230, and to the appropriate District Director of Customs as Resident Representative, Foreign-Trade Zones Board.

(vi) Copies of permits will be furnished to other agencies in appropriate cases as follows:

(*a*) If the activity involves the construction of structures or artificial islands on the outer continental shelf, to the Director, Defense Mapping Agency, Hydrographic Center, Washington, D.C. 20390. Attention, Code N512 and to the Director, National Ocean Survey, NOAA, Department of Commerce, Rockville, Maryland 20852.

(*b*) If the activity involves the construction of structures to enhance fish propagation (fish havens) along the coasts of the United States, to Defense Mapping Agency, Hydrographic Center and National Ocean Survey as in paragraph (i)(2)(vi)(*a*) of this section and to the Atlantic Estuarine Fisheries Center, National Marine Fisheries Service, NOAA, Department of Commerce, Beaufort, North Carolina 28416.

(*c*) If the activity involves the erection of an aerial transmission line across a navigable water of the United States, to the Director, National Ocean Survey, NOAA, Department of Commerce, Rockville, Maryland 20852, reference C322.

(*d*) If the activity is listed in paragraph (i)(2)(vi) (*a*), (*b*), or (*c*) of this section or involves the transportation of dredged material for the purpose of dumping it in ocean waters, to the appropriate District Commander, U.S. Coast Guard.

(vii) If the District Engineer determines that a letter or permission (see paragraph (m) of this section) is the appropriate form of authorization to be issued, he may omit the publishing of a public notice; however, he will coordinate the proposal with all concerned fish and wildlife agencies, Federal and State, as required by the Fish and Wildlife Coordination Act. A copy of the letter of permission will be sent to the Regional Director, Bureau of Sport Fisheries and Wildlife.

(viii) If the circumstances surrounding a permit application require emergency action and the District Engineer considers that the public interest requires that the standard procedures must be abbreviated in the particular case, he will explain the circumstances and recommend special procedures to the Chief of Engineers, ATTN: DAEN–CWO–N by teletype. The Chief of Engineers, upon consultation with the Secretary of the Army or his authorized representative and other affected agencies, will instruct the District Engineer as to further processing of the application.

(3) *Timing of processing of applications.* In view of the extensive coordination with other agencies and the public and the study of all aspects of proposed activities required by the above procedures, applicants must allow adequate time for the processing of their applications. The District Engineer will be guided by the following time limits for the indicated steps in processing permit applications:

(i) Public notice should be issued within fifteen days of receipt of all required information from the applicant, unless joint notice with State agencies is to be used.

(ii) The receipt of comments as a result of the public notice should not extend beyond seventy-five days from the date of the notice.

(iii) The record of a public meeting should be closed not later than fifteen days after the meeting.

(iv) The District Engineer should either send notice of denial to the applicant, or issue the draft permit to the applicant for acceptance and signature, or forward the application to higher headquarters within thirty days of one of the following whichever is latest: receipt of notice of withdrawal of objections; completion of coordination following receipt of applicant's rebuttal of objections; receipt of the record of a public hearing; closing of the record of a public meeting; or expiration of the waiting period following the filing of the final environmental impact statement with CEQ.

(j) *Public notice and coordination with interested parties.* (1) The Public Notice is the primary method of advising all interested parties of the proposed activity for which a permit is sought and of soliciting comments and information necessary to evaluate the probable impact on the public interest. The notice must, therefore, include sufficient information to give a clear understanding of the nature of the activity to generate meaningful comments. The notice should include the following items of information:

(i) The name and address of the applicant;

(ii) The location of the proposed activity;

(iii) A brief description of the proposed activity, its purpose and intended use, including a description of the type of structures, if any, to be erected on fills, or pile or float-supported platforms, and a description of the type, composition and quantity of materials to be discharged or dumped and means of conveyance;

(iv) A plan and elevation drawing showing the general and specific site location and character of all proposed activities, including the size relationship of the proposed structures to the size of the impacted waterway and depth of water in the area;

(v) A list of other government authorizations obtained or requested, including required certifications relative to water quality, coastal zone management, or marine sanctuaries;

(vi) A statement concerning a preliminary determination of the need for and/or availability of an environmental impact statement;

(vii) Any other available information which may assist interested parties in evaluating the likely impact of the proposed activity, if any, on factors affecting the public interest, including environmental values;

(viii) A reasonable period of time, normally thirty days but not less than fifteen days from date of mailing, within which interested parties may express their views concerning the permit application; and

(ix) A paragraph describing the various factors on which decisions are based during evaluation of a permit application.

(*a*) Except as provided in paragraph (j)(1)(ix)(*b*) of this section the following will be included:

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic, general environmental concerns, historic values, fish and wildlife values, flood damage prevention,

land use classification, navigation, recreation, water supply, water quality and, in general, the needs and welfare of the people. No permit will be granted unless its issuance is found to be in the public interest.

(f) If a Federal agency other than the Corps of Engineers has primary responsibility for licensing an activity and for environmental review as contemplated by the provisions of the National Environmental Policy Act, (see paragraph (e)(3) of this section), the public notice shall, in lieu of the general paragraph above, describe the actions and reviews pending before those agencies, recite the fact that District Engineers will consult with, and give due consideration to the findings of, those agencies and provide the following paragraph: "The decision whether to issue a permit will based on a consideration of the effect which the proposed activity will have on the navigable capacity of the waterway." (See particularly paragraphs (g)(13), (g)(15), and (g)(16) of this section.)

(2) If the activity involves the discharge of dredged or fill material into the navigable waters or the transportation of dredged material for the purpose of dumping it in ocean waters, the public notice shall also indicate that the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, EPA, under authority of section 404(b) of the Federal Water Pollution Control Act or of the criteria established under authority of section 102(a) of the Marine Protection, Research and Sanctuaries Act of 1972 as appropriate.

(h) In cases involving construction of fixed structures or artificial islands on outer continental shelf lands which are under mineral lease from the Department of the Interior, the notice will contain the following statement: "The decision as to whether a permit will be issued will be based on an evaluation of the impact of the proposed work on navigation and national security."

(x) If the activity includes the discharge of dredged or fill material in the navigable waters or the transportation of dredged material for the purpose of dumping it in ocean waters, the following statement will also be included in the public notice:

Any person who has an interest which may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer within thirty days of the date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity.

(2) It is presumed that all interested parties and agencies will wish to respond to public notices; therefore, a lack of response will be interpreted as meaning that there is no objection to the application. A copy of the public notice with the list of the addresses to whom the notice was sent will be included in the record. If a question develops with respect to an activity for which another agency has responsibility and that other agency has not responded to the public notice, the District Engineer may request their comments. Whenever a response to a public notice has been received from a member of Congress, either in behalf of a constituent or himself, the District Engineer will inform the member of Congress of the final decision.

(3) Notices sent to several agencies within the same State may result in conflicting comments from those agencies. While many States have designated a single State agency or individual to provide a single and coordinated State position regarding pending permit applications, where a State has not so designated a single source, District Engineers will elicit from the Governor an expression of his views and desires concerning the application. Where coordination is required by the Fish and Wildlife Coordination Act (see paragraph (c)(5) of this section), District Engineers will address a letter to the designated single Sate agency or Governor, as appropriate, inviting attention to the coordination requirements of the Fish and Wildlife Coordination Act and requesting that a report from the head of the State agency responsible for fish and wildlife resources be appended to the coordinated State report.

(k) *Public meetings.* (1) It is the policy of the Corps of Engineers to conduct the civil works program in an atmosphere of public understanding, trust, mutual cooperation, and in a manner responsive to the public interest. The views of all concerned persons are initially sought by means of public notices in connection with applications for permits. Where response to a notice indicates further opportunity for public expressions of interest may be warranted, and a public hearing is not required by law or directed by the Chief of Engineers, the District Engineer may hold a public meeting.

(2) A public meeting is a forum at which all concerned persons are given an opportunity to present additional information relevant to a proper evaluation of an application for a permit for an activity. If a public meeting is held, notice announcing the meeting will be published at least thirty days in advance of the meeting. A summary of environmental considerations will be included in the notice. The applicant will be given an opportunity to present his proposal and explain why he thinks it is in the public interest. Officials of other Federal agencies or of State and local governments will be given opportunity to express their views, as well all other persons. The conduct of the meeting will be in accordance with § 209.405 and a transcript of the meeting will be part of the record.

(l) *Environmental impact statement.* (1) Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) requires all Federal agencies, with respect to major Federal actions significantly affecting the quality of the human environment, to submit to CEQ a detailed statement on:

(i) The environmental impact of the proposed action;

(ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented;

(iii) Alternatives to the proposed action;

(iv) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

(v) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

(2) As indicated in paragraph (l)(1)(iv) of this section the District Engineer must determine whether an environmental impact statement is required in connection with a permit application. If the District Engineer believes that granting the permit may be warranted but that the proposed activity would have a significant environmental impact, an environmental impact statement will be prepared, coordinated and filed in accordance with provisions of § 209.410 prior to final action on the application. If another agency is the lead agency as defined by section 5b of the CEQ guidelines contained in § 209.410, the District Engineer will coordinate with that agency to insure that the resulting environmental impact statement adequately describes the impact of the activity which is subject to Corps permit authority.

(3) The scope of the considerations to be discussed in an environmental impact statement depends heavily on continuing court interpretation of NEPA and on the nature of the activity for which authorization is requested.

(i) All the direct effects of the activity must be evaluated, as must any indirect effects which have a clear or proximate relationship to the activity. Other effects, however, may be too speculative or remote to merit detailed consideration. Thus an environmental impact statement which examines the probable environmental impact of an activity should evaluate all known effects which have a direct or proximate but indirect relationship to the proposal and should cite other remote or speculative effects.

(ii) The scope of the environmental impact statement is often somewhat different from that of the laws under which the activity may be authorized. Thus, an authorization may be only for a part of a much larger and more complex operation or development over which few regulatory controls exist. In such cases, the range of factors to be discussed in the environmental impact statement may of necessity be expanded to include factors which are beyond the normal scope of the law on which the authorization depends.

(m) *Forms of authorization.* (1) The basic form for authorizing activities in navigable waters or ocean waters is ENG Form 1721, Department of the Army Permit (Appendix C). This form will be used to authorize activities under provisions of:

(i) Section 10 of the River and Harbor Act of March 3, 1899, in all cases where a letter of permission is not appropriate (see paragraph m(3) of this section.)

(ii) Section 404 of the Federal Water Pollution Control Act.

(iii) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1973.

(2) While the general conditions included in ENG Form 1721 are normally applicable to all permits, some may not apply to certain authorizations (e.g. after-the-fact situations where work is completed, or situations in which the permittee is a Federal agency) and may be deleted by the issuing officer. Special conditions applicable to the specific activity will be included in the permit as necessary to protect the public interest in the navigable waters or ocean waters.

(3) In those cases subject to section 10 of the River and Harbor Act of March 3, 1899, in which, in the opinion of the District Engineer, the proposed work is minor, will not have significant impact on environmental values, and should encounter no opposition, the District Engineer may use the abbreviated processing procedures of paragraph (i)(2)(vii) of this section and authorize the work by a letter of permission. The letter of permission will not be used to authorize the discharge of dredged or fill material into navigable waters or the transportation of dredged material for purpose of dumping it in ocean waters. The letter of permission will be in letter form and will identify the permittee, the authorized work and location of the work, the statutory authority (i.e., 33 U.S.C. 403), any limitations on the work, a construction time limit and a requirement for a report of completed work. A copy of the general conditions from ENG form 1721 will be attached and will be incorporated by reference into the letter of permission.

(4) Permits for structures under section 9 of the Act of March 3, 1899, will be drafted during review procedures at Department of the Army level.

(n) *Duration of authorizations.* (1) Authorizations for activities in or affecting navigable waters or ocean waters may authorize both the work and the resulting structure. Authorizations continue in effect until they automatically expire, or are modified, suspended, or revoked.

(2) Authorization for the existence of a structure or other form of alteration of the waterway is usually for an indefinite duration with no expiration date cited. However, where a temporary structure is authorized, or where restoration of a waterway is contemplated, the authorzation will be of limited duration with a definite expiration date. Except as provided in paragraph (r)(5) of this section permits for the discharge of dredged material in the navigable waters or for the transportation of dredged material for the purpose of dumping it in ocean waters will be of limited duration with a definite expiration date.

(3) Authorizations for construction work or other activity will specify time limits for accomplishing the work or activity. The time limits will specify a date by which the work must be started, normally one year from the date of issuance, and a date by which the work must be completed. The dates will be established by the issuing official and will provide reasonable times based on the scope and nature of the work involved. An authorization for work or other activity will automatically expire if the permittee fails to request an extension or revalidation.

(4) Extensions of time may be granted by the District Engineer for authorizations of limited duration, or for the time limitations imposed for starting or completing the work or activity. The permittee must request the extension and explain the basis of the request, which will be granted only if the District Engineer determines that an extension is in the general public interest. Requests for extensions will be procesed in acordance with the regular procedures of paragraph (i) of this section including issuance of a public notice, except that such processing is not required where the District Engineer determines that there have been no significant changes in the attendant circumstances since the authorization was issued and that the work is proceeding essentially in accordance with the approved plans and conditions.

(5) If the authorized work includes periodic maintenance dredging (see paragraph (g)(2) of this section), an expiration date for the authorization of that maintenance dredging will be included in the permit. The expiration date, which in no event is to exceed ten years from the date of issuance of the permit, will be established by the issuing official after his evaluation of the proposed method of dredging and disposal of the dredged material. If the permittee desires to continue maintenance dredging beyond the expiration date, he must request a revalidation of that portion of his permit which authorized the maintenance dredging. The request must be made to the District Engineer six months prior to the expiration date, and include full description of the proposed methods of dredging and disposal of dredged materials. The District Engineer will process the request for revalidation in accordance with the standard procedures in paragraph (h) of this section including the issuance of a public notice describing the authorized work to be maintained and the proposed methods of maintenance.

(o) *Modification, suspension or revocation of authorizations.* (1) The District Engineer may evaluate the circumstance and conditions of a permit either on his own motion or as the result of periodic progress inspections, and initiate action to modify, suspend, or revoke a permit as may be made necessary by considerations of the general public interest. Among the factors to be considered are the extent of the permittee's compliance with the terms and conditions of the permit; whether or not circumstances relating to the activity authorized have changed since the permit was issued, extended or revalidated, and the continuing adequacy of the permit conditions; any significant objections to the activity authorized by the permit which were not earlier considered; and the extent to which modification, suspension, or other action would adversely affect plans, investments and actions the permittee has reasonably made or taken in reliance on the permit. Significant increases in scope of a permitted activity will be processed as new applications for permits in accordance with paragraph (i) of this section, and not as modifications under this paragraph.

(2) The District Engineer, as a result of revaluation of the circumstances and conditions of a permit, may determine that protection of the general public interest requires a modification of the terms or conditions of the permit. In such cases, the District Engineer will hold informal consultations with the permittee to ascertain whether the terms and conditions can be modified by mutual agreement. If a mutual agreement is reached on modification of the terms and conditions of the permit, the District Engineer will give the permittee written notice of the modification, which will then become effective on such date as the District Engineer may establish, which in no event shall be less than ten days from its date of issuance. In the event a mutual agreement cannot be reached by the District Engineer and the permittee, the District Engineer will proceed in accordance with paragraph (o)(3) of this section if immediate suspension is warranted. In cases where immediate suspension is not warranted but the District Engineer determines that the permit should be modified, he will notify the permittee of the proposed modification and reasons therefor, and that he may request a hearing. The modification will become effective on the date set by the District Engineer which shall be at least ten days after receipt of the notice unless a hearing is requested within that period in accordance with § 209.133. If the permittee fails or refuses to comply with the modification the District Engineer will immediately refer the case for enforcement to DAEN-GCK.

(3) The District Engineer may, after telephonic consultation with the Division Engineer, suspend a permit after preparing a written determination and finding that immediate suspension would be in the general public interest. The District Engineer will notify the permittee in writing by the most expeditious means available that the permit has been suspended with the reasons therefor, and order the permittee to stop all previously authorized activities. The permittee will also be advised that following this suspension a decision will be made to either reinstate, modify, or revoke the permit, and that he may request a hearing within 10 days of receipt of notice of the suspension to present information in this matter. If a hearing is requested the procedures prescribed in § 209.133 will be followed. After the completion of the hearing (or within a reasonable period of time after issuance of the notice to the permittee that the permit has been suspended if no hearing is requested) the District Engineer will take action to

reinstate the permit, modify the permit, or recommend revocation of the permit in accordance with paragraph (o)(4) of this section.

(4) Following completion of the suspension procedures in paragraph (o)(3) of this section, if revocation of the permit is recommended, the District Engineer will prepare a report of the circumstances and forward it together with the record of the suspension proceedings to DAEN-CWO-N. The Chief of Engineers may, prior to deciding whether or not to revoke the permit, afford the permittee the opportunity to present any additional information not made available to the District Engineer at the time he made the recommendation to revoke the permit including, where appropriate, the means by which he intends to comply with the terms and conditions of the permit. The permittee will be advised in writing of the final decision.

(p) *Authority to issue or deny authorizations.* Except as otherwise provided in this regulation, the Secretary of the Army subject to such conditions as he or his authorized representative may from time to time impose, has authorized the Chief of Engineers and his authorized representatives to issue or deny authorizations for construction or other work in or affecting navigable waters of the United States pursuant to sections 10 and 14 of the Act of March 3, 1899, and section 1 of the Act of June 13, 1902. He also has authorized the Chief of Engineers and his authorized representatives to issue or deny authorizations for the discharge of dredged or fill material in the navigable waters pursuant to section 404 of the Federal Water Pollution Control Act or for the transportation of dredged material for the purpose of dumping it into ocean waters pursuant to section 103 of Marine Protection, Research and Sanctuaries Act of 1972. The authority to issue or deny permits pursuant to section 9 of the River and Harbor Act of March 3, 1899 has not been delegated to the Chief of Engineers or his authorized representatives.

(1) District Engineers are authorized to issue in accordance with this regulation permits and letters of permission which are subject to such special conditions as are necessary to protect the public interest in the navigable waters or ocean waters pursuant to sections 10 and 14 of the River and Harbor Act of March 3, 1899, section 1 of the River and Harbor Act of June 13, 1902, section 404 of the Federal Water Pollution Control Act, and section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, in all cases in which there are no known substantive objections to the proposed work or activity or in which objections have been resolved to the satisfaction of the District Engineer. It is essential to the legality of a permit that it contain the name of the District Engineer as the issuing officer. However, the permit need not be signed by the District Engineer, in person; but may be signed for and in behalf of him by whomever he designates. District Engineers are authorized to deny permits when required State or local authorization and/or certification has been denied (see paragraph (f)(3)(i) of this section), when a State has objected to a required certification of compliance with its coastal zone management program and the Secretary of Commerce has not reviewed the action and reached a contrary finding (see paragraph (g)(18) and (i)(2)(ii) of this section) or when the proposed work will unduly interfere with navigation. All other permit applications including those cases in paragraph (p)(2)(i) through (vii) of this section will be referred to Division Engineers. District Engineers are also authorized to add, modify, or delete special conditions in permits, except for those conditions which have been imposed by higher authority, and to suspend permits according to the procedures of paragraph (o)(3) of this section.

(2) Division Engineers will review, attempt to resolve outstanding matters, and evaluate all permit applications referred by District Engineers. Division Engineers may authorize the issuance or denial of permits pursuant to sections 10 and 14 of the River and Harbor Act of March 3, 1899, section 1 of the River and Harbor Act of June 13, 1902, section 404 of the Federal Water Pollution Control Act, and section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 and the inclusion of conditions to those permits as may be necessary to protect the public interest in the navigable waters or ocean waters in accordance with the policies cited in this regulation.

(i) Except as provided in paragraph (p)(2)(ii) of this section if the Division Engineer determines that issuance of a permit with or without conditions is in the public interest, but there is continuing objection to the issuance of the permit by another Federal agency, he shall advise the regional representative of that Federal agency of his intent to issue the permit. The Division Engineer shall not proceed with the issuance of a permit if, within 15 days after the date of this notice of intent to issue a permit, an authorized representative of that Federal Agency indicates to the Division Engineer in writing that he wishes to bring his concerns to Departmental level. In such cases, the proposed permit may be issued at the expiration of 30 days from the date of receipt of the letter from such representative unless, prior to that time, as a result of consultations at Departmental level, it is directed that the matter be forwarded to higher authority for resolution. Thereafter, a permit will be issued only pursuant to and in accordance with instructions from such higher authority. Every effort should be made to resolve differences at the Division Engineer level before referring the matter to higher authority.

(ii) Division Engineers will refer to the Chief of Engineers the following cases:

(*a*) When it is proposed to issue a permit and there are unresolved objections from another Federal agency which must be handled under special procedures specified in statutes or Memoranda of Understanding which thereby preclude final resolution by the Division Engineer (see paragraphs (g)(4), (5) and (17) of this section);

(*b*) When the recommended decision is contrary to the stated position of the Governor of the affected State or of a member of Congress;

(*c*) When there is substantial doubt as to authority, law, regulations, or policies applicable to the proposed activity;

(*d*) When higher authority requests the case be forwarded for decision;

(*e*) Where the case is recognized to be highly controversial, or litigation is anticipated;

(*f*) When the proposed activity would affect the baseline used for determination of the limits of the territorial sea.

Division Engineers may also authorize the modification or suspension of permits in accordance with the procedures of this regulation, and may recommend revocation of permits to the Chief of Engineers.

(q) *Supervision and enforcement.* (1) District Engineers will supervise all authorized activities and will require that the activity be conducted and executed in conformance with the approved plans and other conditions of the permit. Inspections must be made on timely occasions during performance of the activity and appropriate notices and instructions will be given permittees to insure that they do not depart from the approved plans. Revaluation of permits to assure complaince with its purposes and conditions will be carried out as provided in paragraph (o) of this section. If there are approved material departures from the authorized plans, the District Engineer will require the permittee to furnish corrected plans showing the activity as actually performed.

(2) Where the District Engineer determines that there has been noncompliance with the terms or conditions of a permit, he should first contact the permittee and attempt to resolve the problem. If a mutually agreeable resolution cannot be reached, a written demand for compliance will be made. If the permittee has not agreed to comply within 5 days of receipt of the demand, the District Engineer will issue an immediately effective notice of suspension in accordance with paragraph (o)(3) of this section above, and consider initiation of appropriate legal action.

(3) For purposes of supervision of permitted activities and for surveillance of the navigable waters for enforcement of the permit authorities cited in paragraph (b) of this section, the District Engineer will use all means at his disposal. One method of surveillance for unauthorized activities which should be used where appropriate is aerial photographic reconnaissance. In addition, all Corps of Engineers employees will be instructed to observe and report all activities in navigable waters which would require permits. The assistance of members of the public and personnel of other interested Federal, State and local agencies to observe and report such activities will

be encouraged. To facilitate this surveillance, the District Engineer will require a copy of ENG Form 4336 to be posted conspicuously at the site of all authorized activities and will make available to all interested persons information on the scope of authorized activities and the conditions prescribed in the authorizations. Furthermore, significant actions taken under paragraph (o), above, will be brought to the attention of those Federal, State and local agencies and other persons who express particular interest in the affected activity. Surveillance in ocean waters will be accomplished primarily by the Coast Guard pursuant to section 107(c) of the Marine Protection, Research and Sanctuaries Act of 1973. Enforcement actions relative to the permit authorities cited in paragraph (b) of this section, including enforcement actions resulting from noncompliance with permit conditions, will be in accordance with regulations published at § 209.170 (ER 1145-2-301).

(4) The expenses incurred in connection with the inspection of permitted activity in navigable waters normally will be paid by the Federal Government in accordance with the provisions of Section 6 of the River and Harbor Act of 3 March 1905 (33 U.S.C. 417) unless daily supervision or other unusual expenses are involved. In such unusual cases, and after approval by the Division Engineer, the permittee will be required to bear the expense of inspections in accordance with the conditions of his permit; however, the permittee will not be required or permitted to pay the United States inspector either directly or through the District Engineer. The inspector will be paid on regular payrolls or service vouchers. The District Engineer will collect the cost from the permittee in accordance with the following:

(i) At the end of each month the amount chargeable for the cost of inspection pertaining to the permit will be collected from the permittee and will be taken up on the statement of accountability and deposited in a designated depository to the credit of the Treasurer of the United States, on account of reimbursement of the appropriation from which the expenses of the inspection were paid.

(ii) If the District Engineer considers such a procedure necessary to insure the United States against loss through possible failure of the permittee to supply the necessary funds in accordance with paragraph (q)(4)(i) of this section, he may require the permittee to keep on deposit with the District Engineer at all times an amount equal to the estimated cost of inspection and supervision for the ensuing month, such deposit preferably being in the form of a certified check, payable to the order of Treasurer of the United States. Certified checks so deposited will be carried in a special deposit account (guaranty for inspection expenses) and upon completion of the work under the permit the funds will be returned to the permittee provided he has paid the actual cost of inspection.

(iii) On completion of work under a permit, and the payment of expenses by the permittee without protest, the account will be closed, and outstanding deposits returned to the permittee. If the account is protested by the permittee, it will be referred to the Division Engineer for approval before it is closed and before any deposits are returned to the permittee.

(5) If the permitted activity includes restoration of the waterway to its original condition, or if the issuing official has reason to consider that the permittee might be prevented from completing work which is necessary to protect the public interest in the waterway, he may require the permittee to post a bond of sufficient amount to indemnify the government against any loss as a result of corrective action it might take.

(r) *Publicity.* District Engineer will establish and maintain a program to assure that potential applicants for permits are informed of the requirements of this regulation and of the steps required to obtain permits for activities in navigable waters or ocean waters. Whenever the District Engineer becomes aware of plans being developed by either private or public entities who might require permits in order to implement the plans, he will advise the potential applicant in writing of the statutory requirements and the provisions of this regulation. Similarly when the District Engineer is aware of changes in Corps of Engineers regulatory jurisdiction he will issue appropriate public notices.

(s) *Reports.* The report of a District Engineer on an application for a permit requiring action by the Division Engineer or by the Chief of Engineers will be in a letter form with the application and all pertinent comments, records and studies including the final environmental impact statement if prepared, as inclosures. The following items will be included or discussed in the report:

(1) Name of applicant.

(2) Location, Character and purpose of proposed activity.

(3) Applicable statutory authorities and administrative determinations conferring Corps of Engineers regulatory jurisdiction.

(4) Other Federal, State, and local authorizations obtained or required and pending.

(5) Date of public notice and public meeting or public hearings, if held, and summary of objections offered with comments of the District Engineer thereon. The comments should explain the objections and not merely refer to inclosed letters.

(6) Views of State and local authorities.

(7) Views of District Engineer concerning probable effect of the proposed work on:

(i) Navigation, present and prospective.

(ii) Harbor lines, if established.

(iii) Flood heights, drift and flood damage protection.

(iv) Beach erosion or accretion.

(v) Conservation.

(vi) Fish and Wildlife.

(vii) Water Quality.

(viii) Aesthetics.

(ix) Ecology (General Environmental Concerns).

(x) Historic values.

(xi) Recreation.

(xii) Economy.

(xiii) Water supply.

(xiv) Land use classification and coastal zone management plans.

(xv) Public Interest (Needs and Welfare of the People).

(8) Other pertinent remarks, including:

(i) Extent of public and private need;

(ii) Desirability of using appropriate alternatives;

(iii) Extent and permanence of beneficial and/or detrimental effects; and

(iv) Probable impact in relation to cumulative effects created by other activities.

(9) A copy of the environmental assessment and summary of the environmental impact statement if prepared.

(10) A Statement of Findings as an inclosure.

(11) Conclusions.

(12) Recommendations including any proposed special conditions.

APPENDIX A—U.S. COAST GUARD/CHIEF OF ENGINEERS MEMORANDUM OF AGREEMENT

1. *Purpose and Authority:* A. The Department of Transportation Act, the Act of October 15, 1966, P.L. 89-670, transferred to and vested in the Secretary of Transportation certain functions, powers and duties previously vested in the Secretary of the Army and the Chief of Engineers. By delegation of authority from the Secretary of Transportation (49 CFR 1.46(c)) the Commandant, U.S. Coast Guard, has been authorized to exercise certain of these functions, powers and duties relating to bridges and causeways conferred by:

(1) the following provision of law relating generally to drawbridge operating regulations: Section 5 of the Act of August 18, 1894, as amended (28 Stat. 362; 33 U.S.C. 499);

(2) the following law relating generally to obstructive bridges: The Act of June 21, 1940, as amended (The Truman-Hobbs Act) (54 Stat. 497; 33 U.S.C. 511 et seq.);

(3) the following laws and provisions of law to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States:

(a) Section 9 of the Act of March 3, 1899, as amended (30 Stat. 1151; 33 U.S.C. 401);

(b) The Act of March 23, 1906, as amended (34 Stat. 84; 33 U.S.C. 491 et seq.); and

(c) The General Bridge Act of 1946, as amended (60 Stat. 847; 33 U.S.C. 525 et seq.) except Sections 502(c) and 503.

B. The Secretary of the Army and The Chief of Engineers continue to be vested with broad and important authorities and responsibilities with respect to navigable waters of the United States, including, but not limited to, jurisdiction over excavation and filling, design flood flows and construction of certain structures in such waters, and the prosecution of waterway improvement projects.

C. The purposes of this agreement are: (1) To recognize the common and mutual interest of the Chief of Engineers and the Commandant, U.S. Coast Guard, in the orderly and efficient administration of their respective responsibilities under certain Federal statutes to regulate certain activities in navigable waters of the United States;

(2) To clarify the areas of jurisdiction and the responsibilities of the Corps of Engineers and the Coast Guard with respect to:

(a) the alteration of bridges

(1) in connection with Corps of Engineers waterway improvement projects, and

(2) under the Truman-Hobbs Act;

(b) the construction, operation and maintenance of bridges and causeways as distinguished from other types of structures over or in navigable waters of the United States;

(c) the closure of waterways and the restriction of passage through or under bridges in connection with their construction, operation, maintenance and removal; and

(d) the selection of an appropriate design flood flow for flood hazard analysis of any proposed water opening.

(3) To provide for coordination and consultation on projects and activities in or affecting the navigable waters of the United States.

In furtherance of the above purposes the undersigned do agree upon the definitions, policies and procedures set forth below.

2. *Alteration of bridges in or across navigable waters within Corps of Engineers projects:* A. The Chief of Engineers agrees to advise and consult with the Commandant on navigation projects contemplated by the Corps of Engineers which require the alteration of bridges across the waterways involved in such projects. The Chief of Engineers also agrees to include in such project proposals the costs of alterations, exclusive of betterments, of all bridges within the limits of the designated project which after consultation with the Commandant he determines to require alteration to meet the needs of existing and prospective navigation. Under this concept the federal costs would be furnished under the project.

B. The Commandant of the Coast Guard agrees to undertake all actions and assumes all responsibilities essential to the determination of navigational requirements for horizontal and vertical clearances of bridges across navigable waters necessary in connection with any navigation project by the Chief of Engineers. Further, the Commandant agrees to conduct all public proceedings necessary thereto and establish guide clearance criteria where needed for the project objectives.

3. *Alteration of bridges under the Truman-Hobbs Act:* The Commandant of the Coast Guard acknowledges and affirms the responsibility of the Coast Guard, under the Truman-Hobbs Act, to program and fund for the alteration of bridges which, as distinct from project related alterations described in paragraph 2 herein, become unreasonable obstructions to navigation as a result of factors or changes in the character of navigation and this agreement shall in no way affect, impair or modify the powers or duties conferred by that Act.

4. *Approval alteration and removal of other bridges and causeways:* A. *General definitions.* For purposes of this Agreement and the administration of the statutes cited in 1.A.(3) above, a "bridge" is any structure over, on or in the navigable waters of the United States which (1) is used for the passage or conveyance of persons, vehicles, commodities and other physical matter and (2) is constructed in such a manner that either the horizontal or vertical clearance, or both, may affect the passage of vessels or boats through or under the structure. This definition includes, but is not limited to, highway bridges, railroad bridges, foot bridges, aqueducts, aerial tramways and conveyors, overhead pipelines and similar structures of like function together with their approaches, fenders, pier protection systems, appurtenances and foundations. This definition does not include aerial power transmission lines, tunnels, submerged pipelines and cables, dams, dikes, dredging and filling in, wharves, piers, breakwaters, bulkheads, jetties and similar structures and works (except as they may be integral features of a bridge and used in its construction, maintenance, operation or removal; or except when they are affixed to the bridge and will have an effect on the clearances provided by the bridge) over which jurisdiction remains with the Department of the Army and the Corps of Engineers under Sections 9 and 10 of the Act of March 3, 1899, as amended (33 U.S.C. 401 and 403). A "causeway" is a raised road across water or marshy land, with the water or marshy land on both sides of the road, and which is constructed in or affects navigation, navigable waters and design flood flows.

B. *Combined structures and appurtenances.* For purposes of the Act cited in 1.A.(3) above, a structure serving more than one purpose and having characteristics of either a bridge or causeway, as defined in 4.A., and some other structure, shall be considered as a bridge or causeway when the structure in its entirety, including its appurtenances and incidental features, has or retains the predominant characteristics and purpose of a bridge or causeway. A structure shall not be considered a bridge or causeway when its primary and predominant characteristics and purpose are other than those set forth above and it meets the general definitions above only in a narrow technical sense as a result of incidental features. This interpretation is intended to minimize the number of instances which will require an applicant for a single project to secure a permit or series of permits from both the Department of Transportation and the Department of the Army for each separate feature or detail of the project when it serves, incidentally to its primary purpose, more than one purpose and has features of either a bridge or causeway and features of some other structure. However, if parts of the project are separable and can be fairly and reasonably characterized or classified in an engineering sense as separate structures, each such structure will be so treated and considered for approval by the agency having jurisdiction thereover.

C. *Alteration of the character of bridges and causeways.* The jurisdiction of the Secretary of Transportation and the Coast Guard over bridges and causeways includes authority to approve the removal of such structures when the owners thereof desire to discontinue their use. If the owner of a bridge or causeway discontinues its use and wishes to remove or alter any part thereof in such a manner that it will lose its character as a bridge or causeway, the Coast Guard will normally require removal of the structure from the waterway in its entirety. However, if the owner of a bridge or a causeway wishes to retain it in whole or in part for use other than for operation and maintenance as a bridge or causeway, the proposed structure will be considered as coming within the jurisdiction of the Corps of Engineers. The Coast Guard will refer requests for such uses to the Corps of Engineers for consideration. The Corps of Engineers agrees to advise the Commandant of the receipt of an application for approval of the conversion of a bridge or causeway to another structure and to provide opportunity for comment thereon. If the Corps of Engineers approves the conversion of a bridge or causeway to another structure, no residual jurisdiction over the structure will remain with the Coast Guard. However, if the Corps of Engineers does not approve the proposed conversion, then the structure remains a bridge subject to the jurisdiction of the Coast Guard.

5. *Closure of waterways and restriction of passage through or under bridges:* Under the statutes cited in Section 1 of this Memorandum of Agreement, the Commandant must approve the clearances to be made available for navigation through or under bridges. It is understood that this duty and authority extends to and may be exercised in connection with the construction, alteration, operation, maintenance and removal of bridges, and includes the power to authorize the temporary restriction of passage through or under a bridge by use of falsework, piling, floating equipment, closure of draws, or any works or activities which temporarily reduce the navigation clearances and design flood flows, including closure of any or all spans of the bridge. Moreover, under the Ports and Waterways Safety Act of 1972, Public Law 92-340, 86 Stat. 424, the Commandant exercises broad powers in waterways to control vessel traffic in areas he determines to be especially hazardous and to establish safety zones or other measures for limited controls or conditional access and activity when necessary to prevent damage to or the destruction or loss of, any vessel, bridge, or other structure on or in the navigable waters of the United States. Accordingly, in the event that work in connection with the construction, alteration or repair of a bridge or causeway is of such a nature that for the protection of life and property navigation through or in the vicinity of the bridge or causeway must be temporarily prohibited, the Coast Guard may close that part of the affected waterway while such work is being performed. However, it is also clear that the Secretary of the Army and the Chief of Engineers have the authority, under Section 4 of the Act of August 18, 1894, as amended, (33 U.S.C. 1) to prescribe rules for the use, administration and navigation of the navigable waters of the United States. In recognition of that authority, and pursuant to Section 102 (c) of the Ports and Waterways Safety Act, the Coast Guard will consult with the Corps of Engineers when any significant restriction of passage through or under a bridge is contemplated to be authorized or a waterway is to be temporarily closed.

6. *Coordination and cooperation procedures.* A. District Commanders, Coast Guard Districts, shall send notices of applications for permits for bridge or causeway construction, modification, or removal to the Corps of Engineers Divisions and Districts in which the bridge or causeway is located.

B. District Engineers, Corps of Engineers, shall send notices of applications for permits for other structures or dredge and fill work to local Coast Guard District Commanders.

C. In cases where proposed structures or modifications of structures do not clearly fall within one of the classifications set forth in paragraph 4.A. above, the application will be forwarded with recommendations of the reviewing officers through channels to the Chief of Engineers and the Commandant of the Coast Guard who shall, after mutual consultation, attempt to resolve the question.

D. If the above procedures fail to produce agreement, the application will be forwarded to the Secretary of the Army and Secretary of Transportation for their determination.

E. The Chief of Engineers and the Commandant, Coast Guard, pledge themselves to mutual cooperation and consultation in making available timely information and data, seeking uniformity and consistency among field offices, and providing timely and adequate review of all matters arising in connection with the administration of their responsibilities governed by the Acts cited herein.

Dated: March 21, 1973.

C. R. BENDER.

Dated: April 18, 1973.

F. J. CLARKE.

APPENDIX B—MEMORANDUM OF UNDERSTANDING BETWEEN THE SECRETARY OF THE INTERIOR AND THE SECRETARY OF THE ARMY

In recognition of the responsibilities of the Secretary of the Army under sections 10 and 13 of the Act of March 3, 1899 (33 U.S.C. 403 and 407), relating to the control of dredging, filling, and excavation in the navigable waters of the United States, and the control of refuse in such waters, and the interrelationship of those responsibilities with the responsibilities of the Secretary of the Interior under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661–666c), and the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742a et seq.), relating to the control and prevention of water pollution in such waters and the conservation of the Nation's natural resources and related environment, including fish and wildlife and recreational values therein; in recognition of our joint responsibilities under Executive Order No. 11288 to improve water quality through the prevention, control, and abatement of water pollution from Federal and federally licensed activities; and in recognition of other provisions of law and policy, we, the two Secretaries, adopt the following policies and procedures:

POLICIES

1. It is the policy of the two Secretaries that there shall be full coordination and cooperation between their respective Departments on the above responsibilities at all organizational levels, and it is their view that maximum efforts in the discharge of those responsibilities, including the resolution of differing views, must be undertaken at the earliest practicable time and at the field organizational unit most directly concerned. Accordingly, District Engineers of the U.S. Army Corps of Engineers shall coordinate with the Regional Directors of the Secretary of the Interior on fish and wildlife, recreation, and pollution problems associated with dredging, filling, and excavation operations to be conducted under permits issued under the 1899 Act in the navigable waters of the United States, and they shall avail themselves of the technical advice and assistance which such Directors may provide.

2. The Secretary of the Army will seek the advice and counsel of the Secretary of the Interior on difficult cases. If the Secretary of the Interior advises that proposed operations will unreasonably impair natural resources or the related environment, including the fish and wildlife and recreational values thereof, or will reduce the quality of such waters in violation of applicable water quality standards, the Secretary of the Army in acting on the request for a permit will carefully evaluate the advantages and benefits of the operations in relation to the resultant loss or damage, including all data presented by the Secretary of the Interior, and will either deny the permit or include such conditions in the permit as he determines to be in the public interest, including provisions that will assure compliance with water quality standards established in accordance with law.

PROCEDURES FOR CARRYING OUT THESE POLICIES

1. Upon receipt of an application for a permit for dredging, filling, excavation, or other related work in navigable waters of the United States, the District Engineers shall send notices to all interested parties, including the appropriate Regional Directors of the Federal Water Pollution Control Administration, the United States Fish and Wildlife Service, and the National Park Service of the Department of the Interior, and the appropriate State conservation, resources, and water pollution agencies.

2. Such Regional Directors of the Secretary of the Interior shall immediately make such studies and investigations as they deem necessary or desirable, consult with the appropriate State agencies, and advise the District Engineers whether the work proposed by the permit applicant, including the deposit of any material in or near the navigable waters of the United States, will reduce the quality of such waters in violation of applicable water quality standards or unreasonably impair natural resources or the related environment.

3. The District Engineer will hold public hearings on permit applications whenever response to a public notice indicates that hearings are desirable to afford all interested parties full opportunity to be heard on objections raised.

4. The District Engineer, in deciding whether a permit should be issued, shall weigh all relevant factors in reaching his decision. In any case where Directors of the Secretary of the Interior advise the District Engineers that proposed work will impair the water quality in violation of applicable water quality standards or unreasonably impair the natural resources or the related environment, he shall, within the limits of his responsibility, encourage the applicant to take steps that will resolve the objections to the work. Failing in this respect, the District Engineer shall forward the case for the consideration of the Chief of Engineers and the appropriate Regional Director of the Secretary of the Interior shall submit his views and recommendations to his agency's Washington Headquarters.

5. The Chief of Engineers shall refer to the Under Secretary of the Interior all those cases referred to him containing unresolved substantive differences of views and he shall include his analysis thereof, for the purpose of obtaining the Department of Interior's comments prior to final determination of the issues.

6. In those cases where the Chief of Engineers and the Under Secretary are unable to resolve the remaining issues, the cases will be referred to the Secretary of the Army for decision in consultation with the Secretary of the Interior.

7. If in the course of operations within this understanding, either Secretary finds its terms in need of modification, he may notify the other of the nature of the desired changes. In that event the Secretaries shall within 90 days negotiate such amendment as is considered desirable or may agree upon termination of this understanding at the end of the period.

Dated: July 13, 1967.

STEWART L. UDALL,
Secretary of the Interior.

Dated: July 13, 1967.

STANLEY RESOR,
Secretary of the Army.

APPENDIX C

Application No.----------
Name of Applicant----------
Effective Date----------
Expiration Date (If applicable)----------

DEPARTMENT OF THE ARMY

PERMIT

Referring to written request dated ---------- for a permit to:

( ) Perform work in or affecting navigable waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403);

( ) Discharge dredged or fill material into navigable waters upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 404 of the Federal Water Pollution Control Act (86 Stat. 816, P.L. 92-500);

( ) Transport dredged material for the purpose of dumping it into ocean waters upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (86 Stat. 1052; P.L. 92-532);

(Here insert the full name and address of the permittee)

is hereby authorized by the Secretary of the Army: to----------
----

(Here describe the proposed structure or activity, and its intended use. In the case of an application for a fill permit, describe the structures, if any, proposed to be erected on the fill. In the case of an application for the discharge of dredged or fill material into navigable waters or the transportation for discharge in ocean waters of dredged material, describe the type and quantity of material to be discharged.)

in ----------

(Here to be named the ocean, river, harbor, or waterway concerned.)

at ----------

(Here to be named the nearest well-known locality—preferably a town or city—and the distance in miles and tenths from some definite point in the same, stating whether above or below or giving direction by points of compass.)

in accordance with the plans and drawings attached hereto which are incorporated in and made a part of this permit (on drawings: give file number or other definite identification marks.) Subject to the following conditions:

I. *General conditions*: a. That all activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions j or k hereto, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this permit has been previously modified, suspended or revoked in whole or in part.

b. That all activities authorized herein shall, if they involve a discharge or deposit into navigable waters or ocean waters, be at all times consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, and pretreatment standards established pursuant to Sections 301, 302, 306 and 307 of the Federal Water Pollution Control Act of 1972 (P.L. 92-500; 86 Stat. 816), or pursuant to applicable State and local law.

c. That when the activity authorized herein involves a discharge or deposit of dredged or fill material into navigable waters, the authorized activity shall, if applicable water quality standards are revised or modified during the term of this permit, be modified, if necessary, to conform with such revised or modified water quality standards within 6 months of the effective date of any revision or modification of water quality standards, or as directed by an implementation plan contained in such revised or modified standards,

or within such longer period of time as the District Engineer, in consultation with the Regional Administrator of the Environmental Protection Agency, may determine to be reasonable under the circumstances.

d. That the permittee agrees to make every reasonable effort to prosecute the construction or work authorized herein in a manner so as to minimize any adverse impact of the construction or work on fish, wildlife and natural environmental values.

e. That the permittee agrees that it will prosecute the construction or work authorized herein in a manner so as to minimize any degradation of water quality.

f. That the permittee shall permit the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

g. That the permittee shall maintain the structure or work authorized herein in good condition and in accordance with the plans and drawings attached hereto.

h. That this permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations, nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein.

i. That this permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

j. That this permit may be summarily suspended, in whole or in part, upon a finding by the District Engineer that immediate suspension of the activity authorized herein would be in the general public interest. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by the permittee which are deemed necessary by the District Engineer to abate imminent hazards to the general public interest. The permittee shall take immediate action to comply with the provisions of this notice. Within ten days following receipt of this notice of suspension, the permittee may request a hearing in order to present information relevant to a decision as to whether his permit should be reinstated, modified or revoked. If a hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the hearing, or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the permit will either be reinstated, modified or revoked.

k. That this permit may be either modified, suspended or revoked in whole or in part if the Secretary of the Army or his authorized representative determines that there has been a violation of any of the terms or conditions of this permit or that such action would otherwise be in the public interest. Any such modification, suspension, or revocation shall become effective 30 days after receipt by the permittee of written notice of such action which shall specify the facts or conduct warranting same unless (1) within the 30-day period the permittee is able to satisfactorily demonstrate that (a) the alleged violation of the terms and the conditions of this permit did not, in fact, occur or (b) the alleged violation was accidental, and the permittee has been operating in compliance with the terms and conditions of the permit and is able to provide satisfactory assurances that future operations shall be in full compliance with the terms and conditions of this permit; or (2) within the aforesaid 30-day period, the permittee requests that a public hearing be held to present oral and written evidence concerning the proposed modification, suspension or revocation. The conduct of this hearing and the procedures for making a final decision either to modify, suspend or revoke this pemit in whole or in part shall be pursuant to procedures prescribed by the Chief of Engineers.

l. That in issuing this permit, the Government has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

m. That any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the United States.

n. That the permittee shall notify the District Engineer at what time the activity authorized herein will be commenced, as far in advance of the time of commencement as the District Engineer may specify, and of any suspension of work, if for a period of more than one week, resumption of work and its completion.

o. That if the activity authorized herein is not started on or before _____ day of _____, 19__, (one year from the date of issuance of this permit unless otherwise specified) and is not completed on or before _____ day of _____, 19__, (three years from the date of issuance of this permit unless otherwise specified) this permit, if not previously revoked or specifically extended, shall automatically expire.

p. That no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.

q. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.

r. That this permit does not authorize or approve the construction of particular structures, the authorization or approval of which may require authorization by the Congress or other agencies of the Federal Government.

s. That if and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring his interests herein to a third party pursuant to General Condition v hereof, he must restore the area to a condition satisfactory to the District Engineer.

t. That if the recording of this permit is possible under applicable State or local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility for maintaining records of title to and interests in real property.

u. That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

v. That this permit may not be transferred to a third party without prior written notice to the District Engineer, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferee subscribing to this permit in the space provided below and thereby agreeing to comply with all terms and conditions of this permit. In addition, if the permittee transfers the interests authorized herein by conveyance of realty, the deed shall reference this permit and the terms and conditions specified herein and this permit shall be recorded along with the deed with the Register of Deeds or other appropriate official.

II. *Special Conditions:* Here list conditions relating specifically to the proposed structure or work authorized by this permit. The following Special Conditions will be applicable when appropriate:

STRUCTURES FOR SMALL BOATS: That permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to insure the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.

DISCHARGE OF DREDGED MATERIAL INTO OCEAN WATERS: That the permittee shall place a copy of this permit in a conspicuous place in the vessel to be used for the transportation and/or dumping of the dredged material as authorized herein.

ERECTION OF STRUCTURE IN OR OVER NAVIGABLE WATERS: That the permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the authorized structure or work, shall, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former conditions. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

MAINTENANCE DREDGING: (1) That when the work authorized herein includes periodic maintenance dredging, it may be performed under this permit for ____ years from the date of issuance of this permit (ten years unless otherwise indicated); and (2) That the permittee will advise the District Engineer in writing at least two weeks before he intends to undertake any maintenance dredging.

This permit shall become effective on the date of the District Engineer's signature.

Permittee hereby accepts and agrees to comply with the terms and conditions of this permit.

_____
Permittee

_____
Date

By authority of the Secretary of the Army:

_____
District Engineer

_____
Date

Transferee hereby agrees to comply with the terms and conditions of this permit.

_____
Transferee

_____
Date

APPENDIX D—DELEGATION OF AUTHORITY TO ISSUE OR DENY PERMITS FOR CONSTRUCTION OR OTHER WORK AFFECTING NAVIGABLE WATERS OF THE UNITED STATES

MAY 24, 1971.

Pursuant to the authority vested in me by the Act of March 3, 1899, c. 425, Sections 10 and 14, 30 Stat. 1151, 1152, 33 U.S.C. Sections 403 and 408, and the Act of June 13, 1902, c. 1079, Section 1, 32 Stat. 371, 33 U.S.C. Section 565, I hereby authorize the Chief of Engineers and his authorized representatives to issue or deny permits for construction or other work affecting navigable waters of the United States. Except in cases involving applications for permits for artificial islands or fixed structures on Outer Continental Shelf lands under mineral lease from the Department of the Interior, the Chief of Engineers shall, in exercising such authority, evaluate the impact of the proposed work on the public interest. In cases involving applications for permits for artificial islands or fixed structures on Outer Continental Shelf lands under mineral lease from the Department of the Interior, the Chief of Engineers shall, in exercising such authority, evaluate the impact of the proposed work on navigation and national security. The permits so granted may be made subject to such special conditions as the Chief of Engineers or his authorized representatives may consider necessary in order to effect the purposes of the above Acts.

The Chief of Engineers and his authorized representatives shall exercise the authority hereby delegated subject to such conditions as I or my authorized representative may from time to time impose.

STANLEY R. RESOR,
Secretary of the Army.

APPENDIX E—DELEGATION OF AUTHORITY TO ISSUE OR DENY PERMITS FOR THE DISCHARGE OF DREDGED OR FILL MATERIAL INTO NAVIGABLE WATERS

MARCH 12, 1973.

Pursuant to the authority vested in me by Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 86 Stat. 816, P.L. 92-500, I hereby authorize the Chief of Engineers and his authorized representatives to issue or deny permits, after notice and opportunity for public hearings, for the discharge of dredged or fill material into navigable waters at specified disposal sites. The Chief of Engineers shall, in exercising such authority, evaluate the impact of the proposed discharge on the public interest. All permits issued shall specify a disposal site for the discharge of the dredged or fill material through the application of guidelines developed by the Administrator of the Environmental Protection Agency and myself. In those cases where these guidelines would prohibit the specification of a disposal site, the Chief of Engineers, in his evaluation of whether the proposed discharge is in the public interest, is authorized also to consider the economic impact on navigation and anchorage which would occur by failing to authorize the use of a proposed disposal site. The permits so granted may be made subject to such special conditions as the Chief of Engineers or his authorized representatives may consider necessary in order to effect the purposes of the above Act, other pertinent laws and any applicable memoranda of understanding between the Secretary of the Army and heads of other governmental agencies.

The Chief of Engineers and his authorized representative shall exercise the authority hereby delegated subject to such conditions as I or my authorized representative may from time to time impose.

KENNETH E. BELIEU,
Acting Secretary of the Army.

MARCH 12, 1973.

APPENDIX F—DELEGATION OF AUTHORITY TO ISSUE OR DENY PERMITS FOR THE TRANSPORTATION OF DREDGED MATERIAL FOR THE PURPOSE OF DUMPING IT INTO OCEAN WATERS

Pursuant to the authority vested in me by Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, 86 Stat. 1052, PL 92-532, I hereby authorize the Chief of Engineers and his authorized representatives to issue or deny permits, after notice and opportunity for public hearings, for the transportation of dredged material for the purpose of dumping it in ocean waters. The Chief of Engineers and his authorized representatives shall, in exercising such authority, evaluate the impact of the proposed dumping on the public interest. No permit shall be issued unless a determination is made that the proposed dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. In making this determination, those criteria for ocean dumping established by the Administrator of the Environmental Protection Agency pursuant to Section 102(a) of the above Act which relate to the effects of the proposed dumping shall be applied. In addition, based upon an evaluation of the potential effect which a permit denial will have on navigation, economic and industrial development, and foreign and domestic commerce of the United States, the Chief of Engineers or his authorized representative, in evaluating the permit application, shall make an independent determination as to the need for the dumping, other possible methods of disposal, and appropriate locations for the dumping. In considering appropriate disposal sites, recommended sites designated by the Administrator of the Environmental Protection Agency pursuant to Section 102(c) of the above Act will be utilized to the extent feasible. Prior to issuing any permit, the Chief of Engineers or his authorized representative shall first notify the Administrator of the Environmental Protection Agency or his authorized representative of his intention to do so. In any case in which the Administrator or his authorized representative disagrees with the determination of the Chief of Engineers or his authorized representative as to compliance with the criteria established pursuant to Section 102(a) of the above Act relating to the effects of the dumping or with the restrictions established pursuant to Section 102(c) of the above Act relating to critical areas, the determination of the Administrator or his authorized representative shall prevail. If, in any such case, the Chief of Engineers or his Director of Civil Works finds that, in the disposition of dredged material, there is no economically feasible method or site available other than a dumping site the utilization of which would result in noncompliance with such criteria or restrictions, he shall so certify and request that I seek a waiver from the Administrator of the Environmental Protection Agency of the specific requirements involved. Unless the Administrator of the Environmental Protection Agency grants a waiver, the Chief of Engineers or his authorized representative shall not issue a permit which does not comply with such criteria and restrictions. The permits so granted may be made subject to such special conditions as the Chief of Engineers or his authorized representatives may consider necessary in order to effect the purposes of the above Act, other pertinent laws, and any applicable memoranda of understanding between the Secretary of the Army and the heads of other governmental agencies.

The Chief of Engineers and his authorized representative shall exercise the authority hereby delegated subject to such conditions as I or my authorized representative may from time to time impose.

KENNETH E. BELIEU,
Acting Secretary of the Army.

APPENDIX G—TABLE OF CONTENTS AND LIST OF APPENDICES TO § 209.120

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[FR Doc.75-11990 Filed 5-5-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 230]

[FRL 370-1]

NAVIGABLE WATERS

Discharge of Dredged or Fill Material

Notice is hereby given that the Administrator of the Environmental Protection Agency, pursuant to section 404(b) of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 (hereinafter "the Act") is proposing guidelines to be applied in evaluating activities involving the discharge of dredged material or fill material in navigable waters. The guidelines were developed in conjunction with the Secretary of the Army pursuant to section 404(b) of the Act.

The guidelines are applicable to any and all activities involving the discharge of dredged or fill material in navigable waters which is defined in the Act to mean "the waters of the United States, including the territorial seas." Such discharges are unlawful except as in compliance with permits issued by the Secretary of the Army, acting through the Chief of Engineers, after notice and opportunity for public hearings. As an administrative matter, the Corps of Engineers will not issue permits to itself but will instead issue Statements of Findings. It is understood that these guidelines are applicable to all Federal projects or activities, just as they are applicable to any other project or activity involving a discharge of dredged or fill material.

Pursuant to the Order of the United States District Court for the District of Columbia in NRDC v. Callaway, et al., Civil Action No. 74-1242 (D.D.C., March 27, 1975), this issue of the FEDERAL REGISTER includes four proposed alternative regulations on policy, practice and procedure to be followed by the Army in evaluating all proposed discharges of dredged or fill material in navigable waters. In an effort to facilitate more meaningful public comment on the full ramifications of the Army's proposed regulations, the Environmental Protection Agency is publishing simultaneously its proposed guidelines which are to be applied by the Corps of Engineers in the section 404 permit process. The public is encouraged to comment fully on these proposed guidelines.

The Environmental Protection Agency, working with the Corps of Engineers, has attempted to develop a workable set of guidelines that provides flexibility to determine, on a case by case basis, the least environmentally damaging disposal sites and methods for discharge of dredged or fill material. EPA is aware that many questions remain to be answered regarding means of evaluating the effects of dredged or fill material discharged in navigable waters. Thus, we will continue to work with the Corps, which has a major research program on the environmental effects of dredging and material disposal, as well as with other Federal agencies and the States to improve the analytical methodologies that underlie these guidelines.

For the purpose of reviewing these proposed guidelines and the Army's four alternatives, the public should be aware that the Environmental Protection Agency favors the concept for clarifying jurisdiction presented as a part of Alternative 1. It should be noted that the following judicial opinions support broad jurisdiction:

P.F.Z. Properties, Inc. v. Train, C.A. No. 74-1534 (D.D.C., April 30, 1975); *Weissmann v. District Engineer*, No. 74-469-CIV.-WM. Memorandum Opinion (S.D. Fla., Feb. 12, 1975); *Leslie Salt Co. v. Froehlke*, 7 ERC 1311 (N.D. Cal., 1974); *United States v. Holland*, 373 F. Supp. 665 (M.D. Fla., 1974); *United States v. American Beef Packers, Inc.*, Crim. No. 74-0-30 (D. Neb., April 1974); *United States v. Ashland Oil and Transportation Co.*, 364 F. Supp. 349 (W.D. Ky., 1973), *aff'd* 505 F. 2d 1317 (6th Cir. 1974).

While we recognize that Alternative 1 extends Federal jurisdiction over dredged or fill material disposal activities substantially and will require extremely careful administration to balance the competing interests affecting the use of small streams, marshes and wetlands, EPA believes that a broad implementation of the section 404 program is necessary to protect the Nation's water resources. In particular, this program will minimize damage to wetlands which are especially valuable for propagation and support of fish and wildlife, as well as other beneficial uses. Such areas are vulnerable to capricious development, and it has been estimated that in excess of 45 million acres (greater than 40 percent) of our primitive marshes, swamps and seasonally flooded bottomlands have been lost forever. Such habitat destruction is having a major impact on the aquatic life and wildlife of the United States, and other water uses.

Section 230.1 outlines the purpose and scope of these proposed guidelines. Section 230.2 contains the definitions to be used in the application of the guidelines. The evaluation of the discharge of dredged or fill material is to be conducted according to the procedures in § 230.3. The technical criteria for determining the tests to be required, the testing procedures to be followed, and the interpretation of this information are discussed in §§ 230.4-1, 230.4-2, and 230.4-3. Guidelines for the selection of disposal sites and the restrictions to be placed on the discharge of dredged or fill material are presented in § 230.5. Additional considerations to be used for restricted discharges of dredged or fill material are listed in § 230.5-1, and factors to consider in determining appropriate mixing zones are set forth in § 230.5-3. Records relating to disposal sites are found in § 230.6. Disposal sites may be designated in advance, according to the procedures in § 230.7.

All comments should be submitted in triplicate to Kenneth Mackenthun, Acting Deputy Assistant Administrator for Water Planning and Standards, Office of Water and Hazardous Materials (WH-451), EPA, 401 M Street, SW., Washington, D.C. 20460. All written comments received by June 6, 1975, will be considered in developing the final guidelines.

Dated: May 2, 1975.

JOHN QUARLES,
Acting Administrator.

STATEMENT OF THE SECRETARY OF THE ARMY

These proposed guidelines were developed by the Environmental Protection Agency in conjunction with the Department of the Army pursuant to section 404(b)(1) of the Federal Water Pollution Control Act Amendments of 1972. They represent an important step in the implementation of the Act. For this reason I request the active participation of the public and of all Federal and State agencies in the forthcoming commenting period.

Dated: May 2, 1975.

HOWARD H. CALLAWAY,
Secretary of the Army.

Proposed Part 230 is added to read as follows:

Sec.
230.1 Purpose and scope.
230.2 Definitions.
230.3 Evaluation procedures.
230.4-1 Determination of testing requirements.
230.4-2 Interim test procedures.
230.4-3 Interpretation of test results.
230.5 Guidelines for selection of disposal sites and conditioning of discharges of dredged or fill material.
230.5-1 Additional considerations for restricted disposal conditions.
230.5-2 Contaminated fill material restrictions.
230.5-3 Mixing zone determination.
230.6 Record of dredged material disposal sites.
230.7 Advance specification of dredged material disposal areas.
230.8 Revision.

AUTHORITY: Sec. 404(b) and 404(b)(1) Federal Water Pollution Control Act of 1972; Pub. L. 92-500.

§ 230.1 Purpose and scope.

(a) *Purpose.* The guidelines contained herein have been developed by the Administrator, Environmental Protection Agency in conjunction with the Secretary

of the Army pursuant to Section 404(b) of the Federal Water Pollution Control Act and will be used by the Corps of Engineers in the review of activities involving the discharge of dredged or fill material in navigable waters.

(b) *Applicability.* These guidelines are applicable to all activities involving the discharge of dredged or fill material in navigable waters pursuant to Section 404 of the Federal Water Pollution Control Act (33 USC 1344). They will be applied in a like manner on a case by case basis by the Corps of Engineers in the review of activities which involve the discharge of dredged or fill material into navigable waters which lie inside the baseline from which the territorial sea is measured or the discharge of fill material into the territorial seas pursuant to the procedures specified in 33 CFR 209.120 and 33 CFR 209.145. The discharge of dredged material into the territorial sea is governed by the Marine Protection, Research, and Sanctuaries Act of 1972, Pub. L. 92-532, and regulations and criteria issued pursuant thereto. (See 33 CFR 209.145, "Federal Projects Involving the Disposal of Dredged Material in Navigable and Ocean Waters", published in the FEDERAL REGISTER on 22 July 1974, and the ocean dumping criteria published in 40 CFR 227.)

(c) *General.* The guidelines set forth herein constitute those factors which must be considered under Section 404 of the Federal Water Pollution Control Act before dredged or fill material can be lawfully discharged in navigable waters. In the event the District Engineer's application of the guidelines would preclude the discharge of dredged or fill material, the District Engineer in making the decision will also evaluate the economic impact on navigation and anchorage which will occur by failing to utilize the proposed disposal site. In addition, no discharge of dredged or fill material will occur at a proposed disposal site in a navigable water if the Administrator of EPA determines, after notice and opportunity for a public hearing and consultation with the Secretary of the Army, that such discharge will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife or recreational areas.

§ 230.2 Definitions.

For purposes of this subpart 230, the following terms shall have the meanings indicated:

(a) The term "Act" means the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500, 33 USC 1251 et seq.).

(b) The term "navigable waters" means the waters of the United States excluding the territorial seas in the case of the discharge of dredged material and including the territorial seas in the case of the discharge of fill material. (See 33 CFR 209.120(d)(2) for a more complete definition of this term.)

(c) The term "wetlands" means those land and water areas subject to inundation by tidal, riverine, or lacustrine flowage. Generally included are inland and coastal shallows, marshes, mudflats, estuaries, swamps, and similar areas in coastal and inland navigable waters. Many such areas serve important purposes relating to fish and wildlife, recreation, and other elements of the general public interest. As environmentally vital areas, they constitute a productive and valuable public resource, the unnecessary alteration or destruction of which should be discouraged as contrary to the public interest. Wetlands considered to perform functions important to the public interest include but are not limited to the following:

(1) Wetlands which serve important natural biological functions, including food chain production, general habitat, and nesting, spawning, rearing and resting sites for aquatic or land species;

(2) Wetlands set aside for study of the aquatic environment or as sanctuaries or refuges;

(3) Wetlands contiguous to areas listed in paragraphs (c) (1) and (2) of this section, the destruction or alteration of which would affect detrimentally the natural drainage characteristics, sedimentation patterns, salinity distribution, flushing characteristics, current patterns, or other environmental characteristics of the above areas;

(4) Wetlands which are significant in shielding other areas from wave action, erosion or storm damage. Such wetlands often include barrier beaches, islands, reefs and bars;

(5) Wetlands which serve as valuable storage areas for storm and flood waters; and

(6) Wetlands which are prime natural recharge areas. Prime recharge areas are locations where surface and ground water are directly interconnected.

(d) The term "dredged material" means any material in excess of one cubic meter when used in a single or incidental operation, excavated or dredged from navigable waters, including without limitation, runoff or overflow which occurs during a dredging operation or from a contained land or water disposal area. (Excluded is material which is extracted for any commercial use other than fill. Discharges resulting from subsequent material processing operations of the material which is being extracted for any commercial use other than fill are subject to section 402 of the Act. However, the extraction of material may require a permit from the Corps of Engineers under section 10 of the Rivers and Harbors Act.)

(e) The term "fill material" means any material discharged into navigable waters for a purpose other than disposal, including without limitation, the creating of fast land, or the production of intended elevation of land beneath the water, but excluding material discharged in navigable waters subject to section 402 of the Act.

(f) The term "guidelines" means the guidelines set forth in §§ 230.4—1 through 230—8.

(g) The term "Regional Administrator" means the EPA Regional Administrator for the particular EPA Region in which dredged or fill material is proposed to be discharged.

(h) The term "District Engineer" means the District Engineer for the U.S. Army Corps of Engineers District in which dredged or fill material is proposed to be discharged.

(i) The term "territorial sea" means the belt of the seas measured from the baseline as determined in accordance with the Convention on the Territorial Seas and the Contiguous Zone and extending seaward a distance of three miles.

(j) The term "disposal site" means the volume of water and the substrate over which such water volume lies included within fixed geographical surface boundaries designated in accordance with the guidelines.

(k) The term "constituents" means the chemical substances, the solids, and the pathogenic organisms associated with dredged or fill material which may be identified for laboratory analyses.

(l) The term "water quality standards" means the standards approved or adopted by the Administrator pursuant to section 303 of the Act.

§ 230.3 Evaluation procedures.

(a) All proposed discharges of dredged or fill material will be processed and evaluated in accordance with these guidelines and with applicable Corps of Engineers regulations (33 CFR 209.120 and 33 CFR 209.145). As an administrative matter the Corps of Engineers will not issue permits to itself but will issue Statements of Findings.

(b) Upon issuance of the public notice required by 33 CFR § 209.120(j) and § 209.145(g) the District Engineer shall send a copy of the public notice to the Regional Administrator.

§ 230.4 Guidelines.

These guidelines are to be used in controlling the discharge of dredged or fill material into navigable waters.

§ 230.4–1 Determination of testing requirements.

(a) Dredged or fill material may be considered a candidate for discharge without laboratory analysis if any of the following conditions exist, unless the District Engineer or Regional Administrator determines that the testing procedures specified under § 230.4–1(b) should be applied:

(1) Dredged or fill material to be discharged is less than 500 cubic yards;

(2) Dredged or fill material is composed predominantly of sand and/or gravel or of any other naturally occurring sedimentary material with particle sizes larger than silt (no greater than 20 percent passing a No. 200 U.S. Sieve) that are often found in areas of high current and/or wave energy and would include streams with large bed loads and shifting bars and channels;

(3) Dredged or fill material is for beach nourishment and is composed predominantly of sand, gravel or shell with particle grain sizes compatible with material on receiving shores; or

(4) When the District Engineer and the Regional Administrator agree that:

(a) The material proposed for discharge is substantially the same as the substrate at the proposed discharge site; and

(b) The site from which the material proposed for discharge is to be taken is sufficiently removed from sources of pollution to provide reasonable assurance that such material has not been contaminated by such pollution; and

(c) Adequate terms and conditions are imposed on the discharge of dredged or fill material to provide reasonable assurance that the material proposed for discharge will not be moved by currents or otherwise outside the discharge site in a manner that is damaging to the environment outside the discharge site.

(b) A manual will be prepared and published jointly by EPA and the Corps detailing the sampling and testing procedures required in § 230.4–2(a) and (b). Prior to the publication of the manual the procedures specified in § 230.4–2 (a) and (b) shall apply:

(1) If dredged or fill material cannot be determined to be a candidate for discharge without laboratory analysis according to either § 230.4–1(a)(1), (2), (3) or (4), the procedures specified in § 230.4–2(a) will be followed.

(2) In addition, the Regional Administrator may require, on a case by case basis, the procedures specified in § 230.4–2(b), by stating what additional information obtained through such analysis is needed to specify disposal conditions and how the results of the analysis will be of value in evaluating the potential for environmental effects.

(3) The procedures for other tests shall be agreed upon by the Regional Administrator and the District Engineer.

§ 230.4–2 Interim test procedures.

(a) *Elutriate Test.* The elutriate is the supernatant resulting from the vigorous 30-minute shaking of one part bottom sediment from the dredging site with four parts water (vol/vol) collected from the dredging site (representing the dredge slurry) followed by a one-hour settling time and appropriate centrifugation and 0.45μ filtration. Major constituents are those parameters deemed critical by the District Engineer and the Regional Administrator for the proposed dredging and disposal site, taking into account known sources of discharges in the area and known characteristics of the dredging and disposal sites.

(b) *Sediment analysis.* Extraction of total concentrations of parameters from a weighed portion of dredged or fill material will be accomplished by concentrated strong acid action for inorganic parameters and solvent extraction for organic parameters. The resultant extracts will be individually analyzed by standard EPA procedures for major constituents. Major constituents are those parameters deemed critical by the District Engineer and the Regional Administrator.

§ 230.4–3 Interpretation of test results.

(a) *Elutriate test results.* (1) Dredged or fill material will require restricted disposal conditions if it produces a standard elutriate in which the concentration of major constituents is more than 1.5 times the concentration of the same constituents in the water from the proposed disposal site after a dilution factor of 10 is applied.

(2) In the event suspended solids (mg/1) is identified as a major constituent, one part of the 1:4 sediment-to-water slurry shall be withdrawn immediately upon completion of the 30-minute shaking period and dispersed within 10 parts (vol/vol) of water from the proposed discharge site, allowed to settle for one-hour, and the uppermost layer analyzed gravimetrically for suspended solids. This result will then be compared to 1.5 times the ambient suspended solids concentration at the proposed discharge site. Parameters relating to the penetration of light through the waters of the discharge site shall not be used as numerical standards. The possible adverse effects of reduced light penetration will be controlled by application of the guidelines set forth in § 230.5.

(3) If the concentrations evaluated in accordance with (a)(1) and (2) above are less than 1.5 times the same constituents at the discharge site, the material may be a candidate for discharge at general disposal sites (see § 230.5); otherwise restricted discharge conditions will be required (see § 230.5—1).

(4) In cases where confined disposal is proposed, an Elutriate Test specified in § 230.4—2(a) will be used to determine if return flow will require restricted discharge conditions. The discharge site will be that area receiving return flows from the confined disposal area. If a standard elutriate is produced in which the concentration of major constituents is less than 1.5 times the same constituents at the disposal site, a broad range of discharge conditions will be permitted. (See also § 230.5 and § 230.5—1.)

(b) *Other test results.* Dredged or fill material will require restricted disposal conditions if, upon evaluation, the results of the tests specified pursuant to § 230.4—1(b)(2) or (3) are deemed unacceptable by the Regional Administrator and the District Engineer. (See also § 230.5 and § 230.5—1)

§ 230.5 Guidelines for selection of disposal sites and conditioning of discharges of dredged or fill material.

(a) *Factors to be Considered.* (1) In evaluating proposed discharges of dredged or fill material in navigable waters, consideration shall be given to the need for the proposed activity (see 33 CFR 209.120 & 33 CFR 209.145), the availability of alternate sites and methods of disposal that are less damaging to the environment, and such water quality standards as are applicable by law.

(2) The specified disposal site shall be confined to the smallest practicable area consistent with the objectives of these guidelines. Although the impact of the particular discharge may constitute a minor change, the cumulative effect of numerous such piecemeal changes often results in a major impairment of the water resource and interferes with the productivity and water quality processes of existing environmental systems. Thus, the particular disposal site will be evaluated with the recognition that it is part of a complete and interrelated ecosystem. The District Engineer may undertake reviews of particular wetland areas in response to new applications, and in consultation with the appropriate Regional Director of the Bureau of Sport Fisheries and Wildlife, the Regional Director of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, the Regional Administrator of the Environmental Protection Agency, the State Conservation Officer of the Soil Conservation Service of the Department of Agriculture, and the head of the appropriate State agency to assess the cumulative effect of activities in such areas.

(3) Specification of disposal sites shall be made after considering alternatives determined to have the least unacceptable environmental impact. The following objectives shall be considered in making this case by case determination:

(i) Avoid physical activities which significantly disrupt the chemical, physical and biological integrity of the aquatic ecosystem, of which aquatic vegetation, the substrate, and the normal fluctuations of water level are integral components.

(ii) Avoid discharge activities which significantly disrupt the food chain including alterations or decrease in diversity of plant and animal species.

(iii) Avoid discharge activities which inhibit the movement of natural fauna especially their movement into and out of feeding, spawning, breeding and nursery areas.

(iv) Recognize that discharge activities might destroy or isolate areas which serve the function of retaining natural high waters or flood waters.

(v) Avoid discharge activities which destroy wetland areas which provide a natural buffer for the wave action of hurricanes and storms.

(vi) Minimize where practicable, the discharge of material which will resuspend in the water column thereby contributing to turbidity.

(vii) Avoid discharge activities that destroy wetlands which provide natural purification and nutrient removal from agricultural and urban runoff.

(4) *Recreation activities.* Recreation activities that will be affected by discharge of dredged or fill material include, without limitations, water contact sports, fishing, hunting, and enjoyment of natural values. In planning for the discharge of dredged or fill material near recreational areas, the following factors should be considered:

(i) Reasonable methods should be employed to minimize any increase in amount and duration of turbidity which would reduce the numbers and diversity of fish or cause a significant aesthetically

displeasing change in the color, taste, or odor of the water.

(ii) Resuspension and transfer of nutrients and micronutrients in dredged or fill material should be minimized in order to prevent eutrophication of lakes, ponds, riverine areas and estuaries, the degradation of aesthetic values, and impairment of receration uses.

(5) *Fisheries.* (i) Fish spawning and nursery areas should be maintained in a natural state and be undisturbed.

(ii) Dredging and disposal operations should be scheduled to avoid interference with fish spawning cycles and to minimize interference with migration patterns and routes.

(iii) Consideration shall be given to preservation of submerged and emergent vegetation.

(6) *Wildlife.* Disposal sites will be designated so as to minimize the impact on habitat, the food chain and community structures of wildlife.

(7) Disposal sites should be areas where benthic life which might be damaged by the dumping is minimal.

(8) Times of dumping should be chosen to avoid interference with the seasonal reproductive and migratory cycles of aquatic life in the disposal area.

(9) If the type of material involved and the environmental characteristics of the disposal site should make either maximum or minimum dispersion desirable, vessel and discharge operations should be in such a manner as to obtain the desired result to the fullest extent possible.

(10) Appropriate monitoring conditions may be specified where necessary to detect perturbation of water quality conditions or other environmental damage.

(b) *Special factors to be considered.* (1) Discharge of dredged or fill material may be allowed unless it is determined that:

(i) There is no significant need for the discharge and that it is not in the public interest.

(ii) There are reasonable alternative sites or methods of disposal which produce less adverse environmental impacts.

(2) No disposal site will be designated in the proximity of a public water supply intake. The Regional Administrator or the District Engineer will determine the acceptable location of the disposal site in such cases.

(3) No material which contains unacceptable levels of pathogenic organisms shall be discharged in areas used for sports involving physical contact with the water.

(4) *Shellfish.* (i) Disposal sites for dredged or fill material shall not be designated in areas of concentrated shellfish production. In the case of widely dispersed shellfish populations where it is demonstrated by the applicant that the avoidance of shellfish population areas is impossible, the disposal site may be located within such areas but should be situated so as to cause the least impact on the shellfish population with particular reference to the burial of living forms and maintenance of a suitable substrate.

(ii) Disposal sites should be located to minimize or prevent the possible movement of pollutants by currents or wave action into productive shellfish beds.

(iii) Banks formed by dredged or fill material should be located and oriented to prevent undesirable changes in current patterns, salinity patterns and flushing rates which may affect shellfish.

(iv) The disposal operation should be scheduled to avoid interference with reproductive processes and avoid undue stress to juvenile forms of shellfish.

(5) *Threatened and endangered species.* No discharge will be allowed except in accordance with the Endangered Species Act.

(6) *Wetlands.* (i) Discharge of dredged material in wetlands shall be permitted only when it can be demonstrated that the site selected is the least environmentally damaging alternative; provided, however, that the wetlands disposal site may be permitted if the applicant is able to demonstrate that other alternatives are not feasible and that the wetlands disposal will not have an unacceptable adverse impact on the aquatic resources. Where the discharge is part of an approved Federal, State, or local program and will protect or enhance the value of the wetlands to the ecosystem, the site may be permitted.

(ii) Discharge of fill material in wetlands shall not be permitted unless the applicant clearly demonstrates that the proposed activity on the fill site is significantly dependent on the water resources and that the fill of the site and proposed activities thereon are in the public interest; *Provided, however,* That the wetlands disposal site may be permitted if the applicant is able to demonstrate that other alternatives are not feasible and that the wetlands disposal will not have an unacceptable adverse impact on the aquatic resources.

(iii) Proposed discharges of dredged or fill material in wetlands will be evaluated with respect to adverse effects on the terrain and the quality or quantity of the natural flow of water that nourish areas of the wetland not directly used for such discharges.

§ 230.5–1 Additional considerations for restricted disposal conditions.

(a) If the material is determined to be a candidate for restricted disposal by application of the analyses presented in § 230.4 the District Engineer will compare the types and concentrations of the constituents to applicable narrative and numerical guidance contained in such water quality standards as are applicable by law. In the event that such discharge would cause a violation of such legally applicable standards at the perimeter of the disposal site after consideration of the mixing zone (see § 230.5–3) discharge shall be prohibited; provided, however, that if receiving waters at the disposal site already violate such water quality standards, the discharge may be allowed provided it does not significantly aggravate these existing water quality conditions.

(b) In addition, the following will also be considered in determining the site and disposal conditions to minimize the possibility of harmful effects:

(1) Appropriate scientific literature, such as the National Water Quality Criteria developed by the Administrator, EPA, pursuant to section 304(a)(1) of the Act;

(2) Alternatives to open water disposal such as upland or confined disposal;

(3) Disposal sites where physical environmental characteristics are most amenable to the type of dispersion desired;

(4) Disposal seaward of the baseline;

(5) Covering contaminated dredged material with cleaner material; and

(6) Conditions to minimize the effect of runoff from confined areas on the aquatic environment.

§ 230.5–2 Contaminated fill material restrictions.

The discharge of fill material originating from a land source shall not be allowed when the District Engineer determines that the material contains unacceptable quantities, concentrations or forms of the major constituents deemed critical by the District Engineer and Regional Administrator for the proposed disposal site, unless such material is effectively confined to prevent the discharge, leaching, or erosion of the material outside the confined area.

§ 230.5–3 Mixing zone determination.

The District Engineer shall consider the following factors in determining the acceptability of a proposed mixing zone:

(a) The mixing zone shall be the smallest practicable mixing zone, consistent with the objectives of these guidelines, in which desired concentrations of constituents, including suspended solids, will be achieved;

(b) Surface area, shape and volume of the discharge site;

(c) Current velocity, direction and consistency at the discharge site;

(d) Degree of turbulence;

(e) Stratification attributable to causes which include without limitation salinity, obstruction, and specific gravity;

(f) Any on-site studies or mathematical models which have been developed with respect to mixing patterns at the discharge site; and

(g) Such other factors prevailing at the discharge site that affect rates and patterns of mixing.

§ 230.6 Record of dredged material disposal sites.

Disposal sites for dredged material which have been specified under section 404 of the Act shall be recorded, as the information required becomes available, on a list of permitted disposal sites located within each Army Corps of Engineers District, which will be available as public information. The list shall contain the following information:

(a) The Permit number, where applicable;

(b) The location of the site specified;

(c) A description of the material discharged including its origin and the total volume discharged;

(d) A summary of the tests which were conducted in the evaluation of the proposed discharge in accordance with

the guidelines and a summary of the results thereof;

(e) A summary of the discharge conditions and limitations;

(f) A summary of the discharge operation setting forth the date and duration of discharge, the rate of discharge, the method of discharge and the transporting device and its capacity;

(g) A summary of any enforcement actions taken; and

(h) A summary of any decisions to deny the specification of a particular disposal site.

§ 230.7 Advance specification of dredged material disposal areas.

(a) The Regional Administrator and the District Engineer may at their discretion and consistent with the guidelines designate areas which will be considered as:

(1) Potential disposal sites; or

(2) Areas which will not be available for disposal site specification.

(b) The designation of any such area shall not be deemed to constitute authorization or denial of authorization for discharge of dredged or fill material within such areas, but shall be used as a guide in evaluating alternative disposal sites.

(c) A record of areas so designated shall be maintained at the offices of the Regional Administrator and the District Engineer.

§ 230.8 Revision.

The provisions of these guidelines will be periodically reviewed by the Administrator in conjunction with the Secretary of the Army pursuant to Section 404(b)(1) of the Act. The guidelines may not be modified without approval of the Secretary of the Army and the Administrator. Any proposed revisions, or notice that a review has been completed and no revisions are proposed, will be published in the FEDERAL REGISTER within three years of the date of this initial promulgation or earlier as determined by research results and affirmed by the Administrator in conjunction with the Secretary of the Army.

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