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

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

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of State

Section 213.3304 is amended to show that one position of Supervisory Foreign Affairs Officer is excepted under Schedule C.

Effective July 31, 1975, § 213.3304 (h) (3) is added as set out below:

§ 213.3304 Department of State.

* * * * *

(h) *Bureau of International Organization Affairs.* * * *

(3) One Supervisory Foreign Affairs Officer.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–58 Comp., p. 218)

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

[FR Doc.75-19688 Filed 7-30-75;8:45 am]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 24—BOARD OF CONTRACT APPEALS, DEPARTMENT OF AGRICULTURE

Organization and Functions

The Board of Contract Appeals was reorganized with enlarged jurisdiction effective September 25, 1974, under 7 CFR 24.1 *et seq.* (39 FR 30912, August 26, 1974). Experience under the new regulations indicates that the caseload is increasing at a substantial rate and that an increase in the number of members is warranted to permit expeditious processing of appeals while affording the parties a judicial remedy in the framework of due process proceedings before the Board.

Accordingly, § 24.2 Composition of Board is amended to enlarge the number of Board members so that an additional full-time attorney member and an additional part-time member with an engineering background may be designated.

A technical amendment of § 24.6 is desirable to specify that correspondence and documents be filed directly with the Board rather than through the Hearing Clerk of the Department. Such direct filing will avoid double handling of material and should further expedite the processing of appeals. Accordingly, § 24.6 is revised to delete reference to the Hearing Clerk.

A clarification of the definition of "contracting officer of the Forest Service" for purposes of appeals under § 24.4(e) is desirable. No substantive change is intended. In the case of a contract dispute involving a timber sale contract, the Forest officer who executes the contract is ordinarily the contracting officer of the Forest Service whose decision may be appealed. One exception to this is where the Forest officer executing the contract is a District Ranger or other person subject to the supervision of a Forest Supervisor. In such cases, initial review pursuant to 36 CFR 211.2 by the Forest Supervisor is required. If a Regional Forester executes a timber sale contract as contracting officer and utilizes another Forest officer under his supervision to administer the contract, initial review by the Regional Forester under 36 CFR 211.2 is required. The decision of the Regional Forester as contracting officer would then be appealable to the Board. Of course, appeals to the Board from a decision of a contracting officer of the Forest Service under § 24.4 (e) must fall within the jurisdictional limits prescribed. Accordingly, the definition of contracting officer of the Forest Service for appeals under § 24.4(e) as set forth in § 24.10(d) is revised for clarification.

Since these amendments involve internal management and technical clarifications without substantive change of appeal rights, it is hereby found and determined that compliance with the notice of proposed rulemaking, public procedures and the 30 day effective date requirements of 5 USC 553 is unnecessary and contrary to the public interest. These amendments shall become effective upon July 31, 1975.

Subpart A of Part 24, Subtitle A, Title 7 of the Code of Federal Regulations is amended as follows:

1. The first sentence of § 24.2 is amended to read as follows:

§ 24.2 Composition of Board.

The Board shall be composed of not less than four nor more than seven members appointed by the Secretary of Agriculture, one of whom shall be designated Chairman and one of whom shall be designated Vice-Chairman. * * *

2. Section 24.6 is revised to read as follows:

§ 24.6 Board location and address.

The Board of Contract Appeals is located in Washington, D.C. All correspondence and all documents to be filed with the Board should be addressed to the Board of Contract Appeals, United States Department of Agriculture, Washington, D.C. 20250.

3. Section 24.10(d) is revised to read as follows:

§ 24.10 Definitions.

* * * * *

(d) "Contracting officer" means any person who is designated as a contracting officer. For purposes of appeals under § 24.4(e), "contracting officer of the Forest Service" means a Forest Supervisor, Regional Forester, or the Chief, Forest Service, as the case may be, who is the person designated as the contracting officer under a contract.

(5 U.S.C. 301; 40 U.S.C. 484(c); sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); 30 Stat. 35, as amended (16 U.S.C. 551); 50 Stat. 525, as amended (7 U.S.C. 1011(f)); secs. 9, 10, 62 Stat. 1072, 1073 (15 U.S.C. 714g, 714h).)

Effective date: July 31, 1975.

Signed at Washington, D.C. on July 25, 1975.

EARL L. BUTZ,
Secretary of Agriculture.

[FR Doc.75-19678 Filed 7-30-75;8:45 am]

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

[Valencia Orange Reg. 509]

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

Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period August 1–7, 1975. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

§ 908.809 Valencia Orange Regulation 509.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and

upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

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

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges continues to weaken in the face of a continued increase in competing shipments of deciduous tree fruits and melons.

Prices f.o.b. averaged $3.36 per carton on a reported sales volume of 647,000 cartons last week, compared with an average f.o.b. price of $3.41 per carton and sales of 700,000 cartons a week earlier. Track and rolling supplies at 295 cars were down 50 cars from last week.

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

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on July 29, 1975.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period August 1, 1975, through August 7, 1975, are hereby fixed as follows:

(i) District 1: 160,000 cartons;

(ii) District 2: 340,000 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: July 30, 1975.

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

[FR Doc.75-20116 Filed 7-30-75;11:45 am]

[Pear Reg. 5]

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

Limitation of Shipments

This regulation, issued pursuant to the amended marketing agreement and Order No. 917, as amended (7 CFR Part 917), specifies certain grade, size, and container marking requirements which will, during the period August 1, 1975, through July 31, 1976, limit the handling of fresh California Bartlett, Max-Red Bartlett, and Red Bartlett variety pears in interstate shipments.

Notice was published in the July 10, 1975, issue of the FEDERAL REGISTER (40 FR 29087) that consideration was being given to a regulation proposed by the Pear Commodity Committee, established under said marketing agreement and order which regulate the handling of fresh pears, plums, and peaches grown in California. This is a regulatory program effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The published proposal reflected the committee's appraisal of the 1975 crop and the current and prospective market conditions. The notice allowed interested persons to submit, through July 22, 1975, written data, views, or arguments pertaining to the proposed regulation.

This regulation contains the same regulatory provisions as the current Pear Regulation 4 (§ 917.435; 39 FR 24625 and 29169) which is effective through July 31, 1975. It reflects the Department's appraisal of the need for continued regulation of the crop and current and prospective market conditions. Seasonal shipments of fresh California pears from the production area will be in progress when this regulation becomes effective and the continuation of grade and size requirements as hereinafter provided is designed to prevent the handling, on and after August 1, 1975, of any such pears of a lower grade or a smaller size than hereinafter specified so as to provide consumers with good quality fruit, consistent with the overall quality of the crop, while improving returns to the producers pursuant to the decared policy of the act. Continuation of the hereinafter specified requirement that pertains to container marking is designed to prevent deceptive marketing practices, promote buyer confidence, and maintain the integrity of the fresh California pear industry.

One response was received to the notice of proposed regulation. The respondent expressed the view that (1) the regulation would not be fair or suitable to pears grown in States other than California where different growing conditions may prevail, (2) establishing a requirement of Size 165 would favor better situated California pear growers, and (3) the size requirement would discriminate against varieties of pears which tend to grow smaller than others. The objection apparently is based, in part, upon a misunderstanding inasmuch as the order is applicable only to pears grown in California. Hence, any regulation under such order cannot apply to pears grown in other States. With respect to the respondent's view relating to the sizing characteristics of different varieties, the regulation size requirements apply only to Bartlett-type pears (Bartlett, Red Bartlett, and Max-Red Bartlett) which have similar sizing characteristics. As to the effect of differences which may be caused by variations in orchard situations, it is estimated that a very small percentage of the California pears subject to the regulation would fail to meet the size requirement and the order provides that any grower who, because of conditions beyond his control, would be prevented by the regulation from shipping a proportion of his pears equal to the percentage permitted to be shipped from his district may obtain an exemption enabling him to ship a proportion of his pears equal to such percentage. It is, therefore, concluded that any change in the regulation based upon the respondent's views would be inappropriate.

After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Pear Commodity Committee, and other available information, it is hereby found and determined that the regulation hereinafter set forth is in accordance with the provisions of said marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the ef-

fective date of this regulation until 30 days after publication in the FEDERAL REGISTER (7 U.S.C. 553) in that (1) seasonal shipments of fresh California pears are currently regulated by Pear Regulation 4 and this Pear Regulation 5 would continue regulation on and after August 1, 1975; (2) this regulation is the same as the current regulation and the regulation proposed in the notice; (3) compliance with the regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective date thereof; and (4) this regulation was unanimously recommended by Pear Commodity Committee members in an open meeting at which all interested persons were afforded an opportunity to submit their views.

Said regulation is as follows:

§ 917.439 Pear Regulation 5.

Order. (a) During the period August 1, 1975, through July 31, 1976, no handler shall ship:

(1) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears which do not grade at least U.S. Combination, with not less than 80 percent, by count, of the pears grading at least U.S. No. 1;

(2) Any box or container of Bartlett or Max-Red (Max-Red, Red Bartlett) varieties of pears unless such pears are of a size not smaller than the size known commercially as Size 165; or

(3) Any box or container of pears of any variety unless such box or container is stamped or otherwise marked, in plain sight and in plain letters, on one outside end with the name of the variety, if known, or when the variety is not known, the words "unknown variety."

(b) *Definitions.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

(2) "Size known commercially as Size 165" means a size of pear that will pack a standard pear box, packed in accordance with the specifications of a standard pack, with 165 pears and that a 12-pound random sample, representative of the size of the pears in the box or container, contains not more than 43 pears.

(3) "Standard pear box" means the container so designated in Section 1387.11 of the Regulations of the California Department of Food and Agriculture.

(4) "U.S. No. 1", "U.S. Combination", and "standard pack" shall have the same meaning as when used in the United States Standards for Pears (Summer and Fall), 7 CFR 51.1260–51.1280.

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

Dated: July 28, 1975.

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

[FR Doc.75-20005 Filed 7-30-75;8:45 am]

PART 946—IRISH POTATOES GROWN IN WASHINGTON

PART 980—VEGETABLES; IMPORT REGULATIONS

Handling Regulation

This regulation requires potatoes grown in the State of Washington to meet minimum quality and size requirements. This should promote orderly marketing of such potatoes by keeping less desirable qualities and sizes from being shipped to consumers.

Notice of rule making with respect to a proposed handling regulation, to be effective under Marketing Agreement No. 113 and Marketing Order No. 946, both as amended (7 CFR Part 946), regulating the handling of Irish potatoes grown in the State of Washington, was published in the July 15, 1975, FEDERAL REGISTER (40 FR 29725). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons through July 23, 1975, to file written data, views or arguments pertaining to that proposal. None was filed.

The recommendations of the committee reflect its appraisal of the composition of the 1975 crop of Washington potatoes and the marketing prospects for this season. The grade, size, cleanliness and maturity requirements set forth herein, which are the same as those currently in effect (39 FR 26885) through July 31, 1975, are necessary to prevent potatoes of lesser maturities, low quality, or undesirable sizes from being distributed in fresh market channels. They will also provide consumers with good quality potatoes consistent with the overall quality of the crop.

One significant change from last season's requirements is to slightly relax the comparatively tight U.S. No. 1 requirement for potatoes packed in 50-pound cartons by allowing a 10 percent tolerance for damage due to hollow heart. This problem usually occurs in the larger size potatoes—the predominant ones packed in cartons. Without this tolerance these larger potatoes would have to be shipped in bags which provide less protection to the potatoes and less ease of handling.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

Shipments may be made to certain special purpose outlets without regard to minimum grade, size, cleanliness, and maturity requirements provided that safeguards are used to prevent such potatoes from reaching unauthorized outlets. Seed is so exempted because requirements for this outlet differ greatly from those for fresh market. Shipments for use as livestock feed are likewise exempted. Potatoes grown in the production area may be shipped without regard to the aforesaid requirements to specified locations in Morrow and Umatilla Counties, Oregon, for grading and storing. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments are exempt. Exemption of potatoes for most processing uses is mandatory under the legislative authority for this part and therefore shipments to processing outlets are unregulated.

Export requirements differ materially, on occasion, from domestic market requirements. In commercial prepeeling, operators remove the surface defects from potatoes which would be undesirable for the tablestock market, and smaller sizes are acceptable. For these reasons potatoes for export and prepeeling are provided with different requirements.

Findings. After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice which was recommended by the State of Washington Potato Committee, established pursuant to said marketing agreement and order, it is hereby found that the handling regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area will begin on or about the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season, and (3) compliance with this regulation, which is similar to that in effect during previous marketing seasons, will not require any special preparation on the part of persons subject thereto which cannot be completed by August 1, 1975.

The regulation is as follows:

§ 946.330 Handling regulation.

During the period August 1, 1975, through July 31, 1976, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a), (b), (c), and (g) of this section or unless such potatoes are handled in accordance with paragraphs (d) and (e) or (f) of this section.

(a) *Minimum quality requirements.* (1) *Grade: All varieties*—U.S. No. 2 or better grade.

(2) *Size:* (i) *Round varieties*—1⅞ inches minimum diameter.

(ii) *Long varieties*—2 inches minimum diameter or 4 ounces minimum weight.

(3) *Cleanliness:* All varieties—at least "fairly clean."

(b) *Minimum maturity requirements.* (1) *Round and White Rose varieties:* Not more than "moderately skinned."

(2) *Other Long varieties (including but not limited to Russet Burbank and Norgold):* Not more than "slightly skinned."

(c) *Pack.* Potatoes packed in 50-pound cartons shall be U.S. No. 1 grade or better, except that potatoes which fail to meet the U.S. No. 1 grade only because of hollow heart may be shipped provided the lot contains not more than 10 percent damage by hollow heart, or not more

than five percent serious damage by internal defects.

(d) *Special purpose shipments.* The minimum grade, size, cleanliness, maturity and pack requirements set forth in paragraphs (a), (b), and (c) of this section shall not be applicable to shipments of potatoes for any of the following purposes.

(1) Livestock feed;
(2) Charity;
(3) Export;
(4) Seed;
(5) Prepeeling;
(6) Canning, freezing, and "other processing" as hereinafter defined; or
(7) Grading or storing at any specified location in Morrow and Umatilla Counties in the State of Oregon.

Shipments of potatoes for the purposes specified in subparagraphs (1), (2), (4), (5), (6), and (7) of this paragraph shall be exempt from inspection requirements specified in paragraph (g) of this section and shipments specified in paragraphs (d) (1), (2), (4), and (6) shall be exempt from assessment requirements specified in § 946.41. *Provided:* That shipments pursuant to subparagraph (d)(7) shall comply with inspection requirements of (e)(2) of this section.

(e) *Safeguards.* (1) Handlers desiring to make shipments of potatoes for export or prepeeling shall:

(i) Notify the committee of intent to ship potatoes by applying on forms furnished by the committee for a certificate applicable to such special purpose shipments;

(ii) Prepare on forms furnished by the committee a special purpose shipment report on each such shipment. The handler shall forward copies of each such special purpose shipment report to the committee office and to the receiver with instructions to the receiver that he sign and return a copy to the committee office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for cancellation of such handler's certificate applicable to such special purpose shipments and/or the receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of such certificate, the handler may appeal to the committee for reconsideration. Such appeal shall be in writing.

(iii) Before diverting any such special purpose shipment from the receiver of record as previously furnished to the committee by the handler such handler shall submit to the committee a revised special purpose shipment report.

(2) Handlers desiring to make shipments for grading or storing at any specified location in Morrow and Umatilla Counties in the State of Oregon shall:

(i) Notify the committee of intent to so ship potatoes by applying on forms furnished by the committee for a certificate applicable to such special purpose shipment. Upon receiving such application, the committee shall supply to the handler the appropriate certificate after it has determined that adequate facilities exist to accommodate such shipments and that such potatoes will be used only for authorized purposes;

(ii) If reshipment is for any purpose other than as specified in paragraph (d) of this section, each handler desiring to make reshipment of potatoes which have been graded or stored shall, prior to reshipment, cause each such shipment to be inspected by an authorized representative of the Federal-State Inspection Service. Such shipments must comply with the minimum grade, size, cleanliness, maturity, and pack requirements specified in paragraphs (a), (b), and (c) of this section;

(iii) If reshipment is for any of the purposes specified in paragraph (d) of this section, each handler making reshipment of potatoes which have been graded or stored shall do so in accordance with the applicable safeguard requirements specified in paragraph (e) of this section.

(3) Each person desiring to transport potatoes for grading or storing to points in District No. 5 or to Spokane County in District No. 1 shall apply to the committee for and obtain a special purpose certificate authorizing such movement.

(4) Each handler making shipments of potatoes for canning, freezing, or "other processing" pursuant to paragraph (d) of this section shall:

(i) First apply to the committee for and obtain a Certificate of Privilege to make shipments for processing;

(ii) Make shipments only to those firms whose names appear on the committee's list of canners, freezers, or other processors of potato products maintained by the committee, or to persons not on the list provided the handler furnishes the committee, prior to such shipment, evidence that the receiver may reasonably be expected to use the potatoes only for canning, freezing, or other processing.

(iii) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Certificate of Privilege;

(iv) Mail to the office of the committee a copy of the bill of lading for each Certificate of Privilege shipment promptly after the date of shipment;

(v) Bill each shipment directly to the applicable processor.

(5) Each receiver of potatoes for processing pursuant to paragraph (d) of this section shall:

(i) Complete and return an application form for consideration of approval as a canner, freezer, or other processor of potato products;

(ii) Certify to the committee and to the Secretary that potatoes received from the production area for processing will be used for such purpose and will not be placed in fresh market channels;

(iii) Report on shipments received as the committee may require and the Secretary approve.

(f) *Minimum quantity exception.* Each handler may ship up to, but not to exceed five hundredweight of potatoes any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any shipment over five hundredweight of potatoes.

(g) *Inspection.* Except when relieved by paragraphs (d) or (f) of this section, no handler may handle any potatoes regulated hereunder unless an appropriate inspection certificate has been issued by an authorized representative of the Federal-State Inspection Service with respect thereto and the certificate is valid at the time of shipment.

(h) *Definitions.* The terms "U.S. No. 2," "fairly clean," "slightly skinned" and "moderately skinned" shall have the same meaning as when used in the United States Standards for Grades of Potatoes (§§ 51.1540—51.1566 of this title), including the tolerances set forth therein: The term "prepeeling" means potatoes which are clean, sound, fresh tubers prepared commercially in the prepeeling plant by washing, removal of the outer skin or peel, trimming, and sorting preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 (United States Standards for Grades of Peeled Potatoes §§ 52.2421—52.2433 of this title). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch and flour. It includes the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or applying material to prevent oxidation does not constitute "other processing." Other terms used in this section have the same meaning as when used in the marketing agreement, as amended and this part.

(i) *Applicability to imports.* Pursuant to § 8e of the act and § 980.1 "Import regulations" (7 CFR 980.1), Irish potatoes of the red skinned round type imported during the months of July and August in the effective period of this section shall meet the minimum grade, size, quality and maturity requirements for round varieties specified in paragraphs (a) and (b) of this section.

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

It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated with OMB Circular A–107.

Dated July 28, 1975, to become effective August 1, 1975.

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

[FR Doc.75–20006 Filed 7–30–75;8:45 am]

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

[Milk Order No. 30; Docket No. AO-361-A14]

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

Order Amending Order

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Chicago Regional marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1975. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Associate Administrator was issued July 8, 1975, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued July 23, 1975. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1975, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the Federal Register. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Chicago Regional marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. Revise § 1030.7(b)(4), introductory text, and (b)(7)(iii) to read as follows:

§ 1030.7 Pool plant.

* * * * * * *

(b) * * *

(4) Such percentage shall be not less than 30 for September, 35 for each of the months October and November, 25 for December, and 20 for all other months except that a plant that was a pool plant pursuant to this paragraph during each of the months August through March shall be a pool plant for each of the following months of April through July, unless: * * *

* * * * * * *

(7) * * *

(iii) Each plant in a unit ships or transships to plants specified in paragraph (b)(1) of this section the following percentages of its producer milk: 15 in each of the months of September, October, and November; 10 in each of the months of August, December, and January, February, and March. If for any month a plant does not meet the individual plant shipping percentage, that plant shall be excluded from the unit;

* * * * * * *

2. Revise § 1030.13(e)(1) to read as follows:

§ 1030.13 Producer milk.

* * * * * * *

(e) * * *

(1) Milk of a producer diverted for the account of the operator of a pool plant, or a handler described in § 1030.9(b), that does not exceed twice the quantity of such producer's milk received in the pool plant from which diverted during each of the months of September, October, and November; and during each of the months of December through August does not exceed four times such quantity received. No diversion limit shall apply during the months of April through July for a producer who delivered to a pool plant anytime during the prior August-December period and subsequently maintained producer status without interruption of more than 30 consecutive days;

* * * * * * *

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

Effective date. August 1, 1975.

Signed at Washington, D.C., on July 28, 1975.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.75-19870 Filed 7-30-75;8:45 am]

Title 9—Animals and Animal Products

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

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Deletion of Texas From List of Hog Cholera Free States

This amendment removes the State of Texas from the list of Hog Cholera Free States in 9 CFR 76.2(g), as amended, because of the secondary spread of hog cholera within that State. This action is deemed necessary to prevent the further spread of the disease. The special provisions in 9 CFR Part 76, as amended, pertaining to the interstate movement of swine and swine products from Eradication and Free States are no longer applicable to Texas. However, the general provisions contained in 9 CFR Part 76, as amended, pertaining to the interstate movement of swine and swine products from nonquarantined areas apply to the State of Texas.

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

§ 76.2 [Amended]

In § 76.2, in paragraph (g) the name of the State of Texas is deleted.

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

Effective date. The foregoing amendment shall become effective on July 25, 1975.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera, and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 25th day of July, 1975.

J. K. ATWELL,
Acting Deputy Administrator, Animal and Plant Health Inspection Service, Veterinary Services.

[FR Doc.75-19874 Filed 7-30-75;8:45 am]

PART 151—RECOGNITION OF BREEDS AND BOOKS OF RECORD OF PUREBRED ANIMALS

Recognized Breeds and Books of Record

Statement of considerations. The purpose of this amendment is to include Charolais cattle in the listing of recognized breeds and to add the full French book of record of the Canadian Charolais Association in 9 CFR 151.9. An examination has been made by the Animal and Plant Health Inspection Service of the bound, machine printout records and the rules of entry for the registration of Charolais cattle in Canada, and it has been determined that these rules and records are complete and adequate to provide a sufficient pedigree certificate to meet the requirements of 9 CFR Part 151.

Accordingly, in § 151.9, a new paragraph (b) (5) is added to read:

§ 151.9 Recognized breeds and books of record.

* * * * *

(b) * * *

(5) *Charolais cattle in Canada (Code 1112).* The full French book of record of the Canadian Charolais Association, Calgary, Alberta, Canada, is recognized for the Charolais breed registered therein.

* * * * *

(Sec. 101, 76 Stat. 72, Item 100.01, Title I, Tariff Act of 1930, as amended; (19 U.S.C. 1202, Item 100.01); 37 FR 28464, 28477; 38 FR 19141.)

Effective date. The foregoing amendment shall become effective on August 1, 1975.

The effect of the amendent is to provide for duty-free entry of certain purebred animals and, in order to be of maximum benefit to persons desiring to import such animals, the amendment should be made effective promptly to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 28th day of July 1975.

J. K. ATWELL,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.75-19950 Filed 7-30-75;8:45 am]

Title 12—Banks and Banking

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

Revision and Adoption of Proposals

On pages 4321-4322 of the January 29, 1975, edition of the FEDERAL REGISTER (40 FR 4321-4322) there was published a proposal to revise and amend §§ 701.27-1 and 701.27-2 (12 CFR 701.27-1 and 701.27-2). The purpose of the proposed amendments is to provide authority to Federal credit unions and accounting service centers utilizing data processing to lease or sell their software and to sell data processing capacity in excess of their own immediate needs. Interested persons were given until February 28, 1975, to submit written comments, suggestions, or objections regarding the proposal. As a result of the comments and further review by the Administration, the following changes have been made:

(1) Section 701.27-1 is amended by:

(a) Deleting paragraph (a) (2);

(b) Adding in the first sentence of paragraph (e) after the word "is" and before the word "owned" the language "the sponsor of such credit union or is";

(c) Deleting the period at the end of the second sentence in paragraph (e) and inserting a comma in lieu thereof and adding the language "unless the vendor, who is also the sponsor of the credit union, regularly employs such official or employee.";

(d) Adding in the first sentence of paragraph (f) a period after the word "software"; deleting the remaining portion of that sentence and in lieu thereof adding the language, "It may also sell data processing capacity in excess of its own immediate needs; however, total proceeds derived from the sale of such excess capacity shall, unless otherwise provided for by the Administrator, be limited to ten percent (10%) of its total operating income."; and

(e) Deleting in the second sentence of paragraph (f) the word "Administrator" and inserting the words "Regional Director" in lieu thereof.

(2) Section 701.27-2 is amended by:

(a) Redefining in paragraph (a) the term "accounting service center" to read "'Accounting service center' means that entity which provides data processing services exclusively.", and the term "gross income" to read "'Gross income' means the gross billings for an accounting service center's data processing services to participating credit unions.";

(b) Adding to paragraph (a) a new paragraph to read as follows: "(4) 'Participating credit unions' means those credit unions which have a proportionate ownership in the accounting service center.";

(c) Adding in the first sentence of paragraph (c) a period after the word "software"; deleting the remaining portion of that sentence and in lieu thereof adding the language, "It may also sell data processing capacity in excess of the immediate needs of the participating credit unions; however, gross income derived from the sale of such excess capacity shall unless otherwise provided for by the Administrator, be limited to twenty percent (20%) of gross income.";

(d) Deleting in the last sentence of paragraph (c) the word "should" and inserting in lieu thereof the word "shall.";

(e) Deleting in the second sentence of paragraph (d) the word "cost" and substituting "purchase" in lieu thereof; deleting the word "its" and substituting the word "the" in lieu thereof; and adding at the end thereof the language, "of the purchasing Federal credit union."; and

(f) Deleting in paragraph (f) the words "or employee."

PURPOSE OF REVISIONS

Section 701.27-1. The term "gross income" was deleted as it was determined that the proposed definition could give rise to interpretations that would be inconsistent with the new accounting principles and procedures. Additionally, inclusion of the definition created complications in ascertaining the maximum amount of excess data processing capacity which could be sold. It was not intended that the total proceeds derived from the sale of excess capacity would be included in the formula necessary in computing the total amount of excess capacity which could be sold, i.e., ten percent (10%) of the credit union's total operating income. Subsection (e) was amended to provide for the situation where the Federal credit union utilizes the data processing facilities of its sponsor. Paragraph (f) was amended to permit a Federal credit union to sell or lease its software without regard to the restriction imposed on the sale of excess capacity. This revision is designed to authorize a Federal credit union to recoup costs necessary in developing a data processing program. It is not intended to encourage or authorize a program to market the software, as such an activity

would not be within the incidental powers of a Federal credit union.

Section 701.27–2. The purpose of this section is to authorize participating credit unions to establish an accounting service center which will provide data processing services, as that term is defined. The proposed definition of an accounting service center would have permitted the accounting service center to enter into other types of activities. As regulations cannot be utilized to provide authority for Federal credit unions to enter into activities not otherwise permitted by statute, the definition of accounting service center was modified to reflect that its sole function is to provide data processing services. To prevent interpretations which could conflict with the new accounting principles and procedures, the definition of gross income was modified. Additionally, to eliminate confusion concerning the meaning of "participating credit unions," a definition of that term has been included. Paragraph (c) was amended in the same manner and for the reasons delineated in an explanation of the amendments to paragraph (f) of § 701.27–1. The gross income derived from the sale of excess capacity was reduced from twenty-five percent (25 percent) to twenty percent (20 percent) as the former was considered excessive. A clarifying amendment was made to paragraph (d). The amendment to paragraph (f) removes the proscription of an employee of a participating Federal credit union from receiving any salary or compensation from the accounting service center.

Accordingly, with the above changes, the proposed amendments to §§ 701.27–1 and 701.27–2 are adopted as set forth below, effective immediately.

HERMAN NICKERSON, Jr.,
Administrator.

JULY 23, 1975.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1014 (12 U.S.C. 1789))

§ 701.27–1 Purchase and sale of accounting services.

(a) For the purposes of this section:

(1) "Accounting services" means the maintenance of bookkeeping, accounting, or other records related to the purposes and functions of a credit union, by manual, mechanical, or electronic methods, and the furnishing of reports and information derived from such records.

(b) A Federal credit union may purchase accounting services for the maintenance of all or a portion of its accounting records. Any purchase of accounting services shall be evidenced by a written agreement, the terms and conditions of which shall expressly include a provision requiring compliance with § 701.14, and a provision requiring the vendor to make any accounting records of the Federal credit union in his possession immediately available for examination by the Administration.

(c) A Federal credit union purchasing accounting services shall notify the Regional Director in writing of the arrangement at least 30 days prior to the date on which such services shall commence. Such notice shall disclose the name and address of the vendor and information with respect to the records to be maintained and the method to be used. A Federal credit union shall notify the Regional Director in writing at least 30 days prior to the discontinuance of the arrangement.

(d) A Federal credit union, in addition to regular payments for services as provided under the written agreement, shall not pay in advance the actual or estimated charges for more than 3 months' services. Where such advance payment is made it shall be amortized over a period not in excess of the period of the written agreement.

(e) No official or employee of a Federal credit union shall be engaged directly in the management or operation of the accounting services purchased pursuant to this section, except where the vendor of such services is the sponsor of such credit union or is owned and operated by or controlled by one or more credit union leagues. However, in no event shall an official or employee of a Federal credit union receive from the vendor of such services any salary or compensation other than the reimbursement of necessary expenses incurred in connection with the vendor's activities, unless the vendor, who is also the sponsor of the credit union, regularly employs such official or employee.

(f) A Federal credit union utilizing data processing for the maintenance of its own accounting records may lease or sell its software. It may also sell data processing capacity in excess of its own immediate needs; however, total proceeds derived from the sale of such excess capacity shall, unless otherwise provided for by the Administrator, be limited to ten percent (10 percent) of its total operating income. All contracts for the sale or lease of software and sale of data processing capacity in excess of the immediate needs of the credit union shall be in writing and shall have the prior approval of the Regional Director. Request for such approval should be submitted to the Regional Director together with all pertinent facts in support of the proposal not later than sixty (60) days prior to the proposed effective date of contract.

§ 701.27–2 Participation in Accounting Service Center.

(a) For the purposes of this section:

(1) "Accounting service center" means that entity which provides data processing services exclusively.

(2) "Data processing services" means the maintenance of bookkeeping, accounting, or other records related to the purposes and functions of a credit union, primarily by mechanical or electronic methods, and the furnishing of reports and information derived from such records.

(3) "Gross income" means the gross billings for an accounting service center's data processing services to participating credit unions.

(4) "Participating credit unions" means those credit unions which have a proportionate ownership in the accounting service center.

(b) A Federal credit union may participate with one or more other credit union(s) (either Federal or state chartered) in the establishment or maintenance of an accounting service center.

(c) An accounting service center operating under this section may lease or sell its software. It may also sell data processing capacity in excess of the immediate needs of the participating credit unions; however, gross income derived from the sale of such excess capacity shall, unless otherwise provided for by the Administrator, be limited to twenty percent (20%) of gross income. All contracts for the sale or lease of software and sale of data processing capacity in excess of the immediate needs of the participating credit unions shall be in writing and shall have the prior approval of the Administrator. Requests for such approval shall be submitted to the Regional Director together with all pertinent facts in support of the proposal not later than sixty (60) days prior to the proposed effective date of the contract.

(d) Participation in the accounting service center may be by means of a partnership or other noncorporate arrangement between or among the participating credit unions or by participation in an accounting service center corporation organized for the primary purpose of providing data processing services to the participating credit unions through ownership of a proportionate amount of the capital stock of such a corporation, provided that the remaining capital stock of such corporation is available for ownership only by the participating credit unions. A Federal credit union's proportionate ownership of the accounting service center shall be in similar proportion to the total ownership of the center as the total facilities and services used by the Federal credit union bears as a percentage to the total facilities and services provided by the accounting service center to all the participating credit unions, but the purchase of such ownership shall not exceed 2 percent of the members' shareholdings of the purchasing Federal credit union. Ownership by the participating credit unions will be reviewed not less frequently than every two years and adjusted among them as necessary to bring such ownership into conformity with the percentage of the total facilities and services of the accounting service center used by each of them.

(e) A Federal credit union may not participate in the establishment or maintenance of an accounting service center unless the arrangement provides

(1) That operating costs of the accounting service center shall be charged to each of the participating credit unions in such proportion to the total operating costs as the total facilities and services used by each bears as a percentage to the total facilities and services used by all of them;

(2) That each participating credit union shall have in its records current information disclosing:

(i) The name of each participant;

(ii) The proportion and amount of ownership of each in the accounting service center;

(iii) The proportion of the facilities and services used by each;

(iv) The current total operating costs of the accounting service center; and

(v) The proportion and the amount of the total operating costs charged to each of the participating credit unions.

(3) That each participating credit union shall, at least annually, be provided by the accounting service center reports disclosing the financial affairs of the service center, including financial position and results of operations. Each such financial statement shall include an attached statement certifying to the participating credit union that the scope of the activities of the service center was confined to paragraph (a)(1) of this section;

(4) That the accounting service center shall establish and maintain the records of participating Federal credit unions in accordance with the requirements of § 701.14;

(5) That the records of participating Federal credit unions in possession of the accounting service center shall be available immediately for examination by the Administration; and

(6) That, when necessary to protect the interests of the participating federally insured credit unions, the books and records of the accounting service center shall be subject to examination by the Administrator.

(f) No official of a participating Federal credit union may receive any salary or compensation from the accounting service center other than the reimbursement of necessary expenses incurred in connection with service center activities.

(g) Each Federal credit union participating in an accounting service center shall notify the Regional Director in writing of the arrangement at least 30 days prior to the date on which such participation shall commence. Such notice shall disclose the name and address of the accounting service center, the name of its managing officer, and shall provide information on the records to be maintained and the method to be used for that purpose. A Federal credit union shall notify the Regional Director in writing at least 30 days prior to discontinuing its participation in an accounting service center.

[FR Doc.75-19850 Filed 7-30-75;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER I—BUREAU OF THE CENSUS, DEPARTMENT OF COMMERCE

PART 30—FOREIGN TRADE STATISTICS

Shipments of Aircraft Parts and Supplies by and for the Use of Aircraft of U.S. Registry

The following amendment is made to the regulations published in the FEDERAL REGISTER on August 27, 1966 (31 FR 11367) (15 CFR Part 30). In accordance with administrative procedure 5 U.S.C. 553, notice and hearing on this amendment and postponement of the effective date thereof are unnecessary because the amendment is one which grants an exemption.

These regulations are issued under the authority of Title 13, United States Code, Section 302; and 5 U.S.C. 301; Reorganization Plan No. 5 of 1950, Department of Commerce Organization Order No. 35-4A, January 1, 1972, 37 FR 3461.

Effective date: This amendment to the Foreign Trade Statistics Regulations is effective on July 31, 1975.

Section 30.55 is hereby amended to add a new paragraph lettered (l) immediately following § 30.55(k) to read as follows:

§ 30.55 Miscellaneous exemptions.

* * * * *

(l) Shipments of aircraft parts and equipment, and food, saloon, slop chest, and related stores, provisions, and supplies for use on aircraft, by a U.S. airline to its own installations, aircraft, and agents abroad, under Department of Commerce, Office of Export Administration General License RCS.

VINCENT P. BARABBA,
Director
Bureau of the Census.

I concur: July 9, 1975.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.75-19880 Filed 7-30-75;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2674]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Associated Dry Goods Corp., et al.; Correction

In FR Doc. 75-18799 appearing on page 30472 of the issue for Monday, July 21, 1975, in the left-hand column, delete the last ordering paragraph (H.).

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-19839 Filed 7-30-75;8:45 am]

Title 22—Foreign Relations

CHAPTER XI—INTERNATIONAL BOUNDARY AND WATER COMMISSION UNITED STATES AND MEXICO, UNITED STATES SECTION

PART 1100—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Pursuant to the requirements of paragraph 1-5c, Federal Personnel Manual Chapter 735, Employee Responsibilities and Conduct, notice is hereby given of establishment of Administrative Order No. 2.735, implementing FPM Chapter 735. This order provides overall guidance to employees of the Section in the areas of employee responsibilities and conduct.

Subpart A—General

Sec.
1100.1. Reference.
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APPENDIX A. Executive Order 11222.[1]
APPENDIX B. House Concurrent Resolution 175, 85th Congress 2d Session.
APPENDIX C. Digest of Conflict of Interest Laws.
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AUTHORITY: Federal Personnel Manual, Chapter 735 paragraph 1-5c.

Subpart A—General

§ 1100.1 Reference.

(a) Executive Order 11222.[2]

(b) Federal Personnel Manual, Chapter 735, Employee Responsibilities and Conduct.

§ 1100.2 Purpose.

The maintenance of unusually high standards of honesty, integrity, and conduct by employees and special Government employees is essential to assure the proper performance of the Section's business and the maintenance of confidence by citizens in their Government. The avoidence of misconduct and conflicts of interest on the part of employes and special Government employees through informed judgement is indispensable to the maintenance of these standards. To accord with these concepts, the order sets forth the Section's regulations prescribing standards of conduct and responsibil-

[1] Appendices A through D filed as part of the original document.

[2] 30 FR 6469, 3 CFR, 1964-65 COMP., p. 306.

ities and governing statements of employment and financial interests for employees and special Government employees.

§ 1100.3 Definitions.

In this order, the following terms mean:

(a) *Employee.* An officer and an employee of the United States Section of the International Boundary and Water Commission, United States and Mexico, but does not include a special Government employee.

(b) *Person.* An individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(c) *Section.* United States Section of the International Boundary and Water Commission, United States and Mexico.

(d) *Special government employee.* A special Government employee as defined by section 202 of title 18 of the United States Code who is employed by the Section.

(e) *Remedial action.* An action taken against an employee or special Government employee as a result of a violation of this Order. Remedial action may include, but is not limited to:

(1) Changes in assigned duties;

(2) Divestment by the employee or special Government employees of conflicting interests;

(3) Disciplinary action which may be in addition to any penalty prescribed by law; or

(4) Disqualification for a particular assignment.

Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive Orders, and governing regulations.

§ 1100.4 Policy.

(a) In Executive Order 11222 prescribing standards of ethical conduct for Government officers and employees, the President asserted the following policy: Where Government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of his government. Each individual officer, employee, or advisor of government must help to earn and must honor that trust by his own integrity and conduct in all official actions.

(b) This order sets forth the rules and regulations adopted by the Section in response to Executive Order 11222 and implements Chapter 735 of the Federal Personnel Manual. It is the obligation of every employee to be thoroughly familiar with the requirements herein and it is further the responsibility of each supervisor to assure complete understanding by employees in his organization.

(c) Any information which indicates that an employee may have violated the provisions of this Order should be forwarded through channels by the employee's supervisors. It should be sent to the supervisory official who, under current instructions, is authorized to take appropriate remedial or disciplinary action. Such action should be taken at the lowest practicable supervisory level in order that, if necessary, reviews may be made at a higher level of supervision. The official to whom information is addressed will make a thorough investigation of the matter and take appropriate action. The Personnel Director, or designated representative, will be consulted to insure that proposed actions are proper and in accordance with applicable laws, Civil Service Commission regulations, and Section requirements. When official information is involved, the official investigating the matter will insure that such information is protected in accordance with applicable regulations.

(d) Additionally, if the complaint or information alleges the acceptance of gifts or favors, or the use of official position for personal advantage, notice of the complaint or information shall be furnished immediately to the Commissioner. Cases arising in the field shall be routed through the Executive Officer.

(e) If the complaint or information originates within the Section, necessary investigation and/or remedial action shall be initiated concurrently with the submission of notice to the Commissioner. Letters or complaints from outside the Section will accompany the notice to the Commissioner, who will determine and direct the action to be taken on them.

§ 1100.5 Information to employees.

(a) *Initial information.* At the time they are published or revised, each employee will be furnished a copy of the Section's regulations governing employee responsibilities and conduct. Further, the Personnel Director shall establish procedures to insure that employees are periodically reminded of these rules and regulations, at least annually.

(b) *Counseling service.* A counseling service is available to provide advice and guidance to individual employees concerning their responsibilities under the Section's rules and regulations. The Personnel Director will provide guidance and advice to employees regarding the provisions of this order. For the purposes of conflict of interest laws, the Chief, Real Estate shall serve as counselor.

Subpart B—Conduct and Responsibilities

§ 1100.6 Proscribed actions.

Employees are forbidden by law to take certain actions. An employee shall avoid any action which might result in, or create the appearance of:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding Government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Government.

NOTE.—A summary of laws pertinent to all Government employees is contained in Appendix C.

§ 1100.7 Responsibilities.

(a) Each employee is responsible for acquainting him/herself [1] with the standards of conduct expected of him, and to conduct himself, both on and off the job, in a manner which will insure that his actions reflect credit to the Federal Government and the Section.

(b) Supervisors will keep subordinate employees informed regarding the proper standards of conduct required. Before any remedial action is initiated against an employee whose conduct appears to be in violation of established standards or statutes of conduct, the Personnel Director or his designated representative will be consulted.

(c) The Personnel Director, or his designated representative, will provide assistance and/or counseling to employees and all levels of management in observance of regulations pertinent to conduct and/or conflict of interest.

(d) The Chief, Real Estate is the main point of contact on conflicts of interest problems. The Special Legal Assistant will assist on matters of legal interpretation.

(e) All employees engaged in procurement and related activities have a special responsibility for protecting the Government's interests as well as for maintaining the reputation of the Section for honesty, courtesy, and fair dealing. Accordingly, all such employees are required to become thoroughly familiar with the provisions of Federal Personnel Manual, Chapter 735, relating to procurement activities.

§ 1100.8 Rules of conduct.

(a) The primary purpose of establishing rules of conduct is to provide guidance. Although the rules set forth in this Order are considered reasonable, it is recognized there will be instances in which one or more of these rules will be disregarded or violated. Provisions have therefore been made for the imposition of remedial actions designed both to correct the disregard on the part of the offenders and to serve as a caution to others.

(b) *On-the-job conduct.* Each employee is expected to:

(1) Report promptly for work in a condition which will permit him to perform assigned duties (i.e., in appropriate clothing, with any required tools and/or equipment, and in a sober condition).

(2) Render full, efficient, and industrious service in the performance of assigned duties. If insufficient work is assigned to occupy an employee fully at any given time, he is expected to notify his supervisors so that additional work may be assigned.

(3) Give ready response and enthusiasm to directions and instructions received from his supervisor.

[1] For convenience of reading, the standard generic pronoun usage will be followed in the remainder of this Order. Where the pronoun 'he' is used it should be understood to include he or she; 'him' includes him or her; 'his', his or hers; 'himself', himself or herself.

(4) Exercise courtesy and tact in dealings with fellow workers and the public.

(5) Maintain a clean and neat personal appearance to the maximum practicable extent during working hours.

(6) Conserve and protect Federal funds, property, equipment, and materials.

(7) Observe the various laws, rules, regulations, and other authoritative instructions, and consistently conduct himself in a manner which is beyond reproach.

(8) Recognize his responsibility for taking an active part in the Section affairs.

(9) Uphold with integrity the public trust involved in the position to which assigned.

(c) *Off-the-job conduct.* While the Section does not desire to interfere unnecessarily in the private lives of its employees, it does expect them to conduct themselves at all times in a manner which will not reflect unfavorably upon the Federal Government as their employer.

§ 1100.9 Conflict of interest.

(a) All Section employees are bound to refrain from any private business or profesional activity which would place them in a position where there is a conflict between their private interests and the public interests of the United States. Even though a technical conflict of interest may not exist, employees must avoid the appearence of such a conflict from a public confidence point of view. (Chapter 11 of Title 18 of the U.S. Code, enacted by Pub. L. 87–849, effective January 21, 1963, constitutes the basic conflict of interest statutes.)

§ 1100.10 Outside employment.

(a) Section employees will not engage in outside employment or other outside activities, with or without compensation, which—

(1) Interferes with the performance of their Government duties;

(2) May reasonably be expected to bring discredit upon the Section or the Government; or

(3) Appears to involve a conflict of interest.

(b) All employees are prohibited from using their titles or positions in connection with any commercial enterprise or in endorsing any commercial product or venture.

(c) Section employees engaged in activities related to procurement will not accept part-time off-duty employment with any person that is a contractor with the Government. This prohibition applies regardless of the nature of the services to be performed. (e.g., Professional employees of the Section such as attorneys, engineers, and accountants will not represent or advise a Government contractor concerning either the commercial or Government pursuits of such person; nor will such personnel render services in behalf of the officers of contractors with whom they transact business on behalf of the Government, even though such services might be performed in connection with the personal affairs of such officers of the contractors.)

§ 1100.11 Indebtedness.

(a) An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law, such as Federal, State, or local taxes. For the purpose of this paragraph a 'just financial obligation' means one acknowledged by the employee, imposed by law, or reduced to judgment by a court.

(b) When an employee has a levy placed against his salary for failure to pay an indebtedness for Federal income taxes, he shall be issued a written reprimand stating that failure to make satisfactory arrangements regarding future tax liabilities will be grounds for removal.

(c) When an employee is the subject of a letter of complaint stating that he has not paid his State or local taxes and has failed to make satisfactory arrangements regarding the debt, he shall be interviewed by the Personnel Director, or his designated representative in field offices. In this interview he shall be instructed to make satisfactory arrangements for payment of his debt immediately and informed that failure to do so will be grounds for removal.

(d) When an employee is the subject of a letter of complaint regarding any other kind of indebtedness to a unit of government, Federal, State, or local, the procedure prescribed in paragraph c above, shall be observed.

(e) When a creditor who holds a legal judgment against an employee requests that the Section assist in collecting the debt, the employee shall be interviewed by the Personnel Director, or his designated representative in field offices, as appropriate. In this interview he shall be instructed to pay the debt in full within 90 days, or such period of time as is acceptable to the creditor, and informed that failure to do so may be grounds for removal.

(f) When an employee is the subject of a letter of complaint from a creditor who does not hold a legal judgment against the employee, the Personnel Director shall forward a copy of the letter to the employee together with a memorandum calling the employee's attention to the provisions of this order. However, the Section will not assist the creditor in collecting the debt.

§ 1100.12 Gifts, entertainment, and favors.

(a) Except as provided below, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other things of monetary value, from a person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with the Section;

(2) Conducts operations or activities that are regulated by the Section; or

(3) Has interests that may be substantially affected by the performance or nonperformance of his official duty.

(b) The restrictions set forth above do not apply to:

(1) Obvious family or personal relationships, such as those between the employee and his parents, children, or spouse, when the circumstances make it clear that those relationships rather than the business of the persons concerned are the motivating factors;

(2) The acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or an inspection tour where an employee may be properly in attendance;

(3) The acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home or automobile mortgage loans; and

(4) The acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(c) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(d) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342.

(e) This order does not preclude an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this Order for which no Government payment or reimbursement is made. However, this Order does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under Section orders when reimbursement is proscribed by Decision B–128527 of the Comptroller General dated March 7, 1967.

(f) A gift or gratuity, the receipt of which is prohibited by this Order shall be returned to the donor with a written explanation why the return is necessary. A copy of the written explanation shall be submitted to the Personnel Director for filing in the employee's Official Personnel Folder (left side). When the return of the gift is not possible, the gift or gratuity shall be submitted to the Personnel Director with a written explanation why the return is not feasible. The Personnel Director shall turn the gift or gratuity over to a public or private charity or charitable organization.

§ 1100.13 Financial interests.

(a) An employee shall not:

(1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Government duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment.

(b) The Order does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law, Executive Order 11222, chapter 735 of the Federal Personnel Manual or this order.

§ 1100.14 Misuse of information.

An employee, for the purpose of furthering a private interest, shall not directly or indirectly use, or allow the use of, official information obtained through or in connection with his Government employment which has not been made available to the general public.

§ 1100.15 Support of section programs.

(a) When a Section program is based on law or executive order, every employee has a positive obligation to make it function as efficiently and economically as possible and to support it as long as it is a part of recognized public policy. An employee may, therefore, properly make an address explaining and interpreting such a program, citing its achievements, defending it against uninformed or unjust criticism, pointing out the need for possible improvements, or soliciting views for improving it.

(b) An employee shall not, either directly or indirectly, use appropriated funds to influence a Member of Congress to favor or oppose legislation in violation of 18 U.S.C. 1913. However, an employee is not prohibited from:

(1) Testifying as a representative of the Section on pending legislation proposals before Congressional committees or request; or

(2) Assisting Congressional committees in drafting bills or reports on request, when it is clear that the employee is serving solely as a technical expert under the direction of committee leadership.

(c) Nothing in this order shall be construed as depriving an employee of his rights as a private citizen from petitioning or contacting elected representatives pertinent to expressing opinions regarding Governmental operations or pending legislation.

§ 1100.16 Disagreements between governmental officials.

An employee shall not make public any disagreements with, or criticism of, officials, policies, or practices of the Section or of other Federal agencies in areas relating to the Section's functions. Such matters may be brought to the attention of the Commissioner for appropriate action.

§ 1100.17 Use of government property.

An employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property including equipment, supplies, and other property entrusted or issued to him.

§ 1100.18 Gambling, betting, and lotteries.

An employee shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity, including the operation of a gambling device; in conducting a lottery or pool; in a game for money or property; or in selling or purchasing a numbers slip or ticket.

§ 1100.19 Coercion.

An employee shall not use his Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, 'mutual association', or financial ties.

§ 1100.20 General conduct prejudicial to the government.

An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

§ 1100.21 Miscellaneous statutory provisions.

The attention of each employee is directed to the following statutory provisions:

(a) House Concurrent Resolution 175, 85th Congress, 2nd Session, 72A Stat. B12, the Code of Ethics for Government Service.

(b) Chapter 11 of title 18, United States Code (U.S.C.), related to bribery, graft, and conflicts of interest.

(c) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(d) The prohibitions against disloyalty and striking (Executive Order 10450,[4] 18 U.S.C. 1918).

(e) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).

(f) The prohibitions against:

(1) The disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783);

(2) The disclosure of confidential information (18 U.S.C. 1905).

(g) The provisions relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(h) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(i) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a (c)).

(j) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(k) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(l) [Reserved]

(m) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(n) The prohibitions against:

(1) Embezzlement of Government money or property (18 U.S.C. 641);

(2) Failing to account for public money (18 U.S.C. 643); and

(3) Embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(o) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(p) The prohibition against political activities in subchapter III of chapter 73 of title 5, U.S.C. and 18 U.S.C. 602, 603, 604, 607, and 608.

(q) The provision relating to the denial of the right to petition Congress (5 U.S.C. 7102).

(r) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(s) The prohibition against a public official appointing or promoting a relative, or advocating such an appointment or promotion (5 U.S.C. 3110).

(t) The prohibition against the employment of an individual convicted of felonious rioting or related offenses (5 U.S.C. 7313).

(u) The tax imposed on certain employees who knowingly engage in self-dealing with a private foundation (26 U.S.C. 4941, 4946). (Self-dealing is defined in the statute to include certain transactions involving an employee's receipt of pay, a loan, or reimbursement for travel or other expenses from, or his sale to or purchase or property from a private foundation.)

Subpart C—Statements of Employment and Financial Interests

§ 1100.22 Employees required to submit statements.

The following Section personnel are required to submit statements of employment and financial interests.

(a) Those paid at a level of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

(b) Those classified at GG–13 or above, whose basic duties and responsibilities require the incumbent to exercise judgment in making a Government decision or in taking Government action in regard to administering or monitoring grants or subsidies.

(c) Those classified at GG–13 or above, whose basic duties and responsibilities require the incumbent to exercise judgment in making a Government decision or in taking Government action in regard to—

(1) *Contracting or procurement.* For the purpose of this Order, 'contracting

[4] 18 FR 2489, 3 CFR, 1940–53 COMP., p. 936.

or procurement' is defined as executing or approving the award of contracts.

(2) *Auditing.* Auditing private or non-Federal enterprise including the supervision of auditors engaged in audit activities or participating in the development of policies and procedures for performing such audits, including the authorization and monitoring of grants to institutions or other non-Federal enterprise.

(3) *Other.* Those in activities in which the final decision or action has a significant impact on the interest of any non-Federal enterprise.

(d) Those at any grade level whose activities have a significant economic impact on the interest of any non-Federal enterprise.

§ 1100.23 Review of position descriptions.

(a) Because of the nature of the Section's mission, establishment of a standing list of employees subject to the provisions of this subpart is considered impractical inasmuch as assignments are subject to frequent change, organizational elements change with the changing work needs, supervisors or heads of organizations are subject to change with changing conditions. It is therefore necessary that all position descriptions in § 1100.22 (b) through (d) will be reviewed and a statement as to whether the incumbent of the position must file a statement of employment and financial interests, as required by this order, will be included in each position description. This determination will be reviewed at least annually, at the time of performance ratings, or incident to other prescribed annual reviews.

(b) Incumbents of positions identified as involving any of the functions described in § 1100.22 (b) through (d) will be required to comply with the filing requirements of this order. Any employee who believes that his position has been improperly included in the functions described in § 1100.22 (b) through (d), may request a review of the decision requiring him to file a statement through the established grievance procedures.

(c) Positions in the above categories may be excluded when it is determined by the Commissioner that the duties are at such a level or responsibility that the submission of a statement is not necessary because of the degree of supervision and review of the incumbent and the remote and inconsequential effect on the integrity of the Section.

§ 1100.24 Manner of submission—statements of employment and financial interests.

(a) Section personnel included in § 1100.22 (b) through (d) will submit statements of employment and financial interests in the format prescribed by the Personnel Director.

(b) Each employee required by this Order to file a statement will do so within 30 days following entry on duty or assignment to the position and periodically thereafter as prescribed in § 1100.28.

(c) Statement will be submitted to the Personnel Director in a double sealed envelope marked 'For Attention of the Personnel Director Only'.

§ 1100.25 Excusable delay.

If, by reason of his duty assignment, it is impracticable for an employee to submit a statement within the period required by the Order, his immediate supervisor may grant a 15-day extension of time therefor, and the supervisor will notify the Personnel Director, in writing, of the extension. Any extension in excess of 30 days requires the concurrence of the Commissioner. Statements submitted pursuant to an extension of time granted will include appropriate notation to that effect.

§ 1100.26 Special government employees.

Each special Government employee who is an adviser or consultant shall, prior to appointment, file with the Personnel Director, a statement setting forth his Government employment, his private employment, and his financial interests. An appointee must list all of his investments and other financial interests such as pensions; retirement; group life, health, or accident insurance; and profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer. He is not required to list precise amounts of investments.

§ 1100.27 Exceptions to specific appointees.

The Commissioner may grant an exception to a specific appointee from completing that part of the statement of employment and financial interests relating to his investments or other financial interests referred to in § 1100.26, upon making of a determination that this information is not relevant in light of the duties the appointee is to perform.

§ 1100.28 Supplementary statements.

Changes in or additions to the information contained in an employee's statement of employment and financial interests shall be reported as of June 30 of each year. Even though no changes or additions occur, a negative report is required. The supplementary statement, negative or otherwise, will be submitted by July 31 of each year. Notwithstanding the filing of the annual report, Section personnel shall at all times avoid acquiring a financial interest that could result, or taking action that would result, in a violation of the conflict-of-interest provisions of 18 U.S.C. 208 or this order.

§ 1100.29 Interests of employee's relatives.

The interests of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose of this order, 'member of an employee's immediate household' means those blood relatives who are residents of the employee's household.

§ 1100.30 Information not required to be submitted.

An employee is not required to submit on a statement of employment and financial interests or supplementary statement any information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this order, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed 'business enterprises' and are required to be included in an employee's statement of employment and financial interests.

§ 1100.31 Information not known to employees.

If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but known to another person, the employee shall request that other person to submit the information on his behalf.

§ 1100.32 Confidentiality of employee's statements.

Each statement of employment and financial interests, and each supplementary statement, will be held in confidence. The Section may not disclose information from a statement except as the Commissioner or the Civil Service Commission may determine for good cause. Persons designated to review the statements are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from the statement except to carry out the purpose of this order, or Federal laws or regulations.

§ 1100.33 Effect of employee's statements on other requirements.

The statements of employment and financial interests and supplementary statements required of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation.

Effective Date: The regulations in these parts shall be effective on July 31, 1975.

These regulations have been approved by the Civil Service Commission.

For the Commissioner.

JOHN B. MOORE,
Comptroller.

[FR Doc.75-19842 Filed 7-30-75;8:45 am]

Title 31—Money and Finance: Treasury

CHAPTER I—MONETARY OFFICES, DEPARTMENT OF THE TREASURY

[Treasury Dept. Order No. 202-2]

PART 81—NEWLY-MINED DOMESTIC SILVER REGULATIONS OF 1965

PART 93—OFFICE OF DOMESTIC GOLD AND SILVER OPERATIONS PROCEDURES AND DESCRIPTIONS OF FORMS

Disestablishment of the Office of Domestic Gold and Silver Operations

By virtue of the authority vested in me as Secretary of the Treasury, including the authority in Reorganization Plan No. 26 of 1950, and due to the termination of gold licensing requirements by Pub. L. 93-373, it is hereby directed that, effective July 31, 1975—

1. The Office of Domestic Gold and Silver Operations is disestablished and its functions terminated, with the exception of the following functions which are transferred to the Assistant Secretary (International Affairs) for assignment within his Office as he shall designate:

a. Providing statistical data on the private gold market for use by the Department of the Treasury;

b. Maintaining continuing assessment of the state of the gold market, including direct contact with major dealers and users;

c. Maintaining liaison with the staffs of other agencies concerned with the gold market; and

d. Supervising the conduct of Treasury operations and procedures required by Parts 81 and 93 of the Code of Federal Regulations.

2. All references in Parts 81 and 93 of the Code of Federal Regulations to the Office of Domestic Gold and Silver Operations shall for procedural purposes be deemed to refer henceforth to the Assistant Secretary (International Affairs).

3. The position of Director, Office of Domestic Gold and Silver Operations, and all Office positions vacant as of July 31, 1975, are abolished.

4. All remaining Office positions occupied as of July 31, 1975, and their incumbents are transferred to the Office of the Assistant Secretary (International Affairs).

Treasury Department Order No. 193 (October 9, 1961), Treasury Department Order No. 193-1, Revision 2 (October 26, 1967), and Treasury Department Order No. 193-2 (February 15, 1965) are hereby rescinded.

Dated: July 25, 1975.

WILLIAM E. SIMON,
Secretary of the Treasury.

[FR Doc.75-19866 Filed 7-30-75;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 207—NAVIGATION REGULATIONS

Ohio River, Mississippi River Above Cairo, Ill. and Their Tributaries

On 5 March 1975 the Department of the Army, acting through the Chief of Engineers published proposed regulations to amend the present regulations in 33 CFR 207.300 which governs the use, administration and navigation of the Ohio River, Mississippi River above Cairo, Illinois and their tributaries.

The public comment period for this regulation expired on 4 April 1975. No comments were received.

The Department of the Army, acting through the Chief of Engineers is publishing herewith the final regulations as follows:

Section 207.300 is revised as set forth below.

§ 207.300 Ohio River, Mississippi River above Cairo, Ill., and their tributaries; use, administration, and navigation.

(a) *Authority of lockmasters.* The lockmaster shall be charged with the immediate control and management of the lock, and of the area set aside as the lock area, including the lock approach channels. He shall see that all laws, rules, and regulations for the use of the lock and lock area are duly complied with, to which end he is authorized to give all necessary orders and directions in accordance therewith, both to employees of the Government and to any and every person within the limits of the lock or lock area, whether navigating the lock or not. No one shall cause any movement of any vessel, boat, or other floating thing in the lock or approaches except by or under the direction of the lockmaster or his assistants. In the event of an emergency, the lockmaster may depart from these regulations as he deems necessary. The lockmasters shall also be charged with the control and management of Federally constructed mooring facilities.

(b) *Safety rules for vessels using navigation locks.* The following safety rules are hereby prescribed for vessels in the locking process, including the act of approaching or departing a lock:

(1) *Tows with flammable or hazardous cargo barges, loaded or empty.* (i) Stripping barges or transferring cargo is prohibited.

(ii) All hatches on barges used to transport flammable or hazardous materials shall be closed and latched, except those barges carrying a gas-free certificate.

(iii) Spark-proof protective rubbing fenders ("possums") shall be used.

(2) *All vessels.* (i) Leaking vessels may be excluded from locks until they have been repaired to the satisfaction of the lockmaster.

(ii) Smoking, open flames, and chipping or other spark-producing activities are prohibited on deck during the locking cycle.

(iii) Painting will not be permitted in the lock chamber during the locking cycle.

(iv) Tow speeds shall be reduced to a rate of travel such that the tow can be stopped by checking should mechanical difficulties develop. Pilots should check with the individual lockmasters concerning prevailing conditions. It is also recommended that pilots check their ability to reverse their engines prior to beginning an approach. Engines shall not be turned off in the lock until the tow has stopped and been made fast.

(v) U.S. Coast Guard regulations require all vessels to have on board life saving devices for prevention of drowning. All crew members of vessels required to carry work vests (life jackets) shall wear them during a lockage, except those persons in an area enclosed with a handrail or other device which would reasonably preclude the possibility of falling overboard. All deckhands handling lines during locking procedure shall wear a life jacket. Vessels not required by Coast Guard regulations to have work vests aboard shall have at least the prescribed life saving devices, located for ready access and use if needed. The lockmaster may refuse lockage to any vessel which fails to conform to the above.

(c) *Reporting of navigation incidents.* In furtherance of increased safety on waterways the following safety rules are hereby prescribed for all navigation interests:

(1) Any incident resulting in uncontrolled barges shall immediately be reported to the nearest lock. The report shall include information as to the number of loose barges, their cargo, and the time and location where they broke loose. The lockmaster or locks shall be kept informed of the progress being made in bringing the barges under control so that he can initiate whatever actions may be warranted.

(2) Whenever barges are temporarily moored at other than commercial terminals or established fleeting areas, and their breaking away could endanger a lock, the nearest lock shall be so notified, preferably the downstream lock.

(3) Sunken or sinking barges shall be reported to the nearest lock both downstream and upstream of the location in order that other traffic passing those points may be advised of the hazards.

(4) In the event of an oil spill, notify the nearest lock downstream, specifying the time and location of the incident, type of oil, amount of spill, and what recovery or controlling measures are being employed.

(5) Any other activity on the waterways that could conceivably endanger navigation or a navigation structure shall be reported to the nearest lock.

(6) Whenever it is necessary to report an incident involving uncontrolled, sunken or sinking barges, the cargo in the barges shall be accurately identified.

(d) *Precedence at locks.* (1) The vessel arriving first at a lock shall normally be first to lock through, but precedence shall be given to vessels belonging to the United States. Licensed commercial passenger vessels operating on a published schedule or regularly operating in the "for hire" trade shall have precedence over cargo tows and like craft. Commercial cargo tows shall have precedence over recreational craft, except as described in paragraph (f).

(2) Arrival posts or markers may be established ashore above and/or below the locks. Vessels arriving at or opposite such posts or markers will be considered as having arrived at the locks within the

meaning of this paragraph. Precedence may be established visually or by radio communication. The lockmaster may prescribe such departure from the normal order of precedence as in his judgment is warranted to achieve best lock utilization.

(e) *Unnecessary delay at locks.* Masters and pilots must use every precaution to prevent unnecessary delay in entering or leaving locks. Vessels failing to enter locks with reasonable promptness when signalled to do so shall lose their turn. Rearranging or switching of barges in the locks or in approaches is prohibited unless approved or directed by the lockmaster. This is not meant to curtail "jackknifing" or set-overs where normally practiced.

(f) *Lockage of recreational craft.* In order to fully utilize the capacity of the lock, the lockage of recreational craft shall be expedited by locking them through with commercial craft, *provided that both parties agree to joint use of the chamber.* When recreational craft are locked simultaneously with commercial tows, the lockmaster will direct, whenever practicable, that the recreational craft enter the lock and depart while the tow is secured in the lock. Recreational craft will not be locked through with vessels carrying volatile cargoes or other substances likely to emit toxic or explosive vapors. If the lockage of recreational craft cannot be accomplished within the time required for three other lockages, a separate lockage of recreational craft shall be made. Recreational craft operators are advised that many locks have a pull chain located at each end of the lock which signals the lockmaster that lockage is desired. Furthermore, many Mississippi River locks utilize a strobe light at the lock to signal recreational type vessels that the lock is ready for entry. Such lights are used exclusively to signal recreational craft.

(g) *Simultaneous lockage of tows with dangerous cargoes.* Simultaneous lockage of other tows with tows carrying dangerous cargoes or containing flammable vapors normally will only be permitted when there is agreement between the lockmaster and both vessel masters that the simultaneous lockage can be executed safely. He shall make a separate decision each time such action seems safe and appropriate, provided:

(1) The first vessel or tow in and the last vessel or tow out are secured before the other enters or leaves.

(2) Any vessel or tow carrying dangerous cargoes is not leaking.

(3) All masters involved have agreed to the joint use of the lock chamber.

(h) *Stations while awaiting a lockage.* Vessels awaiting their turn to lock shall remain sufficiently clear of the structure to allow unobstructed departure for the vessel leaving the lock. However, to the extent practicable under the prevailing conditions, vessels and tows shall position themselves so as to minimize approach time when signaled to do so.

(i) *Stations while awaiting access through navigable pass.* When navigable dams are up or are in the process of being raised or lowered, vessels desiring to use the pass shall wait outside the limits of the approach points unless authorized otherwise by the lockmaster.

(j) *Signals.* Signals from vessels shall ordinarily be by whistle; signals from locks to vessels shall be by whistle, another sound device, or visual means. when a whistle is used, long blasts of the whistle shall not exceed 10 seconds and short blasts of the whistle shall not exceed 3 seconds. Where a lock is not provided with a sound or visual signal installation, the lockmaster will indicate by voice or by the wave of a hand when the vessel may enter or leave the lock. Vessels must approach the locks with caution and shall not enter nor leave the lock until signaled to do so by the lockmaster. The following lockage signals are prescribed:

(1) *Sound signals by means of a whistle.* These signals apply at either a single lock or twin locks.

(i) Vessels desiring lockage shall on approaching a lock give the following signals at a distance of not more than one mile from the lock:

(*a*) If a single lockage only is required: One long blast of the whistle followed by one short blast.

(*b*) If a double lockage is required: One long blast of the whistle followed by two short blasts.

(ii) When the lock is ready for entrance, the lock will give the following signals:

(*a*) One long blast of the whistle indicates permission to enter the lock chamber in the case of a single lock or to enter the landward chamber in the case of twin locks.

(*b*) Two long blasts of the whistle indicates permission to enter the riverward chamber in the case of twin locks.

(iii) Permission to leave the locks will be indicated by the following signals given by the lock:

(*a*) One short blast of the whistle indicates permission to leave the lock chamber in the case of a single lock or to leave the landward chamber in the case of twin locks.

(*b*) Two short blasts of the whistle indicates permission to leave the riverward chamber in the case of twin locks.

(iv) Four or more short blasts of the lock whistle delivered in rapid succession will be used as a means of attracting attention, to indicate caution, and to signal danger. This signal will be used to attract the attention of the captain and crews of vessels using or approaching the lock or navigating in its vicinity and to indicate that something unusual involving danger or requiring special caution is happening or is about to take place. When this signal is given by the lock, the captains and crews of vessels in the vicinity shall immediately become on the alert to determine the reason for the signal and shall take the necessary steps to cope with the situation.

(2) *Lock signal lights.* At locks where density of traffic or other local conditions make it advisable, the sound signals from the lock will be supplemented by signal lights. Flashing lights (showing a one-second flash followed by a two-second eclipse) will be located on or near each end of the land wall to control use of a single lock or of the landward lock of double locks. In addition, at double locks, interrupted flashing lights (showing a one-second flash, a one-second eclipse and a one-second flash, followed by a three-second eclipse) will be located on or near each end of the intermediate wall to control use of the riverward lock. Navigation will be governed as follows:

(i) *Red light.* Lock cannot be made ready immediately. Vessel shall stand clear.

(ii) *Amber light.* Lock is being made ready. Vessel may approach but under full control.

(iii) *Green light.* Lock is ready for entrance.

(iv) *Green and Amber.* Lock is ready for entrance but gates cannot be recessed completely. Vessel may enter under full control and with extreme caution.

(3) *Radio Communications.* VHF–FM radios, operating in the FCC authorized Maritime Band, have been installed at all operational locks (except those on the Kentucky River and Lock 3, Green River). Radio contact may be made by any vessel desiring passage. Commercial tows are especially requested to make contact at least one half hour before arrival in order that the pilot may be informed of current river and traffic conditions that may affect the safe passage of his tow.

(4) All locks monitor 156.8 MHz (Ch. 16) and 156.65 MHz (Ch. 13) and can work 156.65 MHz (Ch. 13) and 156.7 MHz (Ch. 14) Ch. 16 is the authorized call, reply and distress frequency, and locks are not permitted to work on this frequency except in an emergency involving the risk of immediate loss of life or property. Vessels may call and work Ch. 13, without switching, but are cautioned that vessel to lock traffic must not interrupt or delay Bridge to Bridge traffic which has priority at all times.

(k) *Rafts.* Rafts to be locked through shall be moored in such manner as not to obstruct the entrance of the lock, and if to be locked in sections, shall be brought to the lock as directed by the lockmaster. After passing the lock the sections shall be reassembled at such distance beyond the lock as not to interfere with other vessels.

(l) *Entrance to and Exit from Locks.* In case two or more boats or tows are to enter for the same lockage, their order of entry shall be determined by the lockmaster. Except as directed by the lockmaster, no boat shall pass another in the lock. In no case will boats be permitted to enter or leave the locks until directed to do so by the lockmaster. The sides of all craft passing through any lock shall be free from projections of any kind which might injure the lock walls. All vessels shall be provided with suitable fenders, and shall be used to protect the lock and guide walls until it has cleared the lock and guide walls.

(m) *Mooring.* (1) *At locks.* (i) All vessels when in the locks shall be moored as directed by the lockmaster. Vessels shall be moored with bow and stern lines leading in opposite directions to prevent

the vessel from "running" in the lock. All vessels will have one additional line available on the head of the tow for emergency use. The pilothouse shall be attended by qualified personnel during the entire locking procedure. When the vessel is securely moored, the pilot shall not cause movement of the propellers except in emergency or unless directed by the lockmaster. Tying to lock ladders is strictly prohibited.

(ii) Mooring of unattended or nonpropelled vessels or small craft at the upper or lower channel approaches will not be permitted within 1200 feet of the lock.

(2) *Outside of locks.* (i) No vessel or other craft shall regularly or permanently moor in any reach of a navigation channel. The approximate centerline of such channels are marked as the sailing line on Corps of Engineers' navigation charts. Nor shall any floating craft, except in an emergency, moor in any narrow or hazardous section of the waterway. Furthermore, all vessels or other craft are prohibited from regularly or permanently mooring in any section of navigable waterways which are congested with commercial facilities or traffic unless it is moored at facilities approved by the Secretary of the Army or his authorized representative. The limits of the congested areas shall be marked on Corps of Engineers' navigation charts. However, the District Engineer may authorize in writing exceptions to any of the above if, in his judgment, such mooring would not adversely affect navigation and anchorage.

(ii) No vessel or other craft shall be moored to railroad tracks, to riverbanks in the vicinity of railroad tracks when such mooring threatens the safety of equipment using such tracks, to telephone poles or power poles, or to bridges or similar structures used by the public.

(iii) Except in case of great emergency, no vessel or craft shall anchor over revetted banks of the river, and no floating plant other than launches and similar small craft shall land against banks protected by revetment except at regular commercial landings. In all cases, every precaution to avoid damage to the revetment works shall be exercised. The construction of log rafts along mattressed or paved banks or the tying up and landing of log rafts against such banks shall be performed in such a manner as to cause no damage to the mattress work or bank paving. Generally, mattress work extends out into the river 600 feet from the low water line.

(iv) Any vessel utilizing a federally constructed mooring facility (e.g., cells, buoys, anchor rings) at the points designated on the current issue of the Corps' navigation charts shall advise the lockmaster at the nearest lock from that point by the most expeditious means.

(n) *Draft of vessels.* No vessel shall attempt to enter a lock unless its draft is at least three inches less than the least depth of water over the guard sills, or over the gate sills if there be no guard sills. Information concerning controlling depth over sills can be obtained from the lockmaster at each lock or by inquiry at the office of the district engineer of the district in which the lock is located.

(o) *Handling machinery.* No one but employees of the United States shall move any lock machinery except as directed by the lockmaster. Tampering or meddling with the machinery or other parts of the lock is strictly forbidden.

(p) *Refuse in locks.* Placing or discharging refuse of any description into the lock, on lock walls or esplanade, canal or canal bank is prohibited.

(q) *Damage to locks or other work.* To avoid damage to plant and structures connected with the construction or repair of locks and dams, vessels passing structures in the process of construction or repair shall reduce their speed and navigate with special caution while in the vicinity of such work. The restrictions and admonitions contained in these regulations shall not affect the liability of the owners and operators of floating craft for any damage to locks or other structures caused by the operation of such craft.

(r) *Trespass of lock property.* Trespass on locks or dams or other United States property pertaining to the locks or dams is strictly prohibited except in those areas specifically permitted. Parties committing any injury to the locks or dams or to any part thereof will be responsible therefor. Any person committing a willful injury to any United States property will be prosecuted. No fishing will be permitted from lock walls, guide walls, or guard walls of any lock or from any dam, except in areas designated and posted by the responsible District Engineer as fishing areas. Personnel from commercial and recreational craft will be allowed on the lock structure for legitimate business reasons; e.g., crew changes, emergency phone calls, etc.

(s) *Restricted areas at locks and dams.* All waters immediately above and below each dam, as posted by the respective District Engineers, are hereby designated as restricted areas. No vessel or other floating craft shall enter any such restricted area at any time. The limits of the restricted areas at each dam will be determined by the responsible District Engineer and market by signs and/or flashing red lights installed in conspicuous and appropriate places.

(t) *Statistical information.* (1) Masters of vessels shall furnish to the lockmaster such statistics of passengers or cargo as may be requested.

(2) The owners or masters of vessels sunk in the navigable waters of the United States shall provide the appropriate District Engineer with a copy of the sunken vessel report furnished to the U.S. Coast Guard Marine Inspection Office in accordance with Code of Federal Regulations Title 33 Subpart 64.10–1.

(u) *Operations during high water and floods in designated vulnerable areas.* Vessels operating on these waters during periods when river stages exceed the level of "ordinary high water," as designated on Corps of Engineers' navigation charts, shall exercise reasonable care to minimize the effects of their bow waves and propeller washes on river banks; submerged or partially submerged structures or habitations; terrestrial growth such as trees and bushes; and man-made amenities that may be present. Vessels shall operate carefully when passing close to levees and other flood protection works, and shall observe minimum distances from banks which may be prescribed from time to time in Notices to Navigation Interests. Pilots should exercise particular care not to direct propeller wash at river banks, levees, revetments, structures or other appurtenances subject to damage from wave action.

(v) *Navigation lights for use at all locks and dams except on the Kentucky River and Lock 3, Green River.* (1) At locks at all fixed dams and at locks at all movable dams when the dams are up so that there is no navigable pass through the dam, the following navigation lights will be displayed during hours of darkness:

(i) Three green lights visible through an arc of 360° arranged in a vertical line on the upstream end of the river (guard) wall unless the intermediate wall extends farther upstream. In the latter case, the lights will be placed on the upstream end of the intermediate wall.

(ii) Two green lights visible through an arc of 360° arranged in a vertical line on the downstream end of the river (guard) wall unless the intermediate wall extends farther downstream. In the latter case, the lights will be placed on the downstream end of the intermediate wall.

(iii) A single red light, visible through an arc of 360° on each end (upstream and downstream) of the land (guide) wall.

(2) At movable dams when the dam has been lowered or partly lowered so that there is an unobstructed navigable pass through the dam, the navigation lights indicated in the following paragraphs will be displayed during hours of darkness until lock walls and weir piers are awash.

(i) Three red lights visible through an arc of 360° arranged in a vertical line on the upstream end of the river (guard) wall.

(ii) Two red lights visible through an arc of 360° arranged in a vertical line on the downstream end of the river (guard) wall.

(iii) A single red light visible through an arc of 360° on each end (upstream and downstream) of the land (guide) wall.

(3) After lock walls and weir piers are awash they will be marked as prescribed in paragraph (x) below.

(4) If one or more bear traps or weirs are open or partially open, and may cause a set in current conditions at the upper approach to the locks, this fact will be indicated by displaying a white circular disk 5 feet in diameter, on or near the light support on the upstream end of the land (guide) wall during the hours of daylight, and will be indicated during hours of darkness by displaying a white (amber) light vertically under and 5 feet below the red light on the upstream end of the land (guide) wall.

(5) At Locks No. 1 and 2, Green River, when the locks are not in operation because of high river stages, a single red light visible through an arc of 360° will be displayed on each end (upstream and downstream) of the lock river (guard) will at which time the lights referred to above will not be visible.

(w) *Navigation lights for use at locks and dams on the Kentucky River and Lock 3, Green River.* A single red light visible through an arc of 360° shall be displayed during hours of darkness at each end of the river wall or extending guard structures until these structures are awash.

(x) *Buoys at movable dams.* (1) Whenever the river (guard) wall of the lock and any portion of the dam are awash, and until covered by a depth of water equal to the project depth, the limits of the navigable pass through the dam will be marked by buoys located at the upstream and downstream ends of the river (guard) wall, and by a single buoy over the end or ends of the portion or portions of the dam adjacent to the navigable pass over which project depth is not available. A red nun-type buoy will be used for such structures located on the left-hand side (facing downstream) of the river and a black can-type buoy for such structures located on the right-hand side. Buoys will be lighted, if practicable.

(2) Where powerhouses or other substantial structures projecting considerably above the level of the lock wall are located on the river (guard) wall, a single red light located on top of one of these structures may be used instead of river wall buoys prescribed above until these structures are awash, after which they will be marked by a buoy of appropriate type and color (red nun or black can buoy) until covered by a depth of water equal to the project depth. Buoys will be lighted, if practicable.

(y) *Vessels to carry regulations.* A copy of these regulations shall be kept at all times on board each vessel regularly engaged in navigating the rivers to which these regulations apply. Copies may be obtained from any lock office or District Engineer's office on request. Masters of such vessels are encouraged to have on board copies of the current edition of appropriate navigation charts.

Dated: June 30, 1975.

HOWARD H. CALLAWAY,
Secretary of the Army.

NOTES

1. Muskingum River Lock & Dam 1 has been removed. Ohio River slackwater provides navigable channel for recreational craft to Lock 2 near Devola, Ohio. Muskingum River Locks 2 thru 11 inclusive have been transferred to the State of Ohio and are operated during the recreational boating season by the Ohio Department of Natural Resources. Inquiries regarding Muskingum River channel conditions and lock availability should be directed to the aforementioned Department.

2. Little Kanawha River Lock and Dam 1 has been removed, thus permitting recreational craft to navigate up to Lock 2 near Slate, W. Va. Operation of Locks 2 thru 5 on the Little Kanawha River has been discontinued.

3. Big Sandy River: Lock 1 has been removed, thus permitting recreational craft to navigate to Lock 2, near Buchanan, Ky. Operation of Lock 2 and Lock 3 near Fort Gay, W. Va. has been discontinued. Operation of Lock and Dam 1 on Levisa Fork near Gallup, Ky., and Lock and Dam 1 on Tug Fork near Chapman, Ky. has been discontinued.

4. Operation of the following Green River Locks has been discontinued: Lock 4 near Woodbury, Ky., Lock 5 near Glenmore, Ky., and Lock 6 near Brownsville, Ky.

5. Operation of Barren River Lock and Dam No. 1 near Richardsville, Ky. has been discontinued.

6. Operation of Rough River Lock and Dam No. 1 near Hartford, Ky. has been discontinued.

7. Operation of Osage River Lock and Dam 1 near Osage City, Mo., has been discontinued.

8. Operation of the 34 locks in the Illinois and Mississippi (Hennepin) Canal, including the feeder section, has been discontinued.

9. Operation of the Illinois and Michigan Canal has been discontinued.

[FR Doc.75-19836 Filed 7-30-75;8:45 am]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

PART 1061—CHARACTER AND SCOPE OF SPECIFIC COMMUNITY ACTION PROGRAMS

Emergency Energy Conservation Program

Correction

In FR Doc. 75-19456 appearing at page 31602 of the issue for Monday, July 28, 1975, the chapter heading incorrectly listed the Community Services Administration as part of the Department of Health, Education, and Welfare. Since CSA is an independent agency, the heading of 45 CFR Chapter X should read as set forth above.

Title 50—Wildlife and Fisheries

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

PART 32—HUNTING

Crab Orchard National Wildlife Refuge, Illinois

The following special regulation is issued and is effective July 31, 1975.

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

ILLINOIS

CRAB ORCHARD NATIONAL WILDLIFE REFUGE

The public hunting of deer on the Crab Orchard National Wildlife Refuge on that portion of the refuge enclosed by a 5-strand barbed wire fence and designated as Area II is permitted from 6:30 a.m. to 4 p.m., November 21 through November 23, 1975, and from December 12 through December 14, 1975. This area, comprising 21,000 acres, is delineated on maps available at refuge headquarters, Carterville, Illinois 62918, and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State and Federal regulations, including State Administrative Orders, and subject to the following special conditions:

(1) Hunting is prohibited within 100 yards of roads open to public travel, buildings and other areas as posted.

(2) Hunters must be checked in at the refuge fire station during the three day period before their entry into the closed area.

(3) Hunters must wear the provided arm band between the elbow and shoulder of one arm while hunting in the area.

(4) Hunters will be permitted use of the area only between the hours of 5:30 a.m. and 5 p.m. during their assigned three day season.

(5) Each hunter must possess the special permit, issued by the Illinois Conservation Department, showing the date he is to hunt on the refuge closed area.

(6) Upon checking into the fire station, each hunter will be issued a numbered tag. Immediately upon reducing a deer to possession, the metal tag must be securely affixed to the deer's hind leg, between the leg bone and tendon. The deer will not be transported without the tag being securely fastened to the leg.

(7) All deer taken on the refuge must be checked in at the refuge check station before being transported from refuge property.

The public hunting of deer on that portion of the Crab Orchard Refuge designated as Areas I and III is permitted during the regular state deer hunting season. This area comprised of 23,000 acres, is delineated on maps available at refuge headquarters, Carterville, Illinois 62918, and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in compliance with all applicable State and Federal regulations, including State Administrative Orders.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 14, 1975.

WAYNE D. ADAMS,
Project Manager,
Crab Orchard National Wildlife Refuge.

JULY 23, 1975.

[FR Doc.75-19845 Filed 7-30-75;8:45 am]

PART 32—HUNTING

Hunting on Certain National Wildlife Refuges in California

The U.S. Fish and Wildlife Service proposes to change regulations concerning the hunting of migratory game birds, upland game birds and big game for certain individual wildlife refuges in California.

The purpose of the proposed change is to increase the quality of the hunting experience on these refuge public hunting areas.

Interested persons may participate in this rulemaking by submitting written

comments, preferably in triplicate to the Regional Director (RF), U.S. Fish and Wildlife Service, Post Office Box 3737, Portland, OR 97208. All relevant comments received no later than September 2, 1975 will be considered. This will allow a 30 day period for submittal of written comments prior to the final rulemaking process. Comments received will be available for public inspection during normal business hours at the Service's office at 1500 NE Irving Street, Room 468, Portland, Oregon 97232.

This notice of proposed rulemaking is issued under the authority contained in the Migratory Bird Treaty Act (16 U.S.C. 704).

Accordingly, it is proposed to amend Chapter I of Title 50, Code of Federal Regulations, by revising §§ 32.12, 32.22 and 32.32 to read as set forth below.

The following regulations are proposed and will be effective October 11, 1975. These regulations apply to public hunting on portions of certain national wildlife refuges in California.

General conditions: Hunting shall be in accordance with applicable State and Federal regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges are listed on the reverse side of maps available at the refuge headquarters and from the office of the Regional Director, Fish and Wildlife Service, P.O. Box 3737, Portland, Oregon 97208.

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

Migratory game birds, except snipe and pigeons and doves, may be hunted on the following refuge areas:

Salton Sea National Wildlife Refuge, P.O. Box 247, Calipatria, California 92233.

Kern National Wildlife Refuge, P.O. Box 219, Delano, California 93215.

Merced National Wildlife Refuge (Headquarters: San Luis National Wildlife Refuge, P.O. Box 2176, Los Banos, California 93635).

Migratory game birds, except pigeons and doves, may be hunted on the following refuge areas:

Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, California 95988.

Colusa National Wildlife Refuge, Route 1, Box 311, Willows, California 95988.

Special Conditions: 1. Steel shot only may be possesed or used on the refuge hunting area.

Delevan National Wildlife Refuge, Route 1, Box 311, Willows, California 95988.

Sutter National Wildlife Refuge, Route 1, Box 311, Willows, California 95988.

Kesterson National Wildlife Refuge, P.O. Box 2176, Los Banos, California 93635.

San Luis National Wildlife Refuge, P.O. Box 2176, Los Banos, California 93635.

Clear Lake National Wildlife Refuge, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134).

Special Conditions: 1. Boats with or without motors are permitted. Air-thrust, water-thrust, and sculling boats are prohibited.

2. All decoys, boats, and other personal property must be removed from the refuge at the close of each day.

Lower Klamath National Wildlife Refuge, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134).

Special Conditions: 1. During the first two days of waterfowl season, all hunters 16 years of age and older must have in their possession an entry permit for the controlled hunting unit in which they are hunting.

2. Posted retrieving zones are established on certain hunting units. Possession of firearms in these retrieving zones is prohibited, except, unloaded firearms may be taken through these zones when necessary to reach or leave hunting areas. Decoys may not be set in retrieving zones.

3. Boats with or without motors are permitted. Air-thrust, water-thrust, and sculling boats are prohibited.

4. All decoys, boats, and other personal property must be removed from the refuge at the close of each day.

5. In designated spaced blind areas, hunters may not possess any loaded firearm further than 30 feet from the established blind stakes.

6. Bow hunters must follow the same regulations as firearm hunters. The use of long bow is permitted.

7. Legal waterfowl shooting hours shall be from one-half hour before sunrise to 1 p.m. daily on all California portions of the refuge.

Tule Lake National Wildlife Refuge, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134).

Special Conditions: 1. During the first two days of waterfowl season, all hunters 16 years of age and older must have in their possession an entry permit for the controlled hunting unit in which they are hunting.

2. Posted retrieving zones are established on certain hunting units. Possession of firearms in these retrieving zones is prohibited, except, unloaded firearms may be taken through these zones when necessary to reach or leave hunting areas. Decoys may not be set in retrieving zones.

3. Boats with or without motors are permitted. Air-thrust, water-thrust, and sculling boats are prohibited.

4. All decoys, boats, and other personal property must be removed from the refuge at the close of each day.

5. In designated spaced blind areas, hunters may not possess any loaded firearm further than 30 feet from the established blind stakes. Hunters will select blind sites by lottery at the beginning of each day's hunt.

6. The use of long bow is permitted. Bow hunters must follow the same regulations as firearm hunters.

7. Legal waterfowl shooting hours shall be from one-half hour before sunrise to 1 p.m. daily.

Modoc National Wildlife Refuge, P.O. Box 1610, Alturas, California 96101.

Special Conditions: 1. First weekend only, entry permits are required to enter the hunting area for every individual with the exception of persons under 16 years of age.

2. After first weekend, hunting permitted on Tuesdays, Thursdays, and Saturdays during authorized seasons.

3. Hunters are required to enter hunting area via designated parking sites.

4. Hunting area is open for access from 90 minutes prior to legal shooting hours until 90 minutes after sunset on days hunting is permitted.

§ 32.22 Special regulations: upland game; for individual wildlife refuge areas.

Ring-necked pheasant only may be hunted on the following refuge areas:

Colusa National Wildlife Refuge, Route 1, Box 311, Willows, California 95988.

Delevan National Wildlife Refuge, Route 1, Box 311, Willows, California 95988.

Kern National Wildlife Refuge, P.O. Box 219, Delano, California 93215.

Merced National Wildlife Refuge, P.O. Box 2176, Los Banos, California 93635.

Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, California 95988.

Sutter National Wildlife Refuge, Route 1, Box 311, Willows, California 95988.

Lower Klamath National Wildlife Refuge, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134).

Special Conditions: 1. Additional refuge area designated by special posting will be open to a special 4-day pheasant hunt.

2. Pheasants may not be hunted in retrieving zones.

Tule Lake National Wildlife Refuge, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134).

Special conditions: 1. Additional refuge area designated by special posting will be open to a special 4-day pheasant hunt.

2. Pheasants may not be hunted in retrieving zones.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through June 30, 1976.

Dated: July 17, 1975.

WILLIAM H. MEYER,
Acting Regional Director,
Fish and Wildlife Service.

[FR Doc.75-19847 Filed 7-30-75;8:45 am]

PART 32—HUNTING

Hunting on Certain National Wildlife Refuges in Oregon

The U.S. Fish and Wildlife Service proposes to change regulations concerning the hunting of migratory game birds, upland game birds and big game for certain individual wildlife refuges in Oregon.

The purpose of the proposed change is to increase the quality of the hunting experience on these refuge public hunting areas.

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate to the Regional Director (RF), U.S. Fish and Wildlife Service, Post Office Box 3737, Portland, OR 97208. All relevant comments received no later than September 2, 1975 will be considered. This will allow a 30 day period for submittal of written comments prior to the final rulemaking process. Comments received will be available for public inspection during normal business hours at the Service's office at 1500 NE Irving Street, Room 468, Portland, Oregon 97232.

This notice of proposed rulemaking is issued under the authority contained in the Migratory Bird Treaty Act (16 U.S.C. 704).

Accordingly, it is proposed to amend Chapter I of Title 50, Code of Federal Regulations, by revising § 32.12, § 32.22 and § 32.32 to read as set forth below.

The following regulations are proposed and will be effective October 11, 1975. These regulations apply to public hunting

on portions of certain National Wildlife Refuges in Oregon.

General conditions: Hunting shall be in accordance with applicable State and Federal regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. No vehicle travel is permitted except on maintained roads and trails. Special conditions applying to individual refuges are listed on the reverse side of maps available at refuge headquarters and from the office of the Regional Director, Fish and Wildlife Service, P.O. Box 3737, Portland, Oregon 97208.

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

Migratory birds may be hunted on the following refuge areas:

Deer Flat National Wildlife Refuge, Snake River Sector (Headquarters: Deer Flat National Wildlife Refuge, Route 1, Box 1457, Nampa, Idaho 83651).

Hart Mountain National Antelope Refuge, P.O. Box 111, Lakeview, Oregon 97630.

Ducks, geese, and coots may be hunted on the following refuge areas:

Ankeny National Wildlife Refuge, Route 1, Box 198, Jefferson, Oregon 97532.

Baskett Slough National Wildlife Refuge, Route 1, Box 709, Dallas, Oregon 97338.

Special Conditions: 1. Hunting is permitted on Wednesdays, Saturdays, and Sundays from opening shooting time each day until 12 noon during the authorized season only.

2. A Federal permit is required and will be issued on an advance reservation basis. Application for reservation will be accepted between September 15 and October 15, 1975.

3. Steel shot only may be possessed or used on the refuge hunting area.

4. Hunters are limited to the possession and use of twenty (20) shells per day.

William L. Finley National Wildlife Refuge, Route 2, Box 208, Corvallis, Oregon 97330.

Special Conditions: 1. Hunting is permitted on Wednesdays, Saturdays, and Sundays from opening shooting time each day until 12 noon, during the authorized season only.

2. A Federal permit is required and will be issued on an advance reservation basis. Application for reservation will be accepted between September 15 and October 15, 1975.

3. In the designated goose hunting area "A" hunters may shoot from assigned blind sites only and are limited to the use of ten (10) shells per day.

4. Hunters are limited to the possession and use of twenty (20) shells per day on area "B".

5. The use of steel shot will be mandatory.

Ducks, geese, coots and common snipe may be hunted on the following refuges:

Klamath Forest National Wildlife Refuge, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134).

Special Conditions: 1. Boats with or without motors are permitted. Air-thrust, waterthrust, and sculling boats are prohibited.

Upper Klamath National Wildlife Refuge, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134).

Special Conditions: 1. Boats with or without motors are permitted. Air-thrust, waterthrust and sculling boats are prohibited.

2. All decoys, boats, and other personal property must be removed from the refuge at the close of each day.

Cold Springs National Wildlife Refuge, Hermiston, Oregon (Headquarters: Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882).

McKay Creek National Wildlife Refuge, Pendleton, Oregon (Headquarters: Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882).

Special Condition: Hunting will be permitted on Wednesdays, Saturdays, Sundays and Federal holidays.

Lewis and Clark National Wildlife Refuge, Route 1, Box 376C, Cathlamet, Washington 98612.

Special Condition: Posted portions of the Lewis and Clark National Wildlife Refuge in Clatsop County will be closed to waterfowl hunting.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882.

Special Conditions: 1. Waterfowl hunting is permitted during open hours each Wednesday, Saturday, Sunday and Federal holiday (except Christmas) during waterfowl season.

2. Hunting by permit only. Sucessful applicants may bring one unnamed guest and must arrive at the checking station no later than ONE HOUR before shooting time or the reservation is cancelled. Checking station will open 1½ hours before shooting time. "No-show" vacancies will be filled from a waiting line after reservations have been accommodated and just prior to shooting time.

3. Applications will be accepted during two sign-up periods. Permits are non-transferrable.

4. The use of steel shot will be mandatory. Shells will not be sold at the check stand and should be obtained from a commercial source well before hunt day.

5. Waterfowl hunting will be from assigned blinds only. Details will be available at the check stand.

6. New hunters will not be accepted on the area after the initial processing in the morning prior to shooting time.

Malheur National Wildlife Refuge, P.O. Box 113, Burns, Oregon 97720.

Special Condition: Use of motors on boats is prohibited.

Mourning doves and band-tailed pigeons may be hunted on the following refuge areas:

Ankeny National Wildlife Refuge, Box 198, Jefferson, Oregon 97352.

Special Condition: All hunters must check in and out of the refuge daily by use of self-service permits.

Malheur National Wildlife Reguge, P.O. Box 113, Burns, Oregon 97720.

Special Condition: That portion of the refuge in Blitzen Valley west of Highway 205 south of Diamond Lane will be open to hunting as posted.

William L. Finley National Wildlife Refuge, Route 2, Box 208, Corvallis, Oregon 97330.

Special Condition: All hunters must check in and out of the refuge daily by use of self-service permits.

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

Upland game birds may be hunted on the following refuge areas:

Deer Flat National Wildlife Refuge, Snake River Sector (Headquarters: Deer Flat National Wildlife Refuge, Route 1, Box 1457, Nampa, Idaho 83651).

Hart Mountain National Antelope Range, P.O. Box 111, Lakeview, Oregon 97630.

Pheasant, quail, and partridge may be hunted on the following refuge areas:

Cold Springs National Wildlife Refuge, Hermiston, Oregon (Headquarters: Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882).

Malheur National Wildlife Refuge, P.O. Box 113, Burns, Oregon 97720.

Special Condition: Hunting will be permitted during the last 9 days of the State season on the upland game hunting area and during State seasons running concurrently with the waterfowl season on the waterfowl hunting area, and that portion of the refuge in the Blitzen Valley west of Highway 205 as posted.

McKay Creek National Wildlife Refuge, Pendleton, Oregon (Headquarters: Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882).

Special Condition: Hunting is permitted on Wednesdays, Saturdays, Sundays and Federal holidays.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882.

Special Condition: Hunting will be permitted on opening day, Wednesdays, Saturdays, Sundays and Federal holidays.

Pheasant and quail may be hunted on the following refuge areas:

Ankeny National Wildlife Refuge, Route 1, Box 198, Jefferson, Oregon 97352.

Special Conditions: 1. No hunting permitted after November 2, 1975.

2. All hunters must check in and out of the refuge daily by use of self-service permits.

3. Hunters on the area served by each registration station will be limited to 50 at any one time.

Baskett Slough National Wildlife Refuge, Route 1, Box 709, Dallas, Oregon 97338.

Special Conditions: 1. No hunting permitted after November 2, 1975.

2. All hunters must check in and out of the refuge daily by use of self-service permits.

3. Hunters on the area served by each registration station will be limited to 50 at any one time.

William L. Finley National Wildlife Refuge, Route 2, Box 208, Corvallis, Oregon 97330.

Special Conditions: 1. No hunting permitted after November 2, 1975.

2. All hunters must check in and out of the refuge daily by use of self-service permits.

3. Hunters on the area served by each registration station will be limited to 100 at any any one time.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through June 30, 1976.

Dated: July 17, 1975.

WILLIAM H. MEYER,
Acting Regional Director,
Fish and Wildlife Service.

[FR Doc.75-19846 Filed 7-30-75;8:45 am]

PART 32—HUNTING

Hunting on Certain National Wildlife Refuges in Washington

The U.S. Fish and Wildlife Service proposes to change regulations concerning the hunting of migratory game birds, upland game birds and big game for certain individual wildlife refuges in Washington.

The purpose of the proposed change is to increase the quality of the hunting experience on these refuge public hunting areas.

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate to the Regional Director (RF) U.S. Fish and Wildlife Service, Post Office Box 3737, Portland, OR 97208. All relevant comments received no later than September 2, 1975 will be considered. This will allow a 30 day period for submittal of written comments prior to the final rulemaking process. Comments received will be available for public inspection during normal business hours at the Service's office at 1500 NE Irving Street, Room 468, Portland, Oregon 97232.

This notice of proposed rulemaking is issued under the authority contained in the Migratory Bird Treaty Act (16 U.S.C. 704).

Accordingly, it is proposed to amend Chapter I of Title 50, Code of Federal Regulations, by revising § 32.12, § 32.22 and § 32.32 to read as set forth below.

The following regulations are proposed and will be effective October 11, 1975. These regulations apply to public hunting on portions of certain National Wildlife Refuges in Washington.

General conditions: Hunting shall be in accordance with applicable State and Federal regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. No vehicle travel is permitted except on maintained roads and trails. Special conditions applying to individual refuges are listed on the reverse side of maps available at refuge headquarters and from the office of the Regional Director, Fish and Wildlife Service, P.O. Box 3737, Portland, Oregon 97208.

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

Migratory game birds may be hunted on the following refuge area:

Conboy Lake National Wildlife Refuge, Box 5, Glenwood, Washington 98619.

Special Condition: No Canada goose hunting permitted.

Migratory game birds except doves and pigeons may be hunted on the following refuge areas:

Columbia National Wildlife Refuge, P.O. Drawer F, Othello, Washington 99344.

Toppenish National Wildlife Refuge, Route 1, Box 1300, Toppenish, Washington 98948.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882.

Columbian White-Tailed Deer National Wildlife Refuge, Route 1, Box 376C, Cathlamet, Washington 98612.

Ridgefield National Wildlife Refuge, P.O. Box 467, Ridgefield, Washington 98642.

Special Conditions: 1. Hunting will be permitted on Wednesdays, Saturdays and Sundays, October 27, 1975, November 27, 1975 and January 1, 1976.

2. A Federal permit, available from the refuge office, is required to enter the public hunting area. Permits will be issued by mail in advance on a first-come, first-served basis. Only one regular permit may be held by a hunter at any one time.

3. Hunters must shoot from assigned blinds drawn at the checking station.

4. Steel shot only may be possessed or used on the refuge hunting area.

5. Hunters may possess and use not more than twenty-five (25) shells per hunter per day on the refuge hunting area.

Migratory game birds except snipe and pigeons and doves may be hunted on the following refuge areas:

McNary National Wildlife Refuge, P.O. Box 19, Burbank, Washington 99383.

Special Conditions: 1. Hunters are required to park vehicles in designated parking areas.

2. On Burbank Slough hunting will be permitted on Wednesday, Saturday, Sunday and Thanksgiving Day only. On six upstream Hanford Islands hunting will be permitted in accordance with current State Game Department regulations.

3. Hunting permitted from marked sites only in controlled hunting portion of Burbank Slough.

Willapa National Wildlife Refuge, Ilwaco, Washington 98624.

Lewis and Leadbetter Point Units

Special Conditions: 1. Hunter registration is required. Leadbetter Point is the only refuge unit open to black brant hunting after close of general season.

Riekkola Unit

Special Conditions: 1. Hunter registration required.

2. Hunting will be permitted on Wednesdays, Saturdays, Sundays, October 27, 1975, November 27, 1975 and January 1, 1976.

3. Hunting will be from designated blinds only, assigned on a first-come, first-served basis. No more than (3) hunters per blind.

4. Hunters may possess and use not more than ten (10) shells per hunter per day on the Riekkola Unit only.

5. The field on the south side of Yeaton County Road is not subject to Special Conditions #3 and #4.

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

Upland game birds may be hunted on the following refuge areas:

Columbia National Wildlife Refuge, P.O. Drawer F, Othello, Washington 99344.

Special Conditions: 1. Open to the hunting of rabbits in addition to game birds.

2. Upland game birds may be hunted during State seasons running concurrently with the waterfowl season.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882.

Conboy Lake National Wildlife Refuge, Box 5, Glenwood, Washington 98619.

Special Condition: 1. Cottontail rabbit and snowshoe hare may also be hunted during the State season concurrent with the waterfowl season.

Toppenish National Wildlife Refuge, Route 1, Box 1300, Toppenish, Washington 98948.

Special Conditions: 1. Rabbits and upland game may only be hunted during that part of the State season concurrent with the waterfowl hunting season.

Willapa National Wildlife Refuge, Ilwaco, Washington 98624.

Long Island Unit.

Special Conditions: 1. Archery hunting only.

2. Permits for the opening weekend only will be through application and drawing. Applications are available from the Refuge Manager.

3. After opening weekend hunters must possess regular hunting permit available at refuge headquarters and at the Nahcotta dock.

4. Raccoon and coyote may also be hunted.

McNary National Wildlife Refuge, P.O. Box 19, Burbank, Washington 99323.

Special Conditions: 1. Pheasants only may be hunted.

2. Pheasant hunting will be restricted to Wednesdays, Saturdays, Sundays and Thanksgiving Day.

3. Hunters are required to park vehicles in designated parking areas.

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

Big game hunting is permitted on the following refuge area:

Little Pend Oreille National Wildlife Refuge, Route 1, Colville, Washington 99114.

Deer hunting only is permitted on the following refuge areas:

Columbia National Wildlife Refuge, P.O. Drawer F, Othello, Washington 99344.

Conboy Lake National Wildlife Refuge, Box 5, Glenwood, Washington 98619.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882.

Bear, deer and elk may be hunted on the following refuge area:

Willapa National Wildlife Refuge, Ilwaco, Washington 98624.

Long Island Unit

Special Conditions: 1. Archery hunting only is permitted.

2. Permits for the opening weekend only will be through application and drawing Applications are available from the Refuge Manager.

3. After opening weekend hunters must possess regular hunting permit available at refuge headquarters and at Nahcotta dock.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through June 30, 1976.

Dated: July 17, 1975.

WILLIAM H. MEYER,
Acting Regional Director,
Fish and Wildlife Service.

[FR Doc.75-19848 Filed 7-30-75;8:45 am]

PART 32—HUNTING

Necedah National Wildlife Refuge

The following special regulation is issued and is effective on July 31, 1975.

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

WISCONSIN

NECEDAH NATIONAL WILDLIFE REFUGE

Public hunting of deer and unprotected mammal species as listed in the 1975 Wisconsin Big Game hunting regulations on the Necedah National Wildlife Refuge, Wisconsin is permitted with bow and arrow from September 20 through November 16, 1975 and December 6 through December 31, 1975 and with firearms from November 22 through November 30, 1975, but only on those areas designated by signs as open to hunting. These open areas comprising approximately 39,999 acres are delineated on a map available at the refuge headquarters, Necedah, Wisconsin and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State and Federal regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50,

Code of Federal Regulations, Part 32, and are effective through December 31, 1975.

GERALD H. UPDIKE,
Refuge Manager, Necedah National Wildlife Refuge, Necedah, Wisconsin 54646.

JULY 25, 1975.

[FR Doc.75-19907 Filed 7-30-75;8:45 am]

PART 32—HUNTING

Seedskadee National Wildlife Refuge

The following special regulation is issued and is effective on July 31, 1975.

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

WYOMING

SEEDSKADEE NATIONAL WILDLIFE REFUGE

Public hunting of antelope on the Seedskadee National Wildlife Refuge, Wyoming is permitted as follows: west of the Green River from September 6 through September 14, 1975, inclusive; east of the Green River from September 20 through September 30, 1975, inclusive. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting. Maps of the area are available at the refuge office, Room 118, Courthouse, Green River, Wyoming and from the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Denver, Colorado 80215. Hunting shall be in accordance with all applicable State regulations governing the hunting of antelope.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through September 30, 1975.

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

JULY 28, 1975.

[FR Doc. 75-19908 Filed 7-30-75;8:45 am]

PART 32—HUNTING

Seedskadee National Wildlife Refuge

The following special regulation is issued and is effective on July 31, 1975.

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

WYOMING

SEEDSKADEE NATIONAL WILDLIFE REFUGE

Public hunting of mule deer on the Seedskadee National Wildlife Refuge, Wyoming is permitted as follows: west of the Green River from October 11 through October 20, 1975, inclusive; east of the Green River from October 11 through October 31, 1975, inclusive. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting. Maps of the area are available at the refuge office, Room 118, Courthouse, Green River, Wyoming and from the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Denver, Colorado 80215. Hunting shall be in accordance with all applicable State regulations governing the hunting of mule deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 31, 1975.

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

JULY 28, 1975.

[FR Doc.75-19909 Filed 7-30-75;8:45 am]

PART 32—HUNTING

Hunting on Nunivak National Wildlife Refuge

In the FEDERAL REGISTER, Volume 40, No. 105, page 23474, dated May 30, 1974, it was proposed that Nunivak National Wildlife Refuge, Alaska, be added to the list of areas open to the hunting of big game.

A 30-day period was provided for public comments by letter and at public hearings held at Anchorage, Bethel and Fairbanks, Alaska. A total of nine letters were received, six in support of the management plan and three opposed. Statements were made at public hearings by sixteen people, fourteen of whom supported the plan. Four of the people expressing support also expressed doubt about federal ownership of muskox. An explanation was provided at the hearings that ownership really did not matter in view of the fact that the management plan is sponsored by both the Alaskan Department of Fish and Game and the U.S. Fish and Wildlife Service with mutual emphasis on managing the muskox herd within its available habitat.

Therefore, it has been determined that Nunivak National Wildlife Refuge should be added to the list of areas open to the hunting of big game.

Accordingly, § 32.31, List of open areas; big game, is amended as follows:

§ 32.31 List of open areas.

* * * * *

ALASKA

NUNIVAK NATIONAL WILDLIFE REFUGE

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F. EUGENE HESTER,
Acting Director, U.S. Fish and Wildlife Service.

JULY 30, 1975.

[FR Doc.75-20145 Filed 7-30-75;11:46 am]

PART 32—HUNTING

Hunting on Nunivak National Wildlife Refuge

Proposed special regulations concerning muskox hunting on Nunivak National Wildlife Refuge were published in the FEDERAL REGISTER on June 27, 1975. It was proposed to remove 25 muskox during a fall hunt and 25 in a spring hunt for a total of 50 muskox. The final regulations still allow for a maximum of 50 muskox to be removed but do not specify the numbers for each season. This flexibility will allow for reducing the number of hunters in the fall and increasing the number in the spring but still permitting an overall harvest maximum of 50 muskox. This flexibility will permit the evaluation of the residents ability to provide accommodations and visitor services on this remote island while a limited number of visitors are present. Further minor adjustments for future hunts may be required once these logistics questions of active muskox management have been answered by experiencing the first hunting season.

The following special regulation is issued and is effective on August 31, 1975.

§ 32.32 Special regulations, big game, for individual wildlife refuge areas.

ALASKA

NUNIVAK NATIONAL WILDLIFE REFUGE

Public hunting of muskox on all lands within the Nunivak National Wildlife Refuge is permitted in accordance with all applicable State laws, subject to the following special conditions:

(a) A maximum of 50 bulls may be taken during hunting seasons established between September 1 and October 31, 1975, and February 1 and March 30, 1976.

(b) Hunting shall be only by permit issued by the Alaska Department of Fish and Game and validated prior to commencement of the hunt by the refuge manager or his representative of the Nunivak National Wildlife Refuge, U.S. Fish and Wildlife Service at Mekoryuk, Alaska.

(c) Motorized vehicles (except boats) are prohibited on Nunivak National Wildlife Refuge;

(1) Except during periods of complete snow cover, as determined and posted by Nunivak National Wildlife Refuge Manager at Mekoryuk, Alaska,

(2) Within one mile of any shoreline,

(3) Within one mile of any muskox or area known to be occupied by any muskox as determined through normal visual means, and

(4) Nothing in this section shall prohibit the use of motorized snow vehicles during periods of complete snow cover or the use of boats to remove legally harvested muskox.

(d) Boats are prohibited from approaching or landing on the island shoreline on Nunivak National Wildlife Refuge within one mile of any muskox or area known to be occupied by any muskox as determined through normal visual means.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through June 30, 1976.

F. EUGENE HESTER,
Acting Director, U.S. Fish and Wildlife Service.

JULY 30, 1975.

[FR Doc.75-20135 Filed 7-30-75;11:45 am]

proposed rules

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

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Part 4]

[Notice No. 283]

LABELING AND ADVERTISING OF WINE

Bottles Per Case Requirement

The Director, Bureau of Alcohol, Tobacco and Firearms, with the approval of the Secretary of the Treasury or his delegate, is considering rulemaking to reduce from 120 to 60 the number of 100 milliliter wine bottles which must be packed in each case or shipping container.

At the present time, 27 CFR 4.74 prescribes the number of metric wine bottles to be packed per case or shipping container. This requirement is new and applies only to wine bottled in the metric standards of fill; no comparable provision exists with respect to wine bottled in traditional U.S. sizes. The number of bottles per case are prescribed for metric bottles to insure uniform case sizes for taxpayment and record keeping purposes, and to simplify handling, pricing and marketing of wine in metric bottles. Most standard cases will contain either 9 or 12 liters.

Section 4.74 currently specifies that 100 milliliter wine bottles shall be packed 120 per case. When metric standards of fill were adopted, the Bureau selected this case size since it produced a standard case of 12 liters. An additional consideration was the ability to divide this case into cartons of 12 bottles which are used by airlines for lading wines on aircraft for beverage service.

Since adoption of metric standards of fill and standard case sizes on January 1, 1975, the Wine Institute, a trade association representing many California wineries, has petitioned the Bureau to reduce the case size for miniature bottles from 120 to 60 bottles. They cited several inherent disadvantages in a case of 120 bottles. First, this case would weigh more than 70 pounds and be cumbersome and inconvenient to handle. Next, since a full case would exceed 65 pounds, compliance with Rule 41, corrugated or solid fibreboard boxes, of the Uniform Freight Classification tariffs would necessitate redesigning and strengthening the carton. Rule 41, which establishes minimum design and strength standards for corrugated boxes used in shipping containers of liquids via rail, requires this wine carton to withstand a 275 pound strength test rather than a 200-pound test as do most wine cartons. In addition, each bottle must be encased in a scored cardboard shell rather than separated by a carton divider. Compliance with these requirements would add weight and size to the carton while producing a carton more difficult to pack with bottles and more expensive to make. Conversely, noncompliance with Rule 41 would prohibit shipment of these wine cases by rail and might increase transportation changes. Therefore, it is proposed to make this case smaller by requiring that 100 ml bottles be packed 60 per case or shipping container.

The Bureau does not anticipate that the proposed change in case size will adversely affect any proprietors bottling wine. Since the 100 ml bottle became a permissible standard of fill on January 1, 1975, it is contemplated that few, if any, proprietors have converted to its use. By amending the bottles per case requirement at this time, winery proprietors may better plan their conversion to metric standards of fill.

Prior to the final adoption of this regulation, the Bureau will consider any relevant data, views or arguments. Persons wishing to comment upon this proposed change may submit, in duplicate, their written data, views or arguments to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, not later than September 29, 1975. Any written comments or suggestions not specifically designated as confidential in accordance with 27 CFR 71.22(d)(7) may be inspected by any person upon written request. The provisions of 27 CFR 71.31(b) shall apply with respect to designation of portions of comments or suggestions as exempt from disclosure. Any interested person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on this proposed regulation should submit his or her request, in writing, to the Director within the 60-day period.

In view of the foregoing, it is proposed to amend 27 CFR 4.74 by replacing the 120 bottles per case requirement for 100 milliliter bottles, with 60 bottles per case. As amended, § 4.74 would read as follows:

§ 4.74 Bottles per shipping case.

Wines bottled subject to the standards of fill prescribed by § 4.73 shall be packed with the following number of bottles per shipping case or shipping container:

Bottle sizes:	*Bottles per case*
3 liters	4
1.5 liters	6
1 liter	12
750 milliliters	12
375 milliliters	24
187 milliliters	48
100 milliliters	60

The proposed regulations are to be issued under the authority contained in section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended (27 U.S.C. 205)).

Dated: June 17, 1975.

Approved: July 24, 1975.

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.75-19828 Filed 7-30-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 947]

IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES IN CALIFORNIA AND IN ALL COUNTIES IN OREGON EXCEPT MALHEUR COUNTY

Proposed Expenses, Rate of Assessment and Late Payment Charges

Consideration is being given to authorizing the Oregon-California Potato Committee to spend $39,420 for its operations during the fiscal period ending June 30, 1976, and to collect one-half cent per hundredweight on assessable potatoes handled by first handlers under the program.

The committee is the administrative agency established under Marketing Agreement No. 114 and Order No. 947, both as amended (7 CFR Part 947), regulating the handling of Irish potatoes grown in Modoc and Siskiyou Counties in California and in all counties in Oregon except Malheur County. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals shall file the same, in duplicate, with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than August 14, 1975. All written comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Section 947.228 would be added to read as follows:

§ 947.228 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending June 30, 1976, by the Oregon-California Potato Committee for its

maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $39,420.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be $0.005 per hundredweight or equivalent quantity of assessable potatoes handled by him as the first handler during the fiscal period: *Provided*, That seed potatoes and potatoes for canning, freezing and "other processing" as defined in the amendment to the act (Pub. L. 91-196) shall be exempt.

(c) In accordance with the provisions of § 947.41, late payment charges of $1.00 per month or one percent per month, whichever is greater, shall be charged on the unpaid balance for each past-due account. An account is past-due 60 days after the billing date.

(d) Unexpended income in excess of expenses for the fiscal period ending June 30, 1976, may be carried over as a reserve to the extent authorized in § 947.41.

(e) Terms used in this section have the same meaning as when used in said marketing agreement and this part.

Dated: July 25, 1975.

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

[FR Doc.75-19873 Filed 7-30-75;8:45 am]

[7 CFR Part 1098]

[Docket No. AO-184-A37]

MILK IN THE NASHVILLE, TENNESSEE, MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement [1] and the order regulating the handling of milk in the Nashville, Tennessee, marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Nashville, Tennessee, on December 16-17, 1974, pursuant to notice thereof issued on November 29, 1974 (39 FR 41987).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Associate Administrator, Regulatory Programs, on May 20, 1975, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under "1. Pool plant qualifications—(a) Automatic pool status in March–July for a supply plant that qualified as a pool plant each month in the preceding August–February.", four paragraphs are added immediately following the sixth paragraph, and two paragraphs are added immediately following the last paragraph.

2. Under "2. Diversion of producer milk.", three paragraphs are added immediately following the 12th paragraph.

3. Under "3. Partial payments to producers and cooperatives.", the first paragraph is changed, two paragraphs are added immediately following the sixth paragraph, one paragraph is added immediately following the seventh paragraph, a new paragraph is added immediately following the 12th paragraph, the 13th paragraph is changed, and a new paragraph is added immediately following the 13th paragraph.

The material issues on the record relate to:

1. Pool plant qualifications.
2. Diversion of producer milk.
3. Partial payments to producers and cooperatives.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pool plant qualifications*—(a) *Automatic pool status in March–July for a supply plant that qualified as a pool plant each month in the preceding August–February.* Automatic pool plant status in March–July should continue to be accorded a supply plant that was a pool plant throughout the preceding August–February.

As now provided in the order and unchanged by this decision, a supply plant may qualify as a pool plant for each individual month in which it ships at least 50 percent of its dairy farmer receipts to pool distributing plants. Under the automatic pooling provision, a plant that so qualified in the preceding August–February need ship no milk in March–July to be pooled in these months.

A cooperative's proposal, which was supported by a second cooperative, would eliminate automatic pooling and condition the pooling of a supply plant on performance each month. Spokesman for proponent contended that the automatic pooling provision serves no purpose in the Nashville market since no plant has ever qualified for automatic pool status. (No pool supply plants now serve the market.) He further alleged that in the Nashville market distributing plants can be adequately supplied with milk shipped directly from dairy farms.

A proprietary handler opposed the cooperative's proposal on the basis that no changes have occurred in market conditions to warrant its adoption. The handler representative contended that eliminating the automatic pooling provision would force a supply plant operator to make uneconomic movements of milk to qualify it for pooling in the months of heavy production.

Provisions for pooling supply plants and for automatic pooling of such plants in certain months are customarily included in Federal milk orders. Such provisions allow a pool distributing plant operator to elect whether to receive his milk supply directly from producers' farms and/or from supply plants. A pool distributing plant operator may utilize supply plant milk as his sole source of supply or to meet his plant's supplemental needs.

Even though a supply plant may not be needed to accommodate the movement of milk to the market from farms in the immediate production area, such a plant may be needed for the assembly and movement of milk from alternative supply sources. To this end, it is essential that the order recognize the role of supply plants in a marketing system and present the conditions for pooling such plants.

A cooperative's exception claimed that pooling milk through a supply plant in the Nashville market would constitute uneconomic handling of milk. While it may be true that the cooperative's member milk can be supplied most efficiently directly from the farm to distributing plants, the statement may not be valid for a handler seeking an alternative source of supply.

Cooperatives are concerned that a supply plant with automatic pooling status, by attaching to the pool supplies of milk for manufacturing uses, would reduce the blend price to those producers regularly supplying the market's Class I needs.

Although there are presently no supply plants operating in the Nashville market, it is appropriate for the order to provide a safeguard against diluting returns to the market's regular producers in the event a supply plant should come on the market.

Such a safeguard can reasonably be provided by specifying that a supply plant with automatic pooling status may pool only the milk of dairy farmers from whom at least 60 days' production was pooled on the market in the preceding August–February. Milk from dairy farmers not previously associated with the market would, of course, be pooled in any month that the supply plant met the shipping requirements for pool plant status for such month.

It is probable that the demand for milk from supply plants would vary seasonally and would be greatest during the season of lowest production. This would be particularly true in situations where handlers using supply plant milk were receiving part of their supply direct from producers' farms. During the months of flush production, supplies of milk received directly at fluid processing plants in the market might be sufficient to supply the Class I requirements, in which case it would be more economical to leave the more distant milk in the country for manufacturing and utilize the nearby

[1] Marketing agreement filed as part of the original document.

milk for Class I use. Performance standards under the order should not force milk to be transported to distributing plants during the flush production months merely for the purpose of maintaining eligibility for pooling.

To avoid uneconomic movements of milk, it is appropriate that the order provide continuing pooling status during the flush production months of any supply plant which was continuously pooled in the months of short production on the basis of having shipped at least 50 percent of its producer milk to the market during each of the short production months.

In its exceptions, a cooperative alleged that the recommended decision is discriminatory in that it does not conform with the Department's 1971 suspension of certain provisions in several orders, including the Nashville order. The suspension order stated that "It is now found that the automatic cooperative pool plant provisions and the provisions for the payment of the f.o.b. market prices on diverted milk are being used as the means of pooling substantial quantities of milk not previously a part of the market's supply and which in fact are not actually needed or shipped to the market" (36 FR 10775). The cooperative contends that the provision for automatic pooling of supply plants in the Nashville order should be eliminated for the same reasons.

The marketing conditions that were the basis for the 1971 suspension action are different from the conditions in the Nashville market on which this decision is based. The suspension action was taken in response to certain marketing practices of cooperatives at that time. In the present instance there is no evidence of marketing practices, current or potential, comparable to those which prompted the suspension order.

(b) *Balancing plant.* A plant associated with the Nashville market and operated by a cooperative should be provided pool plant status in any month that at least 60 percent (rather than two-thirds as presently required) of the cooperative's producer milk is received at pool distributing plants either by transfer from such cooperative's plant or directly from producers' farms.

A cooperative that operates the only "balancing" plant in the market proposed the change in the shipping requirement as a means of maintaining the pooling eligibility of the plant. A spokesman for the cooperative stated that unless the receipt requirement for its member milk is reduced to 60 percent, pool status for such plant would be jeopardized, particularly during the flush production months. There was no opposition to the proposal.

The cooperative's plant which is located in the city of Nashville provides the means whereby handlers may adjust their receipts each day to fit their bottling needs and at the same time have assurance that milk will be available for fluid use as needed. A bottling plant that receives milk by direct delivery from the farms of designated producer members of the cooperative may accept part or none of such deliveries on any day. The total deliveries of such producers on the days the bottling plant is not operated, and the amount in excess of its Class I needs on other days, generally are received at the cooperative's plant. Thus, its basic function is as an assembly point for producer milk not needed by handlers which must be disposed of to nonpool plants. However, milk in storage at the plant is available to handlers to meet unanticipated requirements on short notice. Providing pool status for the cooperative's plant enhances operating efficiency and implements the pooling of the cooperative's member milk that is regularly and substantially associated with the market.

The pooling standards which have been established under the order were intended to implement the pooling of all of the milk regularly and substantially associated with the regulated market.

All of the milk which the cooperative in the past has pooled under the order could have been accommodated by association with pool distributing plants and through transfer or diversion to nonpool plants of the quantities not needed by pool handlers. In fact, the cooperative's balancing plant was not pooled during the period September 1, 1971, through April 1, 1974. The present provisions according pool status to the plant were effected April 1, 1974. For all of the reasons set forth in the Assistant Secretary's decision of March 18, 1974 (39 FR 10593), official notice of which is taken, it is appropriate that the plant continue to be accorded pooling status. A reduction in the delivery requirements for member producer milk to pool distributing plants from the present 66⅔ percent to 60 percent will provide such assurance and will not, in any substantive way, implement the pooling of any milk not already associated with the market.

2. *Diversion of producer milk.* A producer should be required to deliver at least 2 days' production (one delivery for a producer on every-other-day pickup) to a pool plant during the month to qualify any remainder of his monthly production for pooling as diverted milk.

The order now provides that milk may be diverted to nonpool plants without limit in any month.

A cooperative proposed that a producer be required to deliver to pool plants during the month 20 days' production in September-February and 10 days' production in March-August to qualify his remaining production for diversion. It also proposed that a cooperative be allowed to divert the total monthly production of individual members without limit in March-August if the cooperative's total diversions are not more than 40 percent of its total producer milk for the month. This option would likewise apply to a proprietary handler for his nonmember milk.

Another cooperative proposed that at least 4 days in September-February and 2 days in March-August of a producer's monthly production should be delivered to a pool plant to qualify his remaining production for diversion.

The cooperatives contended that the present order provisions providing unlimited diversion throughout the year is an open invitation for handlers to associate with the market milk intended solely for manufacturing purposes to the detriment of producers who regularly supply the market and on whom the market depends for its Class I needs. They urged the adoption of substantial delivery requirements to deter this result.

A proprietary pool plant operator opposed the proposals to limit diversions contending that the present diversion provisions contribute to efficient and orderly marketing of milk in the Nashville market and should not be changed.

The diversion provisions are provided to implement the efficient handling of the market's milk supply in excess of handlers' immediate requirements. Because of variations in market needs and in production, the milk of each producer may not be needed every day for processing as fluid milk at the plant to which it is customarily delivered. It is necessary, however, that there be a reserve of qualified milk available for the fluctuating needs of handlers serving the market. When milk of any dairy farmer regularly supplying the market is not needed at the plant to which it is usually shipped, it can be handled most economically by diversion directly from the farm to nonpool manufacturing plants.

A requirement of substantial deliveries of milk of individual producers for establishing diversion eligibility rights would be a deterrent to efficient handling of that milk in excess of handlers' immediate fluid needs. Appropriately, however, a means should be provided for establishing that milk of individual dairy farmers reported as diverted producer milk is bona fidely associated with the market and is, in fact, milk which is qualified for fluid use. A requirement of physical receipt at a pool plant is an appropriate means for making this determination. To this end, it is reasonable to require that two days' production of each producer be physically received at a pool plant during each month to qualify his remaining production for diversion as producer milk.

A distributing plant must dispose of at least 50 percent of its fluid milk receipts as route disposition to qualify for pooling. Diversions are included as a receipt at the diverting plant for purposes of determining whether such plant has met the 50 percent route disposition requirement. Under such circumstances, even though the order provides unlimited diversions, there is a practical limitation of no more than 50 percent.

The cooperatives' concerns are directed to the possibility that proprietary handlers might use the diversion provisions as a means of associating with the pool additional milk intended solely for manufacturing use. While this could possibly result, it is not practical to deal with such a matter without more specific facts.

Certainly milk which is not available for fluid use should not be accorded pooling eligibility. However, it is not apparent from this record that this has happened. Proponents apparently foresee possible market developments which they believe could be detrimental to their interest. Through a cooperative's balancing plant, it has flexibility for marketing its members' milk which is not available to proprietary handlers. It would not be appropriate to adopt stringent requirements which could deter the efficient handling of the market's total supply.

If at any time it should develop that a handler was accumulating in the pool milk that was not available as needed for Class I, a further hearing could be called to consider the appropriate action which should be taken to either exclude such milk from the pool or insure its availability for Class I uses.

Both cooperatives excepted to the recommended decision's diversion limits. Each urged that instead its own proposed limits be adopted, reiterating their respective positions presented at the hearing. Such positions were fully considered in formulating the recommended decision's findings, which are adopted herein.

One exceptor complained that the recommended decision did not include findings and determinations as to why a proposed alternative method for computing maximum allowable diversions in the flush production months was not adopted. (As proposed, a producer's milk could be diverted to a nonpool plant without limit during the month, provided the diverting handler's total diversions to nonpool plants did not exceed 40 percent of his producer milk for the month). It claimed that failure to adopt the proposal would preclude handlers from achieving maximum efficiency in disposing of the market's reserve milk supplies through the diversion provisions.

Under the diversion limits adopted, a dairy farmer must deliver only two days' production to a pool plant to divert to a nonpool plant any remainder of his monthly production. Providing that milk of certain producers could be diverted without meeting this minimal delivery requirement would tend to defeat the purpose of requiring association with the market to establish eligibility for diverting milk.

Milk diverted by a cooperative is considered a receipt at the distributing plant from which diverted in determining the distributing plant's pool status. To the extent it would result in a distributing plant not qualifying as a pool plant, milk reported as diverted by a cooperative from the distributing plant of another handler would not be producer milk. As provided in this decision, the cooperative would be responsible for indentifying the dairy farmer milk to which this would be applicable. If the cooperative fails to do so, no milk diverted by the cooperative to nonpool plants would be producer milk. This action was proposed by a cooperative and was not opposed.

3. *Partial payments to producers and cooperatives.* The rate at which partial payments for producer milk are made should be changed from the Class III price for the preceding month to 90 percent of the weighted average price for the preceding month, but not less than the Class III price for the preceding month. During March–July, when base and excess prices are applicable, the partial payment rate to producers without a base should be the Class III price for the preceding month.

The present order requires handlers to pay the market administrator by the 25th of the month for producer milk received during the first 15 days of the month. The rate of payment is the Class III price for the preceding month and applies to all milk received from producers except those who delivered milk for less than 20 days during the month. In turn, the market administrator pays individual producers by the last day of the month and cooperatives authorized to collect payment for the milk of its member producers at least 2 days before the last day of the month.

A cooperative proposed that handlers be required to make separate partial payments for producer milk received during each of the first two 10-day delivery periods of the month. Under their proposal these payments to the market administrator would be due on the 15th and 25th of the month, respectively, at 90 percent of the previous month's uniform price. The market administrator in turn would pay individual producers by the 17th and 27th of the month, respectively, and cooperatives collecting for their member milk at least two days earlier.

Proponent cooperative's spokesman recognized that the proposed changes would increase handlers' costs for milk, but held they are needed to improve the cash flow to dairy farmers. He contended that dairy farmers, faced with increasing production costs and greater demands for cash for purchasing items needed to continue producing milk, urgently need payment for their milk at a higher rate and at more frequent intervals. Higher interest rates for borrowed money in the last two years were cited in particular as justifying more frequent payments to producers.

The proposed partial payment rate (90 percent of the previous month's uniform price) is desirable, the cooperative claimed, because it varies less than the Class III price for the previous month. Also, it would increase the amount of money dairy farmers would receive as partial payments. Further, it would reduce the risk carried by producers in situations where a handler suddenly is unable to pay for milk.

Another cooperative proposed to modify the present partial payment provision by advancing the payment date three days and changing the rate to 90 percent of the previous month's uniform price. Proponent's spokesman claimed the higher rate is necessary to more nearly represent the actual value of the milk. He contended that the present partial payment rate is disproportionate to the actual value of the milk and that producers should receive the partial payment at the earliest practicable date. However, this cooperative opposed more frequent partial payments on the basis that it would impose considerable additional costs on all parties and therefore would not be advantageous to producers.

Handlers must now make partial payment to the market administrator by the 25th day of the month for producer milk received during the first 15 days of the month. Such payment is due only if a producer made deliveries at least 20 days during the month.

If the payment dates were advanced three days as proposed, handlers would have only one or two days to determine those producers that were eligible to receive partial payment. In fact, handlers might not receive the information needed in time to make such determination before submitting the partial payment to the market administrator. This could increase the frequency of overpayments to producers who had not delivered milk the required number of days, thereby making it impractical to advance the partial payment date three days.

Increasing the partial payment rate to 90 percent of the previous month's uniform price, as adopted herein, will provide producers a larger portion of the value of their milk through partial payments. For the two years ending November 1974, the proposed 90 percent rate averaged 18.1 cents per hundredweight more than the actual partial payment rate.

In its exceptions, a cooperative argued that the partial payment rate, 90 percent of the previous month's weighted average price, should not be less than the previous month's Class III price. Since the intent of the change here adopted is to obtain an increased partial payment rate, it is appropriate to provide that the partial payment rate be not less than the previous month's Class III price.

Since the partial payment applies only to the first 15 days' deliveries by producers who shipped at least 20 days' production during the month, the likelihood of overpayment will not be significantly increased.

In March–July under the seasonal base-excess plan in the Nashville order, there may be producers for whom no base can be computed. Accordingly, the rate for making partial payments to such producers should be the Class III price for the preceding month. Otherwise, the actual value of milk to which the partial payment applies could be less than the amount paid.

There was no specific opposition to the proposed 90 percent of the previous month's uniform price as the partial payment rate. Although handlers opposed changing the partial payment procedure, their testimony was directed to the proposal for requiring two partial payments.

The basis of handler opposition was that the reasons cited by proponent for needing more frequent partial payments reflect general business conditions facing handlers and producers alike. Handlers' representatives contended the order should not be changed to recognize pro-

ducers' problems at the expense of handlers.

Handlers claimed that two partial payments for a large volume of producer milk at a higher rate, as proposed, would increase their costs for milk. In addition to requiring more frequent cash outlays, administrative costs related to making more frequent payments would increase as well, according to their spokesman. They also contended that adoption of the proposal would impose a burdensome time schedule on handlers during the first 15 days of the month, and would increase the likelihood of overpayments to producers who did not ship milk the entire month.

Proponent's exceptions claim that any increase in handlers' administrative costs would be negligible because payments for milk are made to the market administrator. Thus, only one additional check per handler would be needed if two partial payments were adopted as proposed. However, the market administrator in turn pays cooperatives and individual producers. Since the cost of operating the market administrator's office is paid by assessments on milk handled, increased costs incurred in making such payments would in effect be paid by handlers.

Providing an additional advance payment date as opponents have indicated would increase handler and administrative costs and would not in any way change the total monies producers would receive in a 30-day period. It would be unreasonable to adopt procedures which would result in increased handler and administrative costs to resolve a cash flow to individual producers which seemingly could be resolved through the exercise of prudence on the part of the producer in handling his accounts.

Proponent of two partial payments took exception to the recommended decision. It claimed that two partial payments are justified because such a provision is included in the three Florida orders. The provisions in the Florida orders differ susbtantially from those proposed for the Nashville order. Moreover, the Florida orders' partial payment provisions were adopted as appropriate under the conditions peculiar to those order markets. The existence of these provisions in the Florida orders cannot be considered a basis for including them in the Nashville order.

The increasing risk of loss of money among producers through handler failures is a matter of concern. However, if a second advance payment is desirable for this purpose, it is clear that such procedure would be helpful in other orders also. The added cost and time demands involved in an additional payment are a significant impediment to adoption. This is not a matter that can be resolved easily. It should be explored carefully in depth and in conjunction with other alternative actions with a broader segment of the industry.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Nashville, Tennessee, marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.[1]

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

May 1975 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Nashville, Tennessee, marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on July 28, 1975.

Richard L. Feltner,
Assistant Secretary.

[FR Doc.75-19871 Filed 7-30-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 130 and 131]

[FRL 408-2]

POLICIES AND PROCEDURES FOR STATE CONTINUING PLANNING PROCESS PREPARATION OF STATE WATER QUALITY MANAGEMENT PLANS

Supplemental Notice of Proposed Rulemaking

In the July 16, 1975 issue of the Federal Register (40 FR 29882), the Environmental Protection Agency (EPA) published a notice of proposed rulemaking proposing amendments to 40 CFR Parts 130 and 131. In the preamble to the proposed Part 130, the Environmental Protection Agency distinguished between Phase I and Phase II of the State water quality management planning process to be conducted pursuant to the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) and established a requirement that initial Phase II State water quality management plans be submitted to the EPA Regional Administrator for pre-adoption review no later than July 1, 1978 and that final State water quality management plans be submitted for formal approval no later than July 1, 1979. (40 FR 29882) These submission dates were also included in the proposed Part 131 regulations at § 131.10(c)(1). (40 FR 29888)

Prior to the publication of the referenced notice of proposed rulemaking, an

[1] Filed as part of the original document.

order was issued by District Judge John Lewis Smith, Jr. in Natural Resources Defense Counsel, et al. v. Train, et al., D. C. D. C., Civ. Act No. 74–1485. (A copy of the June 5, 1975 declaratory judgment, memorandum opinion, and Order appear below as Appendix A.) In addition, since the publication of the referenced notice of proposed rulemaking, a final order has issued from Judge Smith. (A copy of the July 23, 1975, final order appears below as Appendix B.) This case has a direct impact on the proposed regulations since it relates to the scope and timing of the planning obligations of States under section 208(a)(6) of the Act. More particularly, the final Court Order establishes a final plan submission date of November 1, 1978.

It is therefore the purpose of this notice to amend the notice of July 16, 1975 to reflect the court-ordered final plan submission date of no later than November 1, 1978, and to establish a revised pre-adoption review date of no later than April 1, 1978. The purpose of the period between the pre-adoption review submission (not later than April 1, 1978) and the final submission of the plan (not later than November 1, 1978) is to provide a period of time for appropriate formal public participation, formal adoption and certification, and final submission to the EPA Regional Administrator. These proposed deadlines would represent the "outside limits" for completion, adoption, certification, and final submission to EPA of initial plans that fulfill the requirements of section 208(b)(2) by all States pursuant to section 208(a)(6). EPA fully expects earlier plan completion and submission by those States that have the capabilities to comply within a shorter period of time. Those States that will require more time to complete the review and adoption process that ultimately leads to final submission should submit plans for pre-adoption review earlier than April 1, 1978.

It should be noted that the Court Order of July 23, 1975, provides that the November 1, 1978, final plan submission date be included in the final regulations. The EPA has been concerned throughout the course of this lawsuit, with the lack of opportunity for input from States and other interested parties on the question of the final submission date. In view of this, we urge States and other interested parties to comment thoroughly on this as well as other issues raised by the proposal. EPA can then make a reasonable decision, based on comments received during the public review period, as to whether or not to request a court modification of the final plan submission date.

Prior to the final adoption of amendments to 40 CFR Parts 130 and 131, consideration will be given to comments, suggestions, or objections which may be submitted in writing to:

Director, Water Planning Division (WH–454), 401 M Street SW., Room E813, Washington, D.C. 20460.

Consideration will be given to all comments, suggestions, or objections received on or before August 28, 1975.

The change in the July 16, 1975 notice would affect that proposal as follows:

1. In the seventh paragraph (40 FR 29882) of the Preamble to proposed Part 130, "July 1, 1978" should be read "April 1, 1978," and "July 1, 1979" should be read "November 1, 1978" and

2. In proposed § 131.10(c)(1) (40 FR 29888), "July 1, 1978" should be read "April 1, 1978," and "July 1, 1979" should be read "November 1, 1978."

Dated: July 25, 1975.

RUSSELL E. TRAIN,
Administrator.

APPENDIX A

[Civil Action, No. 74–1485]

NATURAL RESOURCES DEFENSE COUNCIL, INC., ENVIRONMENTAL DEFENSE FUND, INC. v RUSSELL E. TRAIN, THE ENVIRONMENTAL PROTECTION AGENCY, AND NATIONAL FOREST PRODUCTS ASSOCIATION

Memorandum and Order

This case involves questions of statutory interpretation and the consequent validity of certain regulations issued by the Environmental Protection Agency (EPA). Plaintiffs are the Natural Resources Defense Council, Inc. and the Environmental Defense Fund, Inc., two respected environmental litigants. Defendants are the Administrator of EPA and the National Forest Products Association (NFPA), an intervenor representing local organizations and firms engaged in the forest products industry. Jurisdiction is based on 33 U.S.C. 1365(a), 28 U.S.C. 1331(a), and 5 U.S.C. 701–06. The matter is before the Court on defendant's Motion to Dismiss or, in the Alternative, to Stay, and plaintiff's Motion for Summary Judgment.

Under the Federal Water Pollution Control Act Amendments of 1972 (FWPCAA or Act), an explicit national goal is the restoration and maintenance of waters so that by 1983 they will be fit for human recreation and wildlife propagation. 33 U.S.C. 1251(a)(2) (Supp. III, 1973). To assist in achieving this goal, one subchapter of the Act provides for the construction of sewage treatment works and for the development and implementation of areawide waste treatment management plans. Id. section 1281(a); see also id. section 1251(a)(5). The States retain primary responsibility under the Act for abating and preventing water pollution, with the Federal role being limited to coordination and funding. Id. section 1251(b).

Section 208, 33 U.S.C. 1288, is the key provision in the Act governing areawide waste treatment management planning. Under subsection (a)(1) of that section,[1] EPA is to issue guidelines "for the identification of those areas which, as a result of urban-industrial concentrations or other factors, have substantial water quality control problems." Id. section 1288(a)(1); see 40 CFR 126.10 (1974). The Governor of a State must then identify each area which has substantial water quality control problems, and designate a representative organization including local elected officials to develop a plan for the area. 33 U.S.C. 1288(a)(2). Special provision is made for interstate problem areas and planning organizations. Id. section 1288(a)(3). If the Governor does not designate a particular area—unless he expressly "de-designates," that is, excludes the area—local authorities may designate additional problem areas and planning organizations. Id. section 1288(a)(4). To this point there are thus three possible types of areas and organizations—Governor-designated, interstate, and local-designated.

The final provision for planning under section 208(a) is the subject of this lawsuit. What is not covered in subsections (a)(2)–(4) supra is treated by subsection (a)(6), which provides: "The State shall act as a planning agency for all portions of such States which are not designated under paragraphs (2), (3), or (4) of this subsection." Id. section 1288(a)(6). The dispute among the parties revolves around the question of what subsection (a)(6) requires of a State in its planning efforts on behalf of the non-previously-designated portions of the State.

Plaintiffs take the position that the State under subsection (a)(6) must do exactly what the planning organizations designated under subsections (a)(2)–(4) are required to do; that is, develop a plan under subsection (b)(2), 33 U.S.C. 1288(b)(2), to control point and nonpoint sources of pollution. Plaintiffs claim that this State-prepared plan must be ready by mid-July, 1976 so that phase II (implementation of the plan) may proceed on schedule and attain the 1983 goal of swimmable, fishable waters. Plaintiffs accordingly oppose as both inadequate and illegal the regulations that EPA has issued to implement subsection (a)(6), see 40 CFR 126.2(d), 126.20, and seek declaratory and injunctive relief against these regulations.[2]

EPA has come to agree with plaintiffs that subsection (a)(6) requires the State, acting in the same capacity as designated organizations, to apply all of the subsection (b)(2) criteria in non-designated portions of the State. However, there are several qualifications to EPA's agreement with plaintiffs. First, EPA claims that only its subsection (a)(1) guidelines supra are mandated by Section 208, and that its discretionary subsection (a)(6) regulations are valid insofar as they specify merely partial waste treatment management obligations imposed upon a State. See 40 CFR 126.20(a), supra note 2. Second, EPA declares that it has already advised the States by letter of their comprehensive subsection (a)(6) planning responsibilities, and notes in support of its request for a stay of the present proceedings that

[1] Henceforth, the term "subsection" is used in this Memorandum to refer to a subsection of section 20 8of the FWPCAA.

[2] 40 CFR 126.2(d) defines as a section 208 planning area "the area designated under section 208(a), (3), or (4) of the Act." Subsection (a)(6) portions of the State are thus excluded from the extensive planning requirements specified in the Act and the regulations.

40 CFR 126.20 is the only regulation that addresses a State's subsection (a)(6) responsibilities. It provides: "(a) The State shall act as the planning agency for all areas not designated under [the preceding regulations]. Where the Governor determines, pursuant to section 208(b)(4) of the Act, that the requirements of section 208(b)(2) (F through K) should be applied on a statewide basis, the State may apply the planning process established pursuant to section 303 of the Act as the process for carrying out the requirements of the sections. Funds which may be available under section 106 of the Act may be utilized to conduct planning pursuant to this section. (b) Assumption by the State of the planning responsibilities in these areas does not foreclose the establishment of other planning processes at the substate level."

Subsection (a)(6) portions and planning agencies have also been specifically excluded from section 208 funding under 33 U.S.C. 1288(f). See 39 FR 17202 (1974); 40 CFR 35.1053; 40 CFR 126.20(a), supra.

clarifying regulations are in the process of being developed. Lastly, EPA asserts that planning under subsection (a)(6) need not meet the same strict time limitations applicable to planning for substantial water quality problems under subsections (a)(2)–(4).

Defendant NFPA has a diametrically opposed view of subsection (a)(6) from that of NRDC and EPA. NFPA claims that there is no duty at all imposed upon a State by the statute to engage in extensive areawide waste treatment management planning. Since subsection (a)(6) allegedly addresses "non-problem" portions of a State, and since the key terms of section 208—"area" or "areawide," "designate," and "organization"—are lacking in subsection (a)(6), NFPA argues that a State need only engage in general, discretionary planning, like that described in section 303(e) of the Act, 33 U.S.C. 1313(e). NFPA also points out that under plaintiffs' interpretation of subsection (a)(6), some apparent inconsistencies within the statute would result,[3] and wasteful, duplicative planning would be required where water pollution problems might not even exist.

Finally, NFPA relies upon the Act's legislative history, contending that the Senate version of subsection (a)(6), which clearly compelled Statewide planning for non-designated portions, was significantly modified by the Conference Committee.[4]

II

Subsection (a)(6) on its face does not definitively reveal which of the competing interpretations should prevail, that is, exactly what type of planning for non-designated portions a State should engage in. Under such circumstances the particular statute should be read in the context of the entire Act so that its purpose together with the intent of the whole Act may be effectuated. United States v. Menasche, 348 U.S. 528, 538–39 (1955).

As noted Section 208 is a critical provision in a broad, far-reaching Act. See generally United States v. Ashland Oil & Transportation Co., 504 F. 2d 1317, 1320–25 (6th Cir. 1974). It contains unique authority to control water pollution from point sources (e.g., factory or pipe discharge; see 33 U.S.C. 1362(14)) and from nonpoint sources (e.g., mining or agricultural runoff). Its implementation features distinguish it from Section 303(e) of the Act, which emphasizes ongoing State planning and limits State efforts to stationary sources of pollution. See 40 CFR pts 130–131. The section is also intended to coordinate and integrate other planning, construction, and discharge permit provisions of the Act. 33 U.S.C. 1288 (d), (e); 1313(e)(3)(B). Section 208 charts a course not only for the cleaning up of polluted waters but also for the prevention of future pollution by identifying problem sources, regulating construction of certain industrial facilities, and developing processes to control runoff sources of pollution. While Section 208 focuses on "urban-industrial" areas with substantial water quality control difficulties, it also directs attention to other geographical locations with water pollution problems, such as forests, mining areas, farms, and salt water inlets. As a "bottom line" for the Section 208 waste treatment management activities, the Act prescribes a 1983 goal of clean waterways. The period between October 18, 1972 and July, 1976 is mainly a planning and development stage. The remaining seven years are for implementing plans and eliminating the more difficult and persistent sources of water pollution. See EPA, Water Quality Strategy Paper 10–11 (1974).

Subsection (a)(6) is the residual clause in the areawide waste treatment management planning provision. As such it deals with the non-designated or "leftover" portions of the State not addressed by the Governor or by local officials in subsections (a)(2)–(4). The plain implication is that subsection (a)(6) empowers the State to achieve what the other planning organizations under the previous subsections are directed to achieve. Like the other planning organizations, the State under subsection (a)(6) is to engage in subsection (b)(2)(A)–(K) planning for the area within its authority; that is, for "all portions of such State which are not [otherwise] designated" by the Governor or by local officials. It would be illogical for Congress to set forth a detailed scheme for State, interstate, and local water pollution planning—and then to lump the remainder of State territory into a residuary provision with veiled instructions to the State to do as it saw fit regarding waste treatment control, or to carry out the already required section 303(e) planning.

The Court also notes that more than half of the Governors have non-designated their entire State from coverage under section 208. There are presently only about 85 designated problem areas in the United States, leaving an estimated 95 percent of the nation's waterways non-designated. Only one State, Maine, has a Statewide waste treatment management plan in operation. Surely the Congress did not intend section 208 planning to be the exception rather than the rule, nor, despite the States' primary responsibility under the Act, were the Governors and local officials given effective veto power over section 208. Cf. Train v. City of New York, 420 U.S. 35, 44–46 (1975).

It is admitted by all parties that the non-designated State areas may not suffer from substantial water quality control problems. These remaining portions most likely will not be of the urban-industrial type, quickly identified as priorities or as health and safety hazards by Governors and local officials. Rather, they will probably be rural, agricultural, mining, or forest areas with somewhat unique pollution problems caused by "other factors." The Act does not eliminate such areas from planning even if a preference is given to urban-industrial problem areas. See 33 U.S.C. 1288(a)(1); 40 CFR 126.10(a)–(b). In fact, subsections (b)(2)(F)–(K) of Section 208 specifically address nonpoint pollution problems in areas which might not have been selected in the primary designation process (i.e., under subsections (a)(2)–(4)). Likewise, some of the point source planning provisions under subsections (b)(2)(A)–(E) are aimed at preventing future degradation of pollution-free areas.

As for conflicts in the Act caused by giving subsection (a)(6) such an expansive meaning, the Court believes that subsections (a)(2), (3), (4), and (6) regulate which level of government is to develop a waste treatment management plan—not whether an area or portion of a State is to be covered by such a plan. The provision for additional or modified areas under subsections (a)(2), (3), (4), and (6) regulate terpretation. It allows a Governor subsequently to designate a part of a subsection (a)(6) portion of the State as a more problematic area requiring planning coverage by a specially appointed organization under subsection (a)(2). Furthermore, subsection (b)(4) does not contravene the Court's approach to subsection (a)(6). This subsection, providing for Statewide application of the nonpoint planning requirements, enables a Governor to take a unified approach to runoff pollution problems through bypassing the various planning organizations and coordinating the Section 208 plan with the regulatory program developed under Section 303.

It is possible that the use of terms like "area" and "designate" and "organization or agency"—all present in the Senate version of the bill—could have made subsection (a)(6) crystal clear and removed any potential ambiguity from its interpretation. The Conference Committee, however, modified the Senate version, and the Conference Report in explaining the change merely paraphrased the language of subsection (a)(6). See Legislative History, supra note 4, at 300. Still, the FWPCAA is not to be given a crabbed or technical construction. Train v. City of New York, 420 U.S. 35 (1975). Subsection (c)(1), 33 U.S.C. 1288(c)(1), uses the term "planning agency" interchangeably with subsections (a)(2)–(4)'s planning "organization." "Portions" in subsection (a)(6) apparently substitutes for "area" in order to convey the sense of large, nondiscrete, residual regions without carefully drawn boundaries. Moreover, the Senate's leading conferee as well as the past and present Administrators of EPA have all concurred in giving a broad, generous construction to subsection (a)(6).[5]

The Court further finds the position of EPA in this litigation to be untenable. If EPA agrees with plaintiffs' interpretation of subsection (a)(6), its regulations should reflect that agreement. Instead, 40 CFR 126.2(d) relieves States acting under subsection (a)(6) from the intensive subsection (b)(2)(A)–(K) planning requirements. 40 CFR 126.20(a) permits States to substitute section 303 planning for that mandated by section 208. And 40 CFR 35.1053 denies States any section 208 funding for subsection (a)(6) activities. See note 2 supra. These shortcomings cannot be remedied by reliance upon the

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[3] See, e.g., 33 U.S.C. 1288(b)(4) (providing for application of subsections (b)(2)(F)–(K) to entire State, which subsection (a)(6) already does, according to plaintiffs' construction); id. section 1288(a)(2) (governing addition and modification of areas appropriate for waste treatment management, which would already be covered by subsection (a)(6) under plaintiffs' interpretation).

[4] Compare S. 2770, section 209(a)(6), 92d Cong., 1st Sess (1971) (reproduced in A Legislative History of the FWPCAA, at 1594 (1973)) with 33 U.S.C. 1288(a)(6). The Senate version provided, "The Governor shall designate a planning agency for all areas of a State which are not designated under paragraphs (2), (3), or (4) of this subsection." The House version had no comparable provision. See Legislative History, supra, at 952.

[5] See Legislative History, supra note 4, at 169 (statement of Sen. Muskie, Senator sponsor of FWPCAA); id. at 145 (letter from William Ruckelshaus, former Administrator of EPA); Letter from EPA Administrator Russell Train to Sen. Muskie, Nov. 1, 1974).

In Senate debate on the Conference Report, Sen. Muskie introduced a memorandum concerning the conferees' agreement on various provisions of the Act. Concerning Section 208 he stated: "The Senate bill and the House amendment both required the development of areawide waste management plans. The House amendment limited such . . . plans to designated areas within a State, while the Senate bill required that regions be designated for the entire geographic area of each State. The Conferees have agreed to require State-wide planning, either through a regional process in a designated area or by the State for areas outside of designated regions. . . . The Conferees . . . agreed that waste management agencies must be designated covering the entire area of the State." Legislative History, supra note 4, at 169.

alleged "non-mandatory" nature of the regulations or upon EPA's gradual approach to water pollution problems. EPA's regulations have positively mislead the States in regard to subsection (a)(6) responsibilities. This is not "partial guidance" of the States. It is an impermissible mis-construction of the Act which must be cured swiftly so that the States can understand and fulfill their total planning responsibilities under subsection (a)(6). Nor can the Court accept EPA's "step by step" or adjudicatory method of issuing subsection (a)(6) guidelines. Erroneous regulations should not be allowed to stand for a period of months or years. Moreover, planning requirements and directives should precede the actual planning by States lest disorder and inefficiency reduce State efforts to naught. Equally as important, valuable time and resources cannot be squandered while strict statutory deadlines are facing the agency and the States.

As plaintiffs have stressed on numerous occasions, the subsection (a)(6) regulations will not call for rigorous planning where no pollution problems exist. Rural areas need not implement safeguards for urban pollution problems, and vice versa; planning can be tailored to a region's peculiar problems, and where possible coordinated with Section 303 planning. A State may certify large portions of its territory as pollution-free and concentrate on preventive measures for these portions as well as on abatement efforts for the substantial problem areas. The same intensive waste treatment management planning will certainly not be required over every cubic inch of the nation's waterways. The Act's goal of clean waters by 1983 can be achieved through a multitude of planning approaches.

It is not for this Court, however, to define or promulgate the subsection (a)(6) regulations. Hopefully, EPA's draft regulations already address the complexities of a State's subsection (a)(6) planning role and delineate the need for State and local cooperation. In any event, a full and prompt rulemaking proceeding will enable interested parties including the States to offer further comments to EPA with reference to the content of the proposed guidelines.

III

Order

For the reasons stated supra, defendant Environmental Protection Agency is enjoined to begin the process of developing and promulgating section 208(a)(6) regulations consistent with the provisions of this Memorandum and to revise existing regulations inconsistent therewith. Defendants' Motion to Dismiss or, in the Alternative, to Stay is hereby denied. Plaintiffs' Motion for Summary Judgment is hereby granted.

Plaintiffs in this action are entitled to a declaratory judgment that: (1) It is a national goal under the Federal Water Pollution Control Act Amendments of 1972 to restore and maintain the nation's waters so that by 1983 they will be fit for human recreation and wildlife propagation; (2) 33 U.S.C. 1288(a)(6) requires a State to act as the section 208 planning agency for non-designated portions of the State in the same manner as planning organizations designated under 33 U.S.C. 1288(a)(2)–(4); (3) 33 U.S.C. 1288(b)(2)(A)–(K) waste treatment management planning is required of a State acting under section 208(a)(6) for portions of the State not designated under 33 U.S.C. 1288(a)(2)–(4); (4) 33 U.S.C. 1288 (d)–(e) require that in all non-designated portions, grants made under 33 U.S.C. 1281(g)(1) and permits issued under 33 U.S.C. 1342 shall be made in conformity with the section 208(a)(6) plan for such portions; and (5) funding for areawide waste treatment management planning under 33 U.S.C. 1288(f) shall be available to a State for section 208(a)(6) planning.

In view of the fact that the 1976 goal of plan submission cannot feasibly be met for section 208(a)(6) plans—although such a deadline is prescribed by the Act—the plaintiffs and EPA shall, within 15 days of this Order, furnish (jointly and individually) a proposed timetable to the Court for a rulemaking proceeding for section 208(a)(6) regulations and for the phased compliance of section 208(a)(6) planning with the requirements of section 208 and the goals of the Act.

JOHN LEWIS SMITH, Jr.,
United States District Judge.

APPENDIX B

[Civil Action No. 74–1485]

NATURAL RESOURCES DEFENSE COUNCIL, INC., ET AL. V RUSSELL TRAIN, ET AL.

Final Order

Upon consideration of the pleadings, memoranda, affidavits, the Court's Opinion and Order of June 5, 1975, and the proposed timetables submitted by the parties in this action, it is by the Court this 23rd day of July 1975, ordered, that:

1. Defendants, the Environmental Protection Agency (EPA) and its Administrator, Russell Train, shall, no later than November 10, 1975, promulgate all final regulations necessary to implement fully this Order and the Court's June 5, 1975, declaratory judgment, memorandum opinion, and Order, and to modify any existing regulations inconsistent with said declaratory judgment, memorandum opinion, and Orders.

2. Defendants EPA and Russell Train shall, no later than July 14, 1975, publish proposed regulations amending 40 CFR Parts 130 and 131 consistent with said declaratory judgment, memorandum opinion, and Orders and shall thereafter afford the public a period of not less than 45 days for comment on such regulations.

3. Defendants EPA and Russell Train shall, no later than September 1, 1975, publish in proposed form all other regulations necessary to implement said declaratory judgment, memorandum opinion, and Orders, which shall be contained in 40 CFR Parts 35 and 126, and shall thereafter afford the public a reasonable period of time for comment on such regulations.

4. All such proposed and final regulations shall contain time schedules which will achieve and require the final submission to EPA of complete section 208 plans for non-designated areas no later than November 1, 1978. EPA may establish a date for preadoption review of such plans prior to the November 1, 1978 final deadline.

5. This Court retains jurisdiction of this case until the promulgation of final regulations fully implementing its declaratory judgment, memorandum opinion and Orders.

JOHN LEWIS SMITH, Jr.,
United States District Judge.

[FR Doc.75–19810 Filed 7–30–75;8:45 am]

[40 CFR Part 136]

[FRL 408–3]

ANALYSIS OF POLLUTANTS

Proposed Guidelines for Establishing Test Procedures

This notice extends the period of comments to the notice, published June 9, 1975 (40 FR 24535), considering amendments to Part 136 of Title 40, Code of Federal Regulations, setting forth Guidelines Establishing Test Procedures for the Analysis of Pollutants.

EPA has received requests for extending the time available to present additional information on the proposed measurement methods. Among these requests are those of Uniroyal Chemical Corporation and the Millipore Corporation. Uniroyal Chemical Corporation indicated that additional time was required to prepare a substantive evaluation of current and proposed analysis techniques for oil and grease. The Millipore Corporation wishes to present data in their possession on the subject of coliform bacteria (fecal) analysis which has not previously been available to the public. It is argued that additional time is required to assemble and present comments.

In order to allow for the assembly and presentation of data and other substantive comments, EPA has decided that a reasonable extension of the comment closing date is 45 days from the existing (July 24, 1975) date, and the comment period is hereby extended to September 7, 1975.

Dated: July 25, 1975.

WILSON K. TALLEY,
Assistant Administrator for Research & Development.

[FR Doc.75–19811 Filed 7–30–75;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 211 and 212]

CRUDE OIL BUY/SELL LIST ALLOCATION AND PRICING RULES

Proposed Rulemaking and Public Hearing

The Federal Energy Administration (FEA) hereby gives notice of a proposal to amend the allocation rules for the crude oil buy/sell list program set forth in 10 CFR 211.65 and the pricing rules for buy/sell list sales set forth in 10 CFR 212.94. The proposed amendments to the allocation rule would eliminate the restriction that unsold amounts of refiner-sellers may be carried forward as a continuing sales obligation for only one allocation quarter; would provide for a primary and secondary sales obligation for each refiner-seller based on its unsold amount obligation and the expected utilization of the buy/sell list; and would amend the definition of crude oil set forth in § 211.51 to include synthetic crude oil produced from tar sands. The amendment proposed with respect to the pricing rule set forth in 10 CFR 212.94 provides generally for deduction of the supplemental crude oil import fee (presently set at $2) from the refiner-seller's weighted average price as to a buy/sell list sale of imported crude oil made to a refiner-buyer located outside U.S. customs territory.

EFFECTIVE DATES

The amendments proposed hereby, if adopted, would be effective as follows:

Each refiner-seller's entire unsold amount from the June 1, 1975 allocation

quarter would be carried forward as a sales obligation for the September 1, 1975 quarter. The primary and secondary sales obligation calculations would be instituted for the September 1 quarter. The amendment to the definition of crude oil would be effective August 1, 1975.

The amendment to the pricing rule would be effective on a retroactive basis for sales made in the March 1, 1975 quarter, as well as for subsequent allocation quarters. As a result, refiner-sellers which have made sales of imported crude oil to refiner-buyers located outside U.S. customs territory in cases where the buyer is liable for the supplemental import fees would be required to recalculate their prices under § 212.94 for sales made to all refiner-buyers in the March 1 quarter.

Amendments to Method of Calculating Refiner-Sellers' Obligations

The basic considerations behind proposing calculation of primary and secondary sales obligations for refiner-sellers and elimination of the one quarter restriction on carrying forward unsold amounts derive from declining utilization of the buy/sell list by refiner-buyers and the resulting significant disparities between the sales obligations of various refiner-sellers.

FEA believes that the amendments proposed are of particular importance, since their operation is intended to cause all firms to be treated equitably when use of the program declines during periods of adequate supply, or when the use thereof increases during any future supply shortage. In either of these events, absent any modification to the current regulations, sellers that had not sold their proportionate share in prior allocation quarters would be rewarded, since their unsold amounts in those prior quarters (other than the immediately preceding quarter) would no longer be included in their sales obligations.

By way of background, in the period during and immediately following the termination of the Arab oil embargo, the buy/sell list program served a vitally important supply function for small and independent refiners. Although the program still serves a significant supply function for many small and independent refiners, as evidenced by their continued utilization of the program, its importance as a source of supplies for these refiners as a class has diminished as world supplies have reached surplus levels.

The program, in addition to providing a source of supplies, also provided certain crude oil cost benefits for many small and independent refiners due to the fact that sales were made at the particular refiner-seller's weighted average price of all its crude oil deliveries. Thus, refiner-buyers could share to a certain extent in the cost advantages of price controlled old oil possessed by the refiner-sellers. For this reason, almost full utilization of the buy/sell list continued well after world-wide crude oil supplies returned to normal levels following the embargo.

The old oil allocation program was instituted in late 1974, effective for November 1974 and subsequent months on a retrospective basis, and the first entitlement transactions occurred at the end of January 1975. Since the institution of the old oil allocation program, the buy/sell list program has no longer served as significant a cost equalization function; the utilization of the program has declined substantially; and unsold amounts carried forward and resulting disparities between the obligations of different refiner-sellers have increased.

The decline in utilization of the buy/sell list first became evident in the March 1, 1975 allocation quarter. For example, total purchases under the list normally have ranged between 88 percent and 92 percent of the total allocation obligation. In the March 1 quarter, however, approximately 66 percent of the total allocation obligation was purchased by refiner-buyers. The result of the decline in purchases for this quarter is that approximately 35 percent of refiner-sellers' obligations for the June 1, 1975 quarter (as compared with approximately 16 percent for the prior quarter) was attributable to unsold amount obligations, which varied from a high of approximately 9,000,000 barrels, in the case of one seller, to a low of zero barrels, in the case of another. These figures illustrate the need for a modification to the program to ensure that all sellers are treated equitably over the period in which the program is in effect.

Obligations of refiner-sellers are calculated as follows under the regulations currently in effect. First, each seller's unsold amount obligation is arrived at by taking its total unsold amount from the prior allocation quarter less any portion thereof which itself was attributable to a unsold amount obligation from the quarter immediately preceding that prior quarter. To determine the portion of the unsold amount not to be carried forward, sales by that seller in the prior quarter are deemed first to reduce the unsold amount obligation for that prior quarter, and next to be in satisfaction of the balance of that seller's obligation. After calculation of each seller's unsold amount obligation from the prior quarter, the portion of the total allocation obligation in excess of the aggregate of the sellers' unsold amount obligations is apportioned among all sellers in accordance with their respective fixed percentage shares.

The amendments proposed for the calculation of refiner-sellers' sales obligations are intended to even out disparities in these obligations present in the June 1 quarter by first providing for a primary and secondary sales obligation calculation for each seller, commencing with the September 1, 1975 quarter. The primary sales obligation for each seller would first consist of its unsold amount obligation plus its fixed percentage share of that additional volume of crude oil, if any, necessary to make the total of the primary obligations of all sellers equal to the expected utilization of the buy/sell list in the forthcoming allocation quarter. All sellers would have to have sold substantially all of their primary obligations before any seller was required to offer for sale any portion of its secondary obligation, pursuant to a directed sale or otherwise. In addition, there would be no further restrictions on carrying forward unsold amounts, except that unsold amounts carried forward from the September 1, 1975 and subsequent allocation quarters would only consist of the unsold portion of each seller's primary obligation and of any unsold directed sale volumes attributable to the seller's secondary obligation. The result of this method of calculating sellers' obligations will be to ensure, to the maximum extent practicable, that sellers with the largest unsold amount obligations from prior quarters will be required to make a correspondingly greater portion of the projected sales in the September 1, 1975 and subsequent quarters. FEA believes that utilization of this method of apportioning seller's obligations will, over a period of one or more allocation quarters, even out the respective sales obligations of the sellers in an equitable manner and will prevent large unsold amounts of sellers that did not sell their proportionate share in prior quarters from ceasing to constitute sales obligations.

Pricing Adjustment for Supplemental Import Fees

The proposed amendment to the buy/sell list pricing rule is a price adjustment for sales made to refiner-buyers located outside U.S. customs territory. The proposal first provides for an increase in a refiner-seller's weighted average cost of crude oil (for purposes of determining buy/sell list selling prices only), to reflect the assumed payment of the supplemental import fees on all imported crude oil included in that seller's deliveries even though such fees are not payable by the refiner-seller on crude oil delivered to a refiner-buyer outside U.S. customs territory, and secondly for a deduction from that seller's weighted average cost of crude oil (as so adjusted) for purposes of determining the selling price to refiner-buyers outside customs territory of the amount of the per barrel supplemental crude oil import fee (currently $2), which is saved as a result of the sale of crude oil to that refiner-buyer.

FEA believes that these adjustments are appropriate, since buyers outside the U.S. customs territory will generally be liable for the entire amount of the supplemental import fee on the volumes of imported crude oil purchased under the buy/sell list. With these adjustments to the buy/sell list sale prices, allocation sales of crude oil will have the same economic effect for buyers located outside U.S. customs territory as for those located within customs territory. That is, in each instance the total cost, including supplemental import fees in the case of refiner-buyers located outside U.S. customs territory, of acquiring crude oil un-

der the buy/sell list program from a particular refiner will be the same, and will be based on the weighted average cost of all crude oil acquired by that refiner-seller. Without such an adjustment, the total cost to refiner-buyers located outside U.S. customs territory of buy/sell list crude oil would be disproportionately higher than the cost of such crude oil to refiner-buyers located within U.S. customs territory, who receive all crude oil under the buy-sell list program on a fee-paid basis.

Certain clarifying amendments to § 212.94 are also proposed, in order to make explicit those price adjustments which must be taken into account by refiners in computing their cost recovery in buy/sell list sales, and to revise the numbering of the section.

The cost recovery calculations by refiners for purposes of buy/sell transactions is discussed generally in FEA Ruling 1974–26, and the proposed import fee adjustment for buy/sell sales to refiner-buyers located outside U.S. customs territory will be an adjustment that shall be taken into account in computing cost recovery, just as is the price adjustment for gravity. The handling fee and the transportation expense adjustments, as noted in Ruling 1974–26, are not taken into account when determining a cost recovery, and the regulation is also being revised to expressly so provide.

Amendment to the Definition of Crude Oil

FEA is also proposing to amend the definition of crude oil in § 211.51 to include within that term synthetic crude oil produced from tar sands, gilsonite and oil shale. The purpose of this amendment is to make these types of synthetic crude oil eligible feedstocks for both the buy/sell list and old oil allocation programs, thus enhancing the desirability of the production or importation thereof.

Procedures for Written Comments and Public Hearing

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposed regulations set forth in this notice to Executive Communications, Federal Energy Administration, Box DO, 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 "Amendments to Crude Oil Buy/Sell List Program." Fifteen copies should be submitted. All comments received by August 11, 1975, and all relevant information will be considered by the FEA before 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 beginning at 9:30 a.m., e.d.t., on August 13, 1975, at Room 2105, 2000 M Street, N.W., Washington, D.C. in order to receive comments from interested persons on the matters set forth herein.

Any person who has an interest in the proposed amendments, or who is a representative of a group or class of persons that has an interest in the proposed amendments, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., e.d.t., August 7, 1975. Such a request may be hand delivered to Room 2214, 2000 M Street, NW., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m., e.d.t., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through August 14, 1975. Each person selected to be heard will be so notified by the FEA before 4:30 p.m., e.d.t., August 11, 1975 and must submit 100 copies of his or her statement to Executive Communications, FEA, Room 2214, 2000 M Street, NW., Washington, D.C. 20461, before 4:30 p.m., e.d.t., on August 13, 1975.

The FEA reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. 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 hearing. It will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunty, if he or she 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 hearing, to Executive Communications, FEA, before 4:30 p.m., e.d.t., August 11, 1975. Any person who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearing, 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 hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, 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 and 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 has no comments to offer in this regard.

This proposal has been reviewed in accordance with Executive Order 11821, issued November 27, 1974 and has been determined not to require evaluation of its inflationary impact.

(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 Parts 211 and 212, Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., on July 28, 1975.

Robert E. Montgomery, Jr.,
General Counsel,
Federal Energy Administration.

1. Section 211.51 is amended by revising the definition of "crude oil" to read as follows:

§ 211.51 General definitions.

* * * * *

"Crude oil" means a mixture of liquid hydrocarbons including lease condensate that exists in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities and includes the initial liquid hydrocarbons produced from tar sands, gilsonite and oil shale.

* * * * *

2. Section 211.65 is amended by revising paragraphs (d), (e) and (f) to read as follows:

§ 211.65 Method of allocation.

* * * * *

(d) *Refiner-sellers' sale obligations.* (1) *Sales obligation for each refiner-seller.* (i) Effective for the allocation quarter commencing September 1, 1975 and subsequent allocation quarters, the FEA shall compute a primary and secondary sales obligation for each refiner-seller as provided in paragraphs (d)(2) and (3) of this section. The total of all primary and secondary sales obligations of all refiner-sellers shall be equal to the total allocation obligation for the particular allocation quarter as computed in paragraph (c) of this section.

(ii) Each refiner-seller shall offer for sale, directly or through exchange, to refiner-buyers during an allocation quarter a quantity of crude oil equal to that refiner-seller's primary sales obligation plus any portion of that refiner-seller's secondary sales obligation as to which the FEA directs a sale pursuant to paragraph (h) of this section. No refiner-seller shall be required to offer for sale to refiner-buyers, whether by directed sale or otherwise, any portion of its secondary sales obligation until all other refiner-sellers have sold substantially all of the volumes represented by their respective primary sales obligations.

(2) *Calculation of primary sales obligations.* (i) The primary sales obligation for each refiner-seller shall consist of (A) that refiner-seller's unsold sales obligation from the immediately preceding allocation quarter as calculated under paragraph (d)(2)(ii) of this section plus (B) that refiner-seller's fixed percentage share as calculated under paragraph (d)(2)(iii) of this section of any additional volume of crude oil which, when added to the total of the unsold sale obligations of all refiner-sellers from the immediately preceding allocation quarter renders the aggregate primary sales obligation for the current allocation quarter equal to the portion of the total allocation obligation for that allocation quarter that the FEA estimates will be purchased by refiner-buyers. The FEA shall make such estimate based on the portion of the total allocation obligation actually purchased by refiner-buyers in the immediately preceding allocation quarter and such other factors as it deems appropriate.

(ii) For the allocation quarter commencing June 1, 1975, the unsold sales obligation for each refiner-seller is equal to the total quantity of crude oil required to be offered for sale in that allocation quarter by that refiner-seller less the total quantity of crude oil actually sold to refiner-buyers by that refiner-seller in that allocation quarter. For the allocation quarter commencing September 1, 1975 and for each subsequent allocation quarter, the unsold sales obligation for each refiner-seller shall be equal to its primary sales obligation as defined in paragraph (d)(2)(i) of this section plus any portion of that refiner-seller's secondary sales obligation as to which the FEA has directed a sale pursuant to paragraph (h) of this section less the total quantity of crude oil actually sold to refiner-buyers by that refiner-seller in that allocation quarter.

(iii) A refiner-seller's fixed percentage share is its proportionate share of the total refining capacity of all refiner-sellers as reported to the Bureau of Mines on January 1, 1973, as certified by the FEA. New refining capacity, or future refining capacity shall not subject a refiner-seller to any increase in its fixed percentage share.

(3) *Calculation of secondary sales obligation.* The total of all secondary sales obligations of all refiner-sellers for a particular allocation quarter shall be equal to the total allocation obligation for that allocation quarter as computed in paragraph (c) of this section less the total of all primary sales obligations of all refiner-sellers for that allocation quarter as computed in paragraph (d)(2) of this section. The secondary sales obligation of each refiner-seller for that allocation quarter shall be equal to its fixed percentage share as defined in paragraph (d)(2)(ii) of the total of all secondary sales obligations of all refiner-sellers.

(e) *Buy-sell list.* Fifteen days prior to each allocation quarter, the FEA shall publish a notice for that allocation quarter listing the quantity of crude oil each refiner-buyer is eligible to purchase, the total allocation obligation for all refiner-sellers, the fixed percentage share for each refiner-seller and the quantity of crude oil that each refiner-seller will be obligated to offer for sale to refiner-buyers, specifying the portions thereof that constitute the primary and secondary sales obligations for each refiner-seller. The commencement date for starting deliveries under sales agreements in an allocation quarter shall be 15 days after publication of the related notice. Any agreements for the sale or purchase of crude oil after such commencement date shall be retroactive to the starting delivery date. All deliveries must be completed or arranged for before the end of the allocation quarter.

(f) *Sale/purchase transaction report.* Within fifteen days of the consummation thereof, each transaction made to comply with this program shall be reported by the buyer and seller to the FEA. This report shall identify the selling and purchasing refiners and indicate the volumes of crude oil sold or purchased.

* * * * *

3. Section 212.94 is revised to read as follows:

§ 212.94 Allocated crude oil pricing.

(a) *Scope.* This section applies to each sale of crude oil made pursuant to the provisions of § 211.65 of this chapter.

(b) *Rule.* Notwithstanding the general rules described in this subpart, the price at which crude oil shall be sold when required in § 211.65 of this chapter during each month shall not exceed in Districts I–IV the weighted average price of all crude oil delivered to a refiner-seller in that month for those Districts, and shall not exceed in District V the weighted average price of all crude oil delivered to a refiner-seller in that month for that District, plus, in all Districts, a handling fee of 30 cents per barrel, and any transportation, gravity and supplemental import fee adjustments specified in paragraph (c) of this section. Each refiner-seller making such a sale shall calculate its price under this section and shall maintain records, which shall be made available to the FEA upon request, listing the volumes and delivered prices of all crude oil delivered to its refineries during each month. The handling fee permitted to be charged by this paragraph shall not be taken into account for the purpose of computing the amount of cost recovery in sales made under the price rule of this section.

(c) *Adjustments.* (1) *Transportation expense.* Actual additional transportation expenses incurred to move the crude oil to the refiner-buyer's refinery shall be paid by the refiner-buyer. Actual transportation expenses saved as a result of moving the offered crude oil directly to the refiner-buyer's refinery shall be deducted from the selling price, if customarily included in such price. Transportation expense adjustments in the prices charged pursuant to this section shall not be taken into account in computing the amount of cost recovery in sales made under the price rule of this section.

(2) *Gravity differential.* The price adjustment for gravity differential of crude oil offered for sale under § 211.65 of this chapter in Districts I–IV shall be the weighted average price for those Districts calculated under paragraph (b) of this section plus or minus 2 cents per barrel per °API that the crude oil being offered for sale under § 211.65 of this chapter is above or below the weighted average °API of estimated runs of all crude oil for the forthcoming calender quarter for the refiner-seller in Districts I–IV, and, in District V, shall be the weighted average price for that District calculated under paragraph (b) of this section plus or minus 5 cents per barrel per °API that the crude oil being offered for sale under § 211.65 of this chapter is above or below the weighted average °API of estimated runs of all crude oil for the forthcoming calendar quarter for the refiner-seller in District V. Gravity differential adjustments in the price charged pursuant to this section shall be taken into account in computing the amount of cost recovery in sales made under the price rule of this section.

(3) *Supplemental import fee adjustment for sales outside U.S. customs territory.* Whenever a refiner-seller sells foreign crude oil under § 211.65 of this chapter which is delivered to a refiner-buyer located outside U.S. customs territory, the weighted average price of all crude oil delivered to that refiner-seller, which is calculated under paragraph (b) of this section for purposes of determining the lawful selling price of all crude oil sold by that refiner-seller under this section, shall be adjusted by including in the total cost of all crude oil delivered to that refiner-seller in that month the amount of the supplemental import fees (established pursuant to Presidential Proclamation No. 3279, as amended) that would have been payable with respect to the foreign crude oil that is delivered under § 211.65 of this chapter to a refiner-buyer located outside U.S. customs territory. The weighted average price of all crude oil delivered to a refiner-seller which is calculated under paragraph (b) of this section, and adjusted as set forth above, shall be further adjusted for purposes of determining the lawful selling price of foreign crude oil sold by that refiner under this

section to refiner-buyers located outside U.S. customs territory by subtracting the per barrel amount of the supplemental import fee. The supplemental import fee adjustment required to be made pursuant to this paragraph whenever sales are made to refiner-buyers outside U.S. customs territory shall be taken into account in computing the amount of cost recovery in sales made under the price rule of this section. The amount of the supplemental import fee that would have been payable with respect to the volume of foreign crude oil delivered to a refiner-buyer located outside U.S. customs territory, which shall be used to adjust the weighted average cost of crude oil delivered to a refiner-seller under paragraphs (b) and (c) of this section, does not constitute a cost to the refiner-seller for purposes of computing that refiner-seller's cost recovery.

(d) *Calculations.* For the purpose of calculating the weighted average price of all crude oil delivered to a refiner-seller during each month, a refiner-seller shall use, for domestic crude oil, the delivered cost of all domestic crude oil at the point of purchase, plus any gathering or trucking allowance, pipeline tariffs, water transportation costs, terminalling costs and exchange differentials paid to deliver such crude oil to the refiner-seller's refineries; and, for imported crude oil, the landed cost (as defined in § 212.83) plus any pipeline tariffs, water transportation costs, terminalling costs, exchange differentials, insurance, and taxes paid to deliver such crude oil to the refiner-seller's refineries.

[FR Doc.75-19872 Filed 7-28-75;12:17 pm]

FEDERAL POWER COMMISSION

[18 CFR Parts 2, 154, 157]

[Docket No. RM75-14]

NATURAL GAS

National Rates for Jurisdictional Sales

JULY 25, 1975.

National Rates for Jurisdictional Sales of Natural Gas Dedicated, to Interstate Commerce on or After January 1, 1973, for the Period January 1, 1975 to December 31, 1976

Take notice that on July 10, 1975, a Notice of Further Extension of Time was issued in the above-designated matter extending the time for comments and reply comments of all parties beyond the time originally fixed by order issued December 4, 1974 (39 FR 43093, December 10, 1974). Notice is hereby given of a further extension of time of filing staff comments to and including August 11, 1975. Staff comments will at that time be served on all parties by Commission order relating to Staff's rate and other recommendations. All parties desiring to do so may submit comments on the Staff's recommendation on or before September 11, 1975. Replies to the initial comments shall also be due on September 11, 1975. No further comments will be permitted unless authorized by subsequent order of the Commission.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-19934 Filed 7-30-75;8:45 am]

PANAMA CANAL COMPANY

[35 CFR Part 135]

RULES FOR MEASUREMENT OF VESSELS

Proposed Rulemaking

Pursuant to the provisions of 2 C.Z. Code §§ 411 and 412, 76A Stat. 27, the Panama Canal Company has adopted proposed changes in the rules for measurement of vessels for the Panama Canal. The Company is required by § 411 of Title 2 of the Canal Zone Code to give six months' notice of proposed changes in the rules of measurement during which period a public hearing is required. Proceedings on the proposed changes in the rules will be conducted in accordance with the Company's regulations establishing procedures for rulemaking when notice and hearing are required by the Canal Zone Code, 35 CFR Part 70.

Description of proposed changes. The proposed changes would amend Part 135 of Title 35 of the Code of Federal Regulations, comprising the Rules for Measurement of Vessels for the Panama Canal as follows:

1. Amend §§ 135.85 and 135.175 to provide for inclusion in gross tonnage of spaces in double bottoms used for carrying fuel.

2. Revoke § 135.86 to eliminate the provision for deduction of one-half of one percent of the gross tonnage of a vessel, exclusive of hatchways, from the aggregate tonnage of hatchways included in gross tonnage, and add a new § 135.183 to provide the method of measurement of hatchways.

3. Add § 135.113 to provide for the inclusion in net tonnage of the space occupied by deck cargo.

4. Amend § 135.281 to eliminate the maximum limitation on the space deducted from gross tonnage for boatswain's stores and to substitute a requirement that the space deducted be reasonable in extent.

5. Amend § 135.282 to eliminate the maximum limitation on the spaces used for engineer's shops deducted from gross tonnage and to substitute a requirement that the space deducted be reasonable in extent.

6. Amend §§ 135.274 and 135.285 to eliminate the provision for deduction from gross tonnage of peak tanks when adapted for carrying fresh water.

7. Revoke § 135.286 to eliminate the provision for deduction from gross tonnage of spaces appropriated to the use of passengers as public rooms.

8. Amend §§ 135.327, 135.352–135.354, and 135.412, revoke §§ 135.351, 135.381, and 135.383, and add §§ 135.390 and 135.391 to eliminate the provision permitting deduction for propelling power to be made by measuring the space occupied by engine rooms plus a percentage thereof for space occupied by fuel (Danube rule) and to provide for measurement of fuel spaces, and to restate and clarify the last four sentences of § 135.352.

9. Amend §§ 135.82, 135.83, 135.142, 135.211, 135.271, 135.273, 135.287, 135.322, and 135.324 to conform to the changes made in the sections referred to above.

10. Amend § 135.511 to consolidate authority and responsibility for administration of the Rules of Admeasurement in the President of the Panama Canal Company.

Public hearing. The Panama Canal Company will hold public hearings in Washington, D.C. on October 6, 1975, at a location to be announced.

The hearing will commence at 10 a.m. subject to recess or adjournment from day to day or otherwise at the discretion of the hearing panel.

Written comments. In accordance with 35 CFR 70.6, interested persons are invited to participate in this proposed rulemaking by submitting written data, views, or arguments in triplicate to the Secretary, Panama Canal Company, Suite 312, Pennsylvania Building, 425 13th Street, N.W., Washington, D.C. 20004, not later than September 2, 1975.

Appearance by counsel; supplementary data. Interested parties may file notice of appearance at the hearing by counsel or other qualified representatives, and notice of presentation of supplementary data at the hearing, in accordance with 35 CFR 70.9 and 70.10, with the Secretary, Panama Canal Company, Suite 312, Pennsylvania Building, 425–13th Street, N.W., Washington, D.C. 20004, not later than September 15, 1975.

Action on proposed rules. All data, views, or arguments presented in writing or orally at the hearing in accordance with 35 CFR Part 70 will be considered along with other relevant information before the changes in rules are submitted to the President of the United States for approval. The proposed changes in the rules of measurement may be changed on the basis of information received from interested parties participating in the rulemaking proceeding.

Environmental impact. The Company has determined that the proposed changes in measurement rules will not constitute a major action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 and regulations issued pursuant thereto.

Effective date of amendment. Under § 411 of Title 2 of the Canal Zone Code, the proposed changes in the rules will become effective on approval by the President but not earlier than six months from the date of publication of this notice in the FEDERAL REGISTER.

Availability of report recommending changes. Copies of a report of the President of the Panama Canal Company recommending the proposed changes in

the rules of measurement of vessels for the Panama Canal may be obtained from the Secretary, Panama Canal Company, Suite 312, Pennsylvania Building, 425–13th Street, N.W., Washington, D.C. 20004, or from the Financial Vice President, Panama Canal Company, Balboa Heights, Canal Zone.

Text of proposed rules. The Company's proposal is that 35 CFR Part 135 be amended as follows:

§ 135.82 [Amended]

1. In § 135.82 the references to § 135.86 are amended to read § 135.85.

§ 135.83 [Amended]

2. In the last line of § 135.83 the reference to § 135.86 is amended to read § 135.85.

3. Section 135.85 is revised to read as follows:

§ 135.85 Certain spaces between inner and outer plating of double bottom.

Space or spaces between the inner and outer plating of the double bottom of a vessel shall be exempted from measurement, except when used, designated or intended for carrying cargo or fuel; but the tonnage of such spaces within the double bottom as are or may be used for carrying cargo or fuel shall be determined and included in the gross tonnage. The tonnage of double bottom tanks available for cargo or fuel may be obtained by multiplying the liquid-capacity weight by the proper conversion factor to get tons of 100 cubic feet.

§ 135.86 [Revoked]

4. Section 135.86 is revoked.

5. Following § 135.112 a new § 135.113, preceded by the undesignated center heading "DECK CARGO," is added, reading as follows:

§ 135.113 Deck cargo.

If any ship carries stores, timber, livestock, containers, or other cargo in any space upon an open deck not permanently covered or in spaces exempted under paragraphs (a) and (b) of § 135.82, all tolls and other charges payable on the vessel's net tonnage shall be payable upon the vessel's net tonnage (as defined below in §§ 135.271–287 and §§ 135.321–327) increased by the tonnage of the space occupied at the time at which the tolls or other charges become payable by the goods carried upon deck and not permanently covered or closed-in. The deck space occupied by the goods thus carried shall be determined at the time of the application of the vessel for passage through the canal and shall be deemed to be the space limited by the area occupied by the goods and by straight lines enclosing a rectangular space sufficient to include the goods. The tonnage of the space occupied by the goods shall be ascertained by multiplying together the length, breadth and depth of said rectangular space or spaces and dividing the product by 100 or 2.83, according as the measurements are taken in feet or meters. Nothing in this section shall in any manner affect the provisions of §§ 135.41–42; 135.61–63; or 135.81–88.

§ 135.142 [Amended]

6. In § 135.142 the reference to §§ 135.171–135.182 is amended to read §§ 135.171–135.183.

§ 135.175 [Amended]

7. In § 135.175 the last sentence is amended by adding the words "or fuel" between the words "cargo" and "the tonnage."

8. Following § 135.182 a new § 135.183 is added, reading as follows:

§ 135.183 Hatchways.

The cubical contents of hatchways shall be obtained by multiplying the length and breadth together and the product by the mean depth taken from the top of beam to the underside of the hatch cover.

§ 135.211 [Amended]

9. In § 135.211 the reference in the fourth line to § 135.182 is amended to read § 135.183.

§ 135.271 [Amended]

10. In § 135.271 the reference in the second line to § 135.286 is amended to read § 135.285.

§ 135.273 [Amended]

11. In § 135.273 the reference in the last line to § 135.286 is amended to read § 135.285.

12. In § 135.274, paragraph (c) is amended to read as follows:

§ 135.274 Spaces for stowage of stores or cargo, not deducted.

* * * * *

(c) On supply ships, stores, supplies of all kinds, distilling machinery and distilled water, machines, tools and material for repair work, mines and mining materials, torpedoes, arms, and ammunition.

13. Section 135.281 is revised to read as follows:

§ 135.281 Spaces used for boatswain's stores, deducted.

Spaces used exclusively for boatswain's stores, including paint and lamp rooms, shall be deducted. The deduction of spaces under this section shall be reasonable in extent.

14. Section 135.282 is revised to read as follows:

§ 135.282 Spaces used for engineer's shops, deducted.

Spaces used exclusively for engineer's shops shall be deducted. The deduction of spaces under this section shall be reasonable in extent.

15. In § 135.285 the heading of the section and paragraph (a) are revised to read as follows:

§ 135.285 Water ballast spaces, deducted.

(a) Water ballast spaces, other than spaces in the vessel's double bottom, shall be deducted if they are adapted and used only for water ballast, have for entrance only ordinary circular or oval manholes whose greatest diameter does not exceed 30 inches, and are not available for the carriage of cargo, stores, or fuel. Spaces that would otherwise qualify as water ballast except that they are also used for fuel for the vessel's own use shall be regarded as part of the vessel's fuel space as defined in § 135.390.

* * * * *

§ 135.286 [Revoked]

16. Section 135.286 is revoked.

17. Section 135.287 is revised to read as follows:

§ 135.287 Marking and use of deducted spaces.

Each of the spaces enumerated in §§ 135.275–135.285, unless otherwise specifically stated, shall be subject to such conditions and requirements as to marking or designation and use or purpose as are contained in the navigation or registry laws of the several countries, but no space shall be deducted unless the use to which it is to be exclusively devoted has been appropriately designated by official marking. In no case, however, shall an arbitrary maximum limit be fixed to the aggregate deduction made under §§ 135.271–135.285.

§ 135.322 [Amended]

18. In § 135.322 the reference to § 135.286 in the heading and in the second line of the section is amended to read § 135.285.

§ 135.324 [Amended]

19. In § 135.324 the reference to §§ 135.381–135.383 is amended to read §§ 135.352–135.354, 138.482.

20. Section 135.327 is revised to read as follows:

§ 135.327 Propelling power deductions, how made.

The deductions made for propelling power provided for in §§ 135.323–135.325 shall be made by adding to the space occupied by the engine room as defined in §§ 135.352–135.354 and 135.382, the spaces available for fuel as defined in §§ 135.390 and 135.391.

21. The undesignated center heading preceding § 135.351 is amended to read as follows:

SPACE OCCUPIED BY ENGINE ROOM

§ 135.351 [Revoked]

22. Section 135.351 is revoked.

23. In § 135.352 the last four sentences are revised to read as follows:

§ 135.352 What understood by space occupied by engine rooms.

* * * When a portion of the space within the boundary of the engine or boiler room is occupied by a tank or tanks for the storage of fresh water, lubricating oil, or fuel, including settling tanks, the space considered to be within the engine room shall be reduced by the space taken up by such tanks. Installations not strictly required for the working of the engines or boilers are not to be included in the engine room measure-

ment no matter where situated but given separate deductions when they qualify under §§ 135.271–135.285 and are listed under the appropriate item on page 2 of the Panama Canal Certificate.

24. In § 135.353 the last sentence is revised to read as follows:

§ 135.353 Manner of ascertaining cubical content of spaces occupied by engine room.

* * * Add such contents, as well as those of the space occupied by the shaft trunk and by any donkey engine and boiler located within the boundary of the engine room or of the light and air casing above the engine room and used in connection with the main machinery for propelling the ship, to the cubical contents of the space below the crown of the engine room; divide the sum by 100 or by 2.83, according as the measurements are taken in feet or meters, and the result shall be deemed to be the space occupied by the engine room for purposes of calculating the deduction for propelling power.

25. Section 135.354 is revised to read as follows:

§ 135.354 Manner of ascertaining cubical content of spaces occupied by engine room; where engines and boilers are in separate compartments.

If in any ship in which the space for propelling power is to be measured the engines and boilers are in separate compartments, the contents of each compartment shall be measured separately in like manner, according to the above method; and the sum of the tonnage of the spaces included in the several compartments shall be deemed to be the space occupied by the engine room for purposes of calculating the deduction for propelling power.

§ 135.381 [Revoked]

26. Section 135.381 and the undesignated center heading preceding that section reading "PROPELLING POWER DEDUCTION FOR VESSELS WITH FIXED BUNKERS, OR HAVING FUEL-OIL COMPARTMENTS THAT CANNOT BE USED TO STOW CARGO OR STORES" are revoked.

§ 135.383 [Revoked]

27. Section 135.383 is revoked.

28. Two new sections numbered §§ 135.390 and 135.391, preceded by an undesignated center heading "SPACES AVAILABLE FOR CARRIAGE OF FUEL" are added, reading as follows:

SPACES AVAILABLE FOR CARRIAGE OF FUEL

§ 135.390 Spaces available for the carriage of fuel.

The spaces available for the carriage of fuel will include the actual volume of tanks or fixed compartments for the storage of lubricating oil or fuel, including settling tanks, which cannot be used to stow cargo or stores and which have been certified by official marking to be spaces for the vessel's own fuel. Dual purpose fuel tanks whose only other use is for the carriage of water ballast will be included in the fuel deduction provided they have been included in the gross tonnage and qualify in all other respects for a deduction.

§ 135.391 Manner of ascertaining cubical contents of spaces available for the carriage of fuel.

The cubical contents of the abovenamed spaces available for the carriage of fuel shall be ascertained in accordance with the following provisions: For each fuel tank or compartment, measure the mean length. Ascertain the area of three transverse sections of the ship (as set forth in §§ 135.141 or 135.142–135.241 for the calculation of the gross tonnage) to the deck which covers the tank or compartment. One of these three sections must pass through the middle of the aforesaid length, and the two others through the two extremeties. Add to the sum of the two extreme sections four times the middle one, and multiply the sum thus obtained by the third of the distance between the two section. This product, divided by 100 if the measurements are taken in English feet, or by 2.83 if they are taken in meters, gives the tonnage of the spaced measured. When they cannot be readily measured, the tonnage of tanks may also be obtained by using liquid capacity times the conversion factor with one-sixth off for frames in case of peak tanks and one-twelfth off in case of wings or deep tanks.

§ 135.412 [Amended]

29. In § 135.412 the words and figures in the second, third, and fourth lines "other than fuel spaces deducted under §§ 135.351–135.354" are revoked.

30. Section 135.511 is revised to read as follows:

§ 135.511 Administration of rules.

The rules of measurement provided in this part shall be administered by the President of the Panama Canal Company.

THOMAS M. CONSTANT,
Secretary, Panama Canal Company.

JULY 28, 1975.

[FR Doc.75-19885 Filed 7-30-75;8:45 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Hearing Re Definition of Small Business for Purpose of Sales of Government Timber

Currently, paragraph 121.3-9(b) of the Small Business Size Standards Regulation (Part 121, Chapter 1, Title 13 of the Code of Federal Regulations) provides that a concern is small for the purpose of bidding on a small business set-aside sale of Government timber if it meets the following definition:

(1) In connection with sale of Government-owned timber, a small business is a concern that:

(i) Is primarily engaged in the logging or forest products industry;

(ii) Is independently owned and operated;

(iii) Is not dominant in its field of operation; and

(iv) Together with its affiliates, its number of employees does not exceed 500 persons.

(2) In the case of Government sales of timber reserved for or involving preferential treatment of small businesses, when the Government timber being purchased is to be resold, a concern is a small business when:

(i) It is a small business within the meaning of subparagraph (1) of this paragraph, and

(ii) It agrees that it will not sell to a concern which is not a small business, within the meaning of this paragraph, more than 30 percent of such timber or, in the case of timber from certain geographical areas set forth in Schedule E of this part, more than the percentage established therein for such area. The term "sell" includes, but is not limited to, the exchange of sawlogs for sawlogs on a product-for-product basis, with or without monetary adjustment, and an indirect transfer such as the sale of the assets of (or a controlling interest in) a concern after it has been awarded one or more set-aside sales of timber. Under the latter circumstances, if, after being awarded a set-aside sale of timber, a small business concern merges with or becomes subject to the control of a large business, so much of such timber (or sawlogs therefrom) shall be sold to one or more small businesses as is necessary for compliance with the 30 percent (50 percent in Alaska) restriction.

(3) In the case of Government sales reserved for or involving preferential treatment of small businesses, when the Government timber purchased is not to be resold in the form of sawlogs to be manufactured into lumber and timbers, a concern is a small business when:

(i) It meets the criteria contained in subparagraph (1) of this paragraph, and

(ii) It agrees that in manufacturing lumber or timbers from such sawlogs cut from the Government timber, it will do so only with its own facilities or those of concerns that qualify under subparagraph (1) of this paragraph as a small business. This provision assumes that the successful bidder will remain a small business until the products have been manufactured. Accordingly, if, after acquiring the set-aside sale the bidder is purchased by, becomes controlled by, or merged with a large business, so much of such timber (or sawlogs therefrom) as is necessary shall be sold to one more small businesses for compliance with the 30 percent (50 percent in Alaska) restriction. Any concern which self-certifies as a small business concern for the purpose of award under a small business set-aside sale of Government timber is expected to maintain evidence that it did so in good faith. Accordingly, such a concern will have to maintain for a period of 3 years the names, address, and size status of each concern to whom the timber or sawlogs were sold or disposed, and the log species, grades, and volumes involved. Such concern, and any subsequent small business concern that acquires the sawlogs, also shall require its small business purchasers to maintain

similar records for a period of 3 years. Further, if the timber purchased is not to be resold in the form of sawlogs, but is to be manufactured into lumber or timbers by a concern other than the bidder, the bidder must maintain records to show the name, address, and size status of the concern manufacturing the sawlogs into lumber or timbers.

Questions have been raised as to whether the 500-employee limitation in the above definition is appropriate. Some interested parties have claimed that it should be raised, others have claimed that it should be lowered, and some feel it should be left as is.

Under all of the circumstances, we have decided to hold two public hearings in order that all interested parties not only may orally present their position for the record, but also hear the position of others.

The first hearing will be held in the Bonneville Power Administration Auditorium, 1002 North East Holiday, Portland, Oregon, at 9 a.m., on August 28, 1975. If necessary, the hearing will continue at the same location on August 29, 1975. The second hearing will be held at the Federal Court, Room 226, Old Post Office Building, 56 Forsyth Street, NW., Atlanta, Georgia, at 9 a.m., on September 4, 1975.

It is to be noted that the Small Business Administration's industry hearings are factfinding in nature and are not adversary proceedings. Therefore, in accordance with our usual procedures, each interested party will be given a reasonable time for an oral presentation. (Since it appears that a large number of persons may wish to make statements, it may be necessary to establish a time limitation on individual presentations.) Cross-examination of witnesses will not be permitted. However, questions may be submitted to the Chairman in writing and, if he determines them to be relevant, he will direct them to the appropriate parties. Members of the panel also may ask questions from time to time.

A stenographic record will be made of the proceedings and copies thereof may be purchased by making arrangements with the contract stenographer. Copies also will be available for review at no charge in the Small Business Administration San Francisco, Seattle, and Atlanta Regional Offices, and also in the Portland District Office.

In order that appropriate arrangements can be made for both hearings, it is requested that all parties who will attend either hearing notify Mr. William L. Pellington, Director, Size Standards Division, Small Business Administration, 1441 "L" Street, NW, Washington, D.C. 20416, on or before August 18, 1975.

(Catalog of Federal Domestic Assistance Program No. 59.009, Procurement Assistance to Small Business.)

Dated: July 23, 1975.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.75-19855 Filed 7-30-75;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 DEFENSE

Department of the Army

COMMAND AND GENERAL STAFF COLLEGE ADVISORY COMMITTEE

Establishment, Organization and Functions

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Command and General Staff College Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its establishment.

The nature and purpose of the Command and General Staff College Advisory Committee is to advise the Commandant and Faculty of the Command and General Staff College on ways to improve the CGSC educational program, especially its Masters Degree program. The Congress, in its passage of Pub. L. 93-365, authorized the Command and General Staff College to award the degree, Master of Military Art and Science, "Under regulations prescribed by the Secretary of the Army, and with the approval of a nationally recognized civilian accrediting association approved by the Commissioner of Education, Department of Health, Education and Welfare." One of the prerequisites to attaining affiliate or member status with the North Central Association of Colleges and Schools is to establish a governing board which includes representation reflecting public interest.

There are no existing committees, panels, or staffs within the DOD that will permit the Command and General Staff College to comply with the law. This committee is in the public interest since it permits compliance with Pub. L. 93-365.

The committee will meet at least once a year, at the request of the Commandant, U.S. Army Command and General Staff College, at a time convenient to the majority of the members. The Commandant may request that the committee meet for special purposes, as necessary.

To attain balanced membership, the committee will be composed of nine members selected from the civilian educational community. Four members will be from the North Central Association and one from each of the other five regional accrediting associations, for a total membership of nine. Members will represent both State and private institutions, representing a variety of disciplines (education, political science, mathematics, communications, law and psychology). Members will be selected on the basis of their qualifications for a period of two years with provision for a reappointment of one year should the committee be rechartered beyond the initial life span of two years. No member will serve more than three years.

The Command and General Staff College Advisory Committee will terminate two years from this date unless rechartered for an additional period prior to termination.

The Command and General Staff College will operate in complete accordance with Pub. L. 92-463, the "Federal Advisory Committee Act."

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

[FR Doc.75-19867 Filed 7-30-75;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES V. ORANGE COUNTY TRAVEL AGENTS ASSOCIATION

Written Comments Upon Consent Judgment and Department of Justice Response Thereto

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, the following written comments on the proposed judgment filed with the United States District Court in the Central District of California in Civil Action No. 75-1513-WMB, United States of America v. Orange County Travel Agents Association, were received by the Department of Justice and are published herewith, together with Justice's responses to the comments.

Dated: July 28, 1975.

THOMAS E. KAUPER,
Assistant Attorney General, Antitrust Division.

Please refer to: 60-409-10
ARTHUR W. GRAY, Jr., Esq.
Garden & Gray
Center Law Building
914 W. Lincoln Avenue
Anaheim, California 92805
Re: United States v. Orange County Travel Agents Association Civil No. 75-1513-WMB

JULY 2, 1975.

DEAR MR. GRAY:

This is in reference to your letter of June 30, 1975 commenting upon the Competitive Impact Statement filed at the time the proposed decree for settling the above-styled case was lodged with the Court. You state, however, that ". . . you are not asking that any one back up and redraft the documents."

Because you are not asking a change, there appears to be no need to expand the file of this case by commenting on your comments.

Your letter and this answer will be called to the attention of the Court and published in the Federal Register.

Sincerely yours,

THOMAS E. KAUPER,
Assistant Attorney General, Antitrust Division.

By: Raymond P. Hernacki,
Assistant Chief, Los Angeles Office.

RAYMOND P. HERNACKI,
Assistant Chief, Los Angeles Field Office, U.S. Department of Justice, Antitrust Division, 1444 United States Court House, 312 North Spring Street, Los Angeles, Calif. 90012
Re: United States vs. Orange County Travel Agents Association, Your No. 60-409-10

JUNE 30, 1975.

DEAR MR. HERNACKI:

Your records will show that this office has represented and continues to represent the Orange County Travel Agents Association, defendants in the above-captioned matter.

The members of the association have had circulated the Federal Register of Wednesday, May 14, 1975, in which the proposed consent judgment and competitive impact statement was published. They have asked that I send this letter, with the following comments:

The statement: "Over eighty percent of the income of most travel agents is derived from these commissions," contained under paragraph II, entitled "Description of Industry and Defendant and Nature of the Proceedings," is true, but false in its implication. Implied in the statement is that the other 20 percent of the income to the travel agents comes from other sources. The truth of the matter is that approximately 99% of the income of travel agents is derived from "commissions paid by the carrier or supplier." In other words, your statement would have been correct had it said "over 10 percent of the income" which would also have carried an improper implication. It has been our contention right along that the amount involved in the fee schedule objected to by the Department of Justice never amounted to even as much as 1 percent of the income of the travel agents involved.

In the same portion of the consent decree, the following sentence appears:

"Thereafter, the Association also attempted to *induce* other travel agents in Orange County to adopt the fee schedule." (emphasis added). The Association never attempted to "induce" anyone to do anything. It was a voluntary group of relatively small agencies working together to police and improve the standards of the industry. The word "induce" carried an implication of some kind of economic "clout." This kind of pressure neither existed nor was used.

Because of the tremendous amount of time and money which has been spent by the United States Government on this relatively insignificant case, we are not asking that anyone back up and redraft the documents.

We did, however, want these comments on record.

Respectfully submitted,
CARDEN & GRAY
ARTHUR & GRAY, JR.

AWG:vmd
cc: Jonathan C. Gordon, Attorney
United States Department of Justice
Antitrust Division
1444 United States Court House
312 North Spring Street
Los Angeles, California 90012

Gerald Grotle
World Travel Bureau
P.O. Box 4229
Anaheim, California 92803

Please refer to: 60-409-10

DONALD R. HART, JR.,
Holiday Travel Bureau, Inc.,
272 Main Street,
New Britain, Conn. 06051

Re: United States v. Orange County Travel Agents Association, Civil No. 75-1513-WMB (C.D. Calif.)

JUNE 18, 1975.

DEAR MR. HART:

This is to acknowledge receipt of your letter of June 4, 1975 addressed to the Los Angeles Field Office of the Antitrust Division, and commenting on the proposed judgment settling the above case.

It is noted that you state numerous services are performed by travel agents for their clients for which no commission is paid, and express the opinion that travel agents should be permitted to agree upon uniform charges for these services.

During the course of our investigation which resulted in the present case, this same position was urged on us and rejected, because under the antitrust laws agreements among competitors to establish uniform charges for services, such as travel agents perform, are considered to be an illegal restraint upon trade.

Your letter will be called to the attention of the Court along with this reply.

Sincerely yours,

THOMAS E. KAUPER,
Assistant Attorney General,
Antitrust Division.

By: RAYMOND P. HERNACKI
Assistant Chief,
Los Angeles Office.

MR. RAYMOND P. HERNACKI,
Assistant Chief, Antitrust Division, Department of Justice, 1444 U.S. Court House, 213 North Spring Street, Los Angeles, Calif. 90012.

Re: Proposed judgment re Orange County Travel Agents Assn.—Service Charges

JUNE 4, 1975.

DEAR MR. HERNACKI:

Reference is made to Page 2 of THE TRAVEL AGENT of June 2, 1975 in which it is stated that comments are invited from travel agents with reference as to whether or not an association may fix agreed-upon service charges, or whether such is to be considered "in restraint of trade." I am happy that agents are given a chance to comment.

Not more than three or four years ago I tried to get the Hartford area ASTA agents, and prior to that the Connecticut Chapter of ASTA, to agree on a series of uniform service charges, as it seemed at that time, and seems equally so today, that only by establishing uniform rules can agents have enough clout to plug up the expensive loopholes in this business, where untold amounts of money are lost each year through such things as cancellations, time spent on bookings without compensation, and so on. I cannot personally see how it can be considered in restraint of trade for agents to have uniform service charges which they may impose. Such charges may, and probably should, be excluded, of course, from areas where commissions are paid, such as air, sea, rail, and package bookings, to mention only a few.

But there are various areas where service charges must and should be agreed upon by all concerned, and imposed: changes in air and other routings, once made; cancellations of any sort; booking hotels which do not pay commissions; making land arrangements for persons participating in affinity charters; booking any transportation where a commission may not be payable; and so forth.

The travel agent is not in business to lose money, but it often appears so: being allowed to make service charges in agreement with his colleagues would not be a way of making money in any positive sense, of course, but would be a way of stopping the drain on resources and time, and I feel, is completely justified. I hope this judgment will be vacated.

Yours very sincerely,

DONALD R. HART JR., *CTC.*

Please refer to: 60-409-10

MR. RONALD A. SANTANA,
Executive Vice President,
Association of Retail Travel Agents,
8 Maple Street,
Croton-on-Hudson, N.Y. 10520

Re: Orange County Travel Agents Association, Civil 75-1513-WMB

JUNE 10, 1975.

DEAR MR. SANTANA:

Pursuant to your written request of June 3, 1975, there is enclosed a copy of the proposed Final Judgment, Competitive Impact Statement and Complaint in the above case.

Sincerely yours,

THOMAS E. KAUPER,
Assistant Attorney General,
Antitrust Division.

By: JONATHAN C. GORDON,
Attorney, Los Angeles Office.

JUNE 3, 1975.

MR. RAYMOND P. HERNACKI, ESQ.,
Antitrust Division, Department of Justice, 1444 U.S. Court House, 213 North Spring Street, Los Angeles, Calif. 90012

DEAR MR. HERNACKI:

We understand, from an article in the Travel Agent Magazine, that you have invited comments relative to the proposed judgement agreed upon by the Department of Justice and the Orange County Travel Agents Association.

Kindly forward to this office a copy of all pertinent information, so that we may intelligently review same and consider filing comments.

Thank you for your cooperation.

Sincerely,

RONALD A. SANTANA,
Executive Vice President.

[FR Doc.75-19877 Filed 7-30-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

OTTAWA TRIBE OF OKLAHOMA

Plan for the Use and Distribution of Ottawa Judgment Funds

JULY 17, 1975.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated by the Act of January 3, 1974, 87 Stat. 1071, in satisfaction of an award granted to the Ottawa Tribe of Oklahoma in Indian Claims Commission Dockets 304 and 305. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated March 26, 1975, and was received (as recorded in the Congressional Record) by the House of Representatives on April 7, 1975, and by the Senate on April 8, 1975. Neither House of Congress having adopted a resolution disapproving it, the plan became effective on June 17, 1975, as provided by section 5 of the 1973 Act, *supra.*

The Plan reads as follows:

The funds appropriated by the Act of January 3, 1974 (87 Stat. 1071), in satisfaction of awards made to the Ottawa Tribe of Oklahoma in Dockets 304 and 305, before the Indian Claims Commission, including all interest accrued, less attorney fees and litigation expenses, shall be used and distributed as herein provided:

The Secretary of the Interior shall make a per capita distribution of the judgment fund principal and its accrued interest, in shares as equal as possible, to persons whose names appear on the roll of the Ottawa Tribe of Oklahoma, prepared pursuant to the Act of August 3, 1956 (70 Stat. 963).

The per capita share of a living competent adult shall be paid directly to him. The share of a deceased Ottawa final enrollee shall be payable to his heirs or legatees upon proof of death and inheritance satisfactory to the Secretary, whose findings upon such proof shall be final and conclusive. The per capita share of a legal incompetent, whether a living Ottawa final enrollee or an heir or legatee of a deceased final enrollee, shall be paid to the incompetent's legal representative for the incompetent's use. The share of a minor shall be paid to his parents or other guardian for the minor's support, education, health, or welfare, or directly to the minor, upon such conditions as the Secretary or his authorized representative may prescribe.

Any per capita shares unclaimed for a period of two years from the date of the administrative directive to make the payment herein provided for shall be made available to the Ottawa Indian Tribe of Oklahoma, incorporated under the laws of the State of Oklahoma, and shall be used for purposes set forth in its articles of incorporation, filed July 14, 1959.

Claims by living Ottawa final enrollees for their per capita shares and proofs of death and inheritance with respect to deceased Ottawa final enrollees or enrollees shall be filed with the Muskogee Area Office, Bureau of Indian Affairs, Muskogee, Oklahoma, in the manner and within the time limits to be prescribed

for those purposes in regulations to be issued by the Secretary of the Interior and published in the FEDERAL REGISTER."

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.75-19844 Filed 7-30-75;8:45 am]

RECORDS FOR MENOMINEE TRUST AND/OR RESTRICTED INDIAN LANDS

Designation of Office of Record

JULY 16, 1975.

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

Notice is hereby given that, effective upon July 31, 1975, the Aberdeen Title Plant, Bureau of Indian Affairs, 115 4th Avenue, SE., Aberdeen, South Dakota 57401, is the Office of Record for the recording and maintenance of the title documents for all restricted and/or trust lands of the Menominee Tribe of Wisconsin within and adjacent to the reservation.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.75-19843 Filed 7-30-75;8:45 am]

Bureau of Land Management

[NM 26128, 26142]

NEW MEXICO

Applications

JULY 23, 1975.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for one 6 inch and one 4 inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 17 S., R. 29 E.,
Sec. 15, NW¼SE¼;
Sec. 29, N½NE¼, SE¼NE¼ and NE¼SE¼.

These pipelines will convey natural gas across .88 mile of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

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

[FR Doc.75-19901 Filed 7-30-75;8:45 am]

[NM 25947]

NEW MEXICO

Application

JULY 23, 1975.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gas Company has applied for one 4 inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 9 W.,
Sec. 14, Lots 3, 6 and 7.

This pipeline will convey natural gas across .379 miles of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

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

[FR Doc.75-19902 Filed 7-30-75;8:45 am]

[NM 26134, 26135, 26145]

NEW MEXICO

Applications

JULY 23, 1975.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gas Company has applied for four 4 inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 26 E.,
Sec. 2, Lots 4, 5, 12 and 13;
Sec. 3, Lots 9, 10 and 11.
T. 21 S., R. 27 E.,
Sec. 2, Lot 13.
T. 17 S., R. 29 E.,
Sec. 29, NE¼SE¼.

These pipelines will convey natural gas across 1.619 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 13971 Roswell, NM 88201.

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

[FR Doc.75-19903 Filed 7-30-75;8:45 am]

[NM 26147, 26150, 26151]

NEW MEXICO

Applications

JULY 25, 1975.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gas Company has applied for one 20 inch, one 2 inch and one 4 inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 6 W.,
Sec. 1, W½SE¼;
Sec. 21, NE¼NE¼.
T. 23 N., R. 9 W.,
Sec. 3, N½SW¼, SE¼SW¼ and SW¼SE¼;
Sec. 10, NW¼NE¼.
T. 24 N., R. 9W.,
Sec. 6, Lot 2, S½NE¼, N½SE¼ and SE¼SE¼;
Sec. 7, E½NE¼ and NE¼SE¼;
Sec. 17, W½NW¼, N½SW¼ and SE¼SW¼;
Sec. 20, E½NW¼, NE¼SW¼ and W½SE¼;
Sec. 29, W½NE¼, SE¼NE¼ and E½SE¼;
Sec. 32, NE¼NE¼;
Sec. 33, W½NW¼, N½SW¼, SE¼SW¼ and SW¼SE¼.
T. 25 N., R. 9 W.,
Sec. 31, SW¼SE¼.

These pipelines will convey natural gas across 7.402 miles of national resource lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

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

[FR Doc.75-19904 Filed 7-30-75;8:45 am]

[NM 26152]

NEW MEXICO

Application

JULY 25, 1975.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Phillips Petroleum Company has applied for one 3½ inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 16 S., R. 31 E.,
Sec. 20, E½NE¼ and N½SE¼;
Sec. 21, NW¼NW¼.

This pipeline will convey natural gas across .717 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with considerations of whether

the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

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

[FR Doc.75-19905 Filed 7-30-75;8:45 am]

[Wyoming 51719]

WYOMING

Application

JULY 24, 1975.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Colorado Interstate Corporation has applied for a natural gas pipeline right-of-way across the following lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 98 W.,
Sec. 2, lot 5.

The pipeline will convey natural gas from the Texaco, Inc. Table Rock Unit No. 19 well in sec. 35, T. 19 N., R. 98 W., to the applicant's existing pipeline in sec. 1, T. 18 N., R. 98 W., 6th Principal Meridian, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901.

PHILIP C. HAMILTON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-19906 Filed 7-30-75;8:45 am]

UTAH

Modification of Administrative District Office Boundaries, Jurisdictions, and Grazing Districts

Pursuant to the authority vested in the Secretary of the Interior, as delegated to the Director, Bureau of Land Management by 235 DM 1.1, and as redelegated to State Directors, the following modifications of administrative and grazing district boundaries and jurisdictions in Utah are announced. These changes become effective August 1, 1975. This order is applicable to all Federal lands in Utah not withdrawn for and administered by other Federal agencies. Also included in the areas under Bureau of Land Management jurisdiction are those lands and resources withdrawn by other Federal agencies, but which by law or interagency agreement are administered by the Bureau of Land Management.

The existing districts are hereby realigned to form five districts with offices and boundaries as follows:

1. The administrative boundaries of the existing Salt Lake District, with headquarters located in Salt Lake City, are modified to encompass the total areas of Box Elder, Cache, Rich, Weber, Morgan, Wasatch, Summit, Tooele, Salt Lake, and Utah Counties. The district is comprised of the Bonneville and Wasatch Resource Areas with their headquarters in Salt Lake City.

Grazing Districts Number 1 and 2 are hereby modified and consolidated into one grazing district, comprised of the counties identified above in the preceding paragraph, and designated as the Salt Lake Grazing District.

2. The administrative boundaries of the existing Vernal District, with headquarters located in Vernal, are modified to encompass the total areas of Daggett, Duchesne, and Uintah Counties. This district is comprised of the Diamond Mountain and Bookcliffs Resource Areas with their headquarters in Vernal.

Grazing District Number 8 is modified to encompass the counties identified in the preceding paragraph and is designated as the Vernal Grazing District.

3. The existing Fillmore and Richfield Districts are consolidated, modified, and designated as the Richfield District, with headquarters located in Richfield. The district administrative boundaries encompass Juab, San Pete, Millard, Sevier, Piute, and Wayne Counties and that portion of Garfield County east of the Capitol Reef National Park boundary. The district is comprised of the House Range and Warm Springs Resource Areas headquartered in Fillmore, the Sevier River Resource Area headquartered in Richfield, and the Henry Mountain Resource Area headquartered in Hanksville.

Grazing Districts Number 3, 5, and 10 are modified and consolidated into one grazing district comprised of the counties identified above in the preceding paragraph, and designated as the Richfield Grazing District.

4. The existing Price and Monticello Districts are consolidated, modified, and designated as the Moab District, with headquarters located in Moab. The district administrative boundaries encompass Carbon, Emery, Grand, and San Juan Counties. The district is comprised of the Price River and San Rafael Resource Areas headquartered in Price, the Grand Resource Area headquartered in Moab, and the Canyon and San Juan Resource Areas headquartered in Monticello.

Grazing Districts Number 6, 7, and 9 are modified and consolidated into one grazing district comprised of the counties identified above in the preceding paragraph, and designated as the Moab Grazing District.

5. The existing Kanab and Cedar City Districts are consolidated, modified, and designated as the Cedar City District, with headquarters in Cedar City. The district administrative boundaries encompass Beaver, Iron, Washington, and Kane Counties and that portion of Garfield County west of the Capitol Reef National Park boundary. The district is comprised of the Escalante Desert Resource Area headquartered in Cedar City, the Dixie Resource Area headquartered in St. George, the Vermilion and Paria Resource Areas headquartered in Kanab, and the Escalante River Resource Area headquartered in Escalante.

Grazing Districts Number 4 and 11 are modified and consolidated into one grazing district comprised of the counties identified above in the preceding paragraph, and designated as the Cedar City Grazing District.

Dated: July 15, 1975.

PAUL L. HOWARD,
State Director.

Approved:
CURT BERKLUND,
Director,
Bureau of Land Management.

JULY 28, 1975.

[FR Doc.75-19881 Filed 7-30-75;8:45 am]

Geological Survey

BREITENBUSH HOT SPRINGS, OREGON

Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby defined as an addition to the Breitenbush Hot Springs known geothermal resources area, effective March 1, 1974:

(37) OREGON

BREITENBUSH HOT SPRINGS KNOWN GEOTHERMAL RESOURCES AREA

WILLAMETTE MERIDIAN, OREGON

T. 8 S., R. 7 E.
Secs. 14 and 23, unsurveyed
T. 9 S., R. 7 E.
Secs. 2, 11, 14, 27 and 36, unsurveyed

The area described aggregates 4,485.00 acres, more or less.

Dated: June 12, 1975.

WILLARD C. GERE,
Conservation Manager,
Western Region.

[FR Doc.75-19849 Filed 7-30-75;8:45 am]

National Park Service

[Order No. 87, Amdt. 1]

CHIEF, DIVISION OF CONTRACTING AND PROPERTY MANAGEMENT, ET AL.

Delegation of Authority

Order No. 87 published in the FEDERAL REGISTER March 6, 1975 (40 FR 10495) is amended to change Section 2 to read as follows:

Section 2. Chief, Branch of General Services, and Purchasing Agent. The Chief, Branch of General Services, and the Purchasing Agent may issue purchase orders not in excess of $10,000 for supplies, equipment, or services in con-

formity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

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

Dated: July 14, 1975.

GARY EVERHARDT,
Director, National Park Service.

[FR Doc.75-19875 Filed 7-30-75;8:45 am]

Office of the Secretary

[Int FES 75-63]

PROPOSED WILDERNESS, DINOSAUR NATIONAL MONUMENT, UTAH-COLORADO

Availability of Final Environmental Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act, the Department of the Interior has prepared a final environmental statement for proposed wilderness designation of a portion of Dinosaur National Monument.

The environmental statement considers the establishment of wilderness comprising 165,341 acres in Dinosaur National Monument. In addition to this acreage, 10,274 acres of potential wilderness additions are recommended for inclusion as wilderness when they qualify for consideration.

Copies are available from or for inspection at the following locations:

Rocky Mountain Regional Office
National Park Service
655 Parfet Street
Lakewood, Colorado 80225.

Utah State Office
National Park Service
125 South State Street
Salt Lake City, Utah 84111

Superintendent
Dinosaur National Monument
P.O. Box 210
Dinosaur, Colorado 81610

Dated: July 22, 1975.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.75-19827 Filed 7-30-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

BEAVER CREEK UNIT PLAN

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Beaver Creek Unit Plan, Daniel Boone National Forest, Winchester, KY, USDA-FS-R8-FES (ADM.) 75-1.

The action described is the 10-year management of the Beaver Creek Unit, Somerset Ranger District, located in McCreary and Pulaski Counties, KY. This unit contains 16,474 acres of National Forest land. About 5,000 acres lying below the cliffs was designated a Wilderness Area by the Eastern Wilderness Areas Act of 1974. The remaining 11,474 acres above the cliffs will be managed for the full range of multiple-use benefits, including outdoor recreation, timber, water and wildlife.

This final environmental statement was transmitted to CEQ July 24, 1975. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Rm. 3230, 12th St. & Independence Ave., SW, Washington, DC 20250
USDA, Forest Service, 1720 Peachtree Rd., NW, Rm. 804, Atlanta, GA 30309
Somerset Ranger District, Hwy. 27, Rt. 2, Box 507, Somerset, KY 42501

A limited number of single copies are available upon request to Forest Supervisor Richard Wengert, Daniel Boone National Forest, 100 Vaught Road, Winchester, KY 40391.

THOMAS W. SEARS,
Acting Regional Environmental Coordinator.

JULY 24, 1975.

[FR Doc.75-19895 Filed 7-30-75;8:45 am]

LANDMARK PLANNING UNIT

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Landmark Planning Unit, Boise National Forest, Idaho. The Forest Service report number is USDA-FS-FES (Adm) R4-75-14.

The environmental statement identifies and evaluates the probable effects of the land use plan for the Landmark Planning Unit on the Boise National Forest, Idaho. The purpose of the plan is to allocate National Forest lands within the unit to specific resource uses and activities; establish management objectives; document management direction, management decisions, and necessary coordination between resource uses and activities; and provide for the protection, use, and development of the various resources within the planning unit. The plan provides for minimization of adverse effects and maximization of desirable effects. Significant areas will remain undeveloped with options for future management remaining open.

This final environmental statement was transmitted to CEQ on July 23, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12st St. and Independence Ave., S.W., Washington, D.C. 20250
Regional Planning Office, USDA, Forest Service, Federal Building, Room 4403, 324-25th Street, Ogden, Utah 84401
Forest Supervisor, Boise National Forest, 1075 Park Boulevard, Boise, Idaho 83706
District Forest Ranger, Cascade Ranger District, Cascade, Idaho 83611

A limited number of single copies are available upon request from Forest Supervisor Edward C. Maw, Boise National Forest, 1075 Park Boulevard, Boise, Idaho 83706.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Dated: July 23, 1975.

J. W. MATTSSON,
Acting Director, Regional Planning and Budget.

[FR Doc.75-19896 Filed 7-30-75;8:45 am]

MULTIPLE USE PLAN PETTY MOUNTAIN PLANNING UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Multiple Use Plan Petty Mountain Planning Unit, USDA-FS-R1(16)DES-ADM-76-3.

The environmental statement concerns a proposed action to implement a revised Multiple Use Plan for the Petty Mountain Planning Unit, located on the Missoula and Ninemile Ranger Districts, Lolo National Forest in Missoula County, Montana. The action affects 73,248 acres of National Forest Lands. This plan recommends that 54,436 acres be managed in various combinations for recreation, esthetics, fisheries, wildlife, watershed, timber, and range. An area of 18,812 acres which is to remain un roaded will be managed for recreation, esthetics, wildlife, and watershed.

The primary environmental effects involve the modification of natural conditions on 20,581 acres that are presently roadless or essentially roadless. The major changes will be in the vegetative patterns and tree species resulting from management of the vegetative resources, changes in the availability of products, employment, services provided and changes in the natural condition of vegetation, soil, water, and wildlife.

This draft environmental statement was transmitted to CEQ on July 24, 1975. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW., Washington, D.C. 20250.
USDA, Forest Service, Northern Region, Federal Building, 340 N. Pattee, Missoula, MT 59801.
USDA, Forest Service, Lolo National Forest, Building 24, Fort Missoula, Missoula, MT 59801.
USDA, Forest Service, Ninemile Ranger District, Huson, MT 59846.
USDA, Forest Service, Missoula Ranger District, 2801 Russell Street, Missoula, MT 59801.
University of Montana, University Library, Documents Division, Missoula, Mt 59801.
University of Montana, Forestry School Library, Room 411, Science Complex, Missoula, MT 59801.
Missoula City-County Library, Washington & East Main, Missoula, Mt 59801.
County Extension Services, Missoula County Courthouse, Missoula, MT 59801.

A limited number of single copies are available upon request to Orville L. Daniels, Forest Supervisor, Lolo National Forest, Building 24, Fort Missoula, Missoula, Montana 59801.

Copies of the environmental statement have been sent to various federal, state and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and request for additional information should be addressed to Orville L. Daniels, Forest Supervisor, Lolo National Forest, Building 24, Fort Missoula, Missoula, Montana 59801. Comments must be received by September 23, 1975, in order to be considered in the preparation of the final environment statement.

ORVILLE L. DANIELS,
Forest Supervisor.

JULY 24, 1975.

[FR Doc.75-19834 Filed 7-30-75;8:45 am]

Soil Conservation Service

BOGOTA WATERSHED PROJECT, TENNESSEE

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 Bogota Watershed Project, Dyer and Obion Counties, Tennessee, USDA-SCS-EIS-WS-(ADM)-74-38(F) TN.

The EIS concerns a plan for watershed protection and flood prevention. The planned works of improvement provide for conservation land treatment, 27.7 miles of channel work and 1.5 miles of clearing and debris removal on a previously manmade, ephemeral flowing streams in an area with 80 percent of the land use in cropland.

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, 561 U.S. Courthouse, Nashville, Tennessee 37203.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

JULY 24, 1975.

[FR Doc.75-19835 Filed 7-30-75;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

METHODIST HOSPITALS, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before August 20, 1975.

Amended regulations issued under cited Act, as published in the March 18, 1975 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00586-33-90000. Applicant: Methodist Hospitals, 1265 Union Avenue, Memphis, Tennessee 38104. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used in a research program concerning intracranial calcification and comparison with available skull x-rays. One phase of the study will be to evaluate calcification of the pineal body and choroid plexuses of the lateral ventricles in the younger age groups, particularly below twenty years, so as to see the pattern of the calcification and possible development of such during the youthful years. Another phase of this particular part of the program would be to study the absorption numbers where calcification is not definitely seen in the pineal or choroid, but to see if said absorption numbers exceed the expected values for soft tissue of the brain. Other physiologic calcifications will be studied, such as those within the falx cerebrae, the meninges, the tentorium cerebellae. Abnormal calcifications will be studied as well, for example, in intracranial tumors, inflammatory lesions of the brain, and the patterns and distribution of calcification within the basal ganglia of the brain. In addition, the article will be used for teaching purposes in Residency programs in Radiology, Neurosurgery, Ophthalmology, and Pathology. Application received by Commissioner of Customs: June 26, 1975.

Docket number: 75-00588-00-46040. Applicant: University of Texas Health Science Center at Dallas, Dept. of Pathology, 5323 Harry Hines Boulevard, Dallas, Texas 75235. Article: ASID-4S High Resolution Scanning Device. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is an accessory to an existing electron microscope manufactured by the same manufacturer which will provide a most versatile research microscope with capabilities for scanning transmission and secondary scanning as well as transmission microscopy. The microscope with this accessory will be used in a variety of projects involving normal and diseased tissue specimens. A number of projects involve scanning microscopic study of cell surface alteration of cancer cells and heart muscle cells. The article will also be used for instruction of pathology residents in the latest techniques of electron microscopy. Application received by Commissioner of Customs: June 26, 1975.

Docket number: 75-00589-33-46040. Applicant: Estelle Doheny Eye Foundation, 1355 San Pablo Avenue, Los Angeles 90033. Article: Electron Microscope, EM-10 & Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in the following two separate studies:

(1) An ongoing investigation of the structure and function of retinal neurons—Research directed at elucidation of the process involved in visual photoreception and neural interconnections (which comprises a comprehensive investigation of the retina of the owl monkey), and

(2) Ongoing studies of the pathogenesis of latent and recurrent herpes simplex virus infections of the eye—follow up the progress of the herpes simplex virus ultrastructurally from the onset of stimulation in an attempt to determine how trigeminal stimulation results in active ocular disease.

For educational purposes, the article will be used by residents in ophthalmology and pathology and technical support personnel who have had a previous acquaintance with electron microscopic techniques in visual research. Application received by Commissioner of Customs: June 26, 1975.

Docket number: 75-00590-33-90000. Applicant: St. John's Hospital, 1923 South Utica Avenue, Tulsa, Oklahoma 74104. Article: EMI-Scanner System with Magnetic Tape Storage System. Manufacturer: EMI-Limited, United Kingdom. Intended use of article: The article is intended to be used for computerized axial tomographic diagnostic studies with the following objectives:

(1) Evaluate the diagnostic capabilities of computerized axial tomography with cerebral arteriography, PEG, and Isotope brain scans in pre-senile dimentia.

(2) Evaluate computerized axial tomography in the management of head trauma, to see if cerebral edema can be detected as well as epidural or subdural and intracerebral hematomas.

(3) To evaluate the effects of various contrast medias on computerized axial tomography enhancement.

(4) As a routine screening tool for evaluation of neurological disorders of the brain.

The article will also be invaluable as an aid in the teaching of neurology to medical students as well as interns and residents. Application received by Commissioner of Customs: June 26, 1975.

Docket number: 75-00591-75-42800. Applicant: University of Washington, Nuclear Physics Laboratory, Seattle, Washington 98195. Article: Switching Magnet Model 3455. Manufacturer: Auckland Nuclear Accessory Company Limited, New Zealand. Intended use of article: The article is intended to be used for studies of nuclei of atoms covering mass range from Hydrogen to Uranium. Nuclear forces and the interaction of energetic particles with nuclei are investigated. Experiments include structure of light nuclei, nuclear astrophysics, weak interactions, scattering reactions, polarized beam reactions, gamma-ray reactions, fisson reactions and atomic physics. Application received by Commissioner of Customs: June 26, 1975.

Docket number: 75-00592-33-46500. Applicant: University of Southern California, School of Medicine, 2025 Zonal Avenue, Los Angeles, California 90033. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used primarily for studies of mammalian tissues searching for pathologic abnormalities in biopsy specimens from humans and from experiments involving animals. Specific projects include (1) the influence of air pollutants on the lung, kidney and other organs of animals, (2) lung and breast cancers in humans, with emphasis on factors which reflect intrinsic aggressiveness of cancer and properties of host resistance. Application received by Commissioner of Customs: June 26, 1975.

Docket number: 75-00593-33-07500. Applicant: Wesleyan University Hall Atwater & Shanklin Laboratories, Lawn Avenue, Middleton, Connecticut 06457. Article: Flow Microcalorimeter. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for resarch on the thermodynamics of binding of ligands to proteins and membranes, specifically the binding of substrate analogs and effectors to the enzyme aspartate transcarbamylase, and the binding of metal ions, lectins, prostaglandins, and extrinsic proteins to erythrocyte and platelet membranes. Application received by Commissioner of Customs: June 27, 1975.

Docket number: 75-00594-33-46500. Applicant: Bedford V.A. Hospital, 200 Springs Road, Bedford, MA. 01730. Article: LKB 8800A Ultramicrotome. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the ultrastructural investigation of the synaptic organization of cerebral cortex primarily of monkey, but also of human material procured at autopsy. The properties of the tissue to be investigated include brittle Golgi-treated samples, re-embedded 40 frozen sections; soft poorly perfused human material, which, in the case of pathology, will contain hard plaques. Application received by Commissioner of Customs: June 27, 1975.

Docket number: 75-00595-33-46500. Applicant: Harvard Medical School, 25 Shattuck Street, Boston, Mass. 02115. Article: LKB 8800A Ultrotome III Ultramicrotome. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in ultrastructural investigations involving a variety of biological materials which exhibit normal, pathologic and experimentally altered morphologies and include: pellets of isolated cells, monolayers of cultured cells, individual kidney glomeruli, and specific areas of rat carotid arteries. Glomerular permeability in normal, pathologic, and experimentally manipulated kidneys will be studied by using a wide variety of electron-dense tracers. Monolayers of cultured cells, i.e., cells adhering to a glass or plastic surface, are being examined to elucidate certain properties of some plasma membrane molecules. The endothelium of rat carotid arteries and its regenerative capacity following injury will also be under examination. A study of the sites of synthesis of immunoglobulin (Ig) in the B lymphocyte and the pathway of transport of this Ig to the cell surface is also underway. Application received by Commissioner of Customs: June 27, 1975.

Docket number: 75-00596-33-46500. Applicant: University of Southern California, Department of Anatomy, 2025 Zonal Avenue, Los Angeles, CA 90033. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the investigation of biological specimens from rats and mice to (1) to determine the anatomical distribution of adrenergic nerves in white adipose tissue, (2) to describe the relationship between adrenergic nerves and the microvessels in adipose tissue, (3) to establish the morphological basis for adrenergic stimulation of lipolysis, and (4) to ascertain whether cellular contacts occur between adipocytes. Application received by Commissioner of Customs: June 27, 1975.

Docket number: 75-00597-33-41700. Applicant: Shriners Hospitals for Crippled Children-Burns Institute Cincinnati Unit, 202 Goodman Street, Cincinnati, Ohio 45219. Article: Sharplan 791 Surgical Laser Machine. Manufacturer: Laser Industries Ltd., Israel. Intended use of article: The article is intended to be used in research to evaluate tissue reactions to the 10.6 micron beam both focused and unfocused. These experiments will be used to compare the laser to standard operating room techniques, as the steel scalpel, electric knife, and to newer techniques like the plasma scalpel. The article will also be used to train both surgical residents and faculty in the use of this instrument in the treatment of thermal injuries. Application received by the Commissioner of Customs: June 27, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.75-19831 Filed 7-30-75;8:45 am]

UNIVERSITY OF CALIFORNIA-LOS ALAMOS SCIENTIFIC LABORATORY, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before August 20, 1975.

Amended regulations issued under cited Act, as published in the March 18, 1975 issue of the Federal Register, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00001-75-34060. Applicant: University of California-Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, New Mexico 87544. Article: Ion Sputtering Unit, HVEC Model #DF-9. Manufacturer: Danfysik, Denmark. Intended use of article: The article is intended to be used to produce thin targets of materials for the purpose of the study of their nuclear properties. The article is especially designed to make nuclear targets from material stocks of limited availability. Its high efficiency will enable target preparation from feed materials as little as 1-5 mg whereas previous conventional techniques required a minimum of 50 mg under the best of conditions. Application received by Commissioner of Customs: July 2, 1975.

Docket Number: 76-00002-75-65600. Applicant: University of California-Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, New Mexico 87544. Article: High Voltage Power Supply and Ion Source Terminal. Manufacturer: Emile Haefely & Co. Ltd., Switzerland. Intended use of article: The foreign article is intended to be used as a source for the pre-injector of a large particle accelerator. Application received by Commissioner of Customs: July 2, 1975.

Docket number: 76-00003-00-00500. Applicant: University of Rochester, Nu-

clear Structure Research Laboratory, 271 East River Road, Rochester, New York 14627. Article: Rebuilt Accelerator Tube. Manufacturer: Dowlish Developments, United Kingdom. Intended use of Article: The article is an essential component to an existing Van de Graaff accelerator which is being used in a variety of nuclear studies. Application received by Commissioner of Customs: July 2, 1975.

Docket number: 76-00004-33-90000. Applicant: Wesley Medical Center, 550 North Hillside, Wichita, Kansas 67214. Article: EMI-Scanner System with Magnetic Tape System. Manufacturer: EMI-Limited, United Kingdom. Intended use of article: The article is intended to be used for research in brain tissue abnormalities either symptomatically or asymptomatically and for educational use in teaching raidology residents as well as entire house staff. The article will also be used in educating other students such as student nurses, students in x-ray technology and students in laboratory technology, etc. Application received by Commissioner of Customs: July 2, 1975.

Docket number: 76-00005-33-90000. Applicant: University of Michigan, 1405 E. Ann Street, Ann Arbor, Michigan 48104. Article: EMI Scanner System with Magnetic Tape Storage System. Manufacturer: E.M.I. Limited, United Kingdom. Intended use of article: The article is intended to be used for studies of materials which include the clinical and pathologic manifestations of intracranial abnormalities, the results of their study by all methods and the evaluation of the improvement in detection of these abnormalities by newer methods, including the EMI Scanner. The article will also be used in educational programs to emphasize the normal anatomic relationships which the students are discovering in their dissection on cadavars in the course Gross Anatomy. In addition, the article will be used in the courses Neural and Behavioral Science and Neuroradiology. Application received by Commissioner of Customs: July 2, 1975.

Docket number: 76-00026-01-77030. Applicant: University of Florida, Gainesville, Florida 32611. Article: Nuclear Magnetic Resonance Spectrometer, Model JNM-C-60-HL. Manufacturer: JEOL, Japan. Intended use of article: The article is intended to be used by staff members and students for studies of biological materials such as lipids, proteins, hormones, vitamins, and membranes, as well as engineering materials such as asphalt, crude oils, surfactants, pigments, and various colloids by means of nuclear magnetic resonance spectroscopy. The following are the major projects which will be carried out with the article:

(a) The structure of water in microemulsions.

(b) The mechanism of phase inversion of micro- and macro-emulsions.

(c) Molecular motions in liquid-crystalline structures.

(d) The equilibrium rate of exchange of molecules at the air-liquid interface.

(e) Micelle formation and solubilization in surfactant solutions.

(f) Molecular interactions in biological membranes.

(g) The structure of adsorbed phases as solids.

(h) The structure of fluid mixtures and electrolyte solutions.

(i) NMR spectroscopy for fluorocarbon studies.

(j) Application for NMR spectroscopy in asphalt research.

(k) Mechanism, reactions, and activity of thiolsulfonates and disulfides.

(l) Synthesis of new polymers for use in extreme environments.

(m) Donor-acceptor complexes of fluorine compounds.

(n) Nonclassical aromaticity in hydrogen-bonded systems.

(o) The effect of metal ions on unsaturated hydrocarbons in relation to boundary lubrication.

(p) Interaction of oxygen with fluorocarbons.

(q) NMR spectroscopic studies of polymeric fluids.

In addition, the article will be used for teaching and training of graduate students in Chemistry. Application received by Commissioner of Customs: July 10, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.75-19832 Filed 7-30-75;8:45 am]

UNIVERSITY OF PENNSYLVANIA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq. 15 CFR 701, 1974.)

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 75-00200-99-46040. Applicant: University of Pennsylvania, School of Veterinary Medicine, 3800 Spruce Street, Philadelphia, Pa. 19174. Article: Electron Microscope, Model EM 9S-2 complete with spare parts. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in the following courses: 5001 Pathology, 5401 *Small Animal Pathology*, 5999 *Independent Study and Research—Pathology* and 606 *Veterinary Pathology*. The article will be used for conventional training enabling students to learn and understand the techniques, and value of electron microscopy. Each student will be made familiar with the operation of the electron microscope.

Comments: Comments with respect to this application were received on December 20, 1974 from Adam David Company (AD). AD simply states: We believe the EMU4 and PA1 are suitable for this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (March 27, 1974). REASONS: The applicant requires an electron microscope which is suitable in teaching undergraduate pathology to upwards of 100 students. The foreign article is a relatively simple, easy to operate, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. It provides 7 Angstroms point to point resolution, an accelerating voltage of 60 kilovolts (KV), and low distortion magnifications at 140-60,000X. Magnifications of 140 to 1000X are within the normal, light microscopic range. Thus the article covers the range of light and electron microscopy. Domestic instruments available at the time the article was ordered were AD's Model EMU-4C, a more complex instrument (designed for the use of an experienced operator) which provides low distortion magnification at 500X and higher; and the Elektros Incorporated, Model ETEM-101, a relatively simple, low resolution instrument which provides a direct magnification range between 600X and 38,000X. The Department of Health, Education and Welfare (HEW) advises in its memorandum dated February 21, 1975 that the applicant's description of the teaching purposes for which the article will be used is given in adequate detail to establish pertinent characteristics of the article. Specifically, HEW advises: "* * * The transition from structural details as studied by light microscopy to beginning aspects of electron microscopy will need the best low magnification capabilities available, as well as, simplicity and ease of operation. * * *" HEW also advised that the ETEM-101 did not have equivalent low magnification and that AD's Model PA-1 was in a development stage at the time the article was ordered. In this regard, it is noted that a prototype of the PA-1 was first shown by AD in November, 1974. Neither the Department of Commerce nor its consultants have been able to determine or verify the capabilities of the PA-1 as of the date of this decision. Thus, the Department does not have a sufficient basis for ruling that AD was able to supply the PA-1 within a normal delivery time at the time the foreign article was ordered.

The applicant's claim of availability of excellent service from the supplier of the foreign article did not enter into the Department's decision concerning this application. Service on electron microscopes is considered a cost related item and not a justification for duty-free entry under Pub. L. 89-651.

We, therefore, find that neither the Model EMU-4C nor the Model ETEM-101 was of equivalent scientific value to the

foreign article for such purposes as the article is intended to be used at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.75-19830 Filed 7-30-75;8:45 am]

National Bureau of Standards

FEDERAL INFORMATION PROCESSING STANDARDS COORDINATING AND ADVISORY COMMITTEE

Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. III, 1973), notice is hereby given that the Federal Information Processing Standards Coordinating and Advisory Committee (FIPSCAC) will hold a meeting from 9:00 a.m. to 1:00 p.m. on Wednesday, September 17, 1975, in Room B255, Building 225, of the National Bureau of Standards, in Gaithersburg, Maryland.

The purpose of the meeting is to review the actions of the Federal Information Processing Standards (FIPS) Task Groups and to consider other matters relating to Federal Information Processing Standards.

The public will be permitted to attend, to file written statements, and, to the extent time permits, to present oral statements. Persons planning to attend should notify Robert E. Rountree, Jr., Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234 (phone 301-921-3157).

Dated: July 25, 1975.

JOHN D. HOFFMAN,
Acting Director.

[FR Doc.75-19883 Filed 7-30-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Poll of Physicians in Area XII of the State of Florida

On May 14, 1975 the Secretary of the Department of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Dade-Monroe Professional Standards Review Organization, Inc. designating it as the Professional Standards Review Organization for PSRO Area XII, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.12.

Such notice was also published in three consecutive issues of the *Miami Herald, Homestead South Dade News-Leader,* and the *Miami Beach Sun-Reporter* on May 14, 15, and 16, 1975. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area XII of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area XII who objects to the Secretary entering into an agreement with the Dade-Monroe Professional Standards Review Organization, Inc. on the grounds that such organization is not representative of doctors in PSRO Area XII, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022, on or before June 6, 1975.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area XII, the Secretary has determined, pursuant to 42 CFR 101.105, that more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area XII have expressed timely objection to entering into an agreement with the Dade-Monroe Professional Standards Review Organization, Inc.

Therefore, on July 28, 1975 the Secretary will, in accordance with 42 CFR 101.106, begin to conduct a poll of all doctors of medicine or osteopathy who are engaged in active practice in PSRO Area XII to determine whether the Dade-Monroe Professional Standards Review Organization, Inc. is representative of such doctors in the area.

Each such doctor will receive a ballot on which he shall indicate whether in his opinion the Dade-Monroe Professional Standards Review Organization, Inc. is or is not representative of the doctors of medicine or osteopathy engaged in active practice in PSRO Area XII. Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area XII who has not received a ballot by August 4, 1975 may request in writing a ballot by August 11, 1975 from the Secretary of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. Only those ballots postmarked no later than August 27, 1975 and returned in the stamped self-addressed envelope provided to each individual doctor will be considered valid.

Dated: July 21, 1975.

JOHN E. MARSHALL,
Acting Administrator, Health Services Administration.

[FR Doc.75-19897 Filed 7-30-75;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Meeting

Notice of Public Meeting of the National Advisory Council on Vocational Education previously published stated that the meeting would be held on August 9, 1975. Correction:

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the National Advisory Council on Vocational Education will be held on August 8, 1975, from 3 p.m. to 6:30 p.m., local time, and on August 9, 1975, from 9 a.m. to 5 p.m., local time, at the Hyatt Regency House, Chicago, Illinois.

The proposed agenda shall remain as published.

Signed at Washington, D.C. on July 25, 1975.

REGINALD PETTY,
Acting Executive Director.

[FR Doc.75-19865 Filed 7-30-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

BAYONNE BRIDGE, ET AL.

Order Prescribing Informal Conference

The Federal Highway Administrator (hereinafter referred to as the Administrator) has received 14 complaints filed pursuant to the Bridge Toll Procedural Rules, Part 310 of 49 CFR, alleging that increased tolls effective May 5, 1975, for the Bayonne Bridge, George Washington Bridge, Goethals Bridge and Outerbridge Crossing (hereinafter referred to as the Bridges) owned and operated by the Port Authority of New York and New Jersey (hereinafter referred to as the Authority) are unreasonable and unjust in violation of section 4 of the Bridge Act of 1906, 33 U.S.C. 494. The Authority has responded to the complaints and the Administrator through his staff representatives has conducted the investigation provided for in 49 CFR 310.5. A copy of the investigation report is attached to this order and made a part thereof.

The Administrator tentatively finds from his review of the complaints and the staff investigation that there are insufficient grounds for initiating formal adjudication and the holding of public hearings. In lieu of public hearings the Administrator invites the parties of record in this proceeding, pursuant to the informal conference procedure provided in 49 C.F.R. 310.6, to an informal conference for the purpose of resolving the issues without the necessity of further proceedings.

Accordingly, an informal conference will be held on Monday, August 25, 1975, in Room 305 Center at 26 Federal Plaza, New York, New York. The informal conference will commence at 10 a.m. Est. Mr. David E. Wells, Chief Counsel of the Federal Highway Administration, will preside for the Administrator. The informal conference will be open to the

public, but only parties of record who have filed a formal complaint pursuant to the procedural rules in Part 310 of 49 CFR will be allowed to participate in the discussions. Federal, State, and municipal governmental agencies are invited to formally intervene and have their representatives attend and participate in the conference. Formal petitions of intervention will not be accepted after the close of business August 22, 1975. Such petitions should be mailed to the Office of the Chief Counsel, Federal Highway Administration, 400-7th Street, SW., Room 4226, Washington, D.C. 20590.

Complainants are requested to bring to the conference for submission to the Federal Highway Administration's staff investigators any documentary evidence they may have bearing on the issues in this proceeding. Written statements by experts and consultants will be accepted. Memoranda of law or briefs will also be accepted. The respondent Authority is requested to bring one copy for each party of record of the written material furnished to FHWA's staff investigators and any other written material it may have bearing on the issues in this proceeding.

FHWA's staff investigating team has been directed to prepare a supplemental staff investigation report based on information produced by the informal conference. After the receipt of this report and review of the investigation file, a final order with respect to whether this matter will be set down for public hearing will be issued.

Issued in Washington, D.C., this 25th day of July 1975.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.75-19833 Filed 7-30-75;8:45 am]

Federal Highway Administration
National Highway Traffic Safety Administration

[Docket No. 75-20; Notice 1]

CALIFORNIA

Initiation of Sanctions Proceedings

Notice is hereby given that it has been decided that there are sufficient grounds for initiating proceedings to determine whether to invoke highway safety program sanctions specified in 23 U.S.C. 402 against the State of California, in accordance with the procedures of 23 CFR Part 1206.

The decision to initiate proceedings is made in accordance with internal Departmental procedures. Under these procedures, if the Administrator of the Federal Highway Administration or the National Highway Traffic Safety Administration finds a situation, relating to one of the standards he administers, that appears to warrant initiation of sanction proceedings, he notifies the other Administrator. If the other Administrator does not concur in the proposal to initiate proceedings, the matter is resolved by the Deputy Secretary. If the Deputy Secretary determines that proceedings should be initiated, both Administrators sign and issue a proposed recommended determination.

Procedures governing the imposition of such sanctions were published on May 31, 1974, as Part 1206 in Title 23, Code of Federal Regulations (39 FR 19205). Section 1206.5 of that Part requires the Administrators to notify the Governor of the affected State that they have initiated this action and to publish a notice to that effect in the FEDERAL REGISTER. The Governor of California was duly notified by certified letter of July 28, 1975, and this notice constitutes the required public notification.

The basis for the proposed action is the failure of California to enact a helmet law for motorcycle drivers and passengers, as required by Highway Safety Program Standard No. 3, *Motorcycle Safety*, 23 CFR 1204.4.

The rapid growth in motorcycle ownership and use in recent years has been accompanied by an increase in the number of injuries among motorcyclists. The use of protective helmets has been found to be the most effective means of reducing fatal and near-fatal head injuries. The helmet's effectiveness makes State compliance with the requirements of Standard No. 3 a matter of particular urgency.

A State that lacks an approved program faces sanctions under the Highway Safety Act. Section 402(c) of Title 23 provides that highway safety funds shall not be apportioned under Section 402 to any State that is not implementing an approved highway safety program and that Federal-aid highway funds apportioned under 23 U.S.C. 104 to such a State shall be reduced by 10 percent until the State has and implements an approved program, unless the Secretary finds it to be in the public interest not to reduce the apportionment. The rules of procedure (23 CFR 1206.4(b)(2)) provide that, if the Secretary finds that a State has failed to comply with Federal law or regulation respecting its safety program or has failed to implement a program approved by him, he may withhold payment to the State on account of (i) the State's current annual highway safety work program, with respect to obligations incurred after the date of the Secretary's determination or a date established in such determination, whichever is later, and (ii) the State's subsequent annual highway safety work programs, and may also withhold approval of further highway safety programs of the State, until the State complies or takes remedial action to the satisfaction of the Secretary, as appropriate.

In accordance with the rules of procedure (23 CFR 1206.6), a public hearing will be held to provide California and all interested persons an opportunity to air their views fully on whether the sanctions should be invoked. The hearing will be held at the Department of Transportation Headquarters Building, Room 4234, 400 Seventh Street, SW., Washington, D.C. 20590, at 10:00 a.m. on September 11, 1975.

Written comments should be submitted to the Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590, not later than 10 days following the close of the hearing. Persons who intend to make oral statements at the hearing should submit their request, together with an estimate of the time required, to the Presiding Officer, Sanctions Hearing Board, Room 5219, 400 Seventh Street, SW., Washington, D.C. 20590, not later than 5 days before the hearing date.

(Sec. 101, Pub. L. 89-564, 80 Stat. 731; 23 U.S.C. 402).

Issued on July 28, 1975.

JAMES B. GREGORY,
Administrator, National Highway Traffic Safety Administration.

NORBERT T. TIEMANN,
Administrator, Federal Highway Administration.

[FR Doc.75-20028 Filed 7-29-75;3:37 pm]

[Docket No. 75-19; Notice 1]

ILLINOIS

Initiation of Sanctions Proceedings

Notice is hereby given that it has been decided that there are sufficient grounds for initiating proceedings to determine whether to invoke highway safety program sanctions specified in 23 U.S.C. 402 against the State of Illinois, in accordance with the procedures of 23 CFR Part 1206.

The decision to initiate proceedings is made in accordance with internal Departmental procedures. Under these procedures, if the Administrator of the Fedcedures, if the Administrator of the National Highway Traffic Safety Administration finds a situation, relating to one of the standards he administers, that appears to warrant initiation of sanction proceedings, he notifies the other Administrator. If the other Administrator does not concur in the proposal to initiate proceedings, the matter is resolved by the Deputy Secretary. If the Deputy Secretary determines that proceedings should be intiated, both Administrators sign and issue a proposed recommended determination.

Procedures governing the imposition of such sanctions were published on May 31, 1974, as Part 1206 in Title 23, Code of Federal Regulations (39 FR 19205). Section 1206.5 of that Part requires the Administrators to notify the Governor of the affected State that they have initiated this action and to publish a notice to that effect in the FEDERAL REGISTER. The Governor of Illinois was duly notified by certified letter of July 28, 1975, and this notice constitutes the required public notification.

The basis for the proposed action is the failure of Illinois to enact a constitutionally acceptable helmet law for motorcycle drivers and passengers, as required by Highway Safety Program Standard No. 3, *Motorcycle Safety*, 23 CFR 1204.4.

The rapid growth in motorcycle ownership and use in recent years has been

accompanied by an increase in the number of injuries among motorcyclists. The use of protective helmets has been found to be the most effective means of reducing fatal and near-fatal injuries. The helmet's effectiveness makes State compliance with the requirements of Standard No. 3 a matter of particular urgency.

A State that lacks an approved program faces sanctions under the Highway Safety Act. Section 402(c) of Title 23 provides that highway safety funds shall not be apportioned under Section 402 to any State that is not implementing an approved highway safety program and that Federal-aid highway funds apportioned under 23 U.S.C. 104 to such a State shall be reduced by 10 percent until the State has and implements an approved program, unless the Secretary finds it to be in the public interest not to reduce the apportionment. The rules of procedure (23 CFR 1206.4(b)(2)) provide that, if the Secretary finds that a State has failed to comply with Federal law or regulation respecting its safety program or has failed to implement a program approved by him, he may withhold payment to the State on account of (i) the State's current annual highway safety work program, with respect to obligations incurred after the date of the Secretary's determination or a date established in such determination, whichever is later, and (ii) the State's subsequent annual highway safety work programs, and may also withhold approval of further highway safety programs of the State, until the State complies or takes remedial action to the satisfaction of the Secretary, as appropriate.

In accordance with the rules of procedure (23 FR 1206.6), a public hearing will be held to provide Illinois and all interested persons an opportunity to air their views fully on whether the sanctions should be invoked. The hearing will be held at the Department of Transportation Headquarters Building, Room 4234, 400 Seventh Street, SW., Washington, D.C. 20590, at 10:00 a.m. on September 9, 1975.

Written comments should be submitted to the Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590, not later than 10 days following the close of the hearing. Persons who intend to make oral statements at the hearing should submit their request, together with an estimate of the time required, to the Presiding Officer, Sanctions Hearing Board, Room 5219, 400 Seventh Street, SW., Washington, D.C. 20590, not later than 5 days before the hearing date.

(Sec. 101, Pub. L. 89-564, 80 Stat. 731; 23 U.S.C. 402).

Issued on July 28, 1975.

JAMES B. GREGORY,
Administrator, National Highway Traffic Safety Administration.

NORBERT T. TIEMANN,
Administrator, Federal Highway Administration.

[FR Doc.75-20029 Filed 7-29-75;3:37 am]

[Docket No. 75-18; Notice 1]

UTAH

Initiation of Sanctions Proceedings

Notice is hereby given that it has been decided that there are sufficient grounds for initiating proceedings to determine whether to invoke highway safety program sanctions specified in 23 U.S.C. 402 against the State of Utah, in accordance with the procedures of 23 CFR Part 1206.

The decision to initiate proceedings is made in accordance with internal Departmental procedures. Under these procedures, if the Administrator of the Federal Highway Administration or the National Highway Traffic Safety Administration finds a situation, relating to one of the standards he administers, that appears to warrant initiation of sanction proceedings, he notifies the other Administrator. If the other Administrator does not concur in the proposal to initiate proceedings, the matter is resolved by the Deputy Secretary. If the Deputy Secretary determines that proceedings should be initiated, both Administrators sign and issue a proposed recommended determination.

Procedures governing the imposition of such sanctions were published on May 31, 1974, as Part 1206 in Title 23, Code of Federal Regulations (39 FR 19205). Section 1206.5 of that Part requires the Administrators to notify the Governor of the affected State that they have initiated this action and to publish a notice to that effect in the FEDERAL REGISTER. The Governor of Utah was duly notified by certified letter of July 28, 1975, and this notice constitutes the required public notification.

The basis for the proposed action is the failure of Utah to enact a fully effective helmet law for motorcycle drivers and passengers, as required by Highway Safety Program Standard No. 3, *Motorcycle Safety*, 23 CFR 1204.4. Utah law requires helmet usage on roads posted for maximum speeds of 35 mph or higher, but not elsewhere.

The rapid growth in motorcycle ownership and use in recent years has been accompanied by an increase in the number of injuries among motorcyclists. The use of protective helmets has been found to be the most effective means of reducing fatal and near-fatal head injuries. The helmet's effectiveness makes State compliance with the full requirements of Standard No. 3 a matter of particular urgency.

A State that lacks an approved program faces sanctions under the Highway Safety Act. Section 402(c) of Title 23 provides that highway safety funds shall not be apportioned under Section 402 to any State that is not implementing an approved highway safety program and that Federal-aid highway funds apportioned under 23 U.S.C. 104 to such a State shall be reduced by ten percent until the State has and implements an approved program, unless the Secretary finds it to be in the public interest not to reduce the apportionment. The rules of procedure (23 CFR 1206.4(b)(2)) provide that, if the Secretary finds that a State has failed to comply with Federal law or regulation respecting its safety program or has failed to implement a program approved by him, he may withhold payment to the State on account of (i) the State's current annual highway safety work program, with respect to obligations incurred after the date of the Secretary's determination or a date established in such determination, whichever is later, and (ii) the State's subsequent annual highway safety work programs, and may also withhold approval of further highway safety programs of the State, until the State complies or takes remedial action to the satisfaction of the Secretary, as appropriate.

In accordance with the rules of procedure (23 CFR 1206.6), a public hearing will be held to provide Utah and all interested persons an opportunity to air their views fully on whether the sanctions should be invoked. The hearing will be held at the Department of Transportation Headquarters Building, Room 2230, 400 Seventh Street, SW., Washington, D.C. 20590, at 10:00 a.m. on September 4, 1975.

Written comments should be submitted to the Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590, not later than ten (10) days following the close of the hearing. Persons who intend to make oral statements at the hearing should submit their request, together with an estimate of the time required, to the Presiding Officer, Sanctions Hearing Board, Room 5219, 400 Seventh Street, SW., Washington, D.C. 20590, not later than 5 days before the hearing date.

(Sec. 101, Pub. L. 89-564, 80 Stat. 731; 23 U.S.C. 402).

Issued on July 28, 1975.

NORBERT T. TIEMANN,
Administrator, Federal Highway Administration.

JAMES B. GREGORY,
Administrator, National Highway Traffic Safety Administration.

[FR Doc.75-20030 Filed 7-29-75;3:37 pm]

CIVIL AERONAUTICS BOARD

[Docket 27573 Agreement C.A.B. 25280 R-1 through R-20; Order 75-7-126]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Filed; Composite Cargo Rate Matters

Issued under delegated authority July 25, 1975. Agreement adopted by the Traffic Conferences of the International Air Transport Association relating to composite cargo rate matters.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreement, adopted at the 1975 Compos-

ite Cargo Traffic Conference held during May–June at Nice, would establish certain cargo procedures, rates and ancillary charges for worldwide application through September 30, 1977.

The agreement would revalidate without change numerous resolutions governing charges for ancillary services such as disbursements, stalls and attendants accompanying consignments; rate matters such as live animal rates; and procedures such as general rules for construction of cargo rates, proration of involuntarily rerouted consignments and special rules for currency conversion. Excess valuation and C.O.D. charges would remain essentially unchanged with regard to traffic to/from the United States. Other changes are mostly of a technical or procedural nature and include revised 021b rates of exchange reflecting the decreased value of the U.S. dollar *vis-a-vis* the Australian dollar and related currencies, new escape procedures to the resolution governing member performance of cargo charters to apply in all areas except within the Pacific, revisions to Unit Load Device Board voting procedures, amalgamation of existing area resolutions setting forth procedures and general rules for use of unit load devices into a single worldwide resolution and provisions for a special meeting before March 30, 1976 to discuss carrier problems relating to unrestricted trucking of international air freight within the United States at air freight rates.

The purpose of this order is to establish procedural dates for the receipt of justification, comments and replies relating to the composite resolutions. In their submissions, the carriers are specifically requested to address the following points. The wording of Resolution 503, governing charges for excess valuation, is very ambiguous and open to misinterpretation with regard to final determination of the fee to be charged the shipper and, indeed, the IATA documentation reveals that certain carriers likewise share this view. Accordingly, we require clarification from the carriers as to whether the shipper's fee would be based upon .4 percent of that value in excess of the basic liability amount specified in the Warsaw Convention as indicated in paragraph 3 of Resolution 503 or be based upon .4 percent of total shipper's declared value for carriage as indicated in paragraph 4 of that resolution. The Board has long held that charges for excess valuation be assessed on (and therefore be related to) only that amount by which a shipment's value exceeds the amount of the carrier's basic liability in this case equal to the amount specified in the Warsaw Convention. Finally, we expect clear, adequate and detailed cost justification, reflecting each carrier's methodology in determination of the final fee, for the .4 percent (40 cents per $100) charge itself as well as for the one dollar minimum charge per consignment.

In addition, although the Board's policy statement, issued prior to the Nice Conference, urged the carriers to adopt some form of routing control to prevent undue erosion of carrier yields brought about by circuitous routings via higher-rated intermediate points, we note that the instant agreement contains no such provisions, and expect the carrier's submissions to address this situation. Lastly, we expect the premium rates for live animals and birds to be supported by adequate cost data based upon the carriers' experience during the year for which the present rates have been in effect.

Accordingly, *It is ordered*, That:

1. All United States air carrier members of the International Air Transport Association shall file within fifteen calendar days after the date of service of this order, full documentation and economic justification in support of the subject agreement;

2. Northwest Airlines, Inc. and Seaboard World Airlines, Inc. shall file within fifteen calendar days after date of service of this order data related to that required of the IATA carriers;

3. Comments and objections from interested persons and parties shall be submitted thirty calendar days after the date of service of this order;

4. Replies to submissions received in response to ordering paragraphs 1 and 2 above and replies to comments received pursuant to ordering paragraph 3 above shall be submitted within forty-five calendar days after the date of service of this order; and

5. Insofar as air transportation as defined by the Act is concerned, tariffs implementing the subject agreement shall not be filed in advance of Board approval of the subject agreement.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-19892 filed 7-30-75;8:45 am]

[Docket 27970]

NIGERIA AIRWAYS, LIMITED FOREIGN PERMIT RENEWAL (NIGERIA–U.S.)

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on September 4, 1975, at 10 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Dee C. Blythe.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on July 25, 1975, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautical Board.

Dated at Washington, D.C., July 28, 1975.

[SEAL] DEE C. BLYTHE,
Administrative Law Judge.

[FR Doc.75-19868 Filed 7-30-75;8:45 am]

[Order 75-7-128; Dockets 20724, 28115]

REMANDED ATLANTA-DETROIT/CLEVELAND/CINCINNATI INVESTIGATION AND MIDWEST-ATLANTA COMPETITIVE SERVICE CASE

Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 28th day of July, 1975.

By Order 74-5-18, May 3, 1974, the Board denied all applications for competitive authority in the Detroit/Cleveland/Cincinnati-Atlanta markets at issue in Docket 20724 and terminated the investigation. The Board's decision rested, in large part, on a need to avoid duplicative operations at a time when, because of the stringency of fuel requirements, new competitive carriers could have been required to eliminate equivalent flight mileages elsewhere on their systems in order to provide the new competitive service. In reaching its decision, the Board indicated as follows:

> * * * [I]t is not necessary to determine whether the Administrative Law Judge, at a time when the acute [fuel] scarcity had not yet developed, accurately appraised the particular facts of this case and correctly applied to them the decisional standards derived from the Board's prior route decisions. Nor is it appropriate at this time to undertake a comprehensive reappraisal of these decisional standards.
>
> * * * [U]nder present conditions, the elaborate calculus of the Board's prior route decisions becomes almost entirely irrelevant, and in a case like the present one the fuel shortage and its consequences alone preclude a finding that the public convenience and necessity require the introduction of new competitive service at this time in the three markets at issue * * *. [I]t seems better to terminate the present proceeding by denying all pending applications at this time, without prejudice to the institution of a new proceeding at a later, more auspicious time to deal with some or all of these markets * * *. Whether, and if so, when such a new investigation will be instituted will depend on the facts disclosed at the time * * *.

The Board's decision is the subject of a judicial review proceeding docketed by Eastern Air Lines which is now pending in the United States Court of Appeals for the District of Columbia Circuit, *Eastern Air Lines v. CAB*, D.C. Cir. No. 74-1664.

On April 21, 1975, Eastern Air Lines filed motions with the Board requesting (a) a reexamination of the need for service in the three markets and (b) a disclosure of service segment data by the incumbent carriers. Eastern asserts, in general, that the Board's earlier decision did not address the question of the need for service on the merits, that the markets are among the largest monopoly markets in the country, and that it is now an appropriate time for the Board to consider whether the public convenience and necessity require competitive service. Eastern argues, in addition, that the service segment data is germane to a full examination of these questions.

Answers in support of Eastern's requests have been filed by the City of De-

troit,[1] the City and Chamber of Commerce of Atlanta, the City of Cincinnati,[2] North Central Airlines, and Southern Airways. Answers in opposition were filed by United Air Lines and Delta Air Lines. United argues that Eastern's motion should be dismissed as an untimely filed petition for reconsideration while Delta contends that these markets should not receive priority treatment over other markets. In addition, United argues that disclosure of service segment data would be inappropriate under the standards of § 241.19–6(b)(1) since that section refers only to a "proceeding before the Board * * *" while the current case is before the court.

Upon consideration of the matters presented, the Board has decided to institute a new proceeding to determine whether the public convenience and necessity require the authorization of competitive nonstop service in the Atlanta - Detroit / Cleveland / Cincinnati markets. The four cities involved are among the country's largest in terms of population and air traffic generation, and the Detroit-Atlanta and Cleveland-Atlanta markets are the fourth and sixth largest monopoly markets in the country. An administrative law judge, following extensive hearings, concluded that competitive service was required and the Board's decision denied the applications on highly unique grounds, specifically recognizing that institution of a new proceeding might well be appropriate at a more auspicious time. We believe it is now time to address the fundamental economic issues and that these markets, under any reasonable criteria, warrant examination.[3]

We have determined that the release of the relevant service segment data is in the public interest since such data are clearly relevant and material to the issues in the newly instituted investigation. The Bureau of Operating Rights is charged with the responsibility of making available to all parties to the proceeding data with respect to the nonstop and other direct services in the three relevant markets and such data may be introduced into evidence, subject to the normal rules of admissibility.[4]

We have concluded, as a threshold matter, that the proceeding instituted herein is not "a major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act of 1969 (NEPA). In a case such as this, all prospective environmental effects, direct and secondary, proceed from changes in aircraft schedules and levels of service. In our view, environmentally significant changes in schedules or service levels are unlikely to occur should new service be authorized in any of the markets at issue.

The limited potential for increased frequencies as a result of this case must be placed against the overall level of aircraft operations at the cities involved. It is estimated that during FY 1976, the main Atlanta airport, which is a major hub, will experience 561,000 aircraft operations (over 1500 per day), the main Cleveland airport will experience 268,000 operations (over 700 per day), the Cincinnati airport will experience almost 200,000 operations (over 500 per day), and the main Detroit airport will experience 279,000 operations (over 750 per day).[5] In the earlier proceeding applicants proposed no more than six daily round trips in any one market, and such level of service would not lead to any more than very minor environmental changes, even if the incumbent carriers maintain their current levels of schedules.

Our preliminary conclusion is without prejudice to the presentation of environmental data by interested persons and we encourage such presentation consistent with the usual rules of evidence in Board proceedings. In particular, we wish the applicants to indicate the amount of fuel likely to be required by their proposals, and where such fuel will be obtained, including whether or not other services will have to be curtailed.

Accordingly, *it is ordered*, That:

1. A proceeding, hereinafter entitled the *Midwest-Atlanta Competitive Service Case*, be and it hereby is instituted in Docket 28115;

2. The proceeding shall determine whether the public convenience and necessity require the authorization of competitive nonstop service between Atlanta, Georgia, on the one hand, and Cleveland and Cincinnati, Ohio, and Detroit, Michigan, on the other, and, if so, which carrier or carriers shall be authorized to provide the required service: Provided however, that carriers not holding on-segment authority between or among Cleveland, Detroit or Cincinnati may not deplane at one of said points, persons, property, or mail enplaned at another of said points;[6]

3. Any award in this proceeding shall be ineligible for subsidy;

4. This proceeding shall be set down for hearing before an administrative law judge of the Board at a time and place to be hereafter designated;

5. Applications, motions to consolidate, and motions or petitions for reconsideration of this order shall be filed no later than 28 days after the date of service of this order, and answers to such pleadings shall be filed no later than 14 days thereafter;

6. The motion of the Detroit Parties to late-file its answer be and it hereby is granted;

7. Service segment data with respect to nonstop and other direct services between and among the four points in issue shall be made available to all parties to Docket 28115;

8. Except to the extent granted herein, all motions or requests be and they hereby are denied; and

9. This order shall be served on the Environmental Protection Agency; the Council on Environmental Quality; the Georgia Natural Areas Council, 7 Hunter Street, S.W., Atlanta, Georgia 30303; the Michigan Department of Natural Resources, Mason Building, Lansing, Michigan 48926; and the Ohio Department of Natural Resources, 907 Ohio Departments Building, Columbus, Ohio 43215.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75–19893 Filed 7–30–75;8:45 am]

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[1] City of Detroit, County of Wayne and Board of County Road Commissions, and Greater Detroit Chamber of Commerce. The Answer was filed late but was accompanied by a motion for leave to file. We shall grant the motion.

[2] City of Cincinnati, Cincinnati Chamber of Commerce, and the Kenton County Airport Board.

[3] In view of the unique decisional posture of this proceeding, we do not believe that Eastern's motion is improper. Although the institution of a new proceeding does not, in terms, affect Order 74–5–18, now before the Court of Appeals, we shall nonetheless institute the new proceeding subject to any necessary permission from the court.

[4] We wish to include in evidence service segment data with respect to all segments between the points at issue when service is provided on a nonstop, one-stop, or multi-stop basis, commencing calendar year 1973.

[5] *Terminal Area Forecast*. 1975–1985, Department of Transportation, FAA Office of Aviation Economics, Aviation Forecast Division, July 1973.

[6] We leave for the development of the record the issue of whether any award shall be made in the form of a separate segment or segments.

PAKISTAN INTERNATIONAL AIRLINES CORP. FOREIGN AIR CARRIER PERMIT

[Docket 26968]

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding (40 FR 29752, July 15, 1975) will be held on August 1, 1975, at 10 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Richard M. Hartsock.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report dated July 29, 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., July 29, 1975.

[SEAL] RICHARD M. HARTSOCK,
Administrative Law Judge.

[FR Doc.75–20070 Filed 7–30–75;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

GLASS CONTAINERS FOR MALT BEVERAGES

Denial of Petition

Section 10 of the Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1217; 15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies such petition, it shall publish in the FEDERAL REGISTER its reasons for such denial.

On October 22, 1973, the Commission received a petition from the Adolph Coors Company of Golden, Colorado, requesting the Commission to initiate a proceeding under section 7 of the act (86 Stat. 1212; 15 U.S.C. 2056) to develop a consumer product safety standard applicable to glass containers for malt beverages.

On April 17 and 18, 1974, the Commission conducted a public hearing to obtain information on risks of injury associated with glass containers for products under pressure such as carbonated soft drinks as well as malt beverages. The transcript of that hearing, and copies of the petition and all other relevant documents, including the briefing package prepared by the Commission staff, which were considered by the Commission in this matter are available for inspection in the Office of the Secretary, 1750 K Street, NW., Washington, D.C.

In its petition, Coors alleged that random sampling and inspection before filling of glass bottles disclosed frequent occurrences of one or more safety-related defects in approximately 26 percent of all incoming lots of bottles and that substantial extra costs are incurred to avoid use of defective bottles. Coors expressed the opinion that because of the large number of defective bottles received from suppliers, a significant quantity of filled bottles containing malt beverages which are offered for sale to consumers may have defects which are not detected by Coors' sampling and inspection process, and could create substantial risk of injury to the public. The petition also stated that quality standards and specifications established by manufacturers of glass containers are arbitrary and inadequate, and that attempts by Coors to develop a voluntary standard for bottle fillers through trade associations have been unsuccessful.

To assist its evaluation of the Coors petition, Commission staff analyzed injury data, industry malt bottle specifications, bottle specifications submitted by Coors and the transcript of testimony submitted to the Commission hearing.

Recommended Brewing Industry Beer and Ale Bottle Purchase Specifications, a publication of the United States Brewers Association, Inc., was compared with the specifications for glass bottles used by Adolph Coors Company. Association specifications recommend that bottles withstand an internal pressure of at least 150 pounds per square inch, whereas the specifications used by the petitioner require that bottles withstand an internal pressure of at least 100 pounds per square inch. Thus, with respect to the criterion of ability to withstand internal pressure, the bottle specifications recommended by the Association are more stringent than the specifications used by the petitioner. The added strength required by Association specifications may be dictated by the high temperatures needed for pasteurizing malt beverages. These high temperatures may eliminate many faulty bottles from a brewer's production line and thereby provide a higher level of protection than might be available with bottles manufactured according to Coors specifications. It should be noted, however, that because the Coors' product is not pasteurized, their filled bottles do not have to be subjected to the high temperatures needed for pasteurization.

The National Electronic Injury Surveillance System (NEISS) did not report injuries associated with malt beverage bottles as a separate product category until July 1, 1974. For the period July 1, 1974 through December 31, 1974, 170 injuries associated with malt beverage bottles were reported. Reported for the same period were: 628 injuries associated with carbonated soft drink bottles and 661 injuries associated with non-pressurized glass bottles. Thus, malt beverage bottles were associated with about 12% of the injuries, even though they account for an estimated 20% of the glass containers used annually by consumers. A search of all in-depth investigation reports associated with glass containers disclosed only two injuries associated with malt beverage bottles, and the bottles in question had been broken before the injury had occurred. Letters from consumers in Commission files concerning the subject of exploding bottles do not contain any reports of exploding malt beverage bottles.

Transcript of Hearing. Testimony at the CPSC public hearing regarding the safety of glass containers for products under pressure held on April 17 and 18, 1974, indicated that Coors received no consumer complaints on injuries associated with their bottled products for all of 1973, and few complaints in the preceding year.

After consideration of the petition, the testimony presented at the hearing, and the information developed by the Commission staff in this matter, the Commission concludes, at this time, that an unreasonable risk of injury to consumers associated with glass containers used for malt beverages does not appear to exist.

Therefore, pursuant to section 10(d) of the Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1217; 15 U.S.C. 2059(d)), notice is hereby given of the Commission's denial of the above-described Adolph Coors Company petition.

Dated: July 25, 1975.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.75-19915 Filed 7-30-75;8:45 am]

DEFENSE MANPOWER COMMISSION

MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the Commissioners of the Defense Manpower Commission will meet on August 15, 1975 at 9:00 a.m. in the New Executive Office Building, Room 2008, 726 Jackson Place, NW., Washington, D.C. 20036.

The meeting will be open to the public. Because of limited space, interested persons wishing to attend should telephone (202) 254-7803 prior to this meeting.

Dated: July 25, 1975.

PAUL C. KEENAN, Jr.,
Deputy Executive Director.

[FR Doc.75-19829 Filed 7-30-75;8:15 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 407-4]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Receipt of Application for Reference or Equivalent Method Determination

Notice is hereby given that on June 6, 1975, the Environmental Protection Agency received an application from Meloy Laboratories, Inc., Springfield, Virginia, to determine if its Model OA325-2 and OA350-2 ambient ozone analyzers and its Model SA185-2A ambient SO_2 analyzer should be designated by the Administrator of the EPA as reference or equivalent methods under 40 CFR Part 53, promulgated February 18, 1975 (40 FR 7044). If the Administrator determines that any of these methods should be so designated, notice thereof will be given in a subsequent issue of the FEDERAL REGISTER.

July 25, 1975.

WILSON K. TALLEY,
Assistant Administrator for Research and Development.

[FR Doc.75-19816 Filed 7-30-75;8:45 am]

[FRL 407-6; OPP-33000/291 & 292]

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 Insecticides, 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 DC 20460.

On or before September 29, 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 DC 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 September 29, 1975.

Dated: July 23, 1975.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/291)

EPA File Symbol 36999-G. B & M International, Inc., PO Box 1116, Thibodaux LA 70301. MICRO-PINE PINE ODOR DISINFECTANT COEF. 6. Active Ingredients: Isopropanol 4.75%; Pine oil 3.95%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 1.97%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 36999-RR. B & M International, Inc. MICRO-PINE 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. PM 32

EPA File Symbol 36999-RU. B & M International, Inc. MICRO-PINE PINE ODOR DISINFECTANT COEF. 39. Active Ingredients: Isopropanol 28.57%; Pine oil 23.81%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 11.90%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 475-ENE. Boyle-Midway, Inc., South Ave. & Hale Street, Cranford NJ 07016. BLACK FLAG LIQUID HOUSE AND GARDEN INSECT KILLER. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropane carboxylate 0.127%; Related compounds 0.024%; d-trans allethrin (allyl homolog of Cinerin I) 0.128%; Related compounds 0.010%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 475-ENG. Boyle-Midway, Inc. BLACK FLAG PROFESSIONAL POWER LIQUID ANT AND ROACH KILLER. Active Ingredients: 2-(1-Methylethoxy) phenol methylcarbamate 0.95%; Related compounds 0.05%; 2,2-dichlorovinyl dimethyl phosphate (DDVP) 0.186%; Related compounds 0.014%; Petroleum distillates 82.12%. Method of Support: Application proceeds under 2(c) of interim policy. PM13

EPA File Symbol 475-ENL. Boyle-Midway, Inc. BLACK FLAG PROFESSIONAL POWER LIQUID FLYING INSECT KILLER. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropane carboxylate 0.200%; Related compounds 0.027%; d-trans allethrin (allyl homolog of Cinerin I) 0.150%; Related compounds 0.015%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 475-ENN. Boyle-Midway, Inc. BLACK FLAG LIQUID FLYING INSECT KILLER. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropane carboxylate 0.143%; Related compounds 0.020%; d-trans allethrin (allyl homolog of Cinerin I) 0.107%; Related compounds 0.008%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 475-ENR. Boyle-Midway, INC. BLACK FLAG PROFESSIONAL POWER LIQUID HOUSE AND GARDEN INSECT KILLER. Active Ingredients: Pyrethrins 0.50%; Technical Piperonyl Butoxide 1.50%; Petroleum Distillates 5.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA Reg. No. 464-490. Dow Chemical Co., PO Box 1706, Midland MI 48640. DOW PREMERGE 3 DINITRO AMINE HERBICIDE. Active Ingredients: Dinoseb (2-sec-butyl-4,6-dinitrophenol) 50.7%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA File Symbol 8764-UI. FMC Corp., Citrus Machinery Div., PO Box 552, Riverside CA 92502. FUNGICIDE CONC. 508. Active Ingredients: Benomyl Methyl 1-(butylcarbamoyl - 2-benzimidazolecarbamate 5.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM22

EPA File Symbol 5905-UUO. Helena Chemical Co., Clark Tower, 5100 Poplar Ave., Suite 3200, Memphis TN 38137. PROPYLENE GLYCOL. Active Ingredients: Propylene Glycol 99.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 36301-L. J-Chem, Inc., PO Box 5421, Houston TX 77012. J-FUME 80-20. Active Ingredients: Carbon Tetrachloride 82.9%; Carbon Disulfide 16.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM11

EPA File Symbol 35969-R. The L. A. Lux Co., 2285 Scranton Rd., Cleveland OH 44113. #800 WATER TREATMENT MICROBIOCIDE. Active Ingredients: Didecyl dimethyl ammonium chloride 50%; Isopropyl alcohol 20%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 299-44. C. J. Martin Co., PO Box 1089, Nacogdoches TX 75961. MARTIN'S CUBE POWDER 5% ROTENONE. Active Ingredients: Rotenone 5%; Other Cube Resins 10%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Added use. PM11

EPA File Symbol 33593-E. Marzahl Chemical Co., Hackensack Ave. & 3rd St., Kearny NJ 07032. SODIUM HYPOCHLORITE SOLUTION. Active Ingredients: Sodium Hypochlorite 12%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 1159-ROI. Seacoast Laboratories, Inc., 257 Highway 18, East Brunswick NJ 08816. TWINLIGHT DURSBAN 10% SPRAY. Active Ingredients: Chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 10.00%; Aromatic petroleum derivative solvent 85.34%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 449-LLG. Techne Corp., PO Box 7305, Kansas City MO 64116. TECHNE LOW VOL 4 LB. B.P. Active Ingredients: 2,4-Dichlorophenoxyacetic acid, butoxy propyl esters 36.0%; 2,4,5-Trichlorophenoxyacetic acid, butoxy propyl esters 34.1%. Method of Support: Application proceeds under 2(c) of interim policy. PM23

EPA File Symbol 449-LLU. Techne Corp., PO Box 7305, Kansas City MO 64116. TECHNE NO. 4 2,4,5-T B.P. Active Ingredients: 2,4,5-Trichlorophenoxyacetic acid, butoxy propyl esters 69.2%; 2,4,5-Trichlorophenoxyacetic acid equivalent 45.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM23

EPA File Symbol 1270-ROO. Zep Manufacturing Co., PO Box 2015, Atlanta GA 30301. ZEP X-10775. Active Ingredients: 2-(1-Methylethoxy)phenol methylcarbamate 10%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

APPLICATIONS RECEIVED (OPP-33000/292)

EPA Reg. No. 6308-91. The Ansul Co., One Stanton St., Marinette WI 54143. BOLLS-EYE COTTON DEFOLIANT. Active Ingredients: Sodium Cacodylate 27.38%, Dimethylarsinic Acid (Cacodylic Acid) 4.67%. Method of Support: Application proceeds under 2(a) of interim policy. PM23

EPA Reg. No. 239-579. Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond CA 94804. ORTHOCIDE 75 SEED PROTECTANT. Active Ingredients: Captan 75%. Method of Support: Application proceeds under 2(a) of interim policy. PM21

EPA File Symbol 26488-E. Warren Cook Chemical, Inc., Oak and Astor Streets, Monee IL 60449. WARCO 18. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio)ethylene dichloride] 18.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 26488-R. Warren Cook Chemical, Inc., Oak and Astor Streets, Monee IL 60449. WARCO 10. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio)ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 2938-O. Culligan USA, One Culligan Parkway, Northbrook IL 60062. CHEMICAL TREATMENT M-23. Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene (dimethyliminio)ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 279-GNNO. FMC Corp., 100 Niagara St., Middleport NY 14105. ROACH & ANT PRESSURIZED (CG) CONTAINS DIAZINON. Active Ingredients: 0,0-Diethyl 0-(2-isopropyl-6-methyl - 4 - pyrimidinyl) phosphorothioate 0.500%; Pyrethrins 0.052%; / Piperonyl Butoxide, Technical 0.261%; Petroleum Distillate 95.608%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 869-RAN. Green Light Co., PO Box 16192, San Antonio TX 78246. GREEN LIGHT KELTHANE SPRAY. Active Ingredients: 1,1, Bis(chlorophenyl) 2,2,2-Trichloroethanol 0.25%. Method of Support: Application proceeds under 2(c) of interim policy. PM13

EPA File Symbol 6704-TA. U.S. Department of Interior, Fish & Wildlife Service, Washington DC 20240. STRYCHNINE ALKALOID N.F.X. POWDER. Active Ingredients: Strychnine Alkaloid 99.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM11

EPA Reg. No. 635-669. E-Z Flo Chemical Co., Div. of Kirsto Co., PO Box 808, Lansing MI 48903. GRAIN KEAP. Active Ingredients: Propionic Acid 100%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Added use. PM21

EPA File Symbol 729-TE. Gulf Oil Corp., Gulf Bldg., Pittsburgh PA 15230. GULF-SPRAY ANT ROACH KILLER PROFESSIONAL STRENGTH. Active Ingredients: 2(1 - Methylethoxy)phenol methylcarbamate 0.95%; Related compounds 0.05%; Petroleum Distillates 71.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 36371-I. National Chemicals Inc., 940 Oakwood Rd., Oakcreek WI 53154. NC-350 WATER TREATMENT MICROBIOCIDE. Active Ingredients: Didecyl dimethyl ammonium chloride 50%; Isopropyl alcohol 20%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 10663-EL. Sentry Chemical Co., 1481 Rock Mountain Blvd., Stone Mountain GA 30080. ORNAMENTAL PLANT INSECTICIDE. Active Ingredients: Chlorpyrifos [0,0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 5.65%; Aromatic petroleum derivative solvent 88.98%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 10663-EU. Sentry Chemical Co., 1481 Rock Mountain Blvd., Stone Mountain GA 30080. TURF TOX LAWN AND PLANT INSECTICIDE. Active Ingredients: Chlorpyrifos [0,0-diethyl 0-(3,5,6-trichloro - 2 - pyridyl) phosphorothioate] 5.65%; Aromatic petroleum derivative solvent 88.98%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 1386-LOU. Universal Cooperatives, Inc., 111 Glamorgan St., Alliance OH 44601. UNICO THIODAN 3 E. C. INSECTICIDE. Active Ingredients: Endosulfan (Hexachloro-hexahydromethano-2, 4,3-benzodioxathiepin oxide) 33.9%; Heavy Aromatic Naptha 60.7%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 35961-G. Viking Chemicals, 8 Brush St., Pontiac MI 48053. CMB 41. Active Ingredients: Disodium cyanodithioimidocarbonate 7.35%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 35961-U. Viking Chemicals. CMB 31. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio)ethylene dichloride] 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 35961-L. Viking Chemicals. CMB 32. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio)ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 35961-A. Viking Chemicals. CMB 42. Active Ingredients: Disodium cyanodithioimidocarbonate 14.7%; Potassium N-methyldithiocarbamate 20.3%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 1270-ENN. Zep Manufacturing Co., PO Box 2015, Atlanta GA 30301. ZEP X-11375 SURFACE SPRAY. Active Ingredients: 2 - (1 - methylethoxy) phenol methylcarbamate 0.67%; 2,2-dichlorovinyl dimethyl phosphate 0.33%; Related compounds 0.02%; Petroleum distillate 58.88%. Method of Support: Application proceeds under 2(c) of interim policy. PM13

[FR Doc.75-19813 Filed 7-30-75;8:45 am]

[FRL 407-7; OPP-33000/293]

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 each 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 September 29, 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 September 29, 1975.

Dated: July 22, 1975.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/293)

EPA File Symbol 21165-A. Chem-I-Matic, Inc. PO Box 12263, Houston, TX 77017. PYRANHA 1-10 HR EQUINE INSECTICIDE SPACE SPRAY. Active Ingredients: Pyrethrins 0.05%; Piperonyl Butoxide, Technical 0.50%; Butoxypolypropylene Glycol 1.02%; Petroleum Oil 0.05%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 3314-GG. Colonial Products, Inc., 1830 10th Ave. N, Lake Worth FL 33460. CP SWEET KILL. Active Ingredients: 2,2-Dichlorovinyl dimethyl phosphate 0.46%; Related Compounds 0.04%. Method of Support: Application proceeds under 2(c) of interim policy. PM13

EPA File Symbol 4715-GUO. Colorado International Corp., 5321 Dahlia St., Commerce City CO 80022. BEST 4 SERVIS BRAND 2,4-D ISOOCTYL ESTER TECHNICAL. Active Ingredients: Isooctyl ester of 2,4, Dichlorophenoxyacetic acid 99.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM23

EPA File Symbol 4238-RE. Diamond Chem. Co., Inc., Hook Rd., Bayonne NJ 07002. D775 MILDEW PREVENTATIVE. Active Ingredients: Didecyl dimethyl ammonium chloride 50%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 677-201. Diamond Shamrock Corp., Agricultural Chem. Div., 1110 Superior Ave., Cleveland OH 44114. DACAMINE WEED KILLER. Active Ingredients: N-Oleyl-1,3-propylenediamine salt of 2,4-Dichlorophenoxyacetic Acid 21.9% 2,4-Dichlorophenoxyacetic Acid 11.1%. Method of Support: Application proceeds under 2(c) of interim policy. PM23

EPA Reg. No. 677-200. Diamond Shamrock Corp., Agricultural Chem. Div., 1100 Superior Ave., Cleveland OH 44114. DACAMINE 4D WEED KILLER. Active Ingredients: N-Oleyl-1,3-propylenediamine salt of 2,4-Dichlorophenoxyacetic Acid 31.6%; 2,4-Dichlorophenoxyacetic Acid 25.4%. Method of Support: Application proceeds under 2(c) of interim policy. PM23

EPA File Symbol 34282-A. Dickler Chemical Lab., PO Box 19536, Philadelphia PA 19124. RINSE DISINFECTANT-SANITIZER DEODORIZER. Active Ingredients: Alkyl (C14 50%, C12 40%, C16 10%) Dimethyl Benzyl Ammonium Chloride 10.0%. Method of Support: changed from 2(b) to 2(c) of interim policy. PM31

EPA File Symbol 464-LEO. The Dow Chem. Co., PO Box 1706, Midland MI 48640. TORDON 202 MIXTURE HERBICIDE. Active Ingredients: Picloram (4-amino-3,5,6-trichloropicolinic acid) as the triisopropanolamine salt 2.5%; 2,4-Dichlorophenoxyacetic acid, as the triisopropanolamine salt 41.2%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA Reg. No. 1471-35. Elanco Products Co., A Div. of Eli Lilly and Co., PO Box 1750, Indianapolis IN 46206. ELANCO TREFLAN E.C. Active Ingredients: trifluralin (a,a,a-trifluoro - 2,6-dinitro-N,N-dipropyl-p-toluidine) 44.5%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Additional use. PM23

EPA File Symbol 270-RRA. Farnam Co., Inc., PO Box 21447, Omaha NB 68112. SXX FLY KILLER. Active Ingredients: 2,2-Dichlorovinyl dimethyl phosphate 0.24%; related compounds 0.01%; (Z)-9-Tricosene 0.048%, related compounds 0.002%. Method of Support: Application proceeds under 2(b) of interim policy. PM13

EPA File Symbol 5197-LL. Kem Mfg. Corp., Kem International Bldg., Tucker GA 30084. DYANKEM. Active Ingredients: Anhydrous Sodium Metasilicate 4.35%; Tetrasodium Ethylenediaminetetraacetate 1.58%; n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chloride 0.75%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chloride 0.75%; n-Soya-N-Ethyl Morpholinium Ethosulfate 0.10%; 3,5-Dibromo - 3'-trifluoromethylsalicylanilide 0.10%. Method of Support: Application proceeds under 2(a) of interim policy. PM33

EPA File Symbol 1791-ET. North Coast Chem. Co., Inc., 6300 17th Ave. S, Seattle WA 98108. NORTHCO POOL ALGAECIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 1791-EA. North Coast Chem. Co., Inc., 6300 17th Ave. S, Seattle WA 98108. NORTHCO ALGAE FITER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 12.5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 12.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 9556-EA. Ortex Products, Inc., 560 Ferry St., Newark NJ 07105. LIQUID ALGAECIDE 5. Active Ingredients: Alkyl (C14 60%, C12 25%, C16 15%) Dimethyl Benzyl Ammonium Chloride 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM24.

EPA Reg. No. 602-44. Ralston Purina Co., General Offices, Checkerboard Square, 835 S. 8th St., St. Louis MO 63188. PURINA RANGE CATTLE SPRAY. Active Ingredients: Toxaphene 45.00%; Gamma Isomer of Benzene Hexachloride (from Lindane) 0.45%; Aromatic Petroleum Derivative Solvents 41.55%; Xylene 5.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

[FR Doc.75-19814 Filed 7-30-75;8:45 am]

[PRL 407-8; OPP-33000/294]

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 each applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, SW, Washington DC 20460.

On or before September 29, 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 DC 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 September 29, 1975.

Dated: July 24, 1975.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/294)

EPA File Symbol 10395-L. Barco, Chem. Div., Inc., 14800 NW 24th Court, Opa-Locka FL 33054. MARCO FOGGING CONCENTRATE 3-6-10. Active Ingredients: Pyrethrins 3%; Piperonyl butoxide, technical 6%; N-octylbicycloheptene dicarboximide 10%; Petroleum distillate 81%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 7173-RAT. Chempar Chem. Co., Inc., 260 Madison Ave., New York NY 10016. ROZOL CANARY SEED 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. 464-393. The Dow Chem. Co., PO Box 1706, Midland MI 48640. DOW PLICTRAN 50W MITICIDE. Active Ingredients: Tricyclohexyltin hydroxide 50.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Added Use. PM13

EPA Reg. No. 635-402. E-Z-Flo Chem. Co., Div. Kirsto Co., PO Box 808, Lansing MI 48903. E-Z FLO LINDANE 25W. Active Ingredients: Gamma isomer of benzene hexachloride 25.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Added uses. PM15

EPA File Symbol 6621-AA. Eagle Chem. Co., 2819 W Lake St., Chicago IL 60612. MULTI-SAN DAIRY CLEANER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5.0%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5.0%; Phosphoric Acid 30.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA Reg. No. 1471-97. Elanco Products Co. Div. of Eli Lilly Co., PO Box 1750, Indianapolis IN 46206. ELANCO SPIKE 80W. Active Ingredients: tebuthiuron: N-[5-(1,1-dimethyl)-1,3,4 - thiadiazol-2-yl]-N,N' dimethylurea 80.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA File Symbol 7368-GT. Georgia-Pacific, 2425 Malt Ave., Los Angeles CA 90040. SPA-CLOR. Active Ingredients: Sodium dichloro-s-triazinetrione dihydrate 100%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA Reg. No. 18035-5. Private Label Chem., Inc., 2280 Terminal Rd., St. Paul MN 55113. MARK TEN. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 21% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 35939-U. R-square Chem. & Coating, Inc., PO Box 1919, Gainsville GA 30501. R-QUAT-20 DISINFECTANT-SANITIZER FUNGICIDE - DEODORIZER. Active Ingredients: Alkyl (C14 60%, C16 30%, C12 5%, C18 5%) Dimethyl Benzyl Ammonium Chlorides 5.0%; Alkyl (C12 68%, C14 32%) Dimethyl Ethylbenzyl Ammonium Chlorides 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 1729-RRE. Tesco Chem., Inc., PO Box 6433, Marietta GA 30062. TOWER-GARD + PLUS. Active Ingredients: Trichloro-S-Triazinetrione 50.0%; Potassium Bisulfate 20.0%; Calcium Monophosphate 10.0%; Pentachlorophenol 2.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 1729-RRN. Tesco Chem., Inc. CLEAN-FLO WASTEWATER TREATMENT COMPOUND. Active Ingredients: Trichloro-s-triazinetrione 99%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 1729-RRR. Tesco Chem., Inc. CLEAN – FLO WASTEWATER TREATMENT COMPOUND. Active Ingredients: Trichloro - s - triazinetrione 99%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 11687-IN. Transvaal, Inc., PO Box 69, Jacksonville AR 72076. TRANSVAAL CURPIC HYDROXIDE. Active Ingredients: Cupric Hydroxide 83.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM22

CORRECTED ITEMS

The following are corrections to the list of Applications Received previously published in the FEDERAL REGISTER.

EPA File Symbol 115-GE. Continental Chem. Co., 2750 Grand Ave., Cleveland OH 44104. ALGEX NO. 816-M. Active Ingredients: Disodium cyanodithioimidocarbonate 4.90%; Potassium N-methyl-dithiocarbamate 6.76% (originally published as 5.07%). Method of Support: Application proceeds under 2(b) of interim policy. PM33 (40 FR 29564)

EPA File Symbol 115-GR. Continental Chem. Co. ALGEX NO. 815-M. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07% (original published at 5.70%). Method of Support: Application proceeds under 2(b) of interim policy. PM33 (40 FR 29564)

EPA File Symbol 34077–O. Excelsior Varnish Inc., 2790 Grand Ave., Cleveland OH 44104. ALGAECIDE A–161–M. Active Ingredients: Disodium cyanodithioimidocarbonate 4.90%; Potassium N-methyl-ditchiocarbamate 6.76% (originally published as 6.7%). Method of Support: Application proceeds under 2(b) of interim policy. PM33 (40 FR 29564)

EPA File Symbol 603–LA. Chemtech Resources, Inc., PO Box 24440, Dallas TX 75224. THREE-D DISINFECTANT-DEODORIZER-DETERGENT. Active Ingredients: n-Alkyl (50% C14, 40% C12, 10% C16) Dimethyl Benzyl Ammonium Chloride 5.0%; Sodium metasilicate 3.0%; Tetrasodium salt of ethylene diamine tetraacetic acid 1.8%. Method of Support: Application proceeds under 2(c) of interim policy. (Originally published with incorrect file symbol). PM33 (40 FR 29752)

EPA File Symbol 35137–T. Price Research, Ltd., 205 Westport Rd., Kansas City MO 64111. SYNERGIZED PYRETHRIN INDUSTRIAL SPRAY. Active Ingredients: Pyrethrins 0.50%; Piperonyl butoxide, technical 1.00%; N-octyl bicycloheptene dicarboximide 1.67%; Petroleum distillate 96.83% (originally published as 98.88%). Method of Support: Application proceeds under 2(c) of interim policy. PM17 (40 FR 29754)

APPLICATIONS RECEIVED (OPP–33000/295)

EPA Reg. No. 3125–163. Chemagro Corp., PO Box 4913, Kansas City MO 64120. DASANIT SPRAY CONCENTRATE INSECTICIDE-NEMATICIDE. Active Ingredients: *O,O*-Diethyl *O*-[4-(methyl-sulfinyl) phenyl] phosphorothioate 63%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM15

EPA Reg. No. 3125–164. Chemagro Corp. DASANIT 10% GRANULAR INSECTICIDE-NEMATICIDE. Active Ingredients: *O,O*-Diethyl O - [4 - (methylsulfinyl) phenyl] phosphorothioate 10%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM15

EPA Reg. No. 3125–213. Chemagro Corp. DASANIT 15% GRANULAR INSECTICIDE-NEMATICIDE. Active Ingredients: *O,O*-Diethyl O - [4 - (methylsulfinyl) phenyl] phosphorothioate 15%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM15

EPA File Symbol 4450–UR. Chemex Chemicals & Coatings Co., Inc., PO Box 5072, Tampa FL 33675. CHEMEX DISINFECTANT BOWL CLEANER. Active Ingredients: Octyl decyl dimethyl ammonium chloride 1.250% Dioctyl dimethyl ammonium chloride 0.625%; Didecyl dimethyl ammonium chloride 0.625%; Alkyl (C8 7%, C10 8%, C12 46%, C14 24%, C16 10%, C18 5%) amino betaine 1.000%; Hydrogen chloride 8.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 5802–UT. Dettelbach Pesticide Corp., PO Box 9986, Atlanta GA 30319. ABR #2 AIRCRAFT INSECTICIDE AEROSOL KILLS FLIES, MOSQUITOES, GNATS. Active Ingredients: Pyrethrins 0.60%; Piperonyl butoxide, tech. 1.40%; Petroleum distillate 13.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA Reg. No. 352–370. E. I. Du Pont De Nemours & Co. Inc., 7056 Dupont Bldg., Wilmington DE 19898. LANNATE L METHOMYL INSECTICIDE FOR USE ON SUGAR BEETS AND SPINACH. Active Ingredients: S-methyl - N[(methylcarbamoyl)oxy] thioacetimidate 90%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM12

EPA File Symbol 8655–I. Eastman Chemical Products, Inc., PO Box 431, Kingsport TN 37662. TENOX IBP–2 GRAIN PRESERVATIVE FOR REPACKAGING OF A FUNGICIDE. Active Ingredients: Isobutyric Acid 60%; Propionic Acid 40%. Method of Support: Application proceeds under 2(b) of interim policy. PM21

EPA File Symbol 8655–0. Eastman Chemical Products, Inc., PO Box 431, Kingsport TN 37662. TENOX IBP–2 GRAIN PRESERVATIVE. Active Ingredients: Isobutyric Acid 60%; Propionic Acid 40%. Method of Support: Application proceeds under 2(b) of interim policy. PM21

EPA File Symbol 36724–L. Machemco, 60 Kathryn Dr., Marietta GA 30060. MIRACLE CLEAN-27. Active Ingredients: n-Alkyl (60% C12, 30% C14, 5% C16, 5% C18) dimethyl benzyl ammonium chlorides 1.65%; n-Alkyl (68% C12, 32% C14) dimethyl ethyl-benzyl ammonium chlorides 1.65%; Trisodium phosphate 1.52%; Tetrasodium ethylenediamine tetraacetate 1.00%; Ethyl alcohol 0.83%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 36371–0 National Chemicals Inc., 940 W. Oakwood Rd., Oak Creek WI 53134. SWIM-FREE WITH ETHANOL. Active Ingredients: Alkyl (C14 60%, C12 25%, C16 15%) Dimethyl Benzyl Ammonium Chloride 50%; Ethanol 10%. Method of Support: Application proceeds under 2 (b) of interim policy. PM24

EPA File Symbol 36371–RN. National Chemicals Inc., 940 W. Oakwood Rd., Oak Creek WI 53134. SWIM-FREE. 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 37064–R. Pioneer Chemical Laboratories, 5419 Logan Ave. N, Minneapolis MN 55430. SAN-A-KLEEN. Active Ingredients: Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 1.28%; Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 1.28%; Sodium carbonate 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 4972–RO. Protexall Chemicals, Inc., 5576 S. Ridgewood, Daytona Beach FL 32019. FLORIDA SWAMP INSECT REPELLANT PRESSURIZED. Active Ingredients: N,N - diethyl - m - toluamide 9.975%; other isomers 0.525%; N-octyl bicycloheptene dicarboximide 3.000%; 2,3: 4,5-Bis (2-butylene) tetrahydro-2-furaldehyde 0.750; Di-n-propyl isocinchomeronate 0.750%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 19149–R. Superior Chemical Co., 330 Verdun St., Lafayette LA 70501. SUPERIOR-S-55 INDUSTRIAL BACTERIOSTAT. Active Ingredients: Sodium salt of 2,4,5-Trichlorophenol 32.7%. Method of Support changed from 2(b) to 2(c) of interim policy. PM32

[FR Doc.75–19815 Filed 7–30–75;8:45 am]

FEDERAL MARITIME COMMISSION

CANADIAN AMERICAN WORKING ARRANGEMENTS

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, N.W., 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 August 20, 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:

Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 10090–2 among the members of the above named agreement modifies that agreement to provide, with respect to traffic destined to or originating at points or places in the United States west of the 76th meridian, that the parties shall strive to reach agreement on rates at levels which will (1) result in parity of cost to the shipper regardless of whether shipments move via Great Lakes ports or via East Coast ports and (2) equalize the competitive position of the parties themselves.

By Order of the Federal Maritime Commission.

Dated: July 25, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75–19911 Filed 7–30–75;8:45 am]

SIDARMA-COSTA JOINT SERVICE AGREEMENT

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, Washing-

ton, D.C. 20573, on or before August 20, 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:

Stanley O. Sher, Esquire, Billig, Sher & Jones, P.C., Suite 300, 1126 Sixteenth Street, N.W., Washington, D.C. 20036.

Agreement No. 10120-2 between the above-named carriers expands the geographic scope of the basic agreement to include Caribbean ports in Guatemala, Nicaragua, Costa Rica, Honduras and Panama.

By Order of the Federal Maritime Commission.

Dated: July 25, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-19912 Filed 7-30-75;8:45 am]

[Docket No. 73-55]

PORT OF NEW YORK

Uniform Rules and Regulations Governing Free Time on Import Containerized Cargo, Intent To Make an Environmental Assessment

The above referenced docket is a rulemaking proceeding to determine whether the Federal Maritime Commission's General Order No. 8 (46 CFR 526) should be amended to include provisions for containerized cargo.

The rule-making proceeding will determine whether:

(1) General Order No. 8 should be amended to make the provisions thereof applicable to containerized cargo as well as to breakbulk cargo in regard to demurrage free time;

(2) The Commission should promulgate rules to regulate container detention free time at the Port of New York not inconsistent with General Order No. 8.

The Commission believes that its final resolution of the issues in this proceeding may constitute a major Federal action significantly affecting the quality of the human environment. Consequently, the environmental factors involved warrant consideration and evaluation before decision making is undertaken.

Therefore, notice is hereby given that the Federal Maritime Commission intends to make an environmental assessment to determine whether its final decision in this proceeding will constitute a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA). Written comments regarding possible environmental effects which may occur from the eventual resolution of the proceeding are invited. Such comments should be submitted within 30 days of the date of this Order to the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

By the Commission

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-19913 Filed 7-30-75;8:45 am]

PORT OF PORTLAND, MAINE

Removal of Portwide Exemption

F. H. Fenderson, Inc., a licensed independent ocean freight forwarder, filed a petition for the removal of portwide exemptions granted by the Commission to the Ports of Portland and Searsport, Maine, pursuant to § 510.22(a) of Federal Maritime Commission General Order 4 (46 CFR 510.22(a)).

Section 510.22(a) of General Order 4 prohibits a licensed independent ocean freight forwarder from collecting compensation if it requests the carrier or its agent to perform any of the forwarding services unless there is no forwarder at such port willing and able to perform such services. This section further provides for an exemption from this prohibition to licensee/agents in the port of loading upon application therefor and upon a finding by the Commission that an adequate supply of forwarding services is not being held out by non-agent licensees domiciled at the port of loading. On May 2, 1967, the Commission granted the Ports of Searsport and Portland, Maine a portwide exemption.

Petitioner, a non-agent licensee, alleges that an adequate supply of forwarding services is being held out by itself at the Ports of Portland and Searsport, Maine and that the removal of the exemption is justified on this basis. The petitioner presently maintains a branch office in Portland which actively serves the shipping public in Portland and Searsport, Maine.

The Commission has published notice of the petition in the FEDERAL REGISTER and has received comments from three licensee/agents located in Portland/Searsport and from the Bangor and Aroostook Railroad. Essentially the comments state that the situation has not changed since the port exemptions were granted in 1967. At that time all licensees serving Portland/Searsport were also steamship agents domiciled in Portland, Maine.

We find that the situation has changed in Portland, Maine since 1967 in that F. H. Fenderson, Inc., a domiciled non-agent licensee in Portland, Maine, appears to be holding out an adequate supply of forwarding services in that port of loading. However, in regard to the Port of Searsport, Maine we find that since F. H. Fenderson, Inc. does not maintain an office in Searsport, Maine it fails to meet the domiciliary requirement of § 510.22(a) of the non-agent licensee being domiciled at the port of loading.

Therefore, It Is Ordered, that the portwide exemption authorized by § 510.22 (a), General Order 4, and granted pursuant to our Order, dated May 2, 1967, is hereby removed from the Port of Portland, Maine and is to continue in effect in the Port of Searsport, Maine.

It Is Further Ordered, that this Order be published in the FEDERAL REGISTER and served upon the petitioner and commenting parties.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-19914 Filed 7-30-75;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-9407]

COLUMBUS AND SOUTHERN OHIO ELECTRIC CO.

Order Denying Rehearing

JULY 25, 1975.

On April 29, 1975, Columbus and Southern Ohio Electric Company (C&S) tendered for filing a proposed rate schedule which would supersede the provisions of the rate schedule contained in Docket No. E-8650. The charges would increase the rates to the City of Westerville, the City of Jackson, and the Village of Glouster in the amount of $826,425, based on the twelve month period ended December 31, 1974.

By order issued May 30, 1975, we accepted for filing and suspended C&S's proposed rate increase. On June 27, 1975, the City of Westerville filed a petition for rehearing of our order of May 30, 1975. Westerville maintains that the proposed rate increase exceeds $1 million and that C&S was therefore required to file Statements A through O for Period II pursuant to § 35.15(b)(4)(iii) of the Commission's regulations. Westerville argues that since C&S did not file Statements A through O for Period II it did not substantially comply with the Commission's Regulations and the filing should have been rejected.

Westerville proffered this same argument in its protest and petition to intervene in this proceeding. We thoroughly considered the merit of Westerville's contention and found it to be without basis. We thereupon disposed of this argument by stating:

"Upon a review of C&S's filing we conclude that the increase in revenues resulting from the proposed rate schedule will not result in an increase in excess of $1 million. The rates subject to the pending proceeding in customers affected by this rate filing are the rates subject to the pending proceeding in Docket No. E-8650. The difference in revenues between the Docket No. E-8650 rates and the rates herein proposed does not exceed $1 million. Our review of Westerville's petition

indicates that it improperly compared the revenues resulting from the presently proposed rate schedule to the revenues resulting from the rates in effect prior to the effective date of the rates in Docket No. E-8650. We find therefore that the revenue increase resulting from the proposed rate schedule does not exceed $1 million and accordingly the filing requirements of Period II were voluntary for C&S."

Westerville's petition for rehearing presents no information or arguments that we have not already fully considered. We find therefore, that there exists no basis in fact or law upon which to grant Westerville's petition for rehearing.

The Commission finds:

There being no issues presented, in either fact or law, which have not been considered by this Commission in reaching its determination in its order of May 30, 1975, Westerville's petition for rehearing should be denied.

The Commission orders:

(A) Westerville's petition for rehearing of our order of May 30, 1975 in this proceeding is hereby denied.

(B) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-19919 Filed 7-30-75;8:45 am]

[Docket No. E-8308, E-7206]

THE DETROIT EDISON CO. AND CONSUMERS POWER CO.

Order Releasing Permit for Electric Transmission Facilities at United States-Canadian Border

JULY 25, 1975.

This order (1) releases a permit to The Detroit Edison Company (Edison) in Docket No. E-8308 for the construction, operation, maintenance and connection of a 345,000 volt transmission line over the St. Clair River at the United States-Canadian border in the vicinity of St. Clair and Marine City, Michigan, (2) amends the authorization of Edison and Consumers Power Company (Consumers) in Docket No. E-7206 to transmit electric energy from the United States to Canada, so as to allow exportation of energy over the proposed transmission line of Edison as well as over its existing transmission facilities, (3) grants intervention to the Cities of Coldwater, Marshall, Niles, Hillsdale and Petoskey, Michigan (Cities), with respect to the application of Edison for a permit and the joint application of Edison and Consumers (Applicants) for a supplemental export order, (4) provides for a hearing on the issues raised by the Cities' petitions to intervene and the answers thereto of Applicants, (5) prescribes the procedure for the hearing, and (6) discusses the environmental impact of the issuance of the permit and the related amendment of the export authorization.

Edison is incorporated under the laws of the States of Michigan and New York, with its principal place of business at Detroit, Michigan. Consumers is incorporated under the laws of the State of Michigan, with its principal place of business at Jackson, Michigan.

The Commission, by order issued October 10, 1972, Docket No. E-7206 (48 FPC 752), authorized Applicants, pursuant to Section 202(e) of the Federal Power Act (Act), to transmit electric energy from the United States to Canada in an amount not to exceed 4,000,000,000 kwh per year at a rate of transmission not to exceed 2,200,000 kva by means of certain facilities of Edison covered by various permits issued by the Commission under Executive Order No. 10485, dated September 3, 1953, which are hereinafter described and specified, for delivery to The Hydro-Electric Power Commission of Ontario (Ontario Hydro) in accordance with the Interconnection Agreement dated May 23, 1969 (Agreement) among Consumers, Edison and Ontario Hydro, which is on file with the Commission as Edison's Export Rate Schedule FPC No. 13. Edison's facilities connect overhead with Ontario Hydro's facilities at three points on the United States-Canadian border for the purpose of effectuating the sale, purchase and exchange of energy contemplated by the Agreement. Such interconnections include a 230,000 volt interconnection over the Detroit River near Detroit, Michigan and Windsor, Ontario; a 230,000 volt interconnection over the St. Clair River near Marysville, Michigan and Sarnia, Ontario; and a 345,000 volt interconnection over the St. Clair River near St. Clair, Michigan and Courtright, Ontario. The 230,000 volt facilities of Edison are authorized by its Permit signed by the Chairman of the Commission on October 12, 1953, as modified by the Amendment to Permit which was also signed by the Chairman on September 19, 1972, Docket No. E-6516. The 345,000 volt facilities of Edison are authorized by its Permit signed by the Acting Chairman of the Commission on March 1, 1966, Docket No. E-7207. The Commission provided in Paragraph (C) of its order issued October 10, 1972 that the authorization therein granted [1] "may be modified from time to time * * * by further order of the Commission * * *".

[1] The authorization, as stated in Paragraph (B) of the Commission's October 10, 1972 order, is as follows:

(B) The electric energy which Applicants are hereby authorized to transmit from the United States to Canada shall be in an amount not in excess of 4,000,000,000 kwh annually at a transmission rate not to exceed 2,200,000 kva; the energy is to be transmitted over the 230,000 volt facilities specified in the Permit of Edison signed by the Chairman of the Federal Power Commission on October 12, 1953, as modified by the Amendment signed by said Chairman on September 15, 1972, Docket No. E-6516, and the 345,000 volt facilities specified in the Permit of Edison signed by the Acting Chairman of the Federal Power Commission on March 1, 1966, in Docket No. E-7207, referred to above. The limitations provided herein shall apply to the net hourly rate of transmission over all interconnections between Edison and Ontario Hydro and the net hourly transmission of kwh of energy over those interconnections.

Subsequently on June 14, 1973, Edison filed an application in Docket No. E-8308, pursuant to Executive Order No. 10485, for permission to construct, operate, maintain and connect at the international border between the United States and Canada an additional 345,000 volt transmission line for the transmission of electric energy between the United States and Canada. Edison's application was supplemented and amended on June 19, 1974. The new line will be part of the proposed 345 kv international interconnection between Edison's St. Clair Power Plant located in East China Township, St. Clair County, Michigan and Ontario Hydro's Lambton Generating Station located near Courtright, Ontario. The new interconnection, as in the case of the existing interconnection between Edison and Ontario Hydro, will be utilized for the transfer of energy between Applicants and Ontario Hydro under the Agreement. The facilities for which Edison seeks a permit are described as follows:

One single circuit, three-phase, 60 hertz, 345,000 volt overhead transmission line supported on steel towers, with phase spacing and insulation suitable for future operation at 500,000 volts, extending from the anchor tower located on the United States mainland at a point between St. Clair and Marine City, Michigan, over the St. Clair River to the international border between the United States and Canada, there connecting with a similar transmission line of The Hydro-Electric Power Commission of Ontario extending from the international border over the St. Clair River to a point on the Canadian mainland located between Courtright and Sombra, Ontario.

Simultaneously with the filing of Edison's application for the permit on June 14, 1973, Edison and Consumers jointly applied in Docket No. E-7206, pursuant to Section 202(e) of the Act, for a supplemental order authorizing the transmission of electric energy from the United States to Canada over Edison's proposed 345,000 volt transmission line in addition to its existing 230,000 volt and 345,000 volt transmission facilities. The joint application filed by Edison and Consumers does *not* seek an increase in the amount or transmission rate of energy which they may transmit to Canada under the Commission's order of October 10, 1972, Docket No. E-7206, referred to above. The only change in that order sought by Edison and Consumers is a modification of Paragraph (B) so as to authorize the exportation of energy by means of the proposed transmission line as well as by means of the transmission facilities which are constructed and connected with Ontario Hydro's transmission system.

Written notice of Edison's application in Docket No. E-8308 and the joint application of Edison and Consumers in Docket No. E-7206 was given to the Michigan Public Service Commission and to the Governor of that State. Notice of the applications was also given by publication in the Federal Register on August 13, 1973 (38 FR 21817), stating that any person desiring to be heard or to make any

protest with reference to the applications should on or before August 27, 1973 file with the Federal Power Commission, Washington, D.C. 20426 petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The time for filing petitions to intervene or protests was extended to and including October 1, 1973 by the Commission's Secretary (38 FR 25220, September 12, 1973) at the request of the Michigan Municipal Electric Association. Protests, petitions to intervene, and requests for hearing were filed by certain individuals and municipalities as discussed below.

Mr. and Mrs. Walter Kade of St. Clair, Michigan, by letter of protest filed on January 21, 1974, object to Edison's proposed electric transmission line and state, in substance, that if constructed, the line would constitute a danger to the safety of the residents of East China Township and would be in violation of the Township's zoning ordinance. Edison, however, filed on June 19, 1974, as part of the supplement and amendment to its application for the permit for the line, a revised Environmental Report, dated February 1974, which states on page 15 that electric transmission lines "are exempted from the East China Township zoning ordinance". There is no need for us to resolve the conflict produced by those statements since our jurisdiction under Executive Order No. 10485 with respect to the proposed St. Clair-Lambton interconnection extends to that portion of it which crosses over the St. Clair River at a point on the United States-Canadian border. The Permit which we are releasing to Edison does not authorize any electric transmission facilities situated on the Michigan mainland except the anchor tower. In addition to this limitation on our jurisdiction over the facilities which will comprise the St. Clair-Lambton interconnection, it is, of course, not our responsibility to oversee compliance with local zoning ordinances by holders of permits issued under Executive Order No. 10485. In these circumstances, it would be appropriate for Mr. and Mrs. Kade to submit their objections concerning the proposed line to the local agency charged with the enforcement of the zoning ordinance of the Township.

A Protest, Petition To Intervene and Request For A Hearing was jointly filed by the Cities of Coldwater, Marshall and Niles, Michigan on October 2, 1973 [2] and by the Cities of Hillsdale and Petoskey, Michigan on October 17, 1973, all in Docket Nos. E-8308 and E-7206. An answer was jointly filed by Applicants on October 17, 1973 to the pleadings of Coldwater, Marshall and Niles and on October 26, 1973 to the pleadings of Hillsdale and Petoskey.

[2] The Protest, Petition To Intervene and Request For A Hearing of Coldwater, Marshall and Niles appears to have been physically received in the offices of the Commission on October 1, 1973, but after the close of business on that day. Those pleadings were docketed as having been filed on the next day, October 2, 1973.

In addition, a motion for permission to reply to Applicants' answer to the pleadings of Coldwater, Marshall and Niles was jointly filed in these proceedings on October 24, 1973 by Coldwater, Hillsdale, Marshall, Niles and Petoskey and they enclosed the proposed reply with their motion.

The Cities operate electric utility systems, which include generating facilities in the case of Coldwater, Marshall and Hillsdale. A portion of the electric supply of Coldwater and Hillsdale, most of the electric supply of Marshall, and the entire electric supply of Petoskey is furnished by Consumers. All electric energy sold and distributed by Niles is furnished by Indiana & Michigan Electric Company. The Cities allege that "this application [sic] is part of a general and systematic violation of antitrust law and policy and that approval of it without conditions that would give Cities an opportunity to participate in the agreements and ancillary services, would be illegal". More specifically, the Cities allege that Applicants are engaging in anti-competitive conduct to the detriment of the Cities by reason of Applicants' refusal to provide electric transmission service for the Cities or to allow participation by them in the contractual electric service arrangements among Applicants, Ontario Hydro and various electric utility companies operating in Ohio, Indiana, and Illinois. It is also alleged by the Cities that the issuance of the supplemental export order sought by Applicants would impede the coordination in the public interest of facilities subject to the jurisdiction of the Commission" within the meaning and contrary to the requirements of Section 202 (e) of the Act. The Cities request, in substance, that the Commission direct that a hearing be held on the applications of Edison and Consumers, permit the Cities to intervene in the hearing, and condition approval of the applications so as to entitle the Cities to participate in, or share the benefits of, the interconnection and coordination of the electric facilities of Applicants, Ontario Hydro, and the Ohio, Indiana and Illinois companies.

Applicants oppose the Cities' request for hearing, intervention and inclusion of interconnection and coordination conditions, among others, in any order or permit issued by the Commission to Applicants. Procedurally, Applicants contend that the Cities' pleadings should be rejected because they were not timely filed. Substantively, Applicants argue that no nexus has been shown by the Cities between the alleged anti-competitive conduct of Applicants and the relief which the Cities request the Commission to grant, on the one hand, and the authorization which Applicants seek and the actions which the Commission is empowered to take under Section 202(e) of the Act, on the other hand.

It is our conclusion that the allegations contained in the Cities' pleadings do not require denial of Edison's application for the permit or the joint application of Edison and Consumers for the supplemental export order. We have found the issuance of the permit for Edison's new transmission line to be consistent with the public interest and obtained favorable recommendations of the Secretaries of State and Defense with respect to such issuance, all as set forth in the permit released hereinafter, and thus the requirements of Executive Order No. 10485 have been fully met. Furthermore, we believe that good cause has been shown, as required by Section 202 (e) of the Act, for amending Applicants' export authorization and thereby enabling them to utilize the new line for deliveries of electric energy to Ontario Hydro as part of the energy exchange arrangements. It appears, however, that the Cities' pleadings, together with the related answers of Applicants, present factual questions which may usefully be examined in an evidentiary hearing so as to assist us in carrying out our responsibilities under Section 202(e) of the Act and the provisions of Executive Order No. 10485. The regulatory jurisdiction conferred upon us is a continuing matter since it includes not only the authority to prescribe the terms and conditions for the initial exportation of electric energy and the construction, operation and connection of electric transmission facilities at the international border, but also the authority to issue supplemental export orders, such as this order in Docket No. E-7206, and to modify permits for border facilities whenever we determine changes to be necessary or appropriate or required by the public interest. The continuing nature of this regulatory process is reflected in Paragraph (C) of the export order issued October 10, 1972, to Applicants, referred to above, and in Article 1 of the Permit hereinafter released to Edison. We will invoke our regulatory powers to alter the terms and conditions of Applicants' export authorization or Edison's Permit in the event that such action is warranted by developments resulting from the intervention and hearing which we are granting and providing for hereinafter.

On June 9, 1975, Edison filed in Docket No. E-8308 a Petition For Immediate Interim Authorization, which would authorize (1) the construction and operation of the 345,000 volt facilities at the United States-Canadian border and (2) the transmission of electric energy from the United States to Canada over such facilities, all as described above. Consumers filed on June 13, 1975, a letter in support of Edison's Petition. The Cities filed on June 24, 1975 an answer to Edison's Petition. The Cities state, in substance, that they do not object to the Petition being granted by the Commission provided that it does so on certain conditions specified in the Cities' answer. In view of the actions which we are taking by this order, including the release of the Permit to Edison in Docket No. E-8308 and the amendment of the export authorization of Edison and Consumers in Docket No. E-7206, there is no need for us to act upon Edison's request for interim authorization.

The National Energy Board of Canada on July 3, 1973 issued (1) a Certificate of

Public Convenience and Necessity authorizing Ontario Hydro to construct the Canadian portion of the 345 kv St. Clair-Lambton international interconnection, and (2) an order which amended Ontario Hydro's export license so as to authorize the exportation of electric energy to the United States over the proposed 345 kv transmission facilities of Ontario Hydro, among other facilities.

The National Environmental Policy Act of 1969 (NEPA) is applicable to these proceedings because our actions herein, namely, the release of the Permit to Edison in Docket No. E-8308 for its proposed transmission line and the amendment of the export order of Edison and Consumers in Docket No. E-7206, all as described above, clearly constitute "major Federal actions significantly affecting the quality of the human environment" within the meaning of Section 102(2)(C) of NEPA. In these circumstances NEPA requires the preparation, by a responsible official of the concerned Federal agency, of a detailed statement which considers the environmental impact and certain other aspects of the proposed actions. Accordingly, the Commission's staff prepared for these proceedings a Draft Environmental Impact Statement (DEIS), dated July 1974, which covered the entire St. Clair-Lambton interconnection, as described above, and not merely that portion of it which is subject to Commission jurisdiction under Executive Order No. 10485 and which may be utilized to export electric energy as authorized by the Commission under Section 202(e) of the Act. Previously, Edison had submitted an Environmental Report, dated March 1973, as part of its application for the permit and subsequently Edison submitted a revised Environmental Report, dated February 1974, as part of the supplement and amendment to that application, both Reports being environmental studies of the St. Clair-Lambton interconnection. On July 22, 1974, the staff filed copies of the DEIS with the Commission, furnished copies of the DEIS to the Council on Environmental Quality (CEQ), and transmitted copies of the DEIS for comments to interested Federal, State, regional and local agencies and other concerned organizations, including Applicants. The availability of the DEIS for public inspection at certain places was made known through a notice published in the Federal Register on July 25, 1974 (39 FR 27188) and comments were invited by the notice. Following the receipt of comments from several sources, the staff made certain changes in its statement to reflect the suggestions contained in the comments and thus a Final Environmental Impact Statement (FEIS), dated May 1975, was prepared. On May 29, 1975, copies of the FEIS were filed by the staff with the Commission, furnished by the staff to CEQ, and transmitted by the staff for information to substantially the same entities which had been supplied with copies of the DEIS. Reproductions of all comments received on the DEIS are set forth in Appendix B of the FEIS with appropriate references to the pages of FEIS which reflect the comments.

The FEIS represents a careful analysis of the implementation of the Commission's actions relative to the St. Clair-Lambton Interconnection by considering the environmental impact and all other matters which Section 102(2)(C) of NEPA requires to be evaluated, including unavoidable adverse effects, alternative proposals, relationship between short-term uses and maintenance and enhancement of long-term productivity, and irreversible commitments of resources. Although the FEIS indicates certain disadvantages flowing from the Commission's actions, such as restrictions on land use within the right-of-way of the proposed transmission facilities, the addition of another transmission line to the landscape, the destruction of birds in collisions with the transmission line towers and conductors, and the disruption of shipping traffic on the St. Clair River during construction of the facilities and thereafter while maintenance work is being performed, yet the FEIS also reveals that no changes in fish and wildlife population or in air and water quality are anticipated. Furthermore, the FEIS points out that the St. Clair-Lambton interconnection will assist in maintaining and improving electric power system reliability not only in the Michigan area served by Applicants, but also in New York State and other regions of the northeastern United States. This improved reliability is possible because, as the FEIS explains, Ontario Hydro's electric transmission system provides a connecting link between the systems located in Michigan and New York. It is our conclusion that this benefit far outweighs the above-mentioned disadvantages. We also believe that the problems discussed in Section 9 of the FEIS can, for the most part, be resolved by Applicants' adopting the staff's recommendations as set forth therein (FEIS, pp. 9-1, 9-2). Conditions included in the Permit released hereinafter to Edison require it to take protective measures regarding air travel (Article 8) and archeological sites (Article 3).

The Commission further finds:

(1) Good cause has been shown and it is necessary and appropriate for the purposes of the Federal Power Act that Paragraphs (B) and (F) of the Commission's order issued October 10, 1972, Docket No. E-7206, be modified as hereinafter provided.

(2) The requirements of Executive Order No. 10485 applicable to the issuance of the Permit requested by Edison in Docket No. E-8308 for the construction, operation, maintenance and connection of the 345,000 volt transmission facilities at the United States-Canadian border, as described above, have been complied with, and it is therefore appropriate and in the public interest that such Permit, as signed by the Chairman of the Commission, be released as hereinafter provided.

(3) The procedures followed in these proceedings have been in compliance with the provisions of the National Environmental Policy Act of 1969.

(4) The Final Environmental Impact Statement issued in these proceedings complies with the requirements of the National Environmental Policy Act of 1969.

(5) Participation by the Cities of Coldwater, Marshall, Niles, Hillsdale and Petoskey, Michigan, in these proceedings may be in the public interest.

(6) It is necessary and appropriate to carry out the provisions of the Federal Power Act and Executive Order No. 10485 that a public hearing be held in these proceedings concerning the issues raised by the Cities' Protests, Petitions to Intervene, and Requests for Hearing, the Answers thereto of Applicants, and the Reply of the Cities.

(7) Good cause has been shown for granting the Cities' motion for permission to reply to Applicants' answer.

The Commission orders:

(A) Paragraph (B) of the Commission's order issued October 10, 1972, Docket No. E-7206, is hereby amended by authorizing the exportation of electric energy over the proposed 345,000 volt facilities covered by Edison's Permit in Docket No. E-8308, among other facilities, and, as so amended, Paragraph (B) shall read as follows:

(B) The electric energy which Applicants are hereby authorized to transmit from the United States to Canada shall be in an amount not in excess of 4,000,000,000 kwh annually at a transmission rate not to exceed 2,200,000 kva; the energy is to be transmitted over the 230,000 volt facilities specified in the Permit of Edison signed by the Chairman of the Federal Power Commission on October 12, 1953, as modified by the Amendment signed by said Chairman on September 15, 1972, Docket No. E-6516, the 345,000 volt facilities specified in the Permit of Edison signed by the Acting Chairman of the Federal Power Commission on March 1, 1966, Docket No. E-7207, and the 345,000 volt facilities specified in the Permit of Edison signed by the Chairman of the Federal Power Commission on July 25, 1975, Docket No. E-8308, referred to above. The limitations provided herein shall apply to the net hourly rate of transmission over all interconnections between Edison and Ontario Hydro and the net hourly transmission of kwh of energy over those interconnections.

(B) Paragraph (F) of the aforesaid order of the Commission issued October 10, 1972 is hereby amended by changing the phrase "three interconnections" to read "four interconnections," and, as so amended, Paragraph (F) shall read as follows:

(F) Applicants shall install and maintain adequate metering equipment to measure the flow of all electric energy transmitted from the United States to Canada, pursuant to the authority herein granted; shall make, keep and preserve full and complete records with respect to the movement of such energy and shall furnish, in triplicate, reports annually, on or before February 15, showing for each month of the preceding cal-

endar year, the kilowatt-hours of energy received and the kilowatt-hours of energy delivered over the four interconnections as a group, the maximum rate of transmission, and the consideration therefor. In addition, such reports shall show separately for each interconnection the gross monthly kilowatt-hours transmitted in each direction and the maximum rates of such transmissions.

(C) All other terms and conditions as set forth in Paragraphs (A), (C), (D), (E), (G), (H), (I), and (J) of the aforesaid order of the Commission issued October 10, 1972 shall remain in full force and effect.

(D) Concurrently with the issuance of this order, the Permit signed by the Chairman of the Commission in Docket No. E-8308, referred to in Paragraph (A) above, shall be released and a copy thereof transmitted by the Secretary to Edison.

(E) The Cities of Coldwater, Marshall, Niles, Hillsdale and Petoskey, Michigan, are hereby permitted to intervene in these proceedings, subject to the Rules and Regulations of the Commission: *Provided however*, That their participation shall be limited to matters affecting asserted rights and interests set forth in their Protests, Petitions to Intervene and Requests for Hearing; and *Provided, further*, That the admission of said Cities as intervenors shall not be construed as recognition by the Commission that such intervenors might be aggrieved by any order or orders of the Commission entered in these proceedings.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by the Federal Power Act, particularly Sections 202(e), 307, 308 and 309 thereof, and Executive Order No. 10485, and in accordance with the Commission's Rules of Practice and Procedure, a public hearing shall be held in these proceedings at a time to be set by the Administrative Law Judge designated to preside at the hearing, as hereinafter provided, in a hearing room of the Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 concerning the issues raised by the Cities' Protests, Petitions to Intervene and Requests for Hearing, the Answers thereto of Applicants, and the Reply of the Cities.

(G) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (See Delegations of Final Authority, 18 CFR 3.5(d)), shall preside at the hearing in these proceedings, shall prescribe relevant procedural matters not herein provided, and shall control these proceedings in accordance with the policies expressed in the Commission's Rules of Practice and Procedure.

(H) Nothing contained herein should be construed as limiting the rights of the parties to these proceedings regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(I) The Cities' motion filed October 24, 1973 for permission to reply to Applicants' answer filed October 17, 1973 is hereby granted.

(J) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-19920 Filed 7-30-75;8:45 am]

[Docket Nos. CP73-258, CP73-259, CP73-267, CP73-268, CP73-269, and CP73-270]

EL PASO EASTERN CO., ET AL.

Availability of Supplement to the Draft Environmental Impact Statement

AUGUST 1, 1975.

Applicants: El Paso Eastern Company, Transco Energy Company, Transco Terminal Company, and Transcontinental Gas Pipe Line Corporation.

Notice is hereby given in the above dockets, that on August 15, 1975, as required by Section 2.82(b) of Commission Order No. 415-C, a Supplement to the Draft Environmental Impact Statement prepared by the staff of the Federal Power Commission was made available. The Draft Environmental Impact Statement (DEIS), circulated for comments on July 15, 1974, deals with the applications filed by El Paso Eastern Company, Transco Energy Company, Transco Terminal Company and Transcontinental Gas Pipe Line Corporation in Docket Nos. CP73-258, CP73-259, CP73-267, CP73-268, CP73-269, and CP73-270 for a certificate of public convenience and necessity under Sections 3 and 7(c) of the Natural Gas Act requesting authorization for the importation of liquefied natural gas (LNG) from Algeria; for the construction and operation of an (1) LNG importation terminal at Raccoon Island, Gloucester County, New Jersey and (2) approximately 22.74 miles of 36-inch diameter pipeline loop on Transcontinental Gas Pipe Line Corporation's existing Marcus Hook-Woodbury line at Gloucester, New Jersey; and for the sale in interstate commerce of the LNG.

During the course of FPC hearings concerning the Final Environmental Impact Statement (FEIS) for the Distrigas-Eascogas Staten Island, New York LNG Project, Docket Nos. CP73-47 *et al.* and CP73-132 *et al.*, the staff became aware of a possible inaccuracy in the study dealing with the behavior of large-scale LNG spills on water which was attached to the Staten Island FEIS and referenced on Pages 3-24 of the Raccoon Island DEIS. Also, since the circulation date, additional studies concerning possible vapor cloud travel resulting from a massive spill of LNG on water have been completed by the FPC staff, which modify the technique used in the former studies referenced in the DEIS. The Supplement to the DEIS reflects this modification of the vapor travel analysis.

This Supplement to the DEIS has been circulated to Federal, state, and local agencies, and all parties to the proceeding. The DEIS and Supplement to the DEIS have been placed in the public files of the Commission, and are available for public inspection both in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426 and at its regional office located at 26 Federal Plaza, 22nd Floor, New York, New York 10007. Copies of the Supplement to the DEIS are available in limited quantities from the Federal Power Commission's Office of Public Information, Washington, D.C. 20426.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-19918 Filed 7-30-75;8:45 am]

[Docket No. CI75-641, CI75-642, CI75-678, CI75-680, CI75-746, CI75-747, CI75-748]

MARATHON OIL CO., ET AL.

Findings and Order

JULY 24, 1975.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, issuing temporary certificates of public convenience and necessity, consolidating proceeding, accepting rate schedules for filing, granting petitions to intervene and setting hearing.

The producer applications in these proceedings are related to the pipeline authorizations granted by the Commission's order, issued July 18, 1975, in Texas Eastern Transmission Corporation, *et al.*, Docket No. CP63-177, *et al.* In these latter proceedings, the Commission authorized the construction and operation of certain onshore facilities and certain offshore facilities in the Eugene Island area and East Cameron area, South Addition, offshore Louisiana, to move gas reserves onshore. Since the instant proceedings involve the sale of the necessary gas reserves to the pipelines, they constitute the support and justification for the construction of the conditionally authorized facilities in the pipeline proceedings.

On April 25, 1975, as supplemented June 30, 1975, Marathon Oil Company (Marathon) in Docket No. CI75-641, on April 25, 1975, as supplemented June 27, 1975, Louisiana Land Offshore Exploration Company, Inc. (LLOXY) in Docket No. CI75-642, and on May 2, 1975, as supplemented June 25, 1975, Texas Eastern Exploration Co. (Exploration) in Docket No. CI75-678 filed applications pursuant to Section 7(c) of the Natural Gas Act for certificates of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Texas Eastern Transmission Corporation (Texas Eastern) from the Block 349 field, Eugene Island area, offshore Louisiana, all as more fully set forth in the applications, as supplemented, in these dockets.

These three Applicants propose to make the sales of natural gas at the national base rate of 51.0 cents per Mcf at 14.73 psia subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot and a 0.5 cent gathering allowance pursuant to the Commission's Opinion No. 699, as amend-

ed. in lieu of the contract rates of $1.44 per Mcf at 15.025 psia. Marathon owns a 57.1 percent working interest in Block 349, LLOXY owns a 28.6 percent working interest and Exploration owns a 14.3 percent working interest. Total estimated monthly volumes for the three applicants is 1,056,607 Mcf (14.73 psia) of gas.

On May 14, 1975, Texaco Inc. (Texaco) filed in Docket No. CI75–680 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 and delivery of natural gas in interstate commerce to Texas Gas Transmission Corporation (Texas Gas) from Blocks 342, 343, and 348, Eugene Island area, offshore Louisiana, all as more fully set forth in the application in said docket. Texaco proposes an estimated monthly sale of 918,000 Mcf (14.73 psia) of gas at the national base rate of 51.0 cents per Mcf at 14.73 psia subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot and a 0.5 cent gathering allowance pursuant to the Commission's Opinion No. 699, as amended, in lieu of the contract rate of $1.15 per Mcf at 15.025 psia.

On June 16, 1975, Tenneco Oil Company (Tenneco) filed in Docket No. CI75–746 an application, as supplemented July 10, 1975, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Tennessee Gas Pipeline Company, a Division of Tenneco Inc., (Tennessee) from Block 281, East Cameron area, offshore Louisiana, all as more fully set forth in the application, as supplemented, in this docket. Tenneco proposes an estimated monthly sale of 2,111,400 Mcf (14.73 psia) of gas at the national base rate of 51.0 cents per Mcf at 14.73 psia subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot and a 0.5 cent gathering allowance pursuant to the Commission's Opinion No. 699, as amended, in lieu of the contract rate of $1.63 per Mcf at 15.025 psia.

On June 16, 1975, Tenneco Exploration, Ltd. (Exploration Ltd.), filed in Docket No. CI75–748 an application as supplemented on July 15, 1975, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Tenneco from Blocks 342 and 343, Eugene Island area, offshore Louisiana, all as more fully set forth in the application in said docket. Exploration Ltd. proposes an estimated monthly sale of 1,257,660 Mcf (14.73 psia) of gas at the national base rate of 51.0 cents per Mcf at 14.73 psia subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot and a 0.5 cent gathering allowance pursuant to the Commission's Opinion No. 699, as amended, in lieu of the contract rate of $1.44 per Mcf at 15.025 psia.

On June 16, 1975, Tenneco filed in Docket No. CI75–747 an application, as supplemented on July 15, 1975, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of the natural gas in interstate commerce to be purchased from Exploration Ltd. to Tennessee from Blocks 342 and 343, Eugene Island area, offshore Louisiana, all as more fully set forth in the application in said docket. Tenneco proposes an estimated monthly sale of 1,257,660 Mcf (14.73 psia) of gas at the national base rate of 51.0 cents per Mcf at 14.73 psia subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot and a 0.5 cent gathering allowance pursuant to the Commission's Opinion No. 699, as amended, in lieu of the contract rate of $1.44 per Mcf at 15.025 psia.

The producer gas sales contracts in Docket Nos. CI75–680, CI75–746, CI75–747, and CI75–748 would limit dedications of reserves to the base of defined producing formations. In addition to the depth limitation, the contracts in Docket Nos. CI75–746, CI75–747, and CI75–748 further limit the dedication to 75 percent of the reserves in the dedicated depths. Further, a supplemental agreement in Docket No. CI75–680 provides for a possible volumetric limitation. In view of the national shortage of natural gas and the declining gas reserves of interstate pipelines, the Commission by order issued June 3, 1975, in Getty Oil Company, *et al.*, in Docket No. CI75–319, *et al.*, directed that a formal hearing be held to resolve a similar issue of depth limitations and limitation on the term of the sale (5 years).

The order of June 3, 1975, in Docket No. CI75–319 *et al.* (p.1) states:

"This proceeding involves issues of limitations in gas sales contracts, between independent producers and an interstate pipeline, for natural gas to be produced and sold from leases in the Federal Domain in the Gulf of Mexico, proposed to be certificated by the Federal Power Commission and accepted for filing.

The producer gas sales contracts would limit dedications to the base of defined producing formations for a limited term. In view of the national shortage of natural gas and the declining gas reserves of interstate pipelines, the Commission directs a formal hearing on these issues. Applicants shall, *inter alia*, in their evidence address the question of whether the dedication of gas reserves to be connected from Federal Domain leases should not include all of the commercially producible gas reserves from the surface to the limit of the well bore."

Accordingly, we shall herein consolidate the proceedings in Docket Nos. CI75–680, CI75–746, CI75–747, and CI75–748 with the proceedings in Docket No. CI75–319, *et al.*, to resolve the same issues of depth limitation and the 25 percent reservation of reserves in Docket Nos. CI75–746, CI75–747, and CI75–748 and the possible volumetric limitation in Docket CI75–680, and the limited term (10 years) proposed in Docket No. CI75–746.

Based on the need of additional gas supplies and the facilitation of pipeline construction, Tenneco and Exploration Ltd. have requested the issuance of temporary certificates in their respective dockets. Texaco in Docket No. CI75–680 has not requested a temporary certificate. We shall herein issue temporary certificates to Tenneco and Exploration Ltd. Additionally, in view of Texas Gas', the buyer's, need for gas and in order to permit gas to flow pending the formal consolidated proceeding, we shall also grant a temporary certificate to Texaco in Docket No. CI75–680.

A portion of the facilities proposed by pipeline Applicants in Docket No. CP75–127, which is part of the proceeding in Docket No. CP63–177, *et al*, is for a project, Project 281, to be constructed in the East Cameron area, offshore Louisiana. The gas supporting this project is to be purchased from Tenneco and Texaco. Each producer owns a 50 percent interest. Tenneco has filed for appropriate Commission authorization in Docket No. CI75–746. However, Texaco has not as of the date of this order filed for appropriate authorization to sell the gas from its interest to Tennessee. Accordingly, a written statement is to be filed by Texaco within 10 days of the date of this order advising the Commission of its intentions with regard to its 50 percent interest in Block 281.

After due notice by publication in the Federal Register, petitions to intervene were filed by Associated Gas Distributors and Tennessee Gas Pipeline Company, a Division of Tenneco Inc., in Docket Nos. CI75–746 and CI75–747. A petition to intervene was also filed by Air Products and Chemicals, Inc., in Docket No. CI75–746. Associated Gas Distributors also requests that the applications in Docket Nos. CI75–746 and CI75–747 be held in abeyance and eventually be set for formal hearing. However, on July 18, 1975, Associated Gas withdrew its petition. No notice of intervention, protest to the granting of the applications, or further petition to intervene has been filed.

At a hearing held on July 24, 1975, the Commission on is own motion received and made a part of the record in these proceedings all evidence, including the applications, as supplemented, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record.

The Commission finds:

(1) Each Applicant here is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in Docket Nos. CI75–641, CI75–642 and CI75–678, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of Subsections

(c) and (e) of Section 7 of the Natural Gas Act:

(3) Applicants in Docket Nos. CI75–641, CI75–642 and CI75–678 are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sales of natural gas by Applicants in Docket Nos. CI75–641, CI75–642, and CI75–678, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity; and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplement related to the authorizations hereinafter granted should be accepted for filing.

(6) Participation by petitioners to intervene may be in the public interest in the proceedings in which they have filed petitions.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing the sale by Applicants in Docket Nos. CI75–641, CI75–642, and CI75–678 of natural gas in interstate commerce for resale for ultimate public consumption, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, subject to Opinion No. 699, as amended, and any further orders issued thereunder, conditioned to the lesser of the contract rate or the national base rate of 51.0 cents per Mcf (14.73 psia), subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot, plus a 0.5 cent per Mcf gathering allowance, all as hereinbefore described and as more fully described in the applications in said dockets.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of Section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's Regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against Applicant. Further, our action in this proceeding shall not foreclose or prejudice any future proceeding relating to the operations of any price or related provisions in the gas purchase contract herein involved. The grant of the certificates herein for service to the particular customer involved shall not imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts, as provided by Section 7(b) of the Natural Gas Act. The grant of the certificates herein shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sale of natural gas subject to said certificates.

(D) Applicants in Docket Nos. CI75–641, CI75–642, and CI75–678 shall obtain Commission authorization before reserves may be substituted pursuant to Section 5 of Article III of the related gas sales contracts in those dockets.

(E) Within 30 days from the date of this order, Applicant in Docket No. CI75–642 shall file three copies of a written statement demonstrating the applicability of the rate, terms and conditions of Opinion No. 699–H. If such statement is filed with the Secretary within 30 days, the rate may be made effective as of the date of initial delivery.

(F) Based upon the allegations presented in the requests for temporary certificates and upon the need for additional natural gas supplies, the Commission finds that an emergency exists and temporary certificates are hereby issued to Applicants in Docket Nos. CI75–680, CI75–746, CI75–747, and CI75–748 pursuant to Section 7 of the Natural Gas Act authorizing the sales by Applicants in those dockets of natural gas in interstate commerce for resale for ultimate public consumption, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, subject to Opinion No. 699, as amended, and any further orders issued thereunder, conditioned to the lesser of the contract rates or the national base rate of 51.0 cents per Mcf (14.73 psia), subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot, plus a 0.5 cent per Mcf gathering allowance.

(G) Applicant's acceptance or rejection of the temporary certificates shall be filed within 30 days of the date hereof. If accepted, the temporary certificates shall be effective upon the date of receipt of the acceptance by the Secretary. Service under the temporary certificates shall commence within 30 days from the date of completion of the facilities by the purchaser or transporter. Such service may not be discontinued without permission of the Commission issued pursuant to the provisions of Section 7(b) of the Natural Gas Act whether the contract term has expired or not. The issuance of temporary certificates and the acceptance of the above rate schedules are without prejudice to such final disposition of the applications for certificates as the record may require.

(H) The proceeding in Docket Nos. CI75–680, CI75–746, CI75–747, and CI75–748, are hereby consolidated for hearing and decision with the proceedings in Getty Oil Co., *et al.*, in Docket No. CI75–319, *et al.*

(I) Section 154.93(b–1) of the Commission's Regulations in waived to permit the inclusion in the rate schedules of Applicants granted permanent certificates in paragraph (A) above and Applicants granted temporary certificates in paragraph (F) above of the contract provision for rate increases to higher area rate found to be proper by hearing, rulemaking, or a Commission approved settlement.

(J) The rate schedules and rate schedule supplement related to the authorizations granted herein are accepted for filing to become effective on the date of initial delivery. Applicants shall advise the Commission of said date within 10 days thereof.

The rate schedules have been designated as follows:

Description:	*Designation*
Contract April 21, 1975	Marathon Oil Co., FPC Gas Rate Schedule No. 132.
Contract April 18, 1975	Louisiana Land Offshore Exploration Co., Inc., FPC Gas Rate Schedule No. 2.
Contract April 22, 1975	Texas Eastern Exploration Co., FPC Gas Rate Schedule No. 12.
Contract May 1, 1975, Letter Agreement May 1, 1975.	Texaco, Inc., FPC Gas Rate Schedule No. 519, Supplement No. 1 thereto.
Contract June 13, 1975	Tenneco Oil Co., FPC Gas Rate Schedule No. 308.
Contract June 12, 1975	Tenneco Oil Co., FPC Gas Rate Schedule No. 309.
Contract June 12, 1975	Tenneco Exploration, Ltd., FPC Gas Rate Schedule No. 4.

(K) Acceptance of the rate schedules of Applicants in Docket Nos. CI75–746, CI75–747, CI75–748 and CI75–680 does not constitute Commission approval of the contractual reservations or limitations involved pending resolution of the matter on the merits after hearing and decision.

(L) Appropriate authorization from the Commission is required by any pipeline to transport any gas which the producers may be permitted to reserve.

(M) Texaco shall file a written statement within 10 days of the date of this order advising the Commission of its intentions with regard to its 50 percent interest in Federal Domain Block 281, East Cameron area, offshore Louisiana.

(N) Petitioners to intervene are permitted to intervene in the proceedings in which they have filed petitions to intervene subject to the rules and regulations of the Commission; *Provided, however,* that participation by such interveners shall be limited to matters affecting asserted rights and interest as specifically set forth in the petitions to intervene; and, *Provided, further,* that the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in these proceedings.

(O) Applicants (Texaco and Tenneco) shall present as part of their prepared evidence, supporting data to show the volumes of natural gas to be produced and sold during the term of their contracts from contractually specified formations in each Block; the estimated gross and net total recoverable natural gas reserves in each formation in each Block; the estimated gross and net recoverable natural gas reserves commercially producible from the surface to the limit of the well bore in each Block, and deliverability schedules relating to each of the three reserves estimates called for above.

(P) Pursuant to the authority of the Natural Gas Act, particularly Sections 7 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 September 30, 1975, at 10 a.m. (EDT) in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the matters in Docket Nos. CI75–680, CI75–746, CI75–747, and CI75–748.

(Q) On or before September 8, 1975, Applicants Texaco and Tenneco and all persons in support of the applicants shall each file their prepared testimony and exhibits comprising their case-in-chief upon all parties to this proceeding, the Office of Administrative Law Judges, Commission Staff and all parties to the Consolidated proceeding in Docket Nos. CI75–319 *et al.*

By the Commission. Commissioner Smith, dissenting, filed a separate statement as part of the original.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75–19921 Filed 7–30–75;8:45 am]

[Docket No. CP74–187]

THE MONTANA POWER CO.

Order Amending Import Authorizations

JULY 24, 1975.

On June 6, 1975 The Montana Power Company (Montana Power), filed a petition to amend its import authorization to permit it to continue the importation of natural gas from Canada at increased prices. Montana Power's petition is predicated on the fact that on May 5, 1975, the Canadain government announced that export licenses would be amended to provide that the export price for natural gas would be increased to $1.40 per MMBtu (Canadian) effective August 1, 1975, and to $1.60 per MMBtu (Canadian) effective November 1, 1975. Montana Power purchases gas from its subsidiary Canadian-Montana Pipeline Company under an authorization granted on March 21, 1975, at this docket.

Notice of Montana Power's petition to amend its import authorization was issued on June 17, 1975, with protests and petitions to intervene due on or before July 3, 1975. No petitions to intervene have yet been received.

Examination of Montana Power's filing indicates that the company has no available alternative supply of natural gas to replace the volumes imported from Canada. Upon review, we find that continuation of importation under the increased prices would be consistent with the public interest, subject, however, to the condition that any further increase in the price Montana Power is required to pay will require further amendment to its import authorizations.

Montana Power provides natural gas service within the State of Montana. The rates charged by the petitioner for such service are set, regulated and controlled by the Public Service Commission of the State of Montana and are not subject to the jurisdiction of this Commission.

The Commission finds:

(1) Montana Power's authorization for the importation of natural gas from Canada should be amended to permit it to continue such importation at a price of $1.40 per MMBtu (Canadian), effective August 1, 1975, and $1.60 per MMBtu (Canadian), effective November 1, 1975, as hereinafter ordered, as such importation has been shown to be consistent with the public interest.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly Section 3 thereof, Montana Power's import authorizations for importation of natural gas from Canada is hereby amended to permit it to import natural gas at the price of $1.40 per MMBtu, (Canadian) effective August 1, 1975, and $1.60 per MMBtu, (Canadian) effective November 1, 1975, as hereinafter ordered and conditioned.

(B) Any further change in the price Montana Power is to pay for the importation of Canadian gas will require further amendment to its import authorization.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75–19922 Filed 7–30–75;8:45 am]

[Docket No. RP74–100, PGA76–1]

NATIONAL FUEL GAS SUPPLY CORP.

Proposed PGA Rate Adjustment

JULY 25, 1975.

Take notice that on July 21, 1975, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, Fifth Revised Sheet No. 4, proposed to be effective August 1, 1975.

National states that the sole purpose of this revised tariff sheet is to adjust National's rates pursuant to the PGA provisions in Section 17 of the General Terms and Conditions. National further states that such tariff sheet reflects an adjustment in National's rates of (5.50¢) per Mcf on Fifth Revised Sheet No. 4.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected 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, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 21, 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.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75–19923 Filed 7–30–75;8:45 am]

NIAGARA MOHAWK POWER CORP.

[Docket No. ER76–15]

Tariff Filing

JULY 28, 1975.

Take notice that Niagara Mohawk Power Corporation, on July 21, 1975, tendered for filing as a rate schedule, a transmission agreement between Niagara Mohawk Power Corporation and Central Hudson Gas & Electric Corporation, dated February 14, 1975.

The service to be rendered by Niagara Mohawk Power Corporation (Niagara) provides for the transmission of power and energy between (a) Niagara's transmission connection to the Power Authority of the State of New York, (PASNY) Fitzpatrick-Edic No. 1, 345 Kv transmission line and (b) Niagara's transmission connection with Central Hudson Gas & Electric Corporation (Hudson) at Niagara's Leeds 345 Kv Substation.

Transmission capacity to be made available to Central Hudson Gas & Electric Corporation (Hudson) will be that which is scheduled as unsupported firm power for Hudson by PASNY in accordance with the James A. Fitzpatrick Nuclear Power Plant (Fitzpatrick) contracts and agreements in effect between PASNY and Hudson. The Company requests the effective date be designated as the date when the power and/or energy is made available. It estimates this day to be sometime during July of 1975.

Niagara states that a copy of the filing was served upon Central Hudson Gas & Electric Corporation.

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, N.E., 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 August 8, 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.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-19924 Filed 7-30-75;8:45 am]

[Docket No. CP76-18]

NORTHWEST PIPELINE CORP.

Application

JULY 25, 1975.

Take notice that on July 17, 1975, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP76-18 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of all of those certain facilities presently operated by Grand Gas Corporation (Grand Gas) which may be subject to jurisdiction of the Commission, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that Grand Gas was formed pursuant to a agreement between Tejas Gas Corporation (Tejas) and Treasure Resources, Inc. (Treasure). Applicant further states that on June 2, 1972, Grand Gas and Treasure formed a joint venture for the exploration and production of oil and/or natural gas, and for the construction of gas gathering and transmission systems for the gathering, servicing, purchasing, processing, and marketing of natural gas from certain lands in the State of Utah. Applicant states further that by an agreement dated August 12, 1974, between Applicant, Grand Gas, Tejas, and Treasure, Applicant agreed to purchase the gathering system owned by Grand Gas and Treasure for $620,050. Effective April 1, 1975, Applicant states it acquired all of the outstanding stock of Grand Gas from Tejas and the interest Treasure in the joint venture.

The application states that Grand Gas currently purchases natural gas from 13 independent producers in the Cisco Dome Area, Grand County, Utah, and has entered into a gas purchase contract dated October 25, 1974, for the purchase of gas from Vukasovich Drilling. Applicant states that the facilities constructed by Vukasovich Drilling are the property of Grand Gas, but that they are shut-in because Grand Gas is unable presently to pass on the additional cost under the contract between it and Applicant to Applicant.

Applicant states that the acquisition of the facilities of Grand Gas would give Applicant complete control over the operation of the gas supply presently serving its system and would permit Applicant to contract directly for new or additional supplies of gas with producers in the Cisco Dome Field without having to negotiate with third parties to provide a gathering or transportation service. Applicant states further that the incremental cost of service attributable to the gathering of natural gas in the Cisco Dome Field would be approximately 8.54 cents, 5.73 cents, and 11.94 cents in the first, second and third years of operation, respectively. Applicant alleges that the overall cost of service would not change an appreciable amount as a result of the acquisition of Grand Gas and that such costs would be incurred in any event either as a direct charge or as an integral part of its cost of service.

Applicant states that Grand Gas cannot operate economically as a separate entity under its present contract with Applicant and further cannot afford to contract for and connect to its system any new supplies of natural gas in the Cisco Dome Field or adjacent areas for ultimate resale to and delivery to Applicant. Applicant therefore proposes to operate the facilities of Grand Gas as part of its own system.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 14, 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 be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-19925 Filed 7-30-75;8:45 am]

[Docket No. ER76-17]

OHIO POWER CO.

Tariff Change

JULY 25, 1975.

Take notice that Ohio Power Company, on July 21, 1975, tendered for filing proposed changes in its FPC Electric Service Rate Schedule No. 18. The proposed changes would increase revenues from jurisdictional sales and service by $6,228,660, based on the 12-month period ending December 31, 1975.

Copies of the filing were served upon the Wheeling Electric Company and the Public Service Commission of West Virginia, Capital Building, Charleston, West Virginia.

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, N.W., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules and practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 8, 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 inspec-

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-19926 Filed 7-30-75;8:45 am]

[Docket No. RP71-119]

PANHANDLE EASTERN PIPELINE CO.

Availability of Draft Environmental Impact Statement

JULY 23, 1975.

Notice is hereby given in the above Docket, that on July 31, 1975, a Draft Environmental Impact Statement prepared by the staff of the Federal Commission was made available. This draft statement deals with the environmental impact of alternative permanent curtailment plans proposed in Docket RP71-119 across the Panhandle-Eastern Pipeline Company system.

This draft statement has been circulated to Federal, State and local agencies, and has been placed in the public files of the Commission, and is available for public inspection both in the Commission Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426 and at its Regional Offices located at 819 Taylor Street, Fort Worth, Texas, Texas 76102 and the 31st Floor, Federal Bldg., 230 S. Dearborn Street, Chicago, Illinois 60604. Copies are also available in limited quantities from the Federal Power Commission's Office of Public Information, Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-19917 Filed 7-30-75;8:45 am]

[Docket No. ER 76-13]

PHILADELPHIA ELECTRIC CO. AND DELMARVA POWER & LIGHT CO.

Filing of Supplement to Interconnection Agreement

JULY 24, 1975.

Take notice that on July 17, 1975, Philadelphia Electric Company (PE) with the concurrence of Delmarva Power & Light Company (DPL) tendered for filing pursuant to section 205 of the Federal Power Act and Part 35 of the regulations issued thereunder, a May 1, 1975, Supplemental Agreement to the original Interconnection Agreement between PE and DPL, dated November 29, 1967, as supplemented, which provides for the inclusion of the 230 KV interconnection extending from Chichester Substation in Pennsylvania to Edge Moor Substation in Delaware.

PE requests an effective date of May 1, 1975, for the Supplement.

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, N.E., 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 August 11, 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.75-19927 Filed 7-30-75;8:45 am]

[Docket No. E-9383]

PUBLIC SERVICE COMPANY OF COLORADO

Tendered Compliance Filing

JULY 28, 1975.

Take notice that on July 21, 1975, Public Service Company of Colorado (PSCC) tendered for filing a revised Attachment No. 1 to its April 14, 1975 filing of a rate schedule for wholesale electric service to the City of Burlington, Colorado. PSCC states that the purpose of its submittal is to comply with the Commission order of June 17, 1975 at this docket by submitting a fuel adjustment clause and cost support data for the base cost of fuel used therein, for service to the City of Burlington under the contract tendered for filing with the Commission on April 14, 1975. The company states that its tendered fuel adjustment clause provides for calculation as specified by § 35.14, as amended, of the Commission's Regulations under the Federal Power Act. PSCC states further that its submittal is intended to amend and complete its April 14, 1975 filing and requests that the tendered filing, as so amended, be accepted.

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 August 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.75-19928 Filed 7-30-75;8:45 am]

[Docket No. CI76-30]

SHELL OIL CO.

Application

JULY 25, 1975.

Take notice that on July 16, 1975, Shell Oil Company (Applicant), P.O. Box 2099, Houston, Texas 77001, filed in Docket No. CI76-30 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 Transco Gas Supply Company (Transco) from the South Marsh Island Block 130 Field, offshore Louisiana, and delivery of said gas to Michigan Wisconsin Pipe Line Company for the account of Transco in South Marsh Island Block 58, offshore Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to sell approximately 120,000 Mcf of gas per month at an initial rate of 52.53155 cents per Mcf at 15.025 psia, subject to upward and downward Btu adjustment, until July 1, 1978, within the contemplation of Section 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant states that it expects to have up to 12,000 Mcf of casinghead gas per day which could be delivered for the account of Transco.

Applicant states that it has built a crude oil gathering line from Block 130 to Block 58 which will accommodate a two-phase operation, making it possible for Applicant to gather gas to Block 58 until July 1, 1978, or such earlier time as gas can be delivered to Transco at an anticipated permanent delivery point in the Block 130 Field. Applicant states further that it anticipates executing a long-term contract to sell Block 130 Field gas to Transco and that prior to that time there will be no pipeline to Block 130 and the gas would not otherwise be available to the market. It is stated that after July 1, 1978, there will be no available capacity in the gathering line from Block 130 to Block 58.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 18, 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.75-19929 Filed 7-30-75;8:45 am]

[Docket Nos. RP72-156 and RP72-64, (PGA 75-4)]

TEXAS GAS TRANSMISSION CORP.

Order Accepting for Filing and Suspending Proposed PGA Rate Adjustment and Permitting Filing of Revised Rates

JULY 25, 1975.

On June 16, 1975, Texas Gas Transmission Corporation (Texas Gas), tendered for filing a proposed revised tariff sheet[1] pursuant to its PGA clause which would track a PGA rate reduction of 0.42¢ per Mcf in the cost of purchased gas and a 2.71¢ per Mcf decrease in the surcharge to recover the balance in the unrecovered purchased gas cost amount. The proposed PGA filing also reflects a Curtailment Credit Surcharge of 0.36¢ per Mcf.

Notice of Texas Gas' filing was issued with protests or petitions to intervene due on or before July 8, 1975. The Commission has received no comments, protests, or petitions to intervene.

Our review of Texas Gas' proposed PGA adjustment indicates that it is based in part upon small independent producer and emergency purchases at rates in excess of the rate levels established in

[1] Twelfth Revised Sheet No. 7 to FPC Gas Tariff, Third Revised Volume No. 1.

Opinion No. 699–H.[2] The proposed rates have not therefore been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, we shall accept Texas Gas' June 16, 1975, PGA filing and suspend it for one day to become effective August 2, 1975, subject to refund.

With regard to the question of small producer purchases, we note that the Supreme Court has remanded the small independent producer rulemaking in order for the Commission to enunciate the standards in determining the justness and reasonableness for small producer purchases.[3] As to the emergency purchases, we note that the U.S. Circuit Court of Appeals for the D.C. Circuit has set aside Order No. 491, *et al.*[4] holding that the Commission exceeded its authority under the Natural Gas Act.[5] We shall, at an appropriate future time, set the issue of the justness and reasonableness of these costs for hearing.

Our review of Texas Gas' proposed tariff sheet indicates that the claimed costs other than those associated with that portion of small producers and emergency purchases in excess of Opinion No. 699–H complies with the standards set forth in Docket No. R–406. Accordingly, Texas Gas may file a substitute tariff sheet to become effective August 1, 1975, reflecting costs other than those associated with small producer and emergency purchases in excess of the rate levels prescribed by Opinion No. 699–H.

The Commission finds:

(1) It is necessary and appropriate in the public interest and to aid in the enforcement of the Natural Gas Act that Texas Gas' proposed PGA adjustment tendered on June 16, 1975, be accepted for filing, suspended for one day and permitted to become effective August 2, 1975, subject to refund.

(2) The claimed costs, other than those associated with that portion of small producer and emergency purchases in excess of the rate levels prescribed in Opinion No. 699–H have been reviewed and found to be in compliance with the standards set forth in Docket No. R–406.

The Commission orders:

(A) Texas Gas' proposed Twelfth Revised Sheet No. 7 to FPC Gas Tariff, Third Revised Volume No. 1 is hereby accepted for filing, suspended for one day, and permitted to become effective August 2, 1975, subject to refund.

(B) Texas Gas may file to become effective August 1, 1975, a substitute tariff sheet reflecting that portion of Texas Gas' proposed rates which reflect costs other than those costs associated with that portion of small producer and emergency purchases in excess of the rate levels prescribed in Opinion No. 699–H.

(C) The Secretary shall cause prompt publication of this order to be issued in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75–19930 Filed 7–30–75;8:45 am]

[Docket Nos. RP74–48 and RP75–3; AP75–2]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Rejecting, Without Prejudice, Advance Payments Tracking Filing, and Granting Intervention

JULY 25, 1975.

On June 16, 1975, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing seven revised tariff Sheet No. 52, Fourth Substitute First Revised Volume No. 1 and Original Volume No. 2.[1] This filing is made, Transco states, in accordance with Section 6 of Article III of the "Agreement as to Rates of Transcontinental Gas Pipe Line Corporation" (Agreement). Said Agreement, representing a settlement of all but three issues in Docket Nos. RP74–48 and RP75–3, was certified to the Commission for approval on May 16, 1975, by Presiding Administrative Law Judge Isaac D. Benkin.

According to Transco, the instant filing proposes a $15,442,642 increase in the balance of advance payments reflected in the aforementioned Agreement and a May 16, 1975 advance payments tracking filing.[2] Transco proposes that the instant filing be made effective August 1, 1975, subject to Commission approval of the Agreement.

Public notice of the subject filing was issued on June 25, 1975, with comments, protests and petitions to intervene due on or before July 7, 1975. A timely petition for leave to intervene was filed by Sun Oil Company. Good cause appearing, said petition shall be granted, as hereinafter ordered and conditioned.

As noted above, the instant advance payments tracking filing is made pursuant to a provision in the settlement agreement in the captioned dockets. This provision would permit, subject to certain conditions, the tracking of advances from Transco to producers of natural gas. However, because we have not yet taken any action on said settlement agreement, Transco, as of this date, has no authority to track the advance payments here in question. Accordingly, the instant filing must be rejected as premature. This rejection is, however, without prejudice to Transco's right to make advance payments tracking filings in the event the tracking provision is approved at a later date.

The Commission finds:

(1) Good cause exists to grant Sun Oil Company's petition for leave to intervene in this proceeding, as hereinafter ordered and conditioned.

(2) Good cause exists to reject the tariff sheets listed in footnote 1 of this order, without prejudice to Transco's right to make advance payments tracking filings in the event the aforementioned advance payments tracking provision is approved at a later date.

The Commission orders:

(A) Sun Oil Company is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *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 or orders of the Commission entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) Transco's June 16, 1975, advance payments tracking filing is hereby rejected, without prejudice to Transco's right to make advance payments tracking filings in the event the tracking provision in question is approved by this Commission at a later date.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75–19931 Filed 7–30–75;8:45 am]

[Rate Schedule No. 5]

MARATHON OIL CO.

Rate Change Filing Pursuant to Commission's Opinion No. 699–H

JULY 25, 1975.

Take notice that the producer listed in the Appendix attached hereto 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 its

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[2] Docket No. R–389–B, issued June 21, 1974.

[3] *F.P.C.* v. *Texaco, Inc.*, 417 U.S. 380 (1974).

[4] Order No. 491, 50 FPC 742 (1973); Order No. 491–A, 50 FPC 484 (1973); Order No. 491–B, 50 FPC 1463 (1973); Order No. 491–C, 50 FPC 1634 (1973).

[5] *Consumer Federation of America, et al. v. F.P.C.* (D.C. Cir., Docket No. 73–20009, issued March 13, 1975).

[1] These seven revised sheets are designated Third Substitute Thirteenth Revised Sheet No. 5 and Third Substitute Ninth Revised Sheet No. 6 to First Revised Volume No. 1; and Fifth Substitute Fourteenth Revised Sheet No. 52, Fourth Substitute First Revised Sheet No. 121, Fifth Substitute Tenth Revised Sheet No. 321, Fifth Substitute Sixth Revised Sheet No. 416, and Fifth Substitute Fifth Revised Sheet No. 495 to Original Volume No. 2.

[2] By order issued June 30, 1975, Transco's May 16, 1975, advance payments tracking filing was rejected because we had not yet acted on the aforementioned Agreement, pursuant to which the tracking filing was made. However, that rejection was without prejudice to Transco's right to make advance payment tracking filings in the event the tracking provision is approved at a later date.

Opinion No. 699–H, issued December 4, 1974. Pursuant to Opinion No. 699–H the rates, if accepted, will become effective as of the date of filing.

The information relevant to each of these sales is listed in the Appendix.

Any person desiring to be heard or to make any protest with reference to said filings should on or before August 8, 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). A protest will not serve to make the protestant a party to the proceeding. Any party wishing to become a party to a proceeding 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
July 11, 1975...	Marathon Oil Co., Findlay, Ohio 45840.	5	El Paso Natural Gas Co.....	Permian basin.

[FR Doc.75–19932 Filed 7–30–75;8:45 am]

[Docket No. RM76–1]

HYDRO-ELECTRIC PROJECT LICENSES

Specified Reasonable Rate of Return; Extension of Time for Filing Comments

JULY 28, 1975.

On July 16, 1975, Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, and the Montana Power Company filed a motion to extend the date for filing comments fixed by notice issued July 7, 1975, in the above-designated matter.

Notice is hereby given that the date for filing comment in the above matter is extended to and including October 1, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75–19935 Filed 7–30–75;8:45 am]

[Docket No. RI75–93]

CONTINENTAL OIL CO.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

JULY 18, 1975.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly Sections 4 and 15, the Regulations pertaining thereto (18 CFR, Chapter I), and the Commission's Rules of Practice and Procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and Section 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* [4] Rate in effect	Cents per Mcf* [4] Proposed increased rate	Rate in effect subject to refund in docket No.
RI75–93...	Continental Oil Co.....	199	[1] 15	El Paso Natural Gas Co. (New Mexico) (Rocky Mountain).	(2)	6–19–75	.....	7–2–75	27.5171	27.7725	RI75–93.
	.....do.....	221	[1] 19	.....do.....	(2)	6–19–75	.....	7–2–75	27.5171	27.7725	RI75–93.
	.....do.....		[3] 20	.....do.....	(2)	6–19–75	.....	7–2–75	29.3197	29.3311	RI75–93.
	.....do.....	295	[1] 14	.....do.....	(2)	6–19–75	.....	7–2–75	27.5171	27.7725	RI75–93.
	.....do.....		[3] 15	.....do.....	(2)	6–19–75	.....	7–2–75	29.3197	29.3311	RI75–93.
	.....do.....	408	[1] 21	Northwest Pipeline Corp. (New Mexico) (Rocky Mountain).	(2)	6–19–75	.....	7–2–75	27.5171	27.7725	RI75–93.
	.....do.....	198	[1] 21	El Paso Natural Gas Co. (New Mexico) (Rocky Mountain).	(2)	6–20–75	.....	7–2–75	27.5171	27.7725	RI75–93.
	.....do.....		[3] 22	.....do.....	(2)	6–20–75	.....	7–2–75	29.3197	29.3311	RI75–93.
	.....do.....	200	[1] 27	.....do.....	(2)	6–20–75	.....	7–2–75	27.5171	27.7725	RI75–93.
	.....do.....		[3] 28	.....do.....	(2)	6–20–75	.....	7–2–75	29.3197	29.3311	RI75–93.
	.....do.....	389	[1] 8	.....do.....	(2)	6–20–75	.....	7–2–75	27.5171	27.8252	RI75–93.
	.....do.....	334	[1] 14	.....do.....	(2)	6–20–75	.....	7–2–75	27.5171	27.7725	RI75–93.
	.....do.....		[3] 15	.....do.....	(2)	6–20–75	.....	7–2–75	29.3197	29.3311	RI75–93.
	.....do.....	336	[1] 19	.....do.....	(2)	6–20–75	.....	7–2–75	27.5171	27.7725	RI75–93.
	.....do.....		[3] 20	.....do.....	(2)	6–20–75	.....	7–2–75	29.3197	29.3311	RI75–93.
	.....do.....	208	[1] 22	.....do.....	(2)	6–20–75	.....	7–2–75	27.5171	27.7725	RI75–93.
	.....do.....	340	[1] 14	.....do.....	(2)	6–20–75	.....	7–2–75	27.5171	27.7725	RI75–93.
	.....do.....	340	[3] 15	.....do.....	(2)	6–20–75	.....	7–2–75	29.3197	29.3311	RI75–93.
	.....do.....	339	[1] 17	.....do.....	(2)	6–20–75	.....	7–2–75	27.5171	27.7725	RI75–93.
	.....do.....		[3] 18	.....do.....	(2)	6–20–75	.....	7–2–75	29.3197	29.3311	RI75–93.

*Unless otherwise stated, the pressure base is 15.025 lb/in²a.
[1] For gas from wells completed prior to June 1, 1970.
[2] Not stated.
[3] For gas from wells completed after June 1, 1970.
[4] Unless otherwise stated, the rate shown is the total rate, inclusive of any applicable British thermal unit adjustment and tax.

The proposed increased rates filed by Continental to reflect July 1, 1975, 0.04% increase in the New Mexico Conservation tax are suspended for one day since they exceed the applicable area ceiling rate in Opinion No. 658.

[FR Doc.75–19764 Filed 7–30–75;8:45 am]

[Docket Nos. RI75-115, et al.]

CONTINENTAL OIL CO., ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

JULY 23, 1975.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly Sections 4 and 15, the Regulations pertaining thereto [18 CFR, Chapter I], and the Commission's Rules of Practice and Procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* [1] Rate in effect	Cents per Mcf* [1] Proposed increased rate	Rate in effect subject to refund in dockets No.
RI75-115	Continental Oil Co.	257	[2] 22	Southern Union Gathering Co. (New Mexico) (Rocky Mountain).	(3)	6-23-75		7-28-75	[4] 27.5171	27.7725	RI75-115.
	do		[2] 23	do	(3)	6-23-75		7-2-75	29.3197	29.3311	RI75-93.
	do	266	[2] 15	El Paso Natural Gas Co. (New Mexico) (Rocky Mountain).	(3)	6-23-75		7-2-75	27.5171	27.7725	RI75-93.
	do		[2] 16	do	(3)	6-23-75		7-2-75	29.3197	29.3311	RI75-93.
	do	267	[2] 15	do	(3)	6-23-75		7-2-75	27.5171	27.7725	RI75-93.
	do		[2] 16	do	(3)	6-23-75		7-2-75	29.3197	29.3311	RI75-93.
	do	279	[2] 15	do	(3)	6-23-75		7-2-75	27.5171	27.7725	RI75-93.
	do		[2] 16	do	(3)	6-23-75		7-2-75	29.3197	29.3311	RI75-93.
	do	287	[2] 15	do	(3)	6-23-75		7-2-75	27.5171	27.7725	RI75-93.
	do		[2] 16	do	(3)	6-23-75		7-2-75	29.3197	29.3311	RI75-93.
	do	309	[2] 13	do	(3)	6-23-75		7-2-75	27.5171	27.7725	RI75-93.
	do		[2] 14	do	(3)	6-23-75		7-2-75	29.3197	29.3311	RI75-93.
	do	332	[2] 14	do	(3)	6-23-75		7-2-75	27.5171	27.7725	RI75-93.
	do		[2] 15	do	(3)	6-23-75		7-2-75	29.3197	29.3311	RI75-93.
	do	259	[2] 22	do	(3)	6-23-75		7-2-75	27.5171	27.7725	RI75-93.
	do		[2] 23	do	(3)	6-23-75		7-2-75	29.3197	29.3311	RI75-93.
RI76-12	Chevron Oil Co. Western Division.	26	12	Transwestern Pipeline Co. (New Mexico) (Permian Basin).	3,650	7-2-75		7-3-75	29.5181	29.8569	RI74-62.

* Unless otherwise stated, the pressure base is 15.025 lb/in²a
[1] Not stated.
[2] Applies to gas from wells completed prior to June 1, 1970.
[3] Applies to gas from wells completed subsequent to June 1, 1970.
[4] Suspended in docket No. RI75-115.
[5] Unless otherwise stated, the rate shown is the total rate, inclusive of any applicable British thermal unit adjustment and tax.

The proposed tax increases filed by Continental and Chevron exceed the applicable area ceiling rates in Opinion Nos. 658 and 662, and are suspended for one day in the same rate proceedings involving their underlying rates.

Continental's proposed tax increase under its Rate Schedule No. 257 is from an underlying rate which is currently suspended until July 28, 1975. Accordingly, this proposed tax increase is suspended until July 28, 1975 in the existing rate proceeding.

[FR Doc.75-19763 Filed 7-30-75;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST TENNESSEE NATIONAL CORP.

Order Amending Requirement for Divestiture of Ownership of Real Estate in Connection With Acquisition of Shares of Pence Mortgage Company, Louisville, Kentucky

By order dated September 5, 1973, the Board approved an application of First Tennessee National Corporation, Memphis, Tennessee, a bank holding company within the meaning of the Bank Holding Company Act, to acquire not less than 99 percent of the voting shares of Pence Mortgage Company, Louisville, Kentucky ("Company"). The Board's Order required divestiture of certain real property held for development by two of Company's subsidiaries within six months after consummation of the acquisition. The acquisition of Company by Applicant was consummated on October 1, 1973. By April 1, 1974, six months after consummation, Applicant had divested all of the property except one tract known as "Stray Winds". By letter dated August 1, 1974, Applicant requested that the Board grant an extension of time during which the remaining property would be divested. In view of the fact that Applicant demonstrated that it had made active efforts to sell the remaining tract of land and the fact that the sale of the tract had been hindered by economic conditions and natural forces in the form of a tornado, the Board granted Applicant's request. By Order dated August 28, 1974, the Board amended the Order of September 5, 1973, authorizing the retention of Stray Winds subject to the condition that such real property would be divested no later than eighteen months after consummation of the proposal.

By letter dated June 17, 1975, Applicant has requested that the Board extend the period for divestiture of the remaining property to December 31, 1975. Applicant has indicated that active efforts to sell the property are continuing.

The Board has concluded that the request should be granted. Accordingly, the Board's Order of September 5, 1973, is hereby amended to authorize retention of the remaining tract of land subject to the condition that Applicant divest such real estate property at the earliest possible date, but in no event later than December 31, 1975.

By order of the Board of Governors,[1] effective July 22, 1975.

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

[FR Doc.75-19837 Filed 7-30-75;8:45 am]

[1] Voting for this action: Governors Holland, Wallich, Coldwell, and Jackson. Absent and not voting: Chairman Burns and Governors Mitchell and Bucher.

STATE STREET BOSTON FINANCIAL CORP.

Acquisition of Bank

State Street Boston Financial Corporation, Boston, Massachusetts has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of Falmouth Bank and Trust Company, Falmouth, Massachusetts. 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 Boston. 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 August 22, 1975.

Board of Governors of the Federal Reserve System, July 22, 1975.

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

[FR Doc.75-19838 Filed 7-30-75;8:45 am]

GENERAL SERVICES ADMINISTRATION

[FPMR, Temporary Reg. F-350]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in intrastate rate proceedings.

2. *Effective date.* This regulation is effective June 26, 1975.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the California Public Utilities Commission involving the applications of the Pacific Gas and Electric Company, Southern California Gas Company, and San Diego Gas and Electric Company for changes in purchased gas adjustment clauses (Applications 55468, 55469, 55470, 55676, and 55677).

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ARTHUR F. SAMPSON,
Administrator of General Services.

JULY 22, 1975.

[FR Doc.75-19841 Filed 7-30-75;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 10, August 25, 1975, from 8:30 a.m. to 3:00 p.m., Room 2247, GSA Regional Headquarters Building, Auburn, Washington, 98002. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed U.S. Border Station at Haines, Alaska. Frank and open discussion of the professional qualifications of the firms being considered is essential to insure selection of the best qualified firms. Accordingly, pursuant to a determination that it will be concerned with a matter listed in 5 U.S.C. 552(b)(5) the meeting will not be open to the public.

Dated: July 22, 1975.

ROBERT D. GREEN,
Acting Regional Administrator.

[FR Doc.75-19840 Filed 7-30-75;8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

B AND S COAL CO. INC.

Application for Renewal Permit Electric Face Equipment Standard; Opportunity for Public Hearing

Application for a Renewal Permit for Noncompliance with the Electric Face Equipment Standard prescribed by the Federal Coal Mine Health and Safety Act of 1969 has been received for the item of equipment in underground coal mine as follows:

ICP Docket No. 4011-000, B & S COAL COMPANY, INC., Mine No. 21, Mine ID No. 15 02749 0, Vicco, Kentucky, ICP Permit No. 4011-009-R-2 (Kersey 944 Tractor, I.D. No. 10-2).

In accordance with the provisions of § 504.7(b) of Title 30, Code of Federal Regulations, notice is hereby given that requests for public hearing as to an application for a renewal permit may be filed on or before August 15, 1975. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman, Interim Compliance Panel.

JULY 28, 1975.

[FR Doc.75-19861 Filed 7-30-75;8:45 am]

BUCHANAN COUNTY COAL CORP.

Applications for Renewal Permits Electric Face Equipment Standard; Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Electric Face Equipment Standard prescribed by the Federal Coal Mine Health and Safety Act of 1969 have been received for items of equipment in underground coal mines as follows:

ICP Docket No. 4375-000, BUCHANAN COUNTY COAL CORPORATION, Mine Nos. 9A and 9C, Mine ID No. 44 00403, 0, Big Rock, Virginia, ICP Permit No. 4375-004-R-2 (Mescher HD-12 Tractor, I.D. No. B7-3), ICP Permit No. 4375-011-R-2 (Paul's Roof Bolter, I.D. No. B7-3).

In accordance with the provisions of § 504.7(b) of Title 30, Code of Federal Regulations, notice is hereby given that requests for public hearing as to an application for a renewal permit may be filed on or before August 15, 1975. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman, Interim Compliance Panel.

JULY 28, 1975.

[FR Doc.75-19862 Filed 7-30-75;8:45 am]

BUCHANAN AND SONS COAL CO., INC.

Application for Renewal Permit Electric Face Equipment Standard; Opportunity for Public Hearing

Application for a Renewal Permit for Noncompliance with the Electric Face Equipment Standard prescribed by the Federal Coal Mine Health and Safety Act of 1969 has been received for the item of equipment in underground coal mine as follows:

ICP Docket No. 4005-000, BUCHANAN & SONS COAL COMPANY, INC., Mine No. 19, Mine ID No. 44 01697 0, Pound, Virginia, ICP Permit No. 4005-009-R-1 (Wise 454 4-Wheel Mine Tractor, Ser. No. 385).

In accordance with the provisions of § 504.7(b) of Title 30, Code of Federal Regulations, notice is hereby given that requests for public hearing as to an application for a renewal permit may be filed on or before August 15, 1975. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

JULY 21, 1975.

[FR Doc.75-19856 Filed 7-30-75;8:45 am]

EDDIE COAL CO., INC.

Application for Renewal Permit Electric Face Equipment Standard; Opportunity for Public Hearing

Application for a Renewal Permit for Noncompliance with the Electric Face Equipment Standard prescribed by the Federal Coal Mine Health and Safety Act of 1969 has been received for the item of equipment in underground coal mine as follows:

ICP Docket No. 4323-000, EDDIE COAL COMPANY, INC., Mine No. 14, Mine ID No. 15 01554 0, Elkhorn City, Kentucky, ICP Permit No. 4323-001-R-4 (Joy 14BU7 Loader, I.D. No. 1).

In accordance with the provisions of § 504.7(b) of Title 30, Code of Federal Regulations, notice is hereby given that requests for public hearing as to an application for a renewal permit may be filed on or before August 15, 1975. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, N.W., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

JULY 25, 1975.

[FR Doc.75-19857 Filed 7-30-75;8:45 am]

HOBBS BROS. COAL CO., INC.

Applications for Renewal Permits. Electric Face Equipment Standard; Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Electric Face Equipment Standard prescribed by the Federal Coal Mine Health and Safety Act of 1969 have been received for items of equipment in underground coal mines as follows:

(1) ICP Docket No. 4197-000, HOBBS BROS. COAL COMPANY, INC., Mine No. 7, Mine ID No. 44 02705 0, Whitewood, Virginia, ICP Permit No. 4197-003-R-2 (S&S 80 Tractor, I.D. No. HB-1-7), ICP Permit No. 4197-004-R-2 (S&S 88 Tractor, Ser. No. 1462), ICP Permit No. 4197-005-R-2 (Stacy's Spinner Loading Machine, I.D. No. S-SB-EH-HB-1), ICP Permit No. 4197-009-R-2 (Goodman 212 Cutting Machine, I.D. No. G-212-HB-2-7).

(2) ICP Docket No. 4226-000, HOBBS BROS. COAL COMPANY, INC., Mine No. 15, Mine ID No. 44 00593 0, Whitewood, Virginia, ICP Permit No. 4226-005-R-2 (S&S 80 Tractor, I.D. No. HB-13-3), ICP Permit No. 4226-008-R-2 (S&S 80 Tractor, I.D. No. HB-5-15), ICP Permit No. 4226-010-R-2 (Stacy's Spinner Loading Machine, I.D. No. S-SB-HB-2).

In accordance with the provisions of § 504.7(b) of Title 30, Code of Federal Regulations, notice is hereby given that requests for public hearing as to an application for a renewal permit may be filed on or before August 15, 1975. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

JULY 28, 1975.

[FR Doc.75-19859 Filed 7-30-75;8:45 am]

LITTLE ROCK COAL CO.

Applications for Renewal Permits Electric Face Equipment Standard; Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Electric Face Equipment Standard prescribed by the Federal Coal Mine Health and Safety Act of 1969 have been received for items of equipment in underground coal mines as follows:

ICP Docket No. 4386-000, LITTLE ROCK COAL COMPANY, Mine No. 13, Mine ID No. 44 01871 0, Grundy, Virginia, ICP Permit No. 4386-001-R-2 (Joy 14BU7 Loading Machine, I.D. No. 3AE), ICP Permit No. 4386-003-R-1 (Mescher HD12 Tractor, I.D. No. LR-1), ICP Permit No. 4386-004-R-1 (Mescher HD12 Tractor, I.D. No. LR-2).

In accordance with the provisions of § 504.7(b) of Title 30, Code of Federal Regulations, notice is hereby given that requests for public hearing as to an application for a renewal permit may be filed within 15 days after publication of this notice. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

JULY 28, 1975.

[FR Doc.75-19860 Filed 7-30-75;8:45 am]

MARY E COAL CO., INC.

Applications for Renewal Permits Electric Face Equipment Standard; Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Electric Face Equipment Standard prescribed by the Federal Coal Mine Health and Safety Act of 1969 have been received for items of equipment in underground coal mines as follows:

ICP Docket No. 4225-000, MARY E COAL COMPANY, INC., Mine No. 2, Mine ID No. 44 00526 0, Whitewood, Virginia, ICP Permit No. 4225-001-R-2 (S&S 88 Tractor, I.D. No. ME-4), ICP Permit No. 4225-002-R-2 (S&S 88 Tractor, Ser. No. 2161), ICP Permit No. 4225-003-R-2 (S&S 120 Tractor, Ser. No. 43063), ICP Permit No. 4225-004-R-2 (S&S 120 Tractor, Ser. No. 82964), ICP Permit No. 4225-005-R-2 (S&S 100 Tractor, Ser. No. 92163), ICP Permit No. 4225-012-R-2 (Stacy's Spinner Loading Machine, I.D. No. S-SWB-ME-3), ICP Permit No. 4225-013-R-2 (Stacy's Spinner Loading Machine, I.D. No. S-SB-EH-ME-2), ICP Permit No. 4225-014-R-2 (Stacy's Spinner Loading Machine, I.D. No. S-SB-ME-1), ICP Permit No. 4225-015-R-2 (Royal Cutting Machine, I.D. No. R-ME-1), ICP Permit No. 4225-016-R-2 (Royal Cutting Machine, I.D. No. R-ME-2), ICP Permit No. 4225-017-R-2 (Goodman 212 Cutting Machine, I.D. No. G-212-ME-3).

In accordance with the provisions of § 504.7(b) of Title 30, Code of Federal Regulations, notice is hereby given that requests for public hearing as to an application for a renewal permit may be filed on or before August 15, 1975. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

JULY 28, 1975.

[FR Doc.75-19858 Filed 7-30-75;8:45 am]

INTERNATIONAL TRADE COMMISSION

[332-76]

UNITED STATES/CANADIAN AUTOMOTIVE AGREEMENT

Investigation

In response to a request dated July 9, 1975, by the Senate Committee on Fi-

nance, the United States International Trade Commission has instituted in investigation pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) on the U.S./Canadian Automotive Agreement as implemented under the Automotive Products Trade Act of 1965. The full text of the request is a as follows:

The Senate Committee on Finance resolved today to request that the International Trade Commission undertake a study of the U.S./Canadian Automotive Agreement as implemented under the Automotive Products Trade Act of 1965 and submit the study to the Committee on Finance no later than December 31, 1975. This request is made pursuant to section 332(g) of the Tariff Act of 1930.

The Committee is interested in having a thorough analysis of the history and terms of the U.S./Canadian Automobile Agreement and its impact on U.S. and Canadian trade, employment, production, balance of payments, capital flows, and investment patterns. We are particularly interested in the Commission's view as to whether or not Canada has fully complied with the letter and the spirit of the Agreement by phasing out the so called "transitional provisions." In addition, it would be useful to know the relative structure of production of automobiles within the U.S./Canadian markets and any shifts which may have occurred as a result of the current decline in industry sales in the U.S. as compared with Canada.

We appreciate the quality work the Commission has done in the past for the Committee and the Congress and look forward to receiving a thorough study of this important agreement by the end of the year.

With every good wish, I am

Sincerely,

RUSSELL B. LONG,
Chairman.

By order of the Commission.

Issued: July 28, 1975.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.75-19889 Filed 7-30-75;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Meeting

JULY 21, 1975.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Fellowships Panel will be held at Washington, D.C. on August 20, 1975, from 9:00 a.m. to 5:30 p.m.

The purpose of the meeting is to review Independent Fellowship applications submitted to the National Endowment for the Humanities for 1976-77 fellowship grants.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.75-19819 Filed 7-30-75;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

National Transportation Safety Board

[1542; 1575; 1563-B, 1517-F; 1434-A, 1517-A, 1114-C, 1469]

SPECIAL STUDY; AIRCRAFT ACCIDENT BRIEFS; SAFETY RECOMMENDATIONS AND RESPONSES

Notice of Availability and Receipt

The National Transportation Safety Board announces the release during the past week of the following documents:

Special Study, NTSB-AAS-75-1, entitled "Flight Data Recorder Readout Experience in Aircraft Accident Investigation, 1960-1973," released July 22, 1975. The Safety Board's study covers 509 mechanical recorder readouts during the 14-year period. While preparing the study, the Board issued to the Federal Aviation Administration (FAA) recommendations A-74-15 through 17 and A-74-89 and 90; these are reproduced as appendices to the study. The major aspects and intent of the recommendations were included as agenda items in the FAA's First Biennial Airworthiness Review Conference held December 2, 1974, in Washington, D.C.

Issue No. 5, "Aircraft Accident Reports, U.S. Civil Aviation—1974," NTSB-BA-75-2, released July 25, 1975. The report contains a computer-printed synopsis of the findings and probable cause of 699 general aviation accidents and 10 air carrier accidents which occurred in the United States last year.

Although the brief format reports in Issue No. 5 contain essential information, more detailed data may be obtained from the original factual reports which are on file in the Washington Office of the Safety Board. Upon request, these factual reports will be reproduced commercially at an average cost of 20¢ per page for printed matter, $1.05 per page for black and white photographs, and $6.50 per page for color photographs, plus postage. Minimum reproduction charge is $4.00, and an additional $4.00 user-service charge will be made for each order. Requests should be directed to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. The requester must provide the following information concerning the accident: (1) Date and place of occurrence, (2) type of aircraft and registration number, and (3) name of pilot.

Recommendations made to the FAA:

A-75-57, July 20, 1975, re the Douglas DC-3, N-6, accident at DuBois, Pennsylvania, March 27, 1975. The Board recommended that the FAA bring to the attention of all its senior line officials and pilots "the circumstances surrounding this accident in order to emphasize the fact that their official responsibilities in aviation demand the highest degree of professionalism and total compliance with applicable standards, procedures, and operating practices."

A-75-58 and 59, July 24, 1975, re the Trans World Airlines Flight 514 crash at Berryville, Virginia, December 1, 1974. The Board recommends that the FAA (1) define the term "radar arrival" and assign an equal weight of controller responsibility to all arrivals receiving radar service, regardless of the kind of radar service; and (2) discontinue automatic termination of radar service in accordance with paragraph 1212c of Handbook 7110.8D, dated January 1, 1975, and paragraph 662b of Handbook 7110.9D, dated January 1, 1975, except after the aircraft has been visually sighted by a local controller.

The following letter responses to earlier Board recommendations were received from FAA during the past week:

July 16, re *A-75-22* (issued March 25, 1975), requiring "certification demonstration of engine anti-icing provision be performed in a test facility which can aerodynamically simulate in-flight icing conditions." FAA believes that this recommendation is not warranted because: (1) "An objective evaluation of air carrier experience leads one to the conclusion that engine operation in icing weather has not been a problem." Also, (2) "In-flight simulation within the capability of existing test facilities will not ensure an improvement in anti-icing systems over those systems tested in accordance with present procedures."

July 17, re *A-75-45 and 46* (see 40 FR 24252). FAA plans to "review and determine the methods by which all terminal air traffic facilities may be made aware of the operational status of navaids." FAA's position is that the "actual monitoring of any VOR/DME should remain in a flight service station so that notification of maintenance personnel and issuance of a Notice to Airmen (NOTAM) can be accomplished in a timely manner."

Also received last week were two letter responses from the Federal Railroad Administration (FRA) regarding Safety Board recommendations developed following investigations of the Southern Pacific Transportation Company freight train, munitions explosion, at Benson, Arizona, May 24, 1973 (NTSB-RAR-75-2, reported at 40 FR 20140), and the derailment of an Amtrak train at Melvern, Kansas, on July 5, 1974 (NTSB-RAR-75-1, released March 30, 1975).

Responding July 2 to recommendation R-75-9, concerning the Benson accident, FRA is currently fabricating prototype equipment for field tests on a self-contained, on-board rail vehicle hot box and wheel sensor system which has the capability of activating an appropriate alerting device and/or automatically

stopping the train in the event of a hot box or derailment of the equipped railroad vehicle. When tests are completed, FRA will determine the necessary regulatory requirements for detection of fire by crews of trains carrying Class A explosives.

FRA's comments dated July 9 re the Melvern derailment are responsive to recommendations R–75–1 through 3. Recognizing that rail-joint failure is the second most frequent cause of car derailment, FRA states that it has in progress, or under contract negotiation, 12 rail-joint performance and related projects. (Recommendation R–75–1.) FRA opposes Board recommendation R–75–2, which would require establishment of minimum standards for the size and quality of all components used in the construction of track. FRA states, "Obviously, size and quality criteria would be incomplete as effective, stand-alone standards." Concerning recommendation R–75–3, FRA states that it is presently conducting research that will be used as a basis for promulgating minimum safety standards for passenger cars, and that standards for emergency lighting and emergency exits will be included in the rulemaking.

The special study and the recommendation letters are available to the general public; single copies may be obtained without charge. A $4.00 user-service charge will be made for each recommendation response, in addition to a charge of 10¢ per page for reproduction. All requests must be in writing, addressed to: Publications Unit, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the special study may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).

MARGARET L. FISHER,
Federal Register Liaison Officer.

JULY 28, 1975.

[FR Doc.75–19894 Filed 7–30–75;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–261]

CAROLINA POWER & LIGHT CO. (H. B. ROBINSON UNIT 2)

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to Facility Operating License No. DPR–23 issued to Carolina Power & Light Company which revised Technical Specifications for operation of the H.B. Robinson Unit 2, located in Darlington County, Hartsville, South Carolina. The amendment is effective as of its date of issuance.

The amendment permits revisions to the Technical Specifications pertaining to the (1) heatup and cooldown rates, (2) pressure temperature limits, and (3) requirements for reporting results of the irradiation specimen measurement program.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commissioner's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on April 21, 1975 (40 FR 17647). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

For further details with respect to this action, see (1) the application for amendment dated January 24, 1975, (2) Amendment No. 12 to License No. DPR–23, with Change No. 37 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Hartsville Memorial Library, Home & Fifth Avenues, Hartsville, South Carolina.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this July 22, 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR, *Chief,*
Operating Reactors Branch #3,
Division of Reactor Licensing.

[FR Doc.75–19821 Filed 7–30–75;8:45 am]

[Docket No. 50–245]

NORTHEAST NUCLEAR ENERGY CO., ET AL. (MILLSTONE NUCLEAR POWER STATION UNIT 1)

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. DPR–21 issued to Northeast Nuclear Energy Company, Connecticut Light & Power Company, The Hartford Electric Light Company and Western Massachusetts Electric Company which revised Technical Specifications for operation of the Millstone Nuclear Power Station Unit 1, located in Waterford, Connecticut. The amendment is effective as of its date of issuance.

The amendment permits modification to the Technical Specifications to clarify the specified requirements for the High Flow Main Steamline protective instrument channel.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see, (1) the application for amendment dated April 7, 1975, (2) Amendment No. 7 to License No. DPR–21, with Change No. 20 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland this July 22, 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch #3, Division of Reactor Licensing.

[FR Doc.75–19822 Filed 7–30–75;8:45 am]

[Docket No. STN 50–437]

OFFSHORE POWER SYSTEMS (FLOATING NUCLEAR POWER PLANTS)

Order Resetting Third Prehearing Conference

The Third Prehearing Conference in the above-captioned proceeding which is scheduled for July 31, 1975 in Washington, D.C., is being continued at the request of the Applicant because of a conflict in schedules. The Applicant has advised the Board that the other parties to the proceeding have no objection to the continuance.

Accordingly, please take notice that the Third Prehearing Conference in this case is hereby continued from July 31, 1975, until 10:00 a.m., August 13, 1975 in the Atomic Safety and Licensing Board Panel's hearing room, 12th Floor, Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland 20014.

This Prehearing Conference will cover the items listed in the Notice and Order of July 14, 1975 initially scheduling it. These items are:

1. All pending motions;
2. Status of discovery;
3. Status of the application;
4. Status of the issuance of relevant documents by NRC Regulatory Staff;
5. Consideration of establishment of a schedule for further action; and
6. Such other matters as may aid in the orderly disposition of this proceeding.

In addition to the parties of this proceeding, this Notice is being sent to the

parties in the related proceeding which involves an application for construction permits for two of the floating nuclear units off the New Jersey Coast, *Public Service Electric and Gas Company (Atlantic Generating Station, Units 1 and 2)*, Docket Nos. STN 50-477 and STN 50-478.

Members of the public are invited to attend this prehearing conference.

Dated at Bethesda, Maryland this 25th day of July 1975.

By order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.75-19823 Filed 7-30-75;8:45 am]

[Docket Nos. 50-277, 50-278]

PHILADELPHIA ELECTRIC CO. (PEACH BOTTOM ATOMIC POWER STATION, UNITS 2 AND 3)

Order for Modification of License

I.

Philadelphia Electric Company (PECO or Licensee) is the holder of Facility Operating License Nos. DPR-44 and DPR-56, which respectively authorize operation of Peach Bottom Atomic Power Station Units 2 and 3 (Units 2 and 3 or the Facilities) at steady-state reactor core power levels not in excess of 3293 megawatts thermal (rated power). The Facilities are boiling water reactors (BWR) located at the Licensee's site in Peach Bottom, York County, Pennsylvania.

II.

1. The Licensee's Facilities are two of eleven United States BWR facilities which are similarly designed in that each design provides for coolant flow through bypass holes in the reactor lower core support plate. Fuel inspections conducted in April 1975 in a similarly designed foreign BWR revealed significant wear and some cracking of several Zircaloy fuel channel boxes.[1] The discovery of this damage had been preceded by anomalous incore nuclear detector instrument readings from the traversing incore probe (TIP),[2] the anomaly consisting of a band of "noise" with a characteristic frequency, superimposed on the normal signal. Both the TIP noise and the associated channel box damage appeared to be the result of vibration of the instrument tubes produced by coolant flow through the bypass holes.

2. In the period since April 1975, the eleven affected BWRs have been under surveillance by the NRC Staff, by GE, and by the individual reactor operators. Based on the experience of the foreign reactor, the NRC Staff has been of the view that a noise-to-signal ratio of 0.06 or more indicates the need for remedial action in the form of reduced core flow with a resultant reduction in core power. TIP readings at or above the 0.06 criterion were found in April 1975 at the Cooper Station, and in May 1975 at the Duane Arnold Energy Center and at the Peach Bottom Atomic Power Station Unit 3. The operators of the three facilities agreed—later confirmed by NRC Order—to limit operation to core flow and power levels not exceeding 50% of design levels without prior written approval of the NRC Staff.[3] PECO agreed by letter on June 6, 1975 to similarly limit operation of Peach Bottom Atomic Power Station, Unit 2.

3. The 50% power and 50% flow limitations were interim measures to provide assurance of safety while further data were being developed in tests, studies and investigations then in progress. The 50% power limitation was derived from the 50% flow limitation on the basis of certain inherent operating characteristics of BWRs.[4] The flow limitation in turn was based on the results of tests conducted by GE in 1973 in connection with channel box damage due to control curtain vibration which had been observed in the Vermont Nuclear Power Station, in the Pilgrim Nuclear Power Station, and in a foreign reactor.[5] The 1973 GE data was supported by observations made at the Cooper Station over a short period prior to the issuance of the NRC Staff's April 26 order while the Facility was operating at a limited flow of about 55% of full core flow. Similar observations were made in May 1975 in tests conducted at the Duane Arnold reactor.

4. Through an exchange of letters dated June 2, 1975, the operators of Duane Arnold requested and the NRC Staff approved a plan to operate that reactor for a short period of time to obtain TIP readings at core power levels up to 100% of rated power and core flow rates up to 100% of design flow rate. The objective of these measurements was to permit a determination, following a shutdown and inspection of the reactor, whether TIP noise data and channel box damage data could be correlated. After receiving and analyzing the Duane Arnold data, the NRC Staff concluded that such a correlation does indeed exist. The correlation also supports continued use of the 0.06 noise-to-signal ratio as a test of the need for remedial action.

5. In the period since April 1975 there have been additional studies concerning the relationship of TIP noise to coolant flow rate. New relevant data are available from accelerometer tests, from TIP readings at Cooper and Duane Arnold, and from experiments conducted by GE on prototype TIP tube-channel box configurations. These data all point to the conclusion that TIP noise is significantly attenuated, if not arrested, at a coolant flow rate of about 40% of design flow. The NRC Staff has therefore concluded that a 40% flow rate limitation should apply to sustained operation of a reactor that has reached the action threshold of a 0.06 noise-to-signal ratio. However, considering *inter alia* the rate at which channel box wear occurs, limited operation at higher flows (for, *e.g.*, the conduct of tests) may be permitted without endangering the health and safety of the public.

6. Investigations have also continued with respect to the appropriateness of the 50% core power limit on affected reactors. GE prepared, and forwarded to the NRC Staff by letter dated July 11, 1975, a proposal to substitute a maximum bundle power limit for the overall 50% core power limit now in use. GE's July 11 submission included supporting analyses performed with the assumption of a coolant flow of 40% of design flow, and with the further, conservative assumption of a cracked channel box.

7. By letter dated July 17, 1975, the Licensee formally proposed a plan, previously discussed with the NRC Staff, for operation of the Facilities in the short term, and for a determination of the conditions, if any, under which operation should be allowed in the longer term. The plan entails a reduction of coolant flow to 40% of design flow and a substitution of a 3.35 MWt maximum bundle power limit for the present 50% limit on core power for Units 2 and 3. Operation within these limits would continue, under the plan, for the balance of a period of approximately 45 equivalent full flow days from June 21, 1975 for Unit 2 and June 2, 1975 for Unit 3. During that time the Licensee would operate the Facility at rated flow and power for a limited time to obtain TIP traces, and to conduct accelerometer tests. Additionally, the Licensee would return the units to rated power for a short period of time to complete the fuel preconditioning program. At the end of approximately 45 effective full flow days from June 21 and June 2, respectively, the Licensee would shutdown Units 2 and 3 unless the efficacy of

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[1] This information was conveyed to the Staff of the Nuclear Regulatory Commission (hereinafter referred to as the "NRC Staff") by the General Electric Company (GE) by telephone calls on April 17, 18, and 21, 1975, and by letter dated April 22, 1975. Copies of the April 22 letter and copies of all other documents referred to in this order are available or are being made available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and the Commission's Local Public Document Room, Martin Memorial Library, 159 E. Market Street, York, Pennsylvania.

[2] *Ibid.*

[3] For the details of these actions, see *Order for Modification of License, In the Matter of Nebraska Public Power District* (Copper Nuclear Station), Docket No. 50-298, dated April 26, 1975; *Order for Modification of License, In the Matter of Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative* (Duane Arnold Energy Center), Docket No. 50-331, dated May 21, 1975; and *Order for Modification of License, In the Matter of Philadelphia Electric Company* (Peach Bottom Atomic Station, Unit 3) Docket No. 50-278, dated June 2, 1975.

[4] See Safety Evaluation by the Director of Licensing, U.S. Atomic Energy Commission, Relating to Channel Box Wear in the Vermont Yankee Nuclear Power Station (Docket No. 50-271) and the Pilgrim Nuclear Power Station (Docket No. 50-293) dated October 26, 1973, pp. 16-18.

[5] For details concerning the earlier matter affecting the Vermont Yankee and Pilgrim facilities see the AEC Regulatory Staff's related Safety Evaluation, n. 4, *supra*.

the 40% flow limit had been verified by accelerometer data. Finally, limits on flow and bundle power would be re-evaluated in light of data collected during the interim period under consideration.

8. The Licensee's plan has been reviewed by the NRC Staff. As discussed in the NRC Staff's Safety Evaluation Report on the matter dated July 22, 1975, and in a letter to the Licensee dated July 23, 1975, the Facilities can be operated without endangering the health and safety of the public at the proposed core flow and maximum bundle power limits for a period of approximately 45 effective full flow days from June 21, 1975 and June 2, 1975, respectively. The operation of the Facilities at higher flow and power levels is acceptable under the same standard for certain tests, including the 75 hours of operation at rated flow and power to collect flow vibration data for Units 2 and 3, and complete a fuel preconditioning program for Units 2 and 3. The NRC Staff believes the Licensee's plan described above is appropriate under the circumstances and should be confirmed by NRC order.

III.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulation in 10 CFR Parts 2 and 50, *It is ordered*, That, Facility Operating License Nos. DPR-44 and DPR-56 are hereby amended by adding to each license the provisions set out in Appendix A hereto. *It is further ordered*, That Facility Operating License No. DPR-56 is amended by deleting the provisions added by the Commission's Order for Modification of License dated June 2, 1975.

Dated at Bethesda, Maryland this 23rd day of July, 1975.

For the Nuclear Regulatory Commission.

BENARD C. RUSCHE,
Director,
Office of Nuclear Reactor Regulation.

APPENDIX A

1. The Licensee shall not, without prior written approval of the Director, Office of Nuclear Reactor Regulation, operate the facility at a flow rate exceeding 40 percent of rated flow, or at a maximum bundle power exceeding 3.35 MWt or at a maximum average planar linear heat generation rate (MAPLHGR) exceeding 85 percent of the limit established by the Order for Modification of License dated December 27, 1974, except that:

a. The flow limit may be exceeded, up to a maximum of 50 percent of rated flow, for such period of time as is necessary to establish the appropriate mechanical limit setpoint on the pump speed control in compliance with paragraph 2 below.

b. The flow and bundle power limits may be exceeded by such amount and for such period of time as is necessary to establish appropriate control rod patterns after undergoing a change in power or change in flow, and to accommodate xenon buildup.

c. The flow and bundle power limits may be exceeded by such amount and for such period of time as is necessary to perform the control rod operability requirements of Section 4.3.A.2.a of the Technical Specifications, Appendix A to Operating License Nos. DPR-44 and DPR-56.

d. The flow and bundle power limits may be exceeded by such amount and for such period of time as is necessary to establish appropriate conditions for and to perform traversing incore probe (TIP) maps for the purpose of establishing an accelerometer test program, and to establish appropriate conditions for and to conduct the accelerometer test program.

e. The operation authorized by subparagraph d. above may be extended to a total of 75 hours as necessary to allow the fuel preconditioning program to be completed.

2. The Licensee shall adjust the mechanical limits on the pump speed control to preclude an unrestricted flow increase above 50 percent for operation with flow rates limited to 40 percent of rated flow.

3. The Licensee shall shut down the facility following 45 equivalent full flow days from the 'reference date", as hereinafter defined, unless within such period a traversing incore probe surveillance program as specified in Section VIII of the U.S. Nuclear Regulatory Commission's Safety Evaluation Report, In the Matter of BWR Channel Box Wear dated July 22, 1975, has been completed and accelerometer tests performed with appropriate requirements specified in Section VII of the Evaluation of Channel Box Wear dated July 22, 1975 have been completed which indicate the efficacy of the 40 percent flow limit. The "reference date" is June 21, 1975 for Unit 2 and June 2, 1975 for Unit 3.

4. The Licensee shall inform the Director, Office of Nuclear Reactor Regulation, of the details of the proposed accelerometer test program prior to installation of the accelerometers.

5. The Licensee shall, during power operation with flow rates equal to 40 percent of rated or during operations with flow rates greater than 40 percent as allowed by paragraph 1 above, obtain unfiltered TIP traces as specified in Section VIII of the Evaluation of Channel Box Wear dated July 22, 1975, such that all operable TIP positions are traversed at least once during the course of each thirty day period and shall report the results thereof.

6. The Licensee shall submit brief analyses of TIP readings, including sample traces, to the Director, Nuclear Reactor Regulation within 30 days of obtaining such TIP readings.

7. The Licensee shall submit an analysis of the accelerometer data (a) within 10 days of obtaining the first indication of channel box impact, and (b) within 10 days of completing the accelerometer tests performed for an interval of approximately 10 effective full flow days.

[FR Doc.75-19824 Filed 7-30-75;8:45 am]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP. AND VERMONT YANKEE NUCLEAR POWER STATION

Order for Modification of License

I.

Vermont Yankee Nuclear Power Corporation (the Licensee) is the holder of Facility Operating License No. DPR-28 which authorizes operation of the Vermont Yankee Nuclear Power Station (Vermont Yankee or the Facility) at steady-state reactor core power levels not in excess of 1593 megawatts thermal (rated power). The Facility is a boiling water reactor (BWR) located near Vernon, Vermont.

II.

1. The Licensee's Facility is one of eleven United States BWR facilities which are similarly designed in that each design provides for coolant flow through bypass holes in the reactor lower core support plate. Fuel inspections conducted in April 1975 in a similarly designed foreign BWR revealed significant wear and some cracking of several Zircaloy fuel channel boxes.[1] The discovery of this damage had been preceded by anomalous incore nuclear detector instrument readings from the traversing incore probe (TIP),[2] the anomaly consisting of a band of "noise" with a characteristic frequency, superimposed on the normal signal. Both the TIP noise and the associated channel box damage appeared to be the result of vibration of the instrument tubes produced by coolant flow through the bypass holes.

2. In the period since April 1975, the eleven affected BWRs have been under surveillance by the NRC Staff, by GE, and by the individual reactor operators. Based on the experience of the foreign reactor, the NRC Staff has been of the view that a noise-to-signal ratio of 0.06 or more indicates the need for remedial action in the form of reduced core flow with a resultant reduction in core power. TIP readings at or above the 0.06 criterion were found in April 1975 at the Cooper Station, and in May 1975 at the Duane Arnold Energy Center and at the Peach Bottom Atomic Power Station Unit 3. The operators of the three facilities agreed—later confirmed by NRC Order—to limit operation to core flow and power levels not exceeding 50% of design levels without prior written approval of the NRC Staff.[3]

3. The 50% power and 50% flow limitation were interim measures to provide assurance of safety while further data were being developed in tests, studies and investigations then in progress. The 50% power limitation was derived from the 50% flow limitation on the basis of certain inherent operating characteristics of

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[1] This information was conveyed to the Staff of the Nuclear Regulatory Commission (hereinafter referred to as the "NRC Staff") by the General Electric Company (GE) by telephone calls on April 17, 18, 21, 1975, and by letter dated April 22, 1975. Copies of the April 22 letter and copies of all other documents referred to in this order are available or are being made available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and the Commission's Local Public Document Room, Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont.

[2] *Ibid.*

[3] For the details of these actions, see *Order for Modification of License, In the Matter of Nebraska Public Power District* (Cooper Nuclear Station), Docket No. 50-298, dated April 26, 1975; *Order for Modification of License, in the Matter of Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative* (Duane Arnold Energy Center), Docket No. 50-331, dated May 21, 1975; and *Order for Modification of License, In the Matter of Philadelphia Electric Company* (Peach Bottom Atomic Station, Unit 3) Docket No. 50-278, dated June 2, 1975.

BWRs.[4] The flow limitation in turn was based on the results of tests conducted by GE in 1973 in connection with channel box damage due to control curtain vibration which had been observed in the Vermont Yankee, in the Pilgrim Nuclear Power Station, and in a foreign reactor.[5] The 1973 GE data was supported by observations made at the Cooper Station over a short period prior to the issuance of the NRC Staff's April 26 order while Cooper was operating at a limited flow of about 55% of full core flow. Similar observations were made in May 1975 in tests conducted at the Duane Arnold reactor.

4. Through an exchange of letters dated June 2, 1975, the operators of Duane Arnold requested and the NRC Staff approved a plan to operate that reactor for a short period of time to obtain TIP readings at core power levels up to 100% of rated power and core flow rates up to 100% of design flow rate. The objective of these measurements was to permit a determination, following a shutdown and inspection of the reactor, whether TIP noise data and channel box damage data could be correlated. After receiving and analyzing the Duane Arnold data, the NRC Staff concluded that such a correlation does indeed exist. The correlation also supports continued use of the 0.06 noise-to-signal ratio as a test of the need for remedial action.

5. In the period since April 1975 there have been additional studies concerning the relationship of TIP noise to coolant flow rate. New relevant data are available from accelerometer tests, from TIP readings at Cooper and Duane Arnold, and from experiments conducted by GE on prototype TIP tube-channel box configurations. These data all point to the conclusion that TIP noise is significantly attenuated, if not arrested, at a coolant flow rate of about 40% of design flow. The NRC Staff has therefore concluded that a 40% flow rate limitation should apply to sustained operation of a reactor that has reached the action threshold of a 0.06 noise-to-signal ratio. However, considering *inter alia* the rate at which channel box wear occurs, limited operation at higher flows (for, e.g., the conduct of tests) may be permitted without endangering the health and safety of the public. An acceptable alternative to a 40% flow rate limitation for sustained operation would be to plug the bypass holes to correct the apparent cause of the channel box wear, replacement of channel boxes with unacceptable wear, and appropriate surveillance to monitor subsequent operations.

6. The Licensee has been operating the Facility at 70% of design flow and 80% of rated power since May 31, 1975 (with the exception of less than one day at full flow and power). As discussed at a July 15, 1975, meeting between the Licensee and the NRC Staff, by applying the TIP noise-wear correlation obtained from the Duane Arnold data to the TIP calibration at Vermont Yankee, the NRC Staff has concluded that the Facility's normalized TIP noise-to-signal ratio exceeds the remedial action level established for 100% of rated flow and power. This conclusion has also been reached by the Licensee, as confirmed in its letter to the NRC Staff dated July 17, 1975.

7. By its letter dated July 17, 1975, the Licensee formally proposed a plan, previously discussed with the NRC Staff, setting forth a course of remedial action. The plan entails continuation of operation at 80% of rated core power and 70% of rated flow until a shutdown not later than August 3, 1975, with the exception of a brief period of operation at full flow and power immediately prior to shutdown as necessary to obtain baseline TIP data for use in connection with the inspection during the shutdown and in connection with future operations. During the shutdown, worn channel boxes will be replaced as necessary, and plugs will be inserted in the bypass holes.

8. The Licensee's plan has been reviewed by the NRC Staff, as discussed in the NRC Staff's "Evaluation of Vermont Yankee Channel Box Wear for the Purpose of Limited Operation at Partial Power," dated July 23, 1975. Matters relevant to the Licensee's plan were also evaluated in the NRC Staff's "Evaluation of BWR Channel Box Wear", dated July 22, 1975. The NRC Staff's analysis of allowable stresses for a channel box concludes that the reduction in differential pressure across the channel wall at 80% of rated core power/70% of rated flow permits an increase in the acceptable channel box wear of about one third. Adjusting for the loss of TIP measurement sensitivity at reduced flow, and for the established sensitivity of Vermont Yankee's TIP recording equipment, the NRC Staff's evaluation concludes that Vermont Yankee allowable channel box wear at 80% of rated core power/70% of rated flow would not be exceeded as long as the Vermont Yankee TIP noise level ratio does not exceed 0.05. The NRC Staff's selection of allowable wear at the reduced power and flow rate is based on the allowable primary stress criteria of the ASME Code, Section III. However, the NRC Staff's evaluation recognizes that wear continues even at the Licensee's proposed limitations, though slower than at full flow and power, and therefore agrees with the Licensee that the plant should not operate after August 3, 1975. The proposed brief period of operation at full flow and power immediately prior to shutdown to obtain baseline data is acceptable as *inter alia* the NRC Staff's evaluation concludes that little wear should occur during this period. The NRC Staff concludes that the facility can be operated until August 3, 1975 under the Licensee's proposed plan without endangering the health and safety of the public, with the limitation that the Vermont Yankee TIP noise-to-signal ratio not exceed 0.05 except for the brief allowable full flow and power period. As limited, the NRC Staff believes the Licensee's plan described above is appropriate under the circumstances and should be confirmed by NRC Order.

III.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, IT IS ORDERED, That, Facility Operating License No. DPR–28 is hereby amended by adding the provisions set out in Appendix A hereto.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 23rd day of July, 1975.

BERNARD C. RUSCHE,
Director,
Office of Nuclear Reactor Regulation.

APPENDIX A

1. The Licensee shall place the Facility in a shutdown condition not later than August 3, 1975 and shall not, without prior written approval of the Director, Office of Nuclear Reactor Operation, return the facility to operation following the shutdown.

2. Prior to the shutdown, the Licensee shall not operate the Facility at core power levels exceeding 80 percent of rated power or core flow rates exceeding 70 percent of design flow rate, and further shall place the facility in a shutdown condition if the traversing incore probe (TIP) noise band width-to-signal amplitude ratio exceeds 0.05, except that the Licensee may operate the Facility up to full flow and power for a brief period of time immediately prior to the shutdown required by paragraph 1 of this Appendix A as is necessary to obtain baseline TIP data for use in connection with the inspection during shutdown and in connection with future operation.

3. The Licensee shall, during power operation with flow rates equal to 70 percent of rated flow obtain unfiltered TIP traces as specified in Section VIII of the Evaluation of Channel Box Wear dated July 22, 1975, such that all operable TIP positions are traversed every seven days.

[FR Doc.75–19826 Filed 7–30–75;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–477 50–478]

PUBLIC SERVICE ELECTRIC AND GAS CO. (ATLANTIC GENERATING STATION UNITS 1 AND 2)

Order Resetting Third Prehearing Conference

At the request of counsel for the Applicant in the related proceeding of *Offshore Power Systems (Floating Nuclear Power Plants)*, STN 50–437, the Third Prehearing Conference in that proceeding has been continued from July 31, 1975 until August 13, 1975. Since the Third Prehearing Conference in this proceeding was to follow immediately after the Third Prehearing Conference in *Offshore*

[4] See Safety Evaluation by the Director of Licensing, U.S. Atomic Energy Commission, Relating to Channel Box Wear in the Vermont Yankee Nuclear Power Station (Docket No. 50–271) and the Pilgrim Nuclear Power Station (Docket No. 50–293) dated October 26, 1973, pp. 16–18.

[5] For details concerning the earlier matter affecting the Vermont Yankee and Pilgrim facilities see the AEC Regulatory Staff's related Safety Evaluation, n. 4, *supra*.

Power Systems, it also will be continued until August 13, 1975.

Accordingly, please take notice that the Third Prehearing Conference in the above-identified proceeding is hereby continued from July 31, 1975 until August 13, 1975. This prehearing conference will be held in the Atomic Safety and Licensing Board Panel's hearing room, 12th Floor, Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland, and will begin immediately following the conclusion of the Third Prehearing Conference of the Offshore Power Systems case.

The purpose of this Third Prehearing Conference is to determine the status of the proceeding and to hear oral argument on all pending motions.

Dated at Bethesda, Maryland this 25th day of July 1975.

By order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.75-19825 Filed 7-30-75;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

ADVISORY COMMITTEE ON GNP DATA IMPROVEMENT

Public Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Advisory Committee on GNP Data Improvement to be held in Room 10103, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C., on Wednesday, September 24, 1975 at 9:45 a.m.

The purpose of the meeting is to comment on additional draft chapters of the final report.

The meeting will be open to public observation and participation. Anyone wishing to participate should contact the GNP Data Improvement Project, Statistical Policy Division, Room 10222, New Executive Office Building, Washington, D.C. 20503, telephone (202) 395-6173.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.75-19910 Filed 7-30-75;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0263]

FIRST OF ORANGE COUNTY CORP.

Notice of Surrender of License

Notice is hereby given that First of Orange County Corporation (First), 111 Prospect Street, Stamford, Connecticut 06901, incorporated under the laws of the State of New York on November 27, 1964, has surrendered its License No. 02/02-0263, issued by the Small Business Administration (SBA) on August 27, 1965.

First has complied with all conditions set forth by SBA for the surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the Regulations promulgated thereunder, the surrender of the license of First is hereby accepted and it is no longer licensed to operate as a small business investment company.

Dated: July 22, 1975.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.75-19853 Filed 7-30-75;8:45 am]

[License No. 02/02-5291]

FORUM EQUITY CORP.

Notice of License Surrender

Notice is hereby given that Forum Equity Corporation, 214 Mercer Street, New York, New York 10012, has surrendered its license to operate as a small business investment company under section 301(d) of the Small Business Investment Act of 1958, as amended (the Act).

Forum was licensed by the Small Business Administration on March 27, 1972.

Under the authority vested by the Act and pursuant to 13 CFR 107.105 (1975), the surrender of Forum's license is hereby approved. Accordingly, all rights, privileges and franchises derived from the license are hereby terminated.

Dated: July 22, 1975.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.75-19852 Filed 7-30-75;8:45 am]

H & T CAPITAL CORP.

Issuance of Small Business Investment Company License

On February 28, 1975, a notice was published in the FEDERAL REGISTER (40 FR 8608) stating that an application had been filed by H & T Capital Corporation, Suite C, 4750 Selma Highway, Montgomery, Alabama 36105 with the Small Business Administration (SBA), pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1975)) for a license as a small business investment company (SBIC).

Interested parties were given until the close of business March 17, 1975, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued license No. 04/04-0116 to H & T Capital Corporation to operate as an SBIC.

Dated: July 23, 1975.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.75-19854 Filed 7-30-75;8:45 am]

[Declaration of Disaster Loan Area #1160]

Declaration of Disaster Area

MINNESOTA

As a result of the President's declaration I find that Beltrami, Clay, Itasca, Kittson, Marshall, Norman, Pennington, Polk, Roseau, Wilkin and adjacent counties within the State of Minnesota, and the Townships of Atlanta, Spring Creek and Wallworth in Becker County, Minnesota, constitute a disaster area because of damage resulting from severe storms, tornadoes and flooding beginning about June 28, 1975. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 15, 1975, and for economic injury until the close of business on April 19, 1976, at:

Small Business Administration, District Office, Plymouth Building, Room 530, 12 South Sixth Street, Minneapolis, Minnesota 55402.

or other locally announced locations.

Dated: July 21, 1975.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.75-19851 Filed 7-30-75;8:45 am]

LEGAL SERVICES CORPORATION

COMMITTEE ON BY-LAWS AND REGULATIONS

Meeting

The first meeting of the Committee on By-laws and Regulations of the Board of Directors of the Legal Services Corporation will be held on Sunday, August 3, 1975 in the District Room (Second Floor) of the Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, D.C. The meeting will begin at 3 p.m. and will be for the purpose of considering and recommending proposed by-laws to the Board of the Corporation and reviewing subjects on which regulations need to be issued during the transition period.

Dated: July 29, 1975.

ROGER C. CRAMTON,
Chairman.

[FR Doc.75-20143 Filed 7-30-75;8:45 am]

COMMITTEE ON PRESIDENTIAL SEARCH

Meeting

The Committee on Presidential Search of the Board of Directors of the Legal Services Corporation will meet on Tuesday, August 5, 1975. This meeting will follow the meeting of the Board of Directors of the Corporation which will be in conference room B behind the Departmental Auditorium. The Auditorium is between Twelfth and Fourteenth Streets on Constitution Avenue, NW., Washington, D.C., and is directly across from the Museum of History and Technology.

Dated: July 29, 1975.

ROGER C. CRAMTON,
Chairman.

LEGAL SERVICES CORPORATION

OFFICE OF PRESIDENT

The Board of Directors of The Legal Services Corporation (created by the Legal Services Corporation Act of 1974, Pub. L. 93-355, 93rd Congress, H.R. 7824, July 25, 1974) invites nominations and applications for the position of President of the Corporation, the President to serve as the chief operating officer of the Corporation. Pursuant to the Act the President must be a member of the bar of the highest court of a State.

Nominations and applications for this position, accompanied by resumes (as well as inquiries concerning any additional information desired), should be directed to The Legal Services Corporation, attention Presidential Search Committee, 1725 K Street NW., Room 412, Washington, D.C. 20006.

An Equal Opportunity/Affirmative Action Employer.

[FR Doc.75-20144 Filed 7-30-75;10:54 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 60]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

JULY 25, 1975.

The following applications are governed by Special Rule 1100 247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and on or before September 29, 1975, and notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the "Federal Register" of a notice that the proceeding has been assigned for oral hearing.*

Evidence respecting how equipment is expected to be returned to an origin point, as well as other data relating to operational feasibility (including the need for dead-head operations), must be presented as part of an applicant's initial evidentiary presentation (either at oral hearing or in its opening verified statement under the modified procedure) with respect to all applications filed on or after December 1, 1973.

If an applicant states in its initial evidentiary presentation that empty or partially empty vehicle movements will result upon a grant of its application, applicant will be expected (1) to specify the extent of such empty operations, by mileages and the number of vehicles, that would be incurred, and (2) to designate where such empty vehicle operations will be conducted.

Each applicant (except as otherwise specifically noted) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 550 (Sub-No. 7), filed June 27, 1975. Applicant: RUDIE WILHELM WAREHOUSE CO., doing business as WILHELM TRUCKING CO., 3250 NW St. Helens Rd., Portland, Oregon 97210. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nuclear reactor components* requiring special trailer with rotating support fixtures for height adjustment, from the plant site and facilities of Bingham-Willamette Company, a division of Guy F. Arkinson Company, located at Portland, Oreg., to points in the United States (except Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 1239 (Sub-No. 5), filed June 30, 1975. Applicant: PONY TRUCKING, INC., 501 State Route 7, Steubenville, Ohio 43952. Applicant's representative: Maxwell A. Howell, 1100 Investment Bldg., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crushed automobiles and automobile parts*, between points in Pennsylvania on and east of Adams, Cumberland, Juniata, Lycoming, Perry, Snyder, Tioga, and Union Counties, Pa., on the one hand, and, on the other, the New York, N.Y., Commercial Zone, Newark, N.J., and Cleveland, Ohio, under a continuing contract or contracts with Graver Service Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C., or Pittsburgh, Pa.

No. MC 6741 (Sub-No. 6), filed June 27, 1975. Applicant: F. S. WILLEY COMPANY, INC., 28 Center Street, Laconia, N.H. 03246. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment), serving Avon, Braintree, Brockton, Canton, Framingham, Holbrook, Marlboro, Milford, Seekonk, Shrewsbury, Southboro, South Easton, Whitman, and Worcester, Mass., as an off-route points in connection with carrier's authorized regular-routes in Massachusetts, New Hampshire, and Vermont, restricted to traffic interchanged with motor common carriers.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boston, Mass., or Concord, N.H.

No. MC 13235 (Sub-No. 22), filed June 30, 1975. Applicant: CENTRALIA CARTAGE CO., a Corporation, 650 W. Noleman Street, Centralia, Ill. 62802. Applicant's representative: Jerry Eversgerd (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Santa Claus, Ind. as an off-route point in connection with applicant's regular route from and to Evansville, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Evansville, Ind., or St. Louis, Mo.

No. MC 11727 (Sub-No. 6), filed June 30, 1975. Applicant: JAMES H. RUSSELL, INC., 3 Rocky Hill Road, Smithfield, R.I. 02917. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, Mass.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bottles and accessories* therefor, (1) from Cliffwood, N.J., to Merrimack, N.H., and (2) from Cartaret and Jersey City, N.J., to Nashua and Merrimack, N.H.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Providence, R.I., or Boston, Mass.

No. MC 30605 (Sub-No. 158), filed June 30, 1975. Applicant: THE SANTA FE TRAIL TRANSPORTATION COMPANY, a Corporation, 433 East Waterman, Wichita, Kans. 67202. Applicant's representative: L. D. McFadden (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brass, bronze, or copper wire and cable, and material, equipment, and supplies*, used in the manufacture and distribution thereof, between the plantsite of Essex International, Inc., at or near Hoisington, Kans., on the one hand, and, on the other, points in Arkansas, Arizona, California, Colorado, Illinois, Missouri, Nebraska, New Mexico, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Wichita, Kans., or Kansas City, Mo.

No. MC 31389 (Sub-No. 202), filed June 30, 1975. Applicant: McLEAN TRUCKING COMPANY, 617 Waughtown Street, Winston-Salem, N.C. 27102. Applicant's representative: David F. Eshelman, P.O. Box 213, Winston-Salem, N.C. 27102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving McDonough, Ga., as an off-route point in conjunction with applicant's regular route operation to and from Atlanta, Ga.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga., or Washington, D.C.

No. MC 35320 (Sub-No. 147), filed July 7, 1975. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, Tex. 79408. Applicant's representative: Kenneth G. Thomas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except Classes A and B explosives), serving the plantsite and facilities of Essex International, Inc., located at or near Hoisington, Kans., as an off route point in connection with applicant's authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo., or Oklahoma City, Okla.

No. MC 39751 (Sub-No. 1), filed July 3, 1975. Applicant: FLOYD SCHLICKMAN, JR., doing business as CITY CARTAGE, 1341 Marinoff Drive, Beloit, Wis. 53511. Applicant's representative: Robert M. Kaske, 2017 Wisteria Rd., Rockford, Ill. 61107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, commodities of unusual value, classes A and B explosives), between points in Beloit, Wis., and its commercial zone.

NOTE.—If a hearing is deemed necessary, applicant does not specify location.

No. MC 43963 (Sub-No. 10), filed July 1, 1975. Applicant: CHIEF TRUCK LINES, INC., 1479 Ripley Street, East Gary, Ind. 46405. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from the site and storage facilities of North Star Steel Company, located at or near Wilton, Iowa, to points in Illinois, Indiana, Minnesota, and Wisconsin; and (2) *materials, equipment and supplies* used in the manufacture and distribution of iron and steel articles, from points in the states named in (1) above, to the plant site and storage facilities of North Star Steel Company, restricted to traffic originating at and destined to the above named points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 44735 (Sub-No. 23), filed June 30, 1975. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12th Street, Kansas City, Mo. 64126. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from the plant site and/or storage facilities of North Star Steel Company, located at or near Wilton, Iowa to points in Illinois, Indiana, Kansas, Missouri, Nebraska, Texas, and Wisconsin; and (2) *materials, equipment and supplies* used in the manufacture and distribution of iron and steel articles, from points named in Part (1) above, to the plant site and storage facilities of North Star Steel Company, located at or near Wilton, Iowa, restricted to traffic originating at and destined to the above named points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Paul, Minn.

No. MC 51146 (Sub-No. 435), filed June 30, 1975. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, P.O. Box 2298, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise* as is dealt in by discount and variety stores (except foodstuffs, furniture, and commodities in bulk), and (2) *foodstuffs* (except in bulk), and *furniture*, in mixed loads with the commodities in (1) above, from the facilities of S. S. Kresge Company, located at or near Savannah, Ga., and points in its commercial zone, to points in Kansas, Missouri, Iowa, Nebraska, Illinois, Indiana, Ohio, and Michigan, restricted to traffic originating at and destined to the described facilities of S. S. Kresge Company and further restricted to service to be performed under a continuing contract or contracts with S. S. Kresge Company.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 436), filed June 30, 1975. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise* as is dealt in by department stores (except foodstuffs, furniture, and commodities in bulk), (2) *foodstuffs* (except in bulk) and furniture, in mixed loads with the commodities in (1) above, from points in Maine, New Hampshire, and Vermont, to the facilities of the J. L. Hudson Company located at Grand Rapids, Ann Arbor, Flint, Pontiac and Detroit, Mich.; and Toledo, Ohio, and (3) *returned and rejected shipments* of the commodities described in (1) and (2) above, from the facilities of the J. L. Hudson Company located at Grand Rapids, Ann Arbor, Flint, Pontiac, and Detroit, Mich.; and Toledo, Ohio, to the origin states named above, restricted to the transportation of traffic originating at the above named origins and destined to the above-named destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 56082 (Sub-No. 67) (Amendment), filed May 12, 1975, published in the FEDERAL REGISTER issue of June 12, 1975, and republished as amended this issue. Applicant: DAVIS & RANDALL, INC., P.O. Box 390, Fredonia, N.Y. 14063. Applicant's representative: Herbert M. Canter, 315 Seitz Building, 201 E. Jefferson St., Syracuse, N.Y. 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages (beer) and related advertising materials*, from South Volney, N.Y., to points in Maryland, New Jersey, New York, Ohio, and Pennsylvania; and (2) *materials, supplies and equipment* used in the manufacture, sale and distribution of malt beverages, including *empty containers and returned malt beverages*, from points in Maryland, New Jersey, New York, Ohio, and Pennsylvania, to South Volney, N.Y.

NOTE.—Common control may be involved. The purpose of this republication is to include the destination point in part (2) which was inadvertently omitted in the previous publication. If a hearing is deemed necessary, the applicant requests it be held at Syracuse, N.Y., or Washington, D.C.

No. MC 56967 (Sub-No. 4), filed July 9, 1975. Applicant: GLENN-DOR PRODUCTS CORP., P.O. Drawer J, South Fallsburg, N.Y. 12779. Applicant's representative: Norman M. Pinsky, 345 South Warren Street, Syracuse, N.Y. 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products and agricultural commodities*, otherwise exempt from regulation under Section 203(b) of the Act, when moving in mixed shipments with dairy products, from Friendship, N.Y., to New York, N.Y., and points in New Jersey; and (2) *paper articles*, as described in 61 M.C.C. 290, 291 Appendix XI (boxes, cartons, egg cases, and trays), from New York, N.Y., and points in New Jersey, to Friendship, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York or Syracuse, N.Y.

No. MC 61403 (Sub-No. 234), filed June 23, 1975. Applicant: THE MASON AND DIXON TANK LINES, INC., Highway 11-W., Kingsport, Tenn. 37662. Applicant's representative: W. C. Mitchell, Suite 1201, 370 Lexington Ave., New York, N.Y. 10017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* in bulk, from the facilities of Nalco Chemical Company, at or near Garyville, La., to points in the United States (except points in Alaska, Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia); points in Kentucky on and east of U.S. Highway 421 from the Kentucky-Virginia State line to the junction of Kentucky State Highway 11, thence north on Kentucky State Highway 11 to the Kentucky-Ohio State line; points in Michigan on and east of U.S. Highway 127 north from Michigan-Indiana State line to Lansing, thence U.S. Highway 27 to junction of Interstate Highway 75, thence Interstate Highway 75 to the U.S. Canadian Border; points in Ohio on and east of U.S. Highway 68 north from Ripley to Findlay, thence Interstate Highway 75 to the Ohio-Michigan State line, and points in Tennessee on and east of U.S. Highway 25E from the Tennessee-Virginia State line south to Newport, thence U.S. Highway 25 to the Tennessee-North Carolina State line.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 63792 (Sub-No. 26), filed June 24, 1975. Applicant: TOM HICKS TRANSFER COMPANY, INC., P.O. Box 16006, Houston, Tex. 77022. Applicant's representative: C. W. Ferebee (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite and storage facilities of Georgetown Texas Steel Corp., at or near Orange County, Tex., to points in Alabama, Georgia, Florida, Mississippi, Tennessee, and Arkansas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Beaumont, or Houston, Tex.

No. MC 69901 (Sub-No. 31), filed June 26, 1975. Applicant: COURIER-NEWSOM EXPRESS, INC., P.O. Box 270, Columbus, Ind. 47201. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Howe, Ind., and Elkhart, Ind., serving Elkhart, Ind., for the purpose of joinder only; From Howe, Ind., over Indiana Highway 120 to Elkhart, Ind., and return over the same route; (2) Between Topeka, Ind., and Elkhart, Ind., serving Elkhart for the purpose of joinder only; From Topeka, Ind., over County Road to junction Indiana Highway 5, thence over Indiana Highway 5 to junction U.S. Highway 20, thence over U.S. Highway 20 to Elkhart, Ind., and return over the same route; (3) Between Howe, Ind., and Cleveland, Ohio, serving Toledo, Ohio, as an intermediate point and serving Sandusky, Lorain, and Avon Lake, Ohio, as off-route points; From Howe, Ind., over Indiana Highway 5 to junction U.S. Highway 20, thence over U.S. Highway 20 to Cleveland, Ohio, and return over the same route; and (4) Between Topeka, Ind., and Cleveland, Ohio, serving Toledo, Ohio, as an intermediate point, and serving Sandusky, Lorain, and Avon Lake, Ohio, as off-route points; From Topeka, Ind., over County Road to junction Indiana Highway 5, thence over Indiana Highway 5 to junction U.S. Highway 20, thence over U.S. Highway 20 to Cleveland, Ohio, and return over the same route.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Indianapolis, Ind.

No. MC 73688 (Sub-No. 66), filed July 3, 1975. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Avenue, P.O. Box 7182, Memphis, Tenn. 38107. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Incinerators, dust control systems, blow pipe systems and accessories*, from the plant sites of Allstate Fabricating Company located at or near Eads, Tenn., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Memphis, or Nashville, Tenn.

No. MC 76032 (Sub-No. 311), filed July 7, 1975. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: Eldon E. Bresee (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the plantsite and other facilities of Minnesota Mining and Manufacturing Company located at or near Knoxville, Iowa, as an off-route point in connection with applicant's authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Denver, Colo., or Des Moines, Iowa.

No. MC 80430 (Sub-No. 157), filed July 8, 1975. Applicant: GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Drive, La Crosse, Wis. 54601. Applicant's representative: F. Neil Ashchemeyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and facilities of Western Electric Company located at the junction of New York Highway 422 and Maple Street, Elma Township, Erie County, N.Y., as an off-route point in connection with applicant's authorized regular route operations to, from and through Buffalo, N.Y.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Buffalo, N.Y., Chicago, Ill., or Washington, D.C.

No. MC 100666 (Sub-No. 301), filed July 1, 1975. Applicant: MELTON TRUCK LINES, INC., 1129 Grimmett Drive, P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 NW. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Nashville, Ill., to points in Alabama, Arkansas, Colorado, Florida, Georgia, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo.

No. MC 103602 (Sub-No. 10), filed June 30, 1975. Applicant: SKJONSBY TRUCK LINE, INC., 48 North 23rd Street, Fargo, N. Dak. 58102. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which because of size or weight, requires the use of special equipment or special handling, and *con-*

tractor's equipment, materials and supplies (except commodities in bulk); (2) *self-propelled articles*, each weighing 15,000 lbs, or more, and *related machinery, tools, parts and supplies* moving in connection therewith, restricted to commodities which are transported on trailers; (3) *tractors, tractor attachments and tractor parts* when moving with tractors; and (4) *agricultural machinery and equipment*, between points in North Dakota, on the one hand, and, on the other, points in Montana and Wyoming, restricted to traffic originating at and destined to points in the above-named states.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Fargo, N. Dak.

No. MC 104675 (Sub-No. 37), filed June 23, 1975. Applicant: FRONTIER DELIVERY, INC., 620 Elk Street, Buffalo, N.Y. 14210. Applicant's representative: E. Russell Whiteman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Soda ash*, in bulk, in tank or hopper type vehicles, from Solvay (Syracuse), N.Y., to Covington, Va.; and (2) *returned or rejected shipments*, of the same commodity, from Covington, Va., to Solvay (Syracuse), N.Y.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y., or Washington, D.C.

No. MC 105566 (Sub-No. 111), filed June 30, 1975. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, P.O. Box 624, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from Corinth, Miss., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 105566 (Sub-No. 112), filed June 30, 1975. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, P.O. Box 624, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, (a) between Chicago, Ill., and Corinth, Miss.; and (b) between Corinth, Miss., and Dresden, Tenn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 105636 (Sub-No. 34), filed July 8, 1975. Applicant: ARMELLINI EXPRESS LINES, INC., Oak and Brewster Roads, Vineland, N.J. 08360. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers* for agricultural products, (1) from Cornwells Heights, Pa., to points in Florida, Georgia, Illinois, Indiana, Michigan, North Carolina, Ohio, South Carolina, and Virginia; and (2) from Philadelphia, Pa., to points in Georgia, Illinois, Indiana, Michigan, North Carolina, Ohio, South Carolina, and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Philadelphia, Pa., or Washington, D.C.

No. MC 106674 (Sub-No. 166), filed June 30, 1975. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients, minerals, ground ores, fertilizer ingredients and pigments*, from Rosiclare and Springfield, Ill., and St. Louis, Mo., to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Mississippi, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 107064 (Sub-No. 107), filed June 30, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, 2808 Fairmount St., Dallas, Tex. 75221. Applicant's representative: Hugh T. Matthwes, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from points in that part of Texas in and west of Lipscomb, Hemphill, Wheeler, Collingsworth, Childress, Cottle, King, Stonewall, Fisher, and Nolan Counties, Tex., and those points in and north of Andrews, Martin, Howard, and Mitchell Counties, Tex., to points in Arizona, and Colorado.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 107295 (Sub-No. 770), filed June 30, 1975. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Panels, and materials, equipment and supplies* used in the manufacture and distribution of panels (except in bulk), between the plantsite and warehouse facilities of Cor Tec, Inc., located at Washington Court House, Ohio, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 108676 (Sub-No. 79), filed June 30, 1975. Applicant: A. J. METLER HAULING AND RIGGING, INC., 117 Chicamauga Ave., Knoxville, Tenn. 37917. Applicant's representative: William T. McManus (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cranes, parts, attachments*, and *accessories* for cranes, between the plantsite and facilities of F.M.C. Corporation located at or near Bowling Green, Ky., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); and (2) *materials, equipment, and supplies* used in the manufacture or distribution of commodities named in (1) above, from points in the United States (except Alaska and Hawaii), to the facilities of F.M.C. Corporation located at or near Bowling Green, Ky.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Nashville, Tenn., or Louisville, Ky.

No. MC 109211 (Sub-No. 7) (Correction), filed June 2, 1975, published in the FEDERAL REGISTER issue July 3, 1975, and republished as corrected this issue. Applicant: SMITH'S, INC., 5104 West 14th St., Box 762, Sioux Falls, S. Dak. 57101. Applicant's representative: Charles E. Nieman, 1110 Northwestern Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rafters and trusses*, from Minneota, Minn., to points in Iowa and South Dakota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Minneapolis, or St. Paul, Minn.

The purpose of this republication is to indicate Minneota, Minn. as an origin point in lieu of Minnesota, Minn.

No. MC 109693 (Sub-No. 3), filed June 30, 1975. Applicant: INLAND NORTHWEST FILM SERVICE, INC., 2201 Sixth Avenue South, Seattle, Wash. 98134. Applicant's representative: Robert G. Gleason, 15 South Grady Way, Evergreen Bldg. No. 217, Renton, Wash. 98055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* as may be dealt in or utilized by wholesale and retail bakeries, (1) from Seattle and Sumner, Wash., to Spokane, Wash.; and (2) from Spokane, Wash., to Lewiston, Idaho.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Seattle or Spokane, Wash.

No. MC 110563 (Sub-No. 156), filed June 26, 1975. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747 (Ohio Building), Sidney, Ohio 45365. Applicant's representative: Joseph M. Scanlan, 111 W. Washington, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carriers Certificates*, 61 M.C.C. 209 and 766 (except hides and

commodities in bulk), from the plantsites and warehouse facilities utilized by Sterling Colorado Beef Co., located at or near Sterling, Colo., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Virginia, West Virginia, Wisconsin and the District of Columbia, restricted to traffic originating at the above named origin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Omaha, Nebr.

No. MC 110563 (Sub-No. 157), filed June 26, 1975. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747 (Ohio Building), Sidney, Ohio 45365. Applicant's representative: Joseph M. Scanlan, 111 W. Washington, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *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 Certificate* 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsites and warehouse facilities of Jones Dairy Farm, at or near Fort Atkinson and Jefferson, Wis., to points in Connecticut, Delaware, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, West Virginia, Vermont, Virginia and the District of Columbia, restricted to traffic originating at the above named origins.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 111231 (Sub-No. 194), filed May 30, 1975. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, Ark. 72764. Applicant's representative: James B. Blair, 111 Holcomb Street, P.O. Box 869, Springdale, Ark. 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood and wood products*, from points in Jasper, McDonald, Newton and Douglas Counties, Mo., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, New Mexico, Oklahoma, Texas, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Little Rock, Ark. or Springfield, Mo.

No. MC 111729 (Sub-No. 556), filed July 7, 1975. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: Russell S. Bernhard, 1625 K Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, and audit and accounting media of all kinds*, (a) between Albany, N.Y., on the one hand, and, on the other, Cortland, Fulton, Glens Falls, Herkimer, Kingston, Poughkeepsie, Rome, Schnectady and Utica, N.Y.; and Nassau and Newington, N.H., restricted to the transportation of traffic having an immediately prior or subsequent movement by air; (b) between Baltimore, Md., on the one hand, and, on the other, Nashua and Newington, N.H.; Glens Falls, Herkimer, Johnson City, Kingston, Poughkeepsie and Rome, N.Y.; Rocky Mount, N.C.; Butler, Charleroi, Dubois, Greensburg, Kittaning, Lewiston, Lower Burrell, Meadville, Sunbury, and Uniontown, Pa.; Fredericksburg, Hampton, Norfolk, Portsmouth and Staunton, Va.; Elkins, Morgantown, and Parkerburg, W. Va.; and (c) from North Canton, Ohio to Morgantown, W. Va.; and (2) *hardware, tools, sporting goods, small appliances, pipe fittings and commodities* related to the hardware business, in packages or containers not to exceed 75 pounds each, limited to shipments weighing no more than 225 pounds in the aggregate, between Toledo, Ohio, on the one hand, and, on the other, points in Allegany, Cattaraugus, Cayuga, Chautauqua, Cortland, Erie, Genessee, Livingston, Monroe, Niagara, Onondaga, Orleans, Oswego, Seneca, Wayne, Wyoming and Yates Counties, N.Y.

NOTE.—Applicant holds contract carrier authority in MC 112750 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 112223 (Sub-No. 96), filed July 9, 1975. Applicant: QUICKIE TRANSPORT COMPANY, a corporation, 1700 Mew Brighton Boulevard N.E., Minneapolis, Minn. 55413. Applicant's representative: Earl Hacking (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Anhydrous ammonia, in bulk, in tank vehicles, from Glenwood, Minn., to points in Iowa, North Dakota, South Dakota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Minneapolis or St. Paul, Minn.

No. MC 112595 (Sub-No. 61), filed July 2, 1975. Applicant: FORD BROTHERS, INC., P.O. Box 727, Ironton, Ohio 45638. Applicant's representative: James W. Muldoon, 50 West Broad Street, Suite 1022, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulverized coal*, in bulk, from Greenup, Ky., to points in Illinois, Indiana, Kentucky, Michigan, Ohio, Alabama, Georgia, Pennsylvania, Virginia, West Virginia, Mississippi, Missouri, Tennessee and New York.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 112801 (Sub-No. 173), filed June 30, 1975. Applicant: TRANSPORT SERVICE CO., a corporation, 2 Salt Creek Lane, Hinsdale, Ill. 60521. Applicant's representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tallow*, inedible, in bulk, in tank vehicles, from the facilities of National By Products, Inc., located at or near LaPlatte, Nebr., to points in Iowa, Kansas, Arkansas, Missouri, and Minnesota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 113362 (Sub-No. 288) (Correction), filed May 8, 1975, and published in the FEDERAL REGISTER issue of June 12, 1975, and republished as corrected this issue. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Milton D. Adams, P.O. Box 562, Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, and *articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by Rath Packing Company at Indianapolis, Ind., to points in Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, Virginia, West Virginia, and Pennsylvania, with service at Indianapolis, Ind. restricted to the transportation of traffic originating at the facilities of Rath Packing Company at Waterloo and Columbus Junction, Iowa, and destined to the above named destinations.

NOTE.—The purpose of this republication is to correct the above restriction by adding the phrase, "with service at Indianapolis, Ind." If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa or Chicago, Ill.

No. MC 113666 (Sub-No. 93), filed June 30, 1975. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pa. 16229. Applicant's representative: William H. Shawn, 1730 M Street, NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cast stone, brick veneer, cast stone panels* (except those which because of size or weight require the use of special equipment or handling), *mortar, and application instructions and advertising materials and supplies* when moving with shipments of cast stone, brick veneer and cast stone panels, from Dover Township (Tuscarawas County), Ohio, to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Wisconsin, Illinois, Indiana, Kentucky, Tennessee, Mississippi, Michigan, Ohio, West Virginia, Virginia, Alabama, Georgia, Florida, Pennsylvania, Maryland, North Carolina, South Carolina, New York, New Jersey, Delaware, Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, and the District of Columbia, with no transportation for compensation on return except

as otherwise authorized; and (2) *Dicalcium phosphate and animal feed ingredients*, from ports of entry on the International Boundary line between the United States and Canada located in New York and Michigan, to points in Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Pittsburgh, Pa., Columbus, Ohio, or Chicago, Ill.

No. MC 113843 (Sub-No. 220), filed June 26, 1975. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, Ill. 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, food products, and food ingredients*, from points in Minnesota and Wisconsin, to points in Pennsylvania, New York, New Jersey, Massachusetts, Vermont, Connecticut, Rhode Island, New Hampshire, Maine, Virginia, West Virginia, Delaware, Maryland, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 114052 (Sub-No. 5), filed June 26, 1975. Applicant: CATENCAMP TRANSFER & STORAGE, INC., 218 East Richmond Street, Shawano, Wisc. 54166. Applicant's representative: Joseph E. Ludden, 309 State Bank Bldg., La Crosse, Wisc. 54601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Molding, wood molding, laminated door jams, plywood, veneer, native built-up wood, and parcelboard*, from Shawano, Wisc., to points in North Dakota, South Dakota, Nebraska, Minnesota, Michigan, Illinois, and Indiana; and (2) *materials and supplies* used in the manufacture of the commodities described in (1) above, from the destination points named in (1) above, to Shawano, Wisc., under a continuing contract or contracts with Heritage Hardwood, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.; Minneapolis, Minn., or Milwaukee, Wisc.

No. MC 114457 (Sub-No. 240), filed June 30, 1975. Applicant: DART TRANSIT COMPANY, a Corporation, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: Michael P. Zell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane products*, from St. Paul, Minn., to points in Wisconsin, Michigan, Illinois, Missouri, Iowa, Kansas, Nebraska, South Dakota and North Dakota, restricted to traffic originating at the named origin and destined to the named destination points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 115162 (Sub-No. 310), filed July 3, 1975. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Treated poles and piling*, from Escambia County, Fla., to points in Georgia, Kansas, North Dakota, South Dakota and Texas.

NOTE.—If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 116763 (Sub-No. 318), filed July 7, 1975. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs*, from Belvidere, Ill., to points in Tennessee, points in Alabama on and north of U.S. Highway 72 alternate, and on and west of U.S. Highway 31, points in Arkansas on and east of a line beginning at the Arkansas-Missouri State line, and extending south along U.S. Highway 63, to the junction of Arkansas Highway 1, thence along Arkansas Highway 1 to the junction of U.S. Highway 49, and points on and north of the junction of Arkansas Highway 1 and U.S. Highway 49, along U.S. Highway 49, to the Mississippi River and points in Mississippi on and north of U.S. Highway 72, restricted to shipments originating at the facilities of Green Giant Company, at Belvidere, Ill., and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Paul or Minneapolis, Minn.

No. MC 117125 (Sub-No. 4), filed June 12, 1975. Applicant: REMPEL-TRAIL TRANSPORTATION LTD., 7905 - 50th Street, Edmonton, Alberta, Canada T6B 1E5. Applicant's representative: J. Peters, P.O. Box 5300, Vancouver British Columbia, Canada V6B 4B6. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Industrial alcohol* (lignin liquor), in bulk, in specialized tank trailers, from Bellingham, Wash., to ports of entry on the International Boundary line between the United States and Canada, at Blaine and Sumas, Wash., and Eastport, Idaho, under a continuing contract or contracts with The Master Builders Company, Limited.

NOTE.—Common control is involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 118400 (Sub-No. 6), filed July 7, 1975. Applicant: WANDO PRODUCE CO., a Corporation, 60 Romney Street, Charleston, S.C. 39403. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Columbia, S.C., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbia, S.C., or Atlanta, Ga.

No. MC 119295 (Sub-No. 8), filed June 25, 1975. Applicant: RAY E. CAGLE, doing business as CAGLE BROS., 845 South 59 Avenue, Phoenix, Ariz. 85031. Applicant's representative: W. Francis Wilson, Suite 2, Luhrs Bldg., Phoenix, Ariz. 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber products*, (a) from points in Washington, Oregon and California to points in Arizona; and (b) from points in Arizona to points in California, Oregon and Washington; (2) *lumber and lumber products*, (a) from points in Arizona to points in New Mexico; and (b) from points in New Mexico to points in Arizona; and (3) *chemical fire retardants*, (a) from points in Arizona to points in New Mexico; and (b) from points in New Mexico to points in Arizona.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Phoenix, Ariz.

No. MC 119741 (Sub-No. 53), filed July 2, 1975. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, 3225 5th Avenue South, Fort Dodge, Iowa 50501. Applicant's representative: R. D. McMahon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products, meat by-products, articles distributed by meat packing plants and foodstuffs* (except hides and commodities in bulk), from the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Ottumwa, Iowa, to points in Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin, restricted to traffic originating at named origin and destined to named states; and (2) *meat, meat products, meat by-products, articles distributed by meat packing plants, foodstuffs, packing plant materials, equipment and supplies* (except hides and c *ment and supplies* (except hides and commodities in bulk), from points in Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin, to the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Ottumwa, Iowa, restricted to traffic originating at named states and destined to named destination.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 119767 (Sub-No. 328), filed July 7, 1975. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, N.W., Washington, D.C. 20004. Authority

sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, in tank vehicles), from Coloma, Mich., to points in Illinois, Indiana, Milwaukee, Wis., Minneapolis and St. Paul, Minn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 119767 (Sub-No. 329), filed July 7, 1975. Applicant: BEAVER TRANSPORT CO., a Corporation, P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), *and advertising matter, display racks, and premiums*, when moving at the same time and in the same vehicle with foodstuffs, from the facilities of American Home Foods, Division of American Home Products Corporation, at LaPorte, Inc., to points in Kentucky.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 119767 (Sub-No. 330), filed July 7, 1975. Applicant: BEAVER TRANSPORT CO., a Corporation, P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Apple juice, apple cider and vinegar* (except commodities in bulk), from the plantsite and storage facilities of Speas Company, at or near Fremont, Mich., to points in North Dakota, South Dakota, Iowa, Minnesota, and Wisconsin, restricted to traffic originating at the named origin and destined to the named states.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119767 (Sub-No. 331), filed July 7, 1975. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen prepared foodstuffs*, in vehicles equipped with mechanical refrigeration, from Elk Grove Village, Ill., to points in Indiana, Michigan, Minnesota, Missouri, and Ohio.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 119789 (Sub-No. 261), filed July 7, 1975. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is ordinarily dealt in by retail department stores and *materials, equipment and supplies* utilized in the distribution thereof (except foodstuffs and commodities in bulk), between points in Texas, on the one hand, and, on the other, points in Massachusetts, New York, New Jersey, North Carolina, South Carolina, Georgia, Alabama, Virginia and Tennessee (except Memphis).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 121060 (Sub-No. 34), filed July 2, 1975. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, Ala. 35201. Applicant's representative: William P. Jackson, Jr., 919 18th St., N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials* (except in bulk), from the facilities of The Celotex Corporation, at or near Fort Dodge, Iowa, to points in Alabama, Mississippi, Louisiana, Arkansas, Missouri, Tennessee, Kentucky, Ohio, Michigan, Indiana, Illinois, Wisconsin and Minnesota.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 123389 (Sub-No. 23), filed July 8, 1975. Applicant: CROUSE CARTAGE COMPANY, P.O. Box 151, Carroll, Iowa 51401. Applicant's representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the plant site and other facilities of Minnesota Mining and Manufacturing Company located at or near Knoxville, Iowa, as an off-route point in connection with applicant's authorized regular route operations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Paul, Minn., or Des Moines, Iowa.

No. MC 123407 (Sub-No. 253), filed June 30, 1975. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Stephen H. Loeb (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, from points in Sullivan and Hawkins Counties, Tenn., to points in Washington, Oregon, Idaho, California, Nevada, Utah, Colorado, Arizona, and New Mexico.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 124117 (Sub-No. 12), filed June 26, 1975. Applicant: EARL FREEMAN, doing business as MID-TENN EXPRESS, P.O. Box 101, Eagleville, Tenn. 37060. Applicant's representative: Robert L. Baker, 618 Hamilton Bank Bldg., Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap paper*, from Pulaski, Franklin, Mt. Pleasant, Sparta, Shelbyville, Lebanon, Nashville and Fayetteville, Tenn., to Alton, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Nashville, Tenn., or Washington, D.C.

No. MC 124328 (Sub-No. 85), filed June 30, 1975. Applicant: BRINK'S, INCORPORATED, 234 East 24th Street, Chicago, Ill. 60616. Applicant's representative: Chandler L. Van Orman, 704 Southern Bldg., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silver, gold and indium, and other precious metals*, from Amarillo, Tex., to points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with American Smelting & Refining Company.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Washington, D.C.

No. MC 125208 (Sub-No. 3), filed July 1, 1975. Applicant: EUGENE WALLACE BROWN, doing business as BROWN'S WRECKER SERVICE, 925-935 Linden Avenue, Memphis, Tenn. 38104. Applicant's representative: Louis I. Dailey, Suite 2208 Sterick Bldg., Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Repossessed, wrecked, or disabled motor vehicles and trailers* (except trailers designed to be drawn by passenger automobiles); and (2) *replacement vehicles and trailers* (except trailers designed to be drawn by passenger automobiles) in both (1) and (2) by the use of wrecker equipment only, between points in Arkansas, Mississippi and Tennessee, on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Kansas, Louisiana, Mississippi, Missouri, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Memphis or Nashville, Tenn., or Little Rock, Ark.

No. MC 126473 (Sub-No. 25), filed June 26, 1975. Applicant: HAROLD DICKEY TRANSPORT, INC., Packward, Iowa 52580. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Groceries and cheese, and fresh fruits and vegetables* when moving in the same vehicle with groceries and cheese, from points in Illinois, Indiana, Michigan, Minnesota, Missouri, Ohio, Tennessee and Wisconsin, to the facilities of Dickey Prairie Home located at or near Malcolm, Iowa; at or

near Ollie, Iowa; and Mt. Pleasant, Iowa, restricted to traffic destined to the facilities of Dickey Prairie Homes at the above-named destination points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Des Moines, Iowa or Chicago, Ill.

No. MC 127042 (Sub-No. 163), filed July 7, 1975. Applicant: HAGEN, INC., 3232 Highway 75 North, P.O. Box 98, Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Edward A. O'Donnell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products*, as described in Section B of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the plantsite and storage facilities of or utilized by, Wilson & Company, Inc., located at or near Albert Lea, Minn., to points in Montana; and (2) *meat, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of or utilized by Wilson & Co., Inc., located at or near Albert Lea, Minn., to points in Wyoming, restricted to the transportation of traffic originating at the above origin, and destined to the above-named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.; Kansas City, Mo.; or Minneapolis-St. Paul, Minn.

No. MC 127303 (Sub-No. 18), filed June 27, 1975. Applicant: HENRY ZELLMER, doing business as ZELLMER TRUCK LINES, P.O. Box 996, Granville, Ill. 61326. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St. N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, and *related advertising materials, equipment*, and *supplies*, from Minneapolis-St. Paul, Minn., to points in Missouri, Illinois, and Muscatine, Iowa, and Kansas City, Kans., and (2) *empty containers and brewery supplies*, on return.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo.

No. MC 127834 (Sub-No. 108), filed July 7, 1975. Applicant: CHEROKEE HAULING & RIGGING, INC., P.O. Box 1155, Nashville, Tenn. 37202. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except comodities in bulk, household goods as defined by the Commission, articles of unusual value, and Classes A and B explosives), between the Yellow Creek Port Terminal and industrial area, located in Tishomingo County, Miss., on the one hand, and, on the other, points in Mississippi, Tennessee and Alabama.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Memphis or Nashville, Tenn.

No. MC 129480 (Sub-No. 21), filed July 7, 1975. Applicant: TRI-LINE EXPRESSWAYS, LTD., 550 71 Avenue S.E., Calgary, Alberta, Canada T2H OS6. Applicant's representative: Edward T. Lyons, Jr., 1600 Lincoln Center Building, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium bicarbonate*, from the plantsite and storage facilities of Church & Dwight Co., Inc., in Sweetwater County, Wyo., to ports of entry on the International Boundary line between the United States and Canada, located in Montana, restricted to the transportation of traffic moving foreign commerce, to points in the Province of Alberta, Canada.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 129613 (Sub-No. 19), filed July 2, 1975. Applicant: ARTHUR H. FULTON, P.O. Box 86, Stephens City, Va. 22655. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Veneers*, (1) between Rocky Mount, Va., on the one hand, and, on the other, points in Indiana, Illinois, Ohio, Kentucky, Tennessee, Delaware, Maryland, West Virginia, Pennsylvania, North Carolina, South Carolina, New York, New Jersey, and Arkansas; and (2) between Martinsburg, W. Va., on the one hand, and, on the other, points in Illinois, Ohio, Tennessee, New Jersey, New York, and Delaware, under contract with Erath Veneer Corporation (in behalf of itself, its subsidiary Companies and affiliates).

NOTE.—Applicant holds common carrier authority in MC 138000 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 129994 (Sub-No. 8), filed July 7, 1975. Applicant: RAY BETHERS TRUCKING, INC., 176 West Central Avenue, Salt Lake City, Utah 84107. Applicant's representative: Marilyn B. McNeil (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard paper*, from San Leandro, Calif., to Sigurd, Utah.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah; Portland, Oreg., or San Francisco, Calif.

No. MC 133099 (Sub-No. 3), filed June 30, 1975. Applicant: THE GLASGOW & DAVIS CO., a Corporation, P.O. Box 1717, Salisbury, Md. 21801. Applicant's representative: Daniel B. Johnson, 1123 Munsey Building, 1329 E Street, N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from South Volney, N.Y. to points in that part of Maryland and Virginia south of the Chesapeake and Delaware Canal and east of the Chesapeake Bay.

Note.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 133559 (Sub-No. 2), filed June 30, 1975. Applicant: CHARLOTTE TRUCK SERVICE, INC., P.O. Box 8414, Charlotte, N.C. 28208. Applicant's representative: George W. Clapp, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wrecked and disabled trucks, tractors, and trailers* (other than those designed to be drawn by passenger vehicles), from points in Illinois and Indiana, to points in Mecklenburg County, N.C.; and (2) *replacement vehicles* for the vehicles named in (1) above, from points in Mecklenburg County, N.C., to points in Illinois and Indiana.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Charlotte, N.C.

No. MC 133614 (Sub-No. 4), filed July 9, 1975. Applicant: PAPPAS TRUCKING, INC., Gering, Nebr. 69341. Applicant's representative: Patrick E. Quinn, 605 South 14th St., P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products*, and *building materials* (except iron and steel, and iron and steel articles and commodities in bulk), from points in Montana, Oregon, Washington, Idaho and California, to points in Colorado, Kansas, Nebraska and Wyoming, restricted to a transportation service to be performed under a continuing contract or contracts with Abco Division of Brooks Scanlon, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 134070 (Sub-No. 6), filed June 30, 1975. Applicant: ROSE PETROLEUM TRANSPORTS, INC., 855 South Fort Street, Detroit, Mich. 48217. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molten sulphur*, in bulk, in tank vehicles, from Alma, Mich., to Oregon, Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Detroit or Lansing, Mich.

No. MC 134599 (Sub-No. 132), filed June 30, 1975. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 748, Salt Lake City, Utah 84110. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to

operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sponge rubber carpet cushion, footwear, and rubber chemicals* (except in bulk), from Beacon Falls, Naugatuck, Waterbury and Waterville, Conn., and points in their commercial zones to Chicago, Ill.; Dallas, Tex.; Denver, Colo.; Los Angeles, Calif.; Phoenix, Ariz.; St. Louis, Mo.; Salt Lake City, Utah; San Francisco, Calif.; and Seattle, Wash., and points in their commercial zones, under a continuing contract with Uniroyal, Inc.

NOTE.—Applicant holds common carrier authority in MC 139906 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Lincoln, Nebr., or Salt Lake City, Utah.

No. MC 134599 (Sub-No. 133), filed June 30, 1975. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 748, Salt Lake City, Utah 84110. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rubber compound, molded rubber products, carpet cushion, and materials and supplies* used in the manufacture of the foregoing items (except commodities in bulk or which because of size or weight require special handling or special equipment), between Dyersburg, Tenn., and Kingstree, S.C., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, Wyoming and the District of Columbia, under a continuing contract or contracts with Dayco Corporation of Dayton, Ohio.

NOTE.—Applicant holds common carrier authority in MC 139906 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Lincoln, Nebr., or Salt Lake City, Utah.

No. MC 134922 (Sub-No. 138), filed July 7, 1975. Applicant: B. J. MCADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Don Garrison (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber articles*, from Fayetteville, N.C., to points in Oregon, Nevada and California.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either San Francisco, Calif., or Little Rock, Ark.

No. MC 135725 (Sub-No. 16), filed July 1, 1975. Applicant: FRY TRUCKING, INC., 507 W. 5th St., Wilton, Iowa 52778. Applicant's representative: Kenneth F. Dudley, 611 Church St., P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and Steel articles*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of iron and steel articles, (1) from the plant site and storage facilities of North Star Steel Company, located at or near Wilton, Iowa, to points in Georgia, Illinois, Kansas, Louisiana, Minnesota, Missouri and Ohio, and (2) from points in the states named in (1) above, to the plant sites and storage facilities of North Star Steel Company at or near Wilton, Iowa.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Paul, Minn.

No. MC 136375 (Sub-No. 6), filed June 23, 1975. Applicant: DONCO CARRIERS, INC., 641 N. Meridian, Oklahoma City, Okla. 73107. Applicant's representative: Wm. L. Peterson, Jr., 401 N. Hudson, Suite 200, P.O. Box 917, Oklahoma City, Okla. 73101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Kitchen cabinets, bathroom cabinets and parts thereof, and supplies, materials and equipment* used in the manufacture of kitchen cabinets, and bathroom cabinets, between Parsons, Kans., on the one hand, and, on the other, points in the United States (except Alaska, Hawaii and Kansas), under contract with Grandview Products Company, Incorporated.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Oklahoma City or Tulsa, Okla., or Parsons, Kans.

No. MC 136545 (Sub-No. 7), filed June 30, 1975. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., 1109 Railroad Avenue, P.O. Box 97, Prentice, Wis. 54556. Applicant's representative: F. H. Kroeger, 1745 University Avenue, St. Paul, Minn. 55104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Doors, sashes, window units, screens, frames, window blinds*, and *parts and accessories* of the afore-mentioned commodities, from Hawkins, Wis., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, and West Virginia; and (2) *materials and supplies* used in the manufacture and distribution of the commodities described above, (except commodities in bulk, in tank vehicles), from points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, and West Virginia to Hawkins, Wis.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Paul-Minneapolis, Minn.

No. MC 136553 (Sub-No. 34), filed June 23, 1975. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th Street, Dubuque, Iowa 52001. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wood chips*, from Dubuque, Iowa, to Joliet, Ill.; (2) *dry fertilizer and dry fertilizer materials*, from Mason City, Iowa, to points in Minnesota; and (3) *scrap materials* for recycling (except liquids in bulk), between Dubuque, Iowa, on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Minnesota and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 136876 (Sub-No. 6), filed June 23, 1975. Applicant: PAULIE BRAZIER, doing business as PAULIE BRAZIER COMPANY, 415 Buffalo Road, Lawrenceburg, Tenn. 38464. Applicant's representative: Chester Blackwelder, P.O. Box 2896, Nashville, Tenn. 37219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry fertilizer*, in bulk and bags, from Humboldt, Tenn., and points in Davidson County, Tenn., to points in Estill, Lee, Rockcastle, Jackson, Owsley, Breathitt, Laurel, Knox, Clay, Bell Leslie, Perry, Knott Harlan and Letcher Counties Ky.; (2) *dry fertilizer*, in bulk, from points in Davidson County, Tenn., to points in Colbert, Lauderdale, Lawrence, Madison, Limestone and Jackson Counties, Ala.; (3) *dry fertilizer*, in bulk, from Humboldt, Tenn., and points in Davidson County, Tenn., to points in Kentucky south and west of a line beginning at junction U.S. Highway 25E and the Kentucky State Line east of Middlesboro, Ky., thence along U.S. Highway 25E to Corbin, thence along U.S. Highway 25 to Mt. Vernon, thence along U.S. Highway 150 through Danville to junction U.S. Highway 68, at or near Perryville, thence along U.S. Highway 68 to Lebanon, thence along Kentucky State Highway 84 to Hodgenville, thence along Kentucky State Highway 61 to Elizabethtown, thence along U.S. Highway 62 to Leitchfield, thence along Kentucky Highway 259 to junction U.S. Highway 60 to Cloverport, thence north along a line from Cloverport, to the Ohio River, restricted to shipments moving in hopper type vehicles equipped with belt unloading systems, under a continuing contract or contracts with Federal Chemical Company, at Nashville, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 136881 (Sub-No. 1), filed July 2, 1975. Applicant: GARRITY TRUCKING, INC., 314 Mill Street, Fortville, Ind. 46040. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Flint abrasives*, from Webb City, Mo., to Fortville, Ind.; and (2) *crushed walnut shells*, from Stockton, Mo., to Fortville, Ind., under contract with Elliott Company of Indianapolis, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Louisville, Ky.

No. MC 138237 (Sub-No. 4), filed June 20, 1975. Applicant: METRO HAULING, INC., 20848 77th Ave. S., Kent, Wash. 98031. Applicant's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, machinery, contractors equipment and construction material* (except bulk construction material and sacked cement), between points in Washington and Oregon on and west of U.S. Highway 97.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 138432 (Sub-No. 5), filed June 26, 1975. Applicant: GARLAND GEHRKE, R.F.D. #1, Lincoln, Ill. 62656. Applicant's representative: James R. Madler, Suite 1608, 1255 North Sandburg Terrace, Chicago, Ill. 60610. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages, and related advertising materials*, from St. Paul, Minn., to points in Illinois on and south of U.S. Highway 24, and on and north of U.S. Highway 36; and (2) *empty malt beverage containers, glass and glass articles*, from points in Illinois on and south of U.S. Highway 24, and on and north of U.S. Highway 36, to points in Minnesota.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Springfield or Chicago, Ill.

No. MC 138469 (Sub-No. 17), filed June 26, 1975. Applicant: DONCO CARRIERS, INC., 641 N. Meridian Street, Oklahoma City, Okla. 73107. Applicant's representative: Wm. L. Peterson, Jr., 401 N. Hudson Street, Suite 200, P.O. Box 917, Oklahoma City, Okla. 73101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pizza ingredients, restaurant equipment and restaurant supplies*, (1) from Wichita and Hutchinson, Kans., to the facilities of Franchise Services, Inc., located at or near Los Angeles, Calif.; (2) from the facilities of Franchise Services, Inc., at or near Arlington, Tex.; Peoria, Ill.; Indianapolis, Ind.; and Des Moines, Iowa, to the facilities of Franchise Services, Inc., at or near Los Angeles, Calif.; and (3) from the facilities of Franchise Services, Inc., located at or near Arlington, Tex., to points in Arkansas, Kansas, Louisiana and Oklahoma.

NOTE.—Applicant holds contract carrier authority in MC 136375 Sub-No. 2 therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Wichita, Kans. or Oklahoma City, Okla.

No. MC 138510 (Sub-No. 6), filed July 8, 1975. Applicant: RICCI TRANSPORTATION CO., INC., Odessa Avenue at Aloe Street, Pomona, N.J. 08240. Applicant's representative: Kenneth R. Davis, 121 S. Main Street, Taylor, Pa. 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* in containers, from Philadelphia, Pa., to Atlantic City and Wildwood, N.J., under a continuing contract with Atlantic Beverage.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa.

No. MC 138782 (Sub-No. 1), filed June 30, 1975. Applicant: CLYDE T. FLETCHER, doing business as KENTUCKY T.O.F.C. DELIVERY SERVICE, 511 Hopkinsville Street, Princeton, Ky. 42445. Applicant's representative: George M. Catlett, 703-706 McClure Bldg., Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Princeton, Ky., on the one hand, and, on the other, Clarksville, Tenn., and Marion, Madisonville, Greenville, and Henderson, Ky.; and (2) between Paducah, Ky., on the one hand, and, on the other, Mayfield, Ky., restricted in (1) and (2) above to the transportation of traffic having a prior or subsequent movement by rail.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Paducah, Ky.

No. MC 139108 (Sub-No. 3), filed July 3, 1975. Applicant: METRO SALES CORP., 1921 W. 1st Street, P.O. Box 1861, Sanford, Fla. 32771. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel office furniture* and *equipment*, from the plantsites and shipping facilities of Art Steel Co., Inc., located at Bronx, N.Y., to points in Alabama, Arkansas, Kentucky, Louisiana, Mississippi, Tennessee and Virginia, under a continuing contract with Art Steel Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 139386 (Sub-No. 2), July 2, 1975. Applicant: DONALD W. JENSEN AND DAN G. JENSEN, a partnership doing business as JENSEN TRANSIT CO., 250 Summit Street, River Falls, Wis. 54022. Applicant's representative: Wayne W. Wilson, 329 West Wilson Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt and carbonated beverages and related advertising equipment, premiums, materials and supplies*, when shipped therewith, from St. Paul, Minn., to Eau Claire and Barron, Wis.; and (2) *return of rejected shipments and empty used malt and carbonated beverage containers*, from Eau Claire and Barron, Wis., to St. Paul, Minn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Madison, Wis., or Minneapolis, Minn.

No. MC 139495 (Sub-No. 77), filed June 30, 1975. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1385, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Medical care products, and materials, equipment, and supplies* used in the manufacture of medical care products, (1) from Ogden, Utah, to Dallas, Tex. and Chattanooga, Tenn., and (2) from Chattanooga, Tenn., to Ogden, Utah, City of Industry, Berkeley and San Lorenzo, Calif., and Tukwila, Wash.

NOTE.—Applicant holds motor contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 139584 (Sub-No. 5), filed June 23, 1975. Applicant: JOHN BUSCH, Box 211, Conyngham, Pa. Applicant's representative: Kenneth R. Davis, 121 S. Main Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic sheeting, ground plastic and plastic pellets and granules*, from Hazleton, Pa., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 139923 (Sub-No. 6), filed July 3, 1975. Applicant: MILLER TRUCKING CO., INC., 105 S. 8th St., P.O. Drawer D, Stroud, Okla. 74079. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials* (except commodities in bulk, in tank vehicles), from Stroud, Okla., to points in Kansas and Missouri.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Oklahoma City, Okla.

No. MC 140117 (Sub-No. 2) (Correction), filed October 29, 1974, published in the FEDERAL REGISTER issue of January 3, 1975, and republished as corrected this issue. Applicant: KENNETH G. CLARK, doing business as CLARK TRUCKING, 3914 Charles Street, Cheyenne, Wyo. 82001. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, Wyo. 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aggregate*, from points in Colorado, to points in Wyoming; (2) *aggregate and concrete blocks and block products*, from Cheyenne and Laramie, Wyo., to points in Colorado and Nebraska; (3) *concrete products*, (a) from Denver, Colo. and points within the Commercial zone thereof, to points in Wyo-

ming and Nebraska; and (b) from points in Wyoming, to points in Colorado and Nebraska; (4) *cement*, from points in Colorado to points in Wyoming; and (5) *clay brick*, from Denver, Colo. and points within the Commercial zone thereof, to points in Wyoming and Nebraska.

NOTE.—The order of April 1, 1975 assigning this application for handling under modified procedure is vacated and set aside by order dated July 18, 1975. The purpose of this republication is to correct the territorial description in part (2) of this proceeding. If a hearing is deemed necessary, the applicant requests it be held at Cheyenne, Wyo. or Denver, Colo.

No. MC 140277 (Sub-No. 4), filed June 30, 1975. Applicant: BILL BALL, doing business as BILL BALL TRUCKING, 1703 Industrial Avenue, Sioux Falls, S. Dak. 57104. Applicant's representative: Bill Ball (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commodity bags, envelopes, packets or pouches, or wrappers flat*, folded flat or in rolls requiring separation into individual units with or without compliment of bag ties, from the plantsite or storage facilities of American Western Corporation located at Sioux Falls, S. Dak., to points in New Mexico, under a continuing contract with American Western Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held either Sioux Falls, S. Dak., or Sioux City, Iowa.

No. MC 140528 (Sub-No. 1), filed June 19, 1975. Applicant: DONALD E. WOOD, doing business as SE-KAN AIR FREIGHT, 1000 East Main Street, P.O. Box 284, Independence, Kans. 67301. Applicant's representative: Richard Shaw, 103 Dale Apartment Building, Coffeyville, Kans. 67337. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between points in Montgomery, Wilson, Neosho, and Labette Counties, Kans., on the one hand, and, on the other, Tulsa International Airport, Tulsa, Okla., having a prior or subsequent movement by air.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Wichita, Kans. or Tulsa, Okla.

No. MC 140671 (Sub-No. 1), filed June 30, 1975. Applicant: BRUCE L. CLARK, doing business as CLARK'S TRUCKING, P.O. Box 401, Trenton, Nebr. 69044. Applicant's representative: E. Earl Bailey, Stratton, Nebr. 69043. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drilling mud*, (1) from Trenton, Nebr., to points in that part of Kansas on and west of U.S. Highway 281, and on and north of Kansas Highway 96; and (2) from Trenton, Nebr., to points in Colorado located on and west of the Kansas-Colorado State Line, and on and north of Colorado Highway 96, and on and east of Colorado Highway 71, under a continuing contract or contracts with Baroid Division N. L. Industries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Lincoln or Omaha, Nebr.

No. MC 140753 (Sub-No. 1), filed July 3, 1975. Applicant: H & D TRUCKING, INC., Route 1, Box 201, Le Gore, Md. 21761. Applicant's representative: Gayle L. Crawford, Jr., P.O. Box 1417, 1329 Penn. Ave., Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden ladders*, from the plantsite of Key Ladder Company located at or near Keedysville, Md., to points in Pennsylvania, Maryland, Virginia, West Virginia, New York, New Jersey, Delaware, Ohio, Kansas, Georgia, and Florida.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 140898, filed April 21, 1975. Applicant: KENDRICK TRUCKING CORP., 11610 Chasewood Court, Louisville, Ky. 40229. Applicant's representative: William P. Whitney, Jr., 703–706 McClure Bldg., Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Printed matter* from Louisville, Ky., to points in Aurora, Bloomington, Champaign, Peoria and Springfield, Ill., Indianapolis, Fort Wayne, Anderson and Hammond, Ind., Atlanta, Ga., Chattanooga, Knoxville and Nashville, Tenn., Erie and Philadelphia, Pa., Dayton, Toledo, Newark and Cleveland, Ohio; Alexandria, Richmond, Roanoke and Newport News, Va., Charleston, S.C., Jacksonville, Orlando and Miami, Fla., Baltimore, Md., Madison, Wis., Birmingham, Ala., Hartford, Conn., and Boston, Mass.; and (2) *repair and maintenance parts* for mining, earth moving, quarrying equipment and vehicles used in mining earth moving and quarrying from Chicago, Ill., Buchanan, Benton Harbor and Jackson, Mich., Cleveland, Ohio, and Atlanta, Ga., to points in Salem and Wise, Va., and Breathitt County, Ky.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Lexington, or Louisville, Ky.

No. MC 140900 (Sub-No. 1), filed July 7, 1975. Applicant: HAROLD H. DANEKAS, 3524 East Dayton Avenue, Fresno, Calif. 93726. Applicant's representative: William H. Kessler, 638 Divisadero Street, Fresno, Calif. 93721. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Granite*, from Knowles, Calif., to the San Francisco Bay Area Ports of San Francisco, Oakland, Alameda, Berkeley, and Richmond, Calif., restricted to traffic having an immediately subsequent movement by water, under contract with Raymond Granite Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Fresno or San Francisco, Calif.

No. MC 140901 (Sub-No. 1), filed June 30, 1975. Applicant: BERTA BROS. TRANSPORTATION, INC., P.O. Box 429, Canon City, Colo. 81212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flue-dust*, in bulk, in dump trailers, from Pueblo, Colo., to Laramie, Wyo., under a continuing contract or contracts with Monolith Portland Midwest Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 140933 (Sub-No. 2), filed June 30, 1975. Applicant: RON FLOOD TRUCKING OF ARIZONA, 3120 East Fillmore, Phoenix, Ariz. 85008. Applicant's representative: Phil B. Hammond, 10th Floor, 111 West Monroe, Phoenix, Ariz. 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in New Mexico and Utah, to points in Arizona.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Phoenix, Ariz., or Santa Fe, New Mexico.

No. MC 141012 (Sub-No. 1), filed July 7, 1975. Applicant: BINGHAM TRANSPORTATION, INC., 2005 East Avenue, Baxter Springs, Kans. 66713. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sand and gravel*, from points in Kansas on and east of U.S. Highway 81, to points in Missouri on and west of U.S. Highway 65; (2) *rock, sand, chat and gravel*, from points in Newton and Jasper Counties, Mo., to points in Cherokee County, Kans.; and (3) *sand*, from points in Tulsa and Muskogee Counties, Okla., to points in Missouri on and west of U.S. Highway 65, under contract with Bingham Sand and Gravel Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 141029 (Sub-No. 1), filed July 3, 1975. Applicant: JON A. JUILLERAT, doing business as JON A. JUILLERAT AND CO., Portland, Ind. 47371. Applicant's representative: John J. Metts, 1110 Merchants Bank Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dog food, and the ingredients therein*, in package and in bulk, from the plantsite of Haynes Milling Co., Inc., at Portland, Ind., to points in Alabama, Arkansas, Arizona, Colorado, Florida, Illinois, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, North Dakota, South Dakota, Ohio, Pennsylvania, Texas, Tennessee, Virginia, West Virginia, Wisconsin, New York, Mississippi, New Jersey, Delaware, North Carolina, South Carolina, Georgia, Oklahoma, New Mexico, and Maryland; and (2) *return, of the commodities* in (1) above, from the destination points in (1) above, to the plantsite of Haynes Milling Co., Inc., at Portland, Ind., under contract with Haynes Milling Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 141065 (Sub-No. 1), filed June 30, 1975. Applicant: MOON'S GARAGE, 8139 West Beaver Street, Jacksonville, Fla. 32205. Applicant's representative: Lorense H. Blow, 6032 Robbins Circle South, Jacksonville, Fla. 32211. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wrecked and disabled vehicles and trailers;* (2) *vehicles and trailers* as replacement for wrecked or disabled vehicles and trailers; (3) *salvage or used parts* for vehicles and trailers when being transported on the same vehicle and at the same time as commodities set forth above, and (4) *repossessed vehicles*, between points in Florida, on the one hand, and, on the other, points in Alabama, Arkansas, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, those points in Michigan east of Lake Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania South Carolina, Tennessee, Texas, Virginia and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla.

No. MC 141066 (Sub-No. 1), filed June 25, 1975. Applicant: DONALD G. CAMPBELL, doing business as DON CAMPBELL TRUCKING, Route #2, Box 166, Bixby, Okla. 74008. Applicant's representative: I. E. Chenoweth, 1300 Mid-Continent Bldg., 409 S. Boston Ave., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Sand and gravel*, from Tulsa County, Okla., (1) to points in Chautauqua, Montgomery, Labette, Cherokee, Elk, Wilson, Neosho and Crawford Counties, Kans.; McDonald, Barry, Stone, Taney, Newton, Jasper, Barton, Dade, Lawrence and Christian Counties, Mo.; Benton, Carroll, Boone, Marion, Washington, Madison, Newton, Crawford, Franklin and Johnson Counties, Ark.; and (2) to rail head points in Tulsa County, Okla., and points in Rogers, Muskogee and Wagoner Counties, Okla., restricted in (2) to traffic having a subsequent movement by water; (B) *chat and asphalt materials*, from points in Ottawa County, Okla., (1) to points in Kansas, Missouri and Arkansas; and (2) to rail heads in Ottawa County, Okla., restricted in (2) to traffic having a subsequent movement by rail; and (C) *coal*, from points in Craig, Nowata, Rogers, Wagoner and Okmulgee Counties, Okla., to points in Missouri; those in Kansas lying on and East of U.S. Highway 281; Little River, Hempstead and Lonoke Counties, Ark., and Johnson, Tarrant and Dallas Counties, Tex., rail heads and river points for rail and water transportation in Craig, Rogers, Wagoner, Nowata and Okmulgee Counties, Okla., and St. Joseph, Mo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Tulsa or Oklahoma City, Okla.

No. MC 141080, filed June 13, 1975. Applicant: BACA COUNTY EXPRESS, INC., P.O. Box 793, Walsh, Colo. 81090. Applicant's representative: Edward C. Hastings, Gold Suites-666 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between points in Baca County, Colo., on the one hand, and, on the other, points in Colorado.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 141094, filed June 27, 1975. Applicant: TRANSPORT SALES CO., INC., 88 East Broad Street, Columbus, Ohio 43215. Applicant's representative: Paul F. Beery, 9th Floor, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition roofing, shingles, siding, and insulating materials* (except commodities in bulk), *vinyl siding materials* used in the installation thereof, and *materials and supplies* incidental to the manufacture of such commodities, (1) from Lockland, Ohio, to points in West Virginia; and (2) from Chester, W. Va., to points in Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 141106, filed June 26, 1975. Applicant: C. E. RIEMER, doing business as RIEMER'S MARINA, 300 Wells Street, Marinette, Wis. 54143. Applicant's representative: Roger Radue, 25 West Main Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats, boat equipment and boat accessories* (except in bulk or tank vehicles), between points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Green Bay, or Madison, Wis.

No. MC 141111, filed July 3, 1975. Applicant: DEERING MASON SUPPLY CORP., 158 Essex Street, Melrose, Mass. 02176. Applicant's representative: Mary E. Kelley, 11 Riverside Avenue, Medford, Mass. 02155. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and tile*, between points in Massachusetts.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass.

No. MC 141117, filed June 30, 1975. Applicant: MARTIN NOLAN, RFD Bowkerville Road, Troy, N.H. 03465. Applicant's representative: Martin Nolan (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic viles, cardboard boxes, plastic rings, metal caps, cleaning pads, plastic extrusions*, and *plastic molded parts*, from points in Massachusetts to Keene, N.H., under a continuing contract or contracts with Concord Laboratories, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Concord, N.H.

No. MC 141119 (Sub-No. 1), filed July 7, 1975. Applicant: MERCHANTS 5 STAR, INC., P.O. Box 541, Marietta, Ohio 45750. Applicant's representative: John L. Alden, 1396 West Fifth Avenue, Columbus, Ohio 43212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *vinyl core filters*, to be used in water and sewage treatment facilities; and (2) *commodities*, used in the installation and assembly of vinyl core filters (except commodities in bulk), between Marietta, Ohio on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under contract with The B. F. Goodrich Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 141153, filed June 26, 1975. Applicant: CAPITAL MESSENGERS, INC., 11407 Frederick Avenue, Beltsville, Md. 20705. Applicant's representative: Nancy Pyeatt, 1750 New York Avenue, N.W., Suite 210, Washington, D.C. 20006. 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, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, radioactive pharmaceuticals and medical isotopes) between points in Maryland, Virginia, and the District of Columbia. RESTRICTIONS: The operations authorized herein are restricted (1) Against the transportation of any package or article weighing more than 50 lbs. or exceeding 108" in length and girth combined; (2) Against the transportation of packages or articles weighing in the aggregate more than 500 lbs. from one consignor to one consignee at one location on any one day; (3) To the transportation of shipments in express service within 24 hours (exclusive of Sundays and holidays) from pickup to delivery; (4) Against transportation between banks and banking institutions of commercial papers, documents, and written instruments used in the conduct of business by banks and banking institutions; and (5) Against transportation from or to the premises of persons or companies that have entered into contracts with the applicant and are served by the applicant pursuant to permits issued by the Commission.

NOTE.—Applicant holds contract carrier authority in MC 117058 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

PASSENGER APPLICATIONS

No. MC 141112, filed July 3, 1975. Applicant: BURWELL RAY GALLOP, doing business as GALLOP BUS LINES, 3900 East Indian River Road, Chesapeake, Va. 23325. Applicant's representative: Frank B. Hand, Jr., P.O. Box 187, Berryville, Va. 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at Portsmouth, Norfolk, Chesapeake, Virginia Beach, Hampton, Newport News, and points in Nansemond County, Va., and extending to points in Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Norfolk, Va.

No. MC 141116, filed June 30, 1975. Applicant: RONALD A. TRABULSI, doing business as AIR PORTER OF BERKSHIRE COUNTY, 57 South Church Street, Pittsfield, Mass. 01201. Applicant's representative: James H. Glavin, III, P.O. Box 40, 69 Second Street, Waterford, N.Y. 12188. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, mail, newspapers, and express*, in the same vehicle with passengers, in vehicles transporting not more than 14 passengers (exclusive of the driver and those passengers under 10 years of age who do not occupy a seat), Between Pittsfield, Mass., and Bradley Field at Windsor Locks, Conn.: From Pittsfield over U.S. Highway 7 and 20, thence over U.S. Highway 20 to junction Interstate Highway 90, thence over Interstate Highway 90 to junction Interstate Highway 91, thence over Interstate Highway 91 to junction Connecticut Highway 20, thence over Connecticut Highway 20 to Bradley Field, and return over the same route, serving Lenox and Lee, Mass., as intermediate points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Pittsfield, Mass. or Albany, N.Y.

By the Commission.

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

[FR Doc.75-19797 Filed 7-30-75;8:45 am]

[Notice No. 78]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Greyhound Lines, Inc., MC-1515 Sub-198	MC-1515 Sub-199	July 1, 1975
Red Ball Motor Freight, Inc., MC-2229 Sub-185	MC-2229 Sub-187	July 10, 1975
Bradley-Willett Tank Lines, MC-2368 Sub-43	MC-2368 Sub-44	July 15, 1975
Grant Trucking, Inc., MC-13134 Sub-36	MC-13134 Sub-35	July 7, 1975
The Lake Shore Motor Freight Co., MC-13569 Sub-29	MC-13569 Sub-28	Do.
Hayes Truck Lines, Inc., MC-27719 Sub-5	MC-27719 Sub-6	July 15, 1975
Shipley Transfer, Inc., MC-30887 Sub-208	MC-30887 Sub-209	July 17, 1975
Shipley Transfer, Inc., MC-30887 Sub-210	MC-30887 Sub-212	July 15, 1975
L & M Express, Co., Inc., MC-44639 Sub-83	MC-44639 Sub-84	July 18, 1975
Tri-State Transport, Inc., MC-57315 Sub-10	MC-57315 Sub 13	July 15, 1975
Auto Convoy Co., MC-59531 Sub-99	MC-59531 Sub-102	July 18, 1975
Auto Convoy Co., MC-59531 Sub-100	MC-59531 Sub-101	Do.
Ashton Trucking Co., MC-62538 Sub-20	MC-62538 Sub-21	July 17, 1975
Spector Freight System, Inc., MC-69116 Sub-169	MC-69116 Sub-170	July 18, 1975
Reb Transportation, Inc., MC-88380 Sub-10, Sub-14	MC-88380 Sub-11	July 10, 1975
Dahlen Transport of Iowa, Inc., MC-105375 Sub-47	MC-105375 Sub-48	July 1, 1975
Pre-Fab Transit Co., MC-107295 Sub-692	MC-107295 Sub-703	July 21, 1975
Refrigerated Transport Co., MC-107515 Sub-772	MC-107515 Sub-771	July 8, 1975
W. S. Hatch Co., MC-109689 Sub-258	MC-109689 Sub-262	July 2, 1975
Whitfield Tank Lines, Inc., MC-114897 Sub-110	MC-114897 Sub-111	July 22, 1975
Propane Transport, Inc., MC-114969 Sub-47	MC-111969 Sub-50	July 11, 1975
Truck Transport, Inc., MC-115331 Sub-356	MC-115331 Sub-360	July 15, 1975
C. W. Eanes, MC-116626 Sub-10	MC-116626 Sub-11	Do.
Denton Trucking, Inc., MC-117664 Sub-8	MC-117664 Sub-9	July 9, 1975
Hirschbach Motor Lines, Inc., MC-117686 Sub-142	MC-117686 Sub-143	July 8, 1975
Container Transit, Inc., MC-118989 Sub-103	MC-118989 Sub-104	July 3, 1975
Hi-Way Dispatch, Inc., MC-119654 Sub-24	MC-119654 Sub-26	July 21, 1975
George Transit Line, Inc., MC-119657 Sub-14	MC-119657 Sub-9	July 3, 1975
Carvan Refrigerated Cargo, Inc., MC-119789 Sub-177	MC-119789 Sub-182	July 7, 1975
Carvan Refrigerated Cargo, Inc., MC-119789 Sub-199, Sub-202	MC-119789 Sub-163	July 1, 1975
M. B. Asbury, Inc., MC-123704 Sub-6	MC-123074 Sub-7	July 2, 1975
Fogleman Truck Line, Inc., MC-123993 Sub-27	MC-123993 Sub-28	July 16, 1975
Richard Dahn, Inc., MC-124004 Sub-24	MC-124004 Sub-27	July 10, 1975
D.b.a. Robert N. Toomey Trucking Co., MC-124144 Sub-13	MC-124144 Sub-8	July 7, 1975
Hilt Truck Line, Inc., MC-124211 Sub-250	MC-124211 Sub-251	July 17, 1975
Brink's Inc., MC-124328 Sub-72	MC-124328 Sub-72	July 22, 1975
Auto Driveaway Co., MC-125985 Sub-18, Sub-20	MC-125985 Sub-19	July 7, 1975
D.b.a. Boelk Truck Lines, MC-127505 Sub-57	MC-127505 Sub-62	July 9, 1975
D.b.a. Southeast Trucking Co., MC-127527 Sub-13	MC-127527 Sub-14	July 22, 1975
Hofer, Inc., MC-128007 Sub-47	MC-128007 Sub-49	July 2, 1975
Crete Carrier Corp., MC-128375 Sub-96	MC-128375 Sub-98	July 11, 1975
Rajer, Inc., MC-129862 Sub-7	MC-129862 Sub-4	July 16, 1975
Field Marketing Services, Inc., MC-129973 Sub-13	MC-129973 Sub-14	July 7, 1975

Temporary authority application	Final action or certificate or permit	Date of action
Heyl Truck Lines, Inc., MC-133119 Sub-39, Sub-48	MC-133119 Sub-45	Do.
D.b.a. Werner Enterprises, MC-133233 Sub-22, Sub-24	MC-133233 Sub-25	July 11, 1975
Overland Express, Inc., MC-133689 Sub-41	MC-133689 Sub-43	July 2, 1975
B.L.T. Corp., MC-134349 Sub-10	MC-134349 Sub-11	July 18, 1975
Price Delivery Service, Inc., MC-134454 Sub-6	MC-134454 Sub-4	July 7, 1975
H.G.M. Transport Co., MC-135871 Sub-17	MC-135871 Sub-18	July 17, 1975
Coyote Truck Line Inc., MC-136318 Sub-6	MC-136318 Sub-3	July 10, 1975
Coors Transportation Co., MC-136407 Sub-2	MC-136407 Sub	July 2, 1975
Trailer Express, Inc., MC-138415 Sub-6	MC-138415 Sub-7	July 18, 1975
K. J. Transportation, Inc., MC-138991 Sub-2	MC-138991 Sub-2	Sept. 8, 1975
CRT Inc., MC-139033 Sub-1	MC-139033 Sub-2	July 18, 1975
B & V Cartage, Inc., MC-139048 Sub-1	MC-139048 Sub-2	July 1, 1975
Brudidge Transportation, Inc., MC-139113 Sub-1	MC-139113	July 9, 1975
Brudige Transportation, Inc., MC-139113 Sub-3	MC-139113 Sub-4	July 16, 1975
Stafford Trucking Co., MC-139284 Sub-1	MC-139284 Sub-2	July 8, 1975
D.b.a. Steger Bus Lines, MC-139673 Sub-2	MC-139673 Sub-3	July 16, 1975
Propoellex Corp., MC-139705 Sub-1	MC-139705 Sub-2	July 10, 1975
D.b.a. Howard Lisk, MC-139756 Sub-1	MC-139756 Sub-2	July 3, 1975
Pope Dreier, MC-139796	MC-139796 Sub-1	July 9, 1975
Aelrod L. Schaefer d.b.a. Al's Mobile Feed Service, MC-139899 Sub-1, Sub-3.	MC-139899 Sub-3	July 3, 1975
Joe N. Shelton, MC-140109	MC-140109 Sub-1	July 10, 1975
W. W. Allen Truck Leasing, Inc., MC-140210	MC-140210 Sub-1	July 9, 1975
Bill Ball Trucking, MC-140277	MC-140277 Sub-1	July 22, 1975

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-19808 Filed 7-30-75;8:45 am]

[Notice No. 819]

ASSIGNMENT OF HEARINGS

JULY 28, 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 115730, Sub 3, The Mickow Corporation, now being assigned October 15, 1975 (3 days), at Chicago, Illinois, in a hearing room to be designated later.

MC 110420, Sub 727, Quality Carriers, Inc., and 139733, Sub 2, J. L. Hutchison, d.b.a. J. L. Hutchison Trucking, now being assigned October 20, 1975 (1 week), at Chicago, Illinois, in a hearing room to be designated later (continued).

MC 135678, Sub 3, Midwestern Transportation, Inc., Continued to August 27, 1975 (2 days), in the New Federal Building, Room 5A15-17, 1100 Commerce Street, Dallas, Texas.

MC 61592, Sub 321, Jenkins Truck Line, Inc., and MC 119493, Sub 110, Monkem Co., Inc., now being assigned October 15, 1975, at Chicago, Ill. (2 days), in a hearing room to be later designated.

MC 140217, Sub 1, Clyde Hunsaker d.b.a. Hunsaker Trucking, now being assigned October 17, 1975 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 128030, Sub 79, The Stout Trucking Co., now being assigned October 20, 1975 (1 week), at Chicago, Ill., in a hearing room to be later designated.

No. MC 60157, Sub 23, C. A. White Trucking Company; MC 72243, Sub 50, The Aetna Freight Lines, Inc.; MC 83835, Sub. 121, Wales Transportation, Inc.; MC 88380, Sub. 19, Reb Transportation, Inc.; MC 119908, Sub 28, Western Lines, Inc.; and MC 133916, Sub 3, O'Nan Transportation Company, now being assigned September 18, 1975 (2 days), at Birmingham, Alabama, in a hearing room to be designated later.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-19937 Filed 7-30-75;8:45 am]

[AB 6 (Sub-No. 7)]

BURLINGTON NORTHERN INC.

Abandonment of Service

JULY 22, 1975.

In the matter of Burlington Northern Inc., abandonment between Brisbin and Gardiner, Park County, Montana.

The Interstate Commerce Commission hereby gives notice that: 1. By order served May 22, 1975, applicant was required to publish a notice in Park County, Mont., that an environmental threshold assessment survey was made in the above-entitled proceeding and based on that assessment it was determined that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.* 2. No comments in opposition, of an environmental nature, were received by the Commission in response to the May 22, 1975, order and subsequent notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-19940 Filed 7-30-75;8:45 am]

[AB 6 (Sub-No. 25)]

BURLINGTON NORTHERN INC.

Abandonment of Service

JULY 22, 1975.

In the matter of Burlington Northern, Inc., abandonment between Minnewaukan and Brinsmade, in Benson County, North Dakota.

The Interstate Commerce Commission hereby gives notice that: 1. By order served June 6, 1975, applicant was required to publish a notice in Benson County, N.D., that an environmental threshold assessment survey was made in the above-entitled proceeding and based on that assessment it was determined that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.* 2. No comments in opposition, of an environmental nature, were received by the Commission in response to the June 6, 1975, order and subsequent notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-19944 Filed 7-30-75;8:45 am]

[Finance Docket No. 27785; AB 6 (Sub-No. 28)]

BURLINGTON NORTHERN, INC.

Abandonment of Service

JULY 22, 1975.

In the matter of Burlington Northern, Inc., abandonment between Kenesaw and Kearney, in Adams, Buffalo and Kearney Counties, Nebraska and trackage rights over Union Pacific Railroad Company between Hastings and Kearney, Nebraska.

The Interstate Commerce Commission hereby gives notice that: 1. By order served June 13, 1975, applicant was required to publish a notice in Hall, Buffalo, Kearney and Adams Counties, Nebr., that an environmental threshold assessment survey was made in the above-entitled proceeding and based on that assessment it was determined that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.* 2. No comments in opposition, of an environmental nature, were received by the Commission in response to the June 13, 1975, order and subsequent notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-19945 Filed 7-30-75;8:45 am]

[AB 1 (Sub-No. 25)]

CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

Abandonment of Service

JULY 22, 1975.

In the matter of Chicago and North Western Transportation Company aban-

donment between Conrad and Eldora, in Grundy and Hardin Counties, Iowa.

The Interstate Commerce Commission hereby gives notice that: 1. By order served June 2, 1975, applicant was required to publish a notice in Grundy and Hardin Counties, Ia., that an environmental threshold assessment survey was made in the above-entitled proceeding and based on that assessment it was determined that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.* 2. No comments in opposition, of an environmental nature, were received by the Commission in response to the June 2, 1975, order and subsequent notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-19942 Filed 7-30-75;8:45 am]

[AB 104]

EAST TENNESSEE AND WESTERN NORTH CAROLINA RAILROAD CO.

Abandonment of Service

JULY 22, 1975.

In the matter of East Tennessee and Western North Carolina Railroad Company abandonment west of the O'Brien Station in Carter County, Tennessee.

The Interstate Commerce Commission hereby gives notice that: 1. By order served June 5, 1975, applicant was required to publish a notice in Carter County, Tenn., that an environmental threshold assessment survey was made in the above-entitled proceeding and based on that assessment it was determined that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.* 2. No comments in opposition, of an environmental nature, were received by the Commission in response to the June 5, 1975, order and subsequent notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-19943 Filed 7-30-75;8:45 am]

[AB 2 (Sub-No. 3)]

LOUISVILLE AND NASHVILLE RAILROAD CO.

Abandonment of Service

JULY 22, 1975.

In the matter of Louisville and Nashville Railroad Company abandonment between Opp and Florala, Covington County, Alabama.

The Interstate Commerce Commission hereby gives notice that: 1. By order served March 28, 1975, applicant was required to publish a notice in Covington County, Ala., that an environmental threshold assessment survey was made in the above-entitled proceeding and based on that assessment it was determined that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.* 2. No comments in opposition, of an environmental nature, were received by the Commission in response to the March 28, 1975, order and subsequent notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-19946 Filed 7-30-75;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

JULY 28, 1975.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before August 15, 1975.

FSA No. 43021—*Joint Water-Rail Container Rates—Seatrain International, S.A.* Filed by Seatrain International, S.A., (No. WEE-11), for itself and interested rail carriers. Rates on general commodities, between rail terminals in Gulfport, Mississippi, Mobile, Alabama and Pensacola, Florida, on the one hand, and European ports and terminals, on the other. Grounds for relief—Water competition. Tariffs—Seatrain International, S.A., tariff No. R.W. 1, I.C.C. No. 9, F.M.C. No. 38, and 5 other schedules named in the application. Rates are published to become effective on August 25, 1975.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-19938 Filed 7-30-75;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Applications

JULY 28, 1975.

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of *verified statements* in opposition with the Interstate Commerce Commission on or before September 2, 1975. (This procedure is outlined in the Commission's report and order in *Gateway Elimination*, 119 M.C.C. 530.) A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding including a detailed statement of protestant's interest in the proposal. No rebuttal statements will be accepted.

No. MC 111545 (Sub-No. 199G) (Notice), filed June 4, 1974, and published in the FEDERAL REGISTER issue of March 20, 1975. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Rd., Marietta, Ga. 30062. Applicant's representative: Robert E. Born, P.O. Box 6426, Marietta, Ga. 30062. By letters dated April 2, 1975 and May 13, 1975, Applicant's representative requested republication of this request for authority in the FEDERAL REGISTER as a result of "certain errors". As a result of those requests the public docket in this proceeding was removed from public access and all interested parties were advised that this Commission intended to renotice the corrected request for authority in a subsequent FEDERAL REGISTER issue, thereby extending participation deadlines. The Commission has discovered that applicant's request for republication in all aspects seeks to amend the application in a broadening manner, and the rules in *Gateway Elimination*, 49 C.F.R. § 1065 do not provide for the filing of broadening amendments. The previous FEDERAL REGISTER notice of March 20, 1975, in MC 111545 (Sub-No. 199G), stands correct in its entirety. Interested parties to this proceeding have 30 days from the date of this notice to file an original and three copies of verified statements in opposition to the granting of the authority sought in this application.

No. MC 119968 (Sub-No. 9G) (Restrictive amendment), filed June 4, 1974, published in the FEDERAL REGISTER issue of June 3, 1975, and republished as amended this issue. Applicant: A. J. WEIGAND, INC., 1046 N. Tuscarawas Avenue, Dover, Ohio 44622. 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, sold, dealt in or utilized by chemical manufacturing plants, (1) between points in Connecticut, Delaware, Massachusetts, Pennsylvania, Maryland, New York, New Jersey, and Rhode Island, on the one hand, and,

on the other, points in Ohio, Illinois, Indiana, the Lower Peninsula of Michigan, and Kentucky; (2) between points in West Virginia on and west of U.S. Highway 19, on the one hand, and, on the other, points in Connecticut, Delaware, Massachusetts, New York, New Jersey, Rhode Island, Pennsylvania, and Maryland; (3) between points in West Virginia, on the one hand, and, on the other, points in Illinois, Indiana, the Lower Peninsula of Michigan, and points in Ohio on and north of Interstate Highway 70; (4) between points in Kentucky, on the one hand, and, on the other, points in the Lower Peninsula of Michigan; (5) between points in Ohio on and north of a line beginning on Interstate Highway 70 at the Ohio-West Virginia State line, thence west on Interstate Highway 70 to Columbus, Ohio, and on and east of a line beginning at Columbus, Ohio, thence north on U.S. Highway 23 to the intersection with Ohio Highway 53, thence north on Ohio Highway 53 to the Ohio-Lake Erie Boundary line near Port Clinton, Ohio, on the one hand, and, on the other, points in Kentucky, Illinois, Indiana, and the lower Peninsula of Michigan.

NOTE.—In this republication the Commission has attempted to strike all issues which might broaden the request for authority as previously noticed in the FEDERAL REGISTER. Interested parties are advised that the rules in *Gateway Elimination* codified at 49 C.F.R. § 1065 make no provision for broadening amendments or consideration of untimely filed supplemental materials.

The following letter-notices of propoate to stay commencement of the propose 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 August 11, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 504 (Sub-No. E5), filed May 17, 1974. Applicant: HARPER MOTOR LINES, INC., P.O. Box 6985, Atlanta, Ga. 30315. Applicant's representative: B. K. McClain (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) from points in Maryland, west of Interstate Highway 83, except Baltimore, Maryland, to points in North Carolina in the Counties of Cabarrus, Union, Stanly, Montgomery, Anson, Richmond, Scotland, Moore, Chatham, Lee, Harnett, Hoke, Robeson, Bladen, Cumberland, Sampson, Duplin, and Johnston, and points in Mecklenburg County on and east of U.S. Highway 21, and points in Durham County on and south of Interstate Highway 85, and points in Wake County on and south of U.S. Highways 70 and 64, and points in Wayne County on and east of U.S. Highway 117, and points in Columbus County (except those south of U.S. Highway 76 to junction U.S. Highway 701, thence U.S. Highway 701 to North Carolina-South Carolina state line); (2) from points in Pennsylvania, west of U.S. Highway 15 from the New York-Pennsylvania state line to Harrisburg, Pennsylvania, thence Interstate Highway 83 to the Pennsylvania-Maryland state line, and New York, New York, to points in North Carolina in the counties of Harnett, Lee, Sampson, Hoke, Cumberland, Bladen, Robeson, Scotland, Richmond, Moore, Anson, Montgomery, Union, Stanly, Cabarrus, Rowan, Randolph, Davidson, Guilford, Alamance, Chatham, Orange, Durham, Wake, Johnston, Wayne, Lenoir, and Duplin, and points in Mecklenburg County on and east of U.S. Highway 21, and points in Columbus County, except those south of U.S. Highway 76 to junction U.S. Highway 701, thence U.S. Highway 701 to the North Carolina-South Carolina state line; and (3) from points in New Jersey and Delaware, and points in Pennsylvania on and east of U.S. Highway 15, from the New York-Pennsylvania state line to Harrisburg, Pennsylvania, thence Interstate Highway 83 to the Pennsylvania-Maryland state line, and Baltimore, Maryland, and points in Maryland on and east of Interstate Highway 83, including points in Maryland in the Del-Mar Peninsular, to points in North Carolina in the counties of Harnett, Lee, Sampson, Hoke, Cumberland, Bladen, Robeson, Scotland, Richmond, Moore, Anson, Montgomery, Union, Stanly, Cabarrus, Rowan, Randolph, Davidson, Davie, Forsyth, Guilford, Alamance, Chatham, Durham, Orange, Wake, and Johnston, and points in Wayne and Duplin Counties on and west of U.S. Highway 117, and points in Iredell and Mecklenburg Counties on and east of U.S. Highway 21, and points in Columbus County, except those south of U.S. Highway 76 to junction U.S. Highway 701, thence U.S. Highway 701 to the North Carolina-South Carolina state line. The purpose of this filing is to eliminate the gateway of Sanford, North Carolina.

No. MC 504 (Sub-No. E6), filed May 31, 1974. Applicant: HARPER MOTOR LINES, INC., P.O. Box 6985, Atlanta, Ga. 30315. Applicant's representative: B. K. McClain (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Marble* and *granite;* (1) from points in South Carolina to points in Missouri (except St. Louis, Mo.), and points in St. Charles, St. Louis, Jefferson, and Franklin; and (2) from points in South Carolina on and west of U.S. Highway 25 to points in North Carolina on and east of U.S. Highway 17. The purpose of this filing is to eliminate the gateway of Elberton, Ga., and points within 25 miles thereof.

No. MC 504 (Sub-E13), filed May 30, 1974. Applicant: HARPER MOTOR LINES, INC., P.O. Box 6985, Atlanta, Ga. 30315. Applicant's representative: B. K. McClain (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textiles and textile products*, (a) *from* points in South Carolina on and south of U.S. Highway 1, extending from North Augusta, South Carolina, to Columbia, South Carolina, thence U.S. Highway 378 to Conway, South Carolina, thence U.S. Highway 501 to Myrtle Beach, South Carolina, *to* points in Virginia, except points west of U.S. Highway 220. (b) *From* points in South Carolina, *to* points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Wilmington, Delaware. The purpose of this filing is to eliminate the gateways of points in North Carolina and South Carolina within 25 miles of Laurinburg, North Carolina (Cheraw, South Carolina-Nemmettsville, South Carolina-Dillon, South Carolina).

No. MC 1668 (Sub-E1), filed May 19, 1975. Applicant: RITEWAY EXPRESS, INC., 285 Old Hook Road, Westwood, N.J. 07675. Applicant's representative: Edward M. Alfano, 550 Mamaroneck Ave., Harrison, N.Y. 10528. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in Bergen, Passaic, Hudson, Essex, Union and Morris Counties, N.J., on the one hand, and, on the other, points in Dutchess and Putnam Counties, N.Y.; and (2) between points in Bergen and Hudson Counties, N.J., on the one hand, and, on the other, points in Sullivan County, N.Y. The purpose of this filing is to eliminate the gateway of points in Rockland County, N.Y.

No. MC 7258 (Sub E1), filed May 2, 1974. Applicant: NORTHWAYS INCORPORATED, P.O. Box 521, Greenfield, Mass. 01301. Applicant's representative: Frederich J. Harris (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *paper, paper products, and materials, supplies, and equipment* used in the manufacture of paper and paper products (except commodities in bulk and those requiring special equipment), between points and places in Massachusetts on and East of Massachusetts Highway 10, on the one hand, and, on the other, Bennington, Vermont, points in the State of New York east and north of a line beginning at the

Boundary of the United States and Canada, and extending south along New York Highway 374 to Chateaugay, thence along New York Highway 30 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction New York Highway 7 to the New York-Vermont State line. The purpose of this filing is to eliminate the gateway of Monroe Bridge, Mass.

No. MC 14552 (Sub-No. E14), filed May 20, 1974. Applicant: J. V. McNICHOLAS TRANSFER CO., P.O. Box 749, Youngstown, Ohio 44501. Applicant's representative: Brian S. Stern, Suite 318, 933 North Kenmore Street, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel mill equipment, materials, and supplies* (except commodities in bulk, commodities the transportation of which requires special equipment, and rolling mill rolls), restricted to the transportation of iron and steel pipe, conduit, metallic tubing, and fittings for such commodities, from those points in Ohio on, east and north of a line beginning at Lake Erie and extending along Ohio Highway 57 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Interstate Highway 77, thence along Interstate Highway 77 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Ohio-West Virginia State line, to points in Iowa and Minnesota. The purpose of this filing is to eliminate the gateways of the plant site of Youngstown Sheet and Tube Company at or near Youngstown, Ohio, and the plant site of Jones & Laughlin Steel Corp., at Niles, Ohio.

No. MC 14552 (Sub-No. E16), filed May 20, 1974. Applicant: J. V. McNICHOLAS TRANSFER CO., P.O. Box 749, Youngstown, Ohio 44501. Applicant's representative: Brian S. Stern, Suite 318, 933 North Kenmore Street, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel mill equipment, materials, and supplies* (except commodities in bulk, commodities the transportation of which requires special equipment, and rolling mill rolls), restricted to the transportation of iron and steel pipe, conduit, metallic tubing, and fittings for such commodities, from those points in Ohio on, east and north of a line beginning at Lake Erie and extending along Ohio Highway 44 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Interstate Highway 77, thence along Interstate Highway 77 to junction U.S. Highway 250, thence along U.S. Highway 250 to the Ohio-West Virginia State line, those in West Virginia east of U.S. Highway 250, and those in Virginia east of a line beginning at the Virginia-West Virginia State line and extending along U.S. Highway 250 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Atlantic Ocean, to those points in Indiana on and north of a line beginning at the Ohio-Indiana State line and extending along U.S. Highway 224 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Indiana-Illinois State line. The purpose of this filing is to eliminate the gateways of the plant site of Youngstown Sheet and Tube Company at or near Youngstown, Ohio and the plant site of Jones & Laughlin Steel Corp., at Niles, Ohio.

No. MC 14552 (Sub-No. E18), filed May 20, 1974. Applicant: J. V. McNICHOLAS TRANSFER CO., P.O. Box 749, Youngstown, Ohio 44501. Applicant's representative: Brian S. Stern, Suite 318, 933 North Kenmore Street, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel mill equipment, materials, and supplies* (except commodities in bulk, commodities the transportation of which requires special equipment, and rolling mill rolls), restricted to the transportation of iron and steel pipe, conduit, metallic tubing, and fittings for such commodities, from points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia, to points in Missouri. The purpose of this filing is to eliminate the gateways of the plant site of Youngstown Sheet and Tube Company at or near Youngstown, Ohio, and the plant site of Jones & Laughlin Steel Corp., at Niles, Ohio.

No. MC 14552 (Sub E20), filed May 20, 1974. Applicant: J. V. McNICHOLAS TRANSFER CO., P.O. Box 749, Youngstown, Ohio 44501. Applicant's representative: Brian S. Stern, Suite 318, 933 North Kenmore Street, Arlington, Va. 22201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Steel-mill equipment, materials, and supplies* (except commodities in bulk, commodities the transportation of which requires special equipment, and rolling mill rolls), restricted to the transportation of iron and steel pipe, conduit, metallic tubing, and fittings for such commodities, from points in Connecticut, Massachusetts, Delaware, Rhode Island, Maryland, Pennsylvania, New York, New Jersey, and the District of Columbia, to points in Minnesota. The purpose of this filing is to eliminate the gateway of the plant site of Youngstown Sheet and Tube Company at Youngstown, Ohio, and the plant site of Jones & Laughlin Corp. at Niles, Ohio.

No. MC 14552 (Sub E21), filed May 20, 1974. Applicant: J. V. McNICHOLAS TRANSFER CO., P.O. Box 749, Youngstown, Ohio 44501. Applicant's representative: Brian S. Stern, Suite 318, 933 North Kenmore Street, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel-mill equipment, materials, and supplies* (except commodities in bulk, commodities the transportation of which requires special equipment, and rolling mill rolls), restricted to the transportation of iron and steel pipe, conduit, metallic tubing, and fittings for such commodities, from those points in Ohio on east and north of a line beginning at Lake Erie and extending along Ohio Highway 237 to junction Ohio Highway 82, to junction Interstate Highway 77, to junction U.S. Highway 250, those in West Virginia on and north of U.S. Highway 250, and those in Virginia on and north of a line beginning at the Virginia-West Virginia State line and extending along U.S. Highway 250 to junction U.S. Highway 60 to the Atlantic Ocean, to points in Illinois. The purpose of this filing is to eliminate the gateway of the plantsite of the Youngstown Sheet and Tube Company at Youngstown, Ohio, and Jones & Laughlin Steel Corp. at Niles, Ohio.

No. MC 29079 (E40), filed January 23, 1975. Applicant: BRADA MILLER FREIGHT SYSTEM, INC. Applicant's representative: Edward K. Wheeler, Southern Bldg., 15th & H NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *general commodities*, (1) between points in Allegan and Kalamazoo Counties, Mich., on the one hand, and, on the other, points in Illinois in and south of Vermilion, Coles, Shelby, Montgomery, Macoupin, Jersey, and Calhoun Counties, and St. Louis, Mo.; (2) between points in Barry and Calhoun Counties, Mich., on the one hand, and, on the other, points in Illinois in and south of Hancock, Schuyler, Mason, Mernard, Cass, Morgan, Macoupin, Montgomery, Shelby, Moultri, Douglas, and Vermillion Counties and St. Louis, Mo.; (3) between points in Bay, Gratiot, Midland, and Sagnaw Counties, Mich., on the one hand, and, on the other hand, points in Illinois in and south of Hancock, Schuyler, Mason, Menard, Morgan, Macoupin, Montgomery, Shelby, Moultri, Piatt, Champaign, and Vermilion Counties and St. Louis, Mo.; (4) between points in Berrien County, Mich., on the one hand, and, on the other, points in Illinois in and south of St. Clair, Clinton, Washington, Jefferson, Clay, Richland, and Crawford Counties, and St. Louis, Mo.; (5) between points in Branch and Hillsdale County, Mich., on the one hand, and on the other, points in Illinois in and south of Hancock, McDonough, Fulton, Tazewell, Mason, Menard, Morgan, Macoupin, Montgomery, Shelby, Macon De Witt, Piatt, Champaign, and Vermilion Counties, and St. Louis, Mo.; (6) between points in Cass and Van Buren Counties, Mich., on the one hand, and, on the other, points in Illinois in and south of Calhoun, Jersey, Macoupin, Montgomery, Shelby, Coles, and Clark Counties and St. Louis Mo.

(7) Between points in Clinton, Eaton, and Ingham Counties, Mich., on the one hand, and, on the other, points in Illinois in and south of Hancock, Schuyler, Mason, Menard, Morgan, Macoupin, Montgomery, Shelby, Macon, DeWitt, Piatt, Champaign, and Vermilion Counties and St. Louis, Mo.; (8) between points in Genessee, LaPerr, Livingston, and Shiwasse Counties, Mich., on the one hand, and, on the other, points in Illinois in and south of Hancock, McDonough, Fulton, Tazewell, Mason, Menard, Morgan, Macoupin, Montgomery, Shel-

by, Macon, DeWitt, Piatt, Champaign, Vermilion Counties; (9) between points in Huron, Sanilac, and Tuscola Counties, Mich., on the one hand, and, on the other, points in Illinois in and south of Hancock, McDonough, Fulton, Peoria, Tazewell, McLean, Ford, and Vermilion Counties, and St. Louis, Mo.; (10) between points in Ionia, Montcalm, and Ottawa Counties, Mich., on the one hand, and, on the other, points in Illinois in and south of Clahoun, Jersey, Macoupin, Montgomery, Shelby, Coles, and Clark Counties and St. Louis, Mo.; (11) between Isabella and Mecosta Counties, Mich., on the one hand, and, on the other, points in Illinois in and south of Hancock, Schuyler, Mason, Menard, Morgan, Macoupin, Montgomery, Shelby, Macon, DeWitt, Piatt, Champaign, and Vermilion Counties, and St. Louis Mo.; (12) between points in Jackson County, Mich., on the one hand, and, on the other, points in Illinois in and south of Hancock, McDonough, Fulton, Tazewell, Mason, Menard, Sangamon, Macon, DeWitt, Piatt, Champaign, and Vermilion Counties, and St. Louis, Mo.; (13) between points in Lenawee and Washentenaw Counties, Mich., on the one hand, and on the other, points in Illinois in and south of Hancock, McDonough, Fulton, Peoria, Woodford, Tazewell, Mason, Menard, Sangamon, Macon, DeWitt, Piatt, Champaign, and Vermilion Counties, and St. Louis, Mo.

(14) Between points in Macomb and St. Clair Counties, Mich., on the one hand, and, on the other, points in Illinois in and south of Hancock, McDonough, Fulton, Peoria, Stark, Woodford, McLean, Ford, and Vermilion Counties, and St. Louis, Mo.; (15) between points in Muskegon and Ocean Counties, Mich., on the one hand, and, on the other points in Illinois in and south of Calhoun, Jersey, Macoupin, Montgomery, Shelby, Coles, and Clark Counties, and St. Louis, Mo.; (16) between points in Newago County, Mich., on the one hand, and, on the other, points in Illinois in and south of Calhoun, Jersey, Macoupin, Montgomery, Shelby, Coles, and Edgar Counties, and St. Louis, Mo.; (17) between points in Oakland County, Mich., on the one hand, and, on the other, points in Illinois in and south of Mercer, Knox, Stark, Peoria, Tazewell, McLean, Ford, and Vermilion Counties, and St. Louis Mo.; (18) between points in St. Joseph County, Mich., on the one hand, and on the other, points in Illinois in and south of Hancock, Adams, Brown, Cass, Mason, Menard, Sangamon, Macon, De Witt, Piatt, Champaign, Vermilion Counties, and St. Louis, Mo.; and (19) between points in Oakland, County, Mich., on the one hand, and, on the other, points in Illinois in and south of Mercer, Knox, Stark, Peoria, Woodford, McLean, Ford, and Vermilion Counties, and St. Louis. The purpose of this filing is to eliminate the gateway of Tipton County, Ind.

No. MC 29886 (Sub-No. 73E), filed May 23, 1974. Applicant: DALLAS & MAVIS, 4000 West Sample St., South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *front end shovel loaders*, assembled, and *industrial lift trucks*, assembled, which because of size or weight require special equipment (1) between points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New Jersey, Pennsylvania, and New York, on the one hand, and, on the other, points in Washoe, Storey, Lyon, Ormsby, Douglas, and Mineral Counties, Nev., those in Polk, Lincoln, Benton, Linn, Lane, Douglas, Coos, Klamath, Curry, Josephine, and Jackson Counties, Oreg., and those points in California on and west of a line beginning at the Pacific Ocean and extending along California Highway 55 to junction California Highway 91, to junction California Highway 57, to junction Interstate Highway 210, to junction California Highway 2, to junction California Highway 138, to junction U.S. Highway 395, to junction U.S. Highway 6, to the California-Nevada State line; (2) between points in West Virginia, Virginia, North Carolina, Maryland, Delaware, and the District of Columbia, on the one hand, and, on the other, points in California (except those in Inyo, Tulare, San Bernardino, Kern, Ventura, Los Angeles, Riverside, Orange, San Diego, and Imperial Counties), those in Washoe, Storey, Lyon, Ormsby, Douglas, and Mineral Counties, Nev., those in Marion, Polk, Lincoln, Benton, Linn, Lane, Douglas, Klamath, Cass, Curry, Josephine, Jackson, and Lake Counties, Oreg.; and (3) between points in Kentucky, Tennessee, Alabama, Mississippi, on the one hand, and, on the other, points in California (except those in Mono, Knyo, Tulare, Kern, Ventura, Los Angeles, Orange, San Diego, Riverside, Imperial, Santa Barbara and San Bernadino Counties), those in Washoe, Storey, Lyon Ormsby, and Douglas Counties, Nev., and those in Lake, Klamath, Jackson, Josephine, Curry, Coos, Douglas, Lane, Benton, and Lincoln Counties, Oreg. The purpose of this filing is to eliminate the gateway of San Leandro, Calif.

No. MC 29886 (Sub-No. 80E), filed April 11, 1975. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Indiana 46627. Applicant's representative: Paul C. Ogren (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (a) *commodities*, which because of size or weight require the use of special equipment or special handling, and (b) self propelled articles each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, between points in New Jersey, on the one hand, and on the other points in Vermont, New Hampshire, Maine, Massachusetts, Rhode Island, New York and Connecticut. The purpose of this filing is to eliminate the gateway of New York.

No. MC 30280 (Sub-No. E65) (Correction), filed May 17, 1974, published in the FEDERAL REGISTER October 10, 1974. Applicant: WATKINS CAROLINA EXPRESS, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Paul Daniell (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, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Atlanta, Ga., on the one hand, and, on the other, Danville, Va. The purpose of this filing is to eliminate the gateways of Greenville, S.C., and Reidsville, N.C. The purpose of this correction is to clarify the territorial description.

No. MC 30280 (Sub-No. E68) (Correction), filed May 17, 1974, published in the FEDERAL REGISTER October 10, 1974. Applicant: WATKINS CAROLINA EXPRESS, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Paul Daniell (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, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Atlanta, Ga., on the one hand, and, on the other, points in Lunenburg, Mecklenburg, Halifax, Charlotte, Prince Edward, and Nottaway Counties, Va. The purpose of this filing is to eliminate the gateways of Greenville, S.C., and Reidsville, N.C. The purpose of this correction is to clarify the territorial description.

No. MC 31600 (Sub-No. E5), (Correction), filed June 4, 1974, published in the FEDERAL REGISTER June 19, 1975. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. 02154. Applicant's representative: Marshall Kragen, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Buffalo, N.Y., to points in Maine, New Hampshire, and points in Vermont on and east of U.S. Highway 5, restricted against the transportation of formaldehyde and styrene, in bulk, in tank vehicles, to points in New Hampshire and Vermont. The purpose of this filing is to eliminate the gateway of Springfield, Mass. The purpose of this correction is to clarify the restriction.

No. MC 31600 (Sub-No. E13) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER June 23, 1975. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. 02154. Applicant's representative: Marshall Kragen, 666 Eleventh St., N.W., Washington,

D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (11) *Fluorinated hydrocarbon* (compressed gas), *trichloromonofluoromethane, trichlorotrifluoroethane* and *dichlorotetrafluoroethane*, and mixtures of the afore-mentioned commodities, in bulk, in tank vehicles, restricted against petroleum products, from points in Maine to Baltimore, Md., Cleveland, Minerva, Portsmouth, and Waverly, Ohio, and Lancaster, Norristown, and Tylersport, Pa. The purpose of this filing is to eliminate the gateways of Edgewater or Elizabeth, N.J. The purpose of this correction is to correct a typographical error.

No. MC 47142 (Sub-E1), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's representative: W. R. Long, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A, B, and C Explosives and Blasting Supplies*, between Louisville, Kentucky, on the one hand, and, on the other, points in Connecticut, Maine, New Hampshire, and Rhode Island. The purpose of this filing is to eliminate the gateways of any point in Kentucky within the Louisville Commercial Zone, Martinsburg, W. Va., and the plant site of Atlas Chemical Industries, Inc., at or near Reynolds, Pa.

No. MC 47142 (Sub-E2), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's representative: W. R. Long, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A, B, and C Explosives*, and Blasting Supplies, between Louisville, Kentucky, on the one hand, and, on the other, points in Massachusetts, New Jersey, and Vermont. The purpose of this filing is to eliminate the gateways of any point within the Louisville, Kentucky Commercial zone, Martinsburg, W. Va. and Pennsylvania.

No. MC 47142 (Sub-E3), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's representative: W. R. Long, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A, B, and C explosives*, and *Blasting Supplies*, between Louisville, Kentucky, on the one hand, and, on the other, points in New York on and east of U.S. Highway 62. The purpose of this filing is to eliminate the gateways of any point in Kentucky within the Louisville, Ky., Commercial Zone, and Fairchance, Pa., and points within 10 miles thereof.

No. MC 47142 (Sub-E4), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's representative: W. R. Long, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A, B, and C explosives*, and *Blasting Supplies*, between Louisville, Kentucky, on the one hand, and, on the other, points in Pennsylvania on and east of a line beginning at the New York-Pennsylvania State line and extending south along U.S. Highway 219 to its junction with Interstate 80, then West along Interstate 80 to its junction with Pennsylvania Highway 68, then Southwest along Pennsylvania Highway 68 to the Pennsylvania-Ohio State line. The purpose of this filing is to eliminate the gateways of any point in Kentucky within the Louisville, Ky., Commercial zone, and points within 10 miles of Fairchance, Pa., including Fairchance.

No. MC 47142 (Sub-E5), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's representative: W. R. Long, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A, B, and C explosives*, and *Blasting Supplies*, between Louisville, Kentucky, on the one hand, and, on the other, points in Maryland on and east of U.S. Highway 220, and points in Delaware. The purpose of this filing is to eliminate the gateway of any point in Kentucky within the Louisville Commercial Zone and any point in Virginia.

No. MC 47142 (Sub-E6), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's representative: W. R. Long, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B Explosives*, between Louisville, Kentucky, on the one hand, and, on the other, points in Alamance, Gaston, Iredell, Mecklenburg, Forsyth, Davie, Rowan, Cabarrus, Guilford, Orange, Durham, Wake, Johnston, Wilson, Wayne, Pitt, Lenoir, Craven, Anson, Richmond, Moore, Lee, Scotland, Hoke, Harnett, Cumberland, Robeson, Sampson, Bladen, Columbus, Duplin, Brunswick, New Hanover, Pender, Onslow, Martin, Montgomery, Cleveland, and Rutherford Counties, N.C. The purpose of this filing is to eliminate the gateways of any point in Kentucky within the Louisville Commercial Zone, and Rutherford, Cleveland, Gaston, Iredell, Davie, Rowan, Mecklenburg, Cabarrus, Forsyth, and Anson Counties, N.C., and that part of Richmond, Montgomery and Guilford Counties, N.C., that are on and west of U.S. Highway 220.

No. MC 47142 (Sub-E7), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's representative: W. R. Long, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A, B, and C Explosives, and Blasting Supplies*, between Louisville, Kentucky, on the one hand, and, on the other, points in Kentucky, Ohio, Virginia, West Virginia, and that part of North Carolina west of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 220 to junction of U.S. Highway 1, and thence along U.S. Highway 1 to the North Carolina-South Carolina State line. The purpose of this filing is to eliminate the gateway of any point in Kentucky within the Louisville Commercial Zone.

No. MC 47142 (Sub-E8), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's representative: W. R. Long, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B Explosives*, between Louisville, Kentucky, on the one hand, and the Iowa Ordnance Plant located at Burlington, Iowa, on the other hand. The purpose of this filing is to eliminate the gateway of any point in Kentucky within the Louisville Commercial Zone and Seneca, Illinois.

No. MC 47142 (Sub-E9), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's representative: W. R. Long, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitrocarbonitrate*, from Central City, Kentucky to points in Connecticut, Maine, New Hampshire, and Rhode Island. The purpose of this filing is to eliminate the gateways of Martinsburg, W. Va., and the plant site of Atlas Chemical Industries, Inc., at or near Reynolds, Pa.

No. MC 47142 (Sub-E10), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's representative: W. R. Long, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitrocarbonitrate*, From Central City, Kentucky, to points in Massachusetts, New Jersey, Vermont, and Simsbury, Connecticut. The purpose of this filing is to eliminate the gateways of Martinsburg, W. Va. and Pennsylvania.

No. MC 47142 (Sub-E11), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's representative: W. R. Long, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitrocarbonitrate*, from Central City, Kentucky to points in New York. The purpose of this filing is to eliminate the gateways of points in West Virginia within 10 miles of Fairchance, Pa., and Fairchance, Pa.

No. MC 47142 (Sub-E12), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's

representative: W. R. Long, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Nitrocarbonitrate*, from Central City, Kentucky, to points in that part of Pennsylvania East and South of U.S. Highway 62. The purpose of this filing is to eliminate the gateways of points in West Virginia within 10 miles of Fairchance, Pa., and Fairchance, Pa.

No. MC 47142 (Sub-E13), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's representative: W. R. Long, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitrocarbonitrate*, from Central City, Kentucky to points in Maryland, Delaware, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Virginia.

No. MC 47142 (Sub-E14), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's representative: W. R. Long, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitrocarbonitrate*, from Central City, Kentucky to points in Indiana on and east of Interstate 65 (except the Indiana Army Ammunition Depot or Plant at or near Charleston, Ind., and the Jefferson Proving Grounds at or near Madison, Ind.). The purpose of this filing is to eliminate the gateways of Louisville, Ky., and points in Indiana within the Louisville Commercial Zone.

No. MC 47142 (Sub-E15), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's representative: W. R. Long, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitrocarbonitrate*, from Central City, Kentucky to points in Illinois on and north of Highway 6. The purpose of this filing is to eliminate the gateway of Seneca, Ill.

No. MC 47142 (Sub-E16), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's representative: W. R. Long, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A, B, and C Explosives*, and *Blasting Supplies*, between Simsbury, Connecticut on the one hand, and, on the other, points in Maryland, Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Delaware, or Kenvil, N.J., and Virginia.

No. MC 47142 (Sub-E17), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's representative: W. R. Long, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A, B, and C Explosives*, and Blasting Supplies, between Simsbury, Connecticut, on the one hand, and on the other, points in Ohio on, and south of U.S. Highway 422. The purpose of this filing is to eliminate the gateways of Fairchance, Pa., and points in West Virginia within 10 miles of Fairchance, or Kenvil, N.J.

No. MC 47142 (Sub-E18), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's representative: W. R. Long, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A, B, and C Explosives*, and *Blasting Supplies*, between Simsbury, Connecticut, on the one hand, and, on the other, points in West Virginia, Kentucky, and points in North Carolina west of a line beginning at the North Carolina-Virginia State line, and extending along U.S. Highway 220 to the junction of U.S. Highway 1, and thence along U.S. Highway 1 to the North Carolina-South Carolina State line. The purpose of this filing is to eliminate the gateways of Pennsylvania and Martinsburg, W. Va., or Kenvil, N.J.

No. MC 47142 (Sub-E19), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's representative: W. R. Long, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A, B, and C Explosives*, and *Blasting Supplies*, between Simsbury, Connecticut, on the one hand, and on the other, points in Indiana (except the sites of the Indiana Army Ammunition Depot or Plant at or near Charleston, Ind., and the Jefferson Proving Grounds at or near Madison, Ind.). The purpose of this filing is to eliminate the gateways of Pennsylvania, Martinsburg, W. Va. and Ohio, or Kenvil, N.J., and Ohio.

No. MC 47142 (Sub-E20), filed May 3, 1974. Applicant: C. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, Huntington, W. Va. 25719. Applicant's representative: W. R. Long, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A, and B Explosives*, between Simsbury, Connecticut, on the one hand, and, on the other, the Iowa Army Ammunition Plant, Burlington, Iowa. The purpose of this filing is to eliminate the gateways of Pennsylvania, Martinsburg, W. Va., and Seneca, Ill.

No. MC 52460 (Sub-E1), filed May 14, 1974. APPLICANT: ELLEX TRANSPORTATION, INC. P.O. BOX 9637, TULSA, OKLA. 74107. Applicant's representative: Steve B. McCommas (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *petroleum products in containers*, from points in Texas on and East of U.S. Highway 81 to points in Kansas and points in Missouri on West and North of a line commencing at the Arkansas-Missouri State line along Mo Highway 5 to the junction of U.S. Highway 160, thence along U.S. Highway 160 to Mo Highway 181, thence along Mo Highway 181 to the junction of U.S. Highway 63 at Caboll, thence along U.S. Highway 63 to the junction of Interstate 44 at Rolla, thence along Interstate 44 to the Missouri-Illinois State line at St. Louis, Missouri. The purpose of this filing is to eliminate the gateway of points in that part of Kansas and Oklahoma within one-hundred (100) miles of Tulsa, Oklahoma, including Tulsa.

No. MC 52460 (Sub-E2), filed May 14, 1974. APPLICANT: ELLEX TRANSPORTATION, INC., P.O. BOX 9637, TULSA, OKLA. 74107. Applicant's representative: Steve B. McCommas (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *petroleum products*, in containers, from Kansas City, Kansas to points in New Mexico and Texas. The purpose of this filing is to eliminate the Gateway of points in that part of Kansas and Oklahoma within 100 miles of Tulsa, Oklahoma including Tulsa, Oklahoma.

No. MC 52460 (Sub-E3), filed May 14, 1974. APPLICANT: ELLEX TRANSPORTATION, INC., P.O. BOX 9637, TULSA, OKLA 74107. Applicant's representative: Steve B. McCommas (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *petroleum and petroleum products in containers* (a) from Kansas City, Missouri to points in Alabama on east and south of a line beginning at the Tennessee-Alabama State line, thence along U.S. Highway 231 to Huntville, thence along Ala. Highway 20 to Decatur, thence along Ala. Highway 24 to the Alabama-Mississippi State line, points in Louisiana and Mississippi and those points in Arkansas on south and west of a line commencing at the Oklahoma-Arkansas State line on Interstate Highway 40 to Little Rock, Arkansas, thence along U.S. Highway 65 to the Arkansas-Louisiana State line, except Little Rock, Arkansas. The purpose of this filing is to eliminate the gateway of Coffeeville, Kans. (b) from Kansas City, Missouri to Little Rock, Arkansas. The purpose of this filing is to eliminate the gateway of Galena, Kans. (c) from Kansas City, Missouri to points in New Mexico and Texas. The purpose of this filing is to eliminate the gateway of points in Kansas & Oklahoma within 100 miles of Tulsa, Okla.

No. MC 52460 (Sub-E4), filed May 14, 1974. APPLICANT: ELLEX TRANSPORTATION, INC., P.O. BOX 9637, TULSA, OKLA. 74107. Applicant's representative: Steve B. McCommas (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *petroleum products in containers*, from Enid, Oklahoma to points in Alabama, Mississippi and Ten-

nessee. From Tulsa, Oklahoma to points in Alabama and Tennessee and points in Mississippi on and East of U.S. Highway 51. The purpose of this filing is to eliminate the gateway of Coffeyville, Kansas.

No. MC 52460 (Sub-E5), filed May 14, 1974. APPLICANT: ELLEX TRANSPORTATION, INC., P.O. BOX 9637, TULSA, OKLA 74107. Applicant's representative: Steve B. McCommas (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum Products in Containers*, from Ponca City, Oklahoma to points in Louisiana. (2) *Petroleum Products in Containers* from Ponca City, Oklahoma to points in Alabama, Mississippi and Tennessee. The purpose of this filing is to eliminate the Gateway of Tulsa Oklahoma under Part (1) of the above and to eliminate the Gateway of Coffeyville, Kansas under Part (2) above.

No. MC 52460 (Sub-E6), filed May 14, 1974. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, Tulsa, Okla. 74107. Applicant's representative: Steve B. McCommas (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *petroleum products, in containers*, from St. Louis, Missouri to points in New Mexico. The purpose of this filing is to eliminate the Gateway of points in that part of Kansas and Oklahoma within 100 miles of Tulsa, Oklahoma including Tulsa, Oklahoma.

No. MC 52460 (Sub-E7), filed May 14, 1974. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, Tulsa, Okla. 74107. Applicant's representative: Steve B. McCommas (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*, part I from points in Texas on and east and north of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 81 to junction of U.S. Highway 80 at Ft. Worth, Texas, thence along U.S. Highway 80 to the junction of Texas Highway 64 near Wills Point, Texas, thence Southeast along Texas Highway 64 to the junction U.S. Highway 79 at Henderson, Texas, thence along U.S. Highway 79 to the junction U.S. Highway 59 at Carthage, Texas, thence along U.S. Highway 59 to the junction U.S. Highway 34 at Tenaha, Texas, thence East along U.S. Highway 84 to the Texas-Louisiana State line, including Dallas and Fort Worth, Texas and points within ten (10) miles of Dallas and Fort Worth, Texas to points in the State of Kansas. Part II, between points in Texas on and West of U.S. Highway 271 beginning at the Texas-Oklahoma State line continuing to Tyler, Texas, thence on and north of Texas Highway 64 to the junction of U.S. 80 near Wills Point, thence along U.S. 80 to the junction of U.S. 81 at Fort Worth, thence north along U.S. 81 to the Texas-Oklahoma State line on the one hand, and, on the other, and those points in Arkansas on and north of a line beginning at the Arkansas-Oklahoma State line on U.S. 271 to Ark. Highway 59, thence to Ark. Highway 22, thence to Highway 23, thence North to Ark. Highway 16, thence east and north on Ark. Highway 16 to Ark. Highway 7, thence Ark. Highway 7 to Harrison, thence U.S. Highway 62 to the junction of U.S. Highway 5, thence along U.S. Highway 5 to the Arkansas-Missouri State line and those points in Missouri on, North and West of U.S. Highway 5 from the Arkansas-Missouri State line to Gainesville, thence via Mo. Highway 181 to Caboll, thence via U.S. Highway 63 to Rolla, thence via Interstate 44 to the Missouri-Illinois State line at St. Louis. The purpose of this filing is to eliminate the gateway of those points in that part of Kansas and Oklahoma within one-hundred (100) miles of Tulsa, Oklahoma, including Tulsa.

No. MC 52460 (Sub-E8), filed May 14, 1974. APPLICANT: ELLEX TRANSPORTATION, INC., P.O. BOX 9637, TULSA, OKLA. 74107. Applicant's representative: Steve B. McCommas (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular route, transporting: *bulk lubricating oils*, in tank vehicles, (a) from all points in the State of Missouri and those points in the State of Arkansas on and North of Arkansas State Highway 88 from the Arkansas-Oklahoma State line, thence to U.S. Highway 270 to Hot Springs, Arkansas, thence along U.S. Highway 270 to Little Rock, thence I-40 to the Arkansas-Tennessee State line to points in Ector and Andrews Counties, Texas. (b) from Kansas City, Missouri to all points in the State of Louisiana. (c) from all points in the State of Kansas to all points in the State of Louisiana. (d) from the points in the State of Missouri on and west of U.S. Highway 65 from the Iowa Missouri State line to the junction of Missouri Highway 83, thence along Mo. Highway 83 to the junction of U.S. Highway 54, thence along U.S. Highway 54 to the junction of Mo. Highway 123, thence Mo. Highway 123 to the junction of Highway 32, thence along Mo. Highway 32 to the junction of Mo. Highway 39, thence along Mo. Highway 39 to the junction of U.S. Highway 60, thence along U.S. Highway 60 to the junction of Mo. Highway 37, thence along State Highway 37 to the Missouri-Arkansas State line to those points in the State of Louisiana on, West and South of U.S. Highway 71 to U.S. Highway 190, thence along U.S. 190 to U.S. 61 at New Orleans, Louisiana, including New Orleans. The purpose of this filing is to eliminate the gateway of Tulsa, Oklahoma.

No. MC 52460 (Sub-E9), filed May 14, 1974. APPLICANT: ELLEX TRANSPORTATION, INC., P.O. BOX 9637, TULSA, OKLA. 74107. Applicant's representative: Steve B. McCommas (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 between Borger, Texas and points within ten (10) miles of Borger on the one hand, and on the other points in Arkansas, Kansas on and east of U.S. Highway 81 and Missouri. The purpose of this filing is to eliminate the Gateway of Enid, Oklahoma City and Tulsa, Oklahoma.

No. MC 52869 (Sub-No. E1), filed May 13, 1974. APPLICANT: NORTHERN TANK LINE, PO Box 970, Miles City, Mont. 59301. Applicant's representative: E. G. Balsam (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *petroleum and 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 Laurel, Mont., to points in that part of North Dakota on and, bounded by a line beginning at Carrington, N. Dak., and extending along U.S. Highway 281 to junction North Dakota, Highway 9, thence along North Dakota Highway 9 to Rogers, thence along North Dakota Highway 1 to junction Interstate Highway 94 thence along Interstate Highway 94 to junction North Dakota Highway 18, thence along North Dakota Highway 18 to Leonard, thence along North Dakota Highway 18 to junction North Dakota Highway 13, thence along North Dakota Highway 13 to junction unnumbered Highway, thence south along unnumbered highway to junction unnumbered highway, thence west along unnumbered highway thro gh Great Bend to junction North Dakota Highway 18, thence south along North Dakota Highway 18 to junction North Dakota Highway 11, thence along North Dakota Highway 11 to junction North Dakota Highway 32, thence north along North Dakota Highway 32 to junction North Dakota Highway 13, thence along North Dakota Highway 13 to junction North Dakota Highway 1, thence along North Dakota Highway 1 to junction North Dakota Highway 11, thence west along North Dakota Highway 11 to Ellendale, and thence along U.S. Highway 281 to Carrington, points in Minnesota, and points in South Dakota on and east of U.S. Highway 281. To eliminate gateway of: the Terminal facilities of the Kaneb Pipeline Company, at or near Jamestown, N. Dak. (2) *petroleum and 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 Laurel, Mont., to points in Nebraska on and east of U.S. Highway 81. To eliminate gateway of: points in Butte County, S. Dak.

(3) *Asphalt, road oil and residual fuel oil*, in bulk, in tank vehicles, from the plantsite of the Farmers Union Central Exchange, near Laurel, Mont., to points in Nebraska, points in Crook, Weston, Niobara, Goshen, Platt, and Laramie Counties, Wyo., and points in Colorado on and east of a line extending along U.S. Highway 287 from the Wyo.-Colo. state line to Denver, Thence along U.S. Highway 285 to junction with U.S. Highway 50 near Salida thence west along U.S. Highway 50 to junction with U.S. Highway 550 near Montrols, Colo. thence south along U.S. Highway 550 to the

Colo.-New Mexico state line. To eliminate gateway of: points in Butte County, S. Dak. (4) *liquified petroleum gas and natural gasoline*, in bulk, in tank vehicles, from Laurel, Mont., to points in Wisconsin, and the upper peninsula of Michigan, to eliminate gateways of: the terminal facilities of Kaneb Pipe Line Company, at Jamestown, N. Dak., and Mentor, Minn. (5) *Petroleum and 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, (a) from East Billings, Mont., to points in South Dakota, Nebraska, points in Crook, Weston, Niobara, Goshen, Platte and Laramie Counties, Wyo., points in North Dakota on and east of North Dakota Highway 1, and points in Colorado on and east of a line extending along U.S. Highway 287 from the Wyo-Colo state line to Denver thence along U.S. Highway 285 to junction with U.S. Highway 50 near Salida, thence west along U.S. Highway 50 to junction with U.S. Highway 550 near Montrose,-Colo. thence south along U.S. Highway 550 to the Colo-N. Mex. state line, to eliminate gateway of: points in Butte Count, S. Dak. (b) from East Billings, Mont., to points in Minnesota, to eliminate gateway of: points in Butte County, S. Dak., and the Terminal Facilities of Kaneb Pipe Line, at Aberdeen, S. Dak.

(c) from Miles City, Mont., to points in Minnesota, Nebraska, Colorado, points in Crook, Weston, Niobara, Goshen, Platte, Laramie and Albany Counties, Wyo., and points in South Dakota (except points north of U.S. Highway 212 and west of South Dakota Highway 65, to eliminate gateway of: points in Butte County, S. Dak., (d) from Glendine, Mont., to points in Minnesota to eliminate gateway of: the terminal facilities of Kaneb Pipe Line Company at Jamestown, N. Dak. (e) from Glendine, Mont., to points in Nebraska, Colorado, points in South Dakota south of U.S. Highway 212, and points in Crook, Weston, Niobara, Goshen, Platte, Laramie, Albany and Carbon Counties, Wyo., to eliminate gateway of: points in Butte County, S. Dak., (f) from points in Roosevelt County, Mont., to points in that part of Minnesota on, south and east of a line beginning at Moorhead, Minn., and extending along U.S. Highway 10 to junction Minnesota Highway 34, thence along Minnesota Highway 34 to junction Minnesota Highway 71, thence along Minnesota Highway 71 to the International Boundary line between the United States and Canada, to eliminate gateway of: Terminal Facilities of Kaneb Pipe Line Company, at Jamestown, N. Dak., (g) from points in Richland County, Mont., to points in Minnesota, to eliminate gateway of: Terminal facilities of Kaneb Pipe Line Company, at Jamestown, N. Dak., (h) from points in Richland County, Mont., to points in Nebraska, Colorado, and points in Crook, Weston, Niobara, Goshen, Platte, Laramie, Albany, Carbon, Natrona, Converse and Campbell Counties Wyo., to eliminate gateway of: points in Butte County, S. Dak., (i) from Williston, N. Dak., to points in that part of Minnesota on, south and east of a line beginning at Moorhead, Minn., on and south of U.S. Highway 10 to junction Minnesota Highway 34 thence to Minnesota Highway 71 thence to Canadian Border, to eliminate gateway of: points in Richland County, Mont., and the Terminal Facilities of Kaneb Pipe Line Company at Jamestown, N. Dak.,

(6) *petroleum and petroleum products*, in bulk, in tank vehicles, (a) from Welleston, N. Dak., to points in Nebraska, Colorado, and points in Crook, Weston, Niobara, Goshen, Platte, Laramie, Albany, Carbon, Natrona, Converse and Campbell Counties, Wyo., to eliminate gateways of: points in Richland County, Mont., and points in Butte County, S. Dak., (b) from Willison, N. Dak., to points in that part of South Dakota on and south of a line beginning at the Wyoming-South Dakota State line and extending along U.S. Highway 212 to Belle Fourche, and thence along U.S. Highway 14 to the South Dakota-Minnesota State line, to eliminate the gateway of: points in Richland County, Mont., (7) *liquified petroleum gas*, in bulk, in tank vehicles, (a) from Tioga, N. Dak., to points in Nebraska, Colorado, and points in Crook, Weston, Miobara, Goshen, Platte, Laramie, Albany, Carbon, Natrona, Converse and Campbell Counties Wyo., to eliminate gateway of" points in Butte County, S. Dak., (b) from Tioga, N. Dak., to points in that part of Minnesota on and south of a line beginning at Ortonville, Minn., and extending along U.S. Highway 12 to junction Minnesota Highway 9, thence along Minnesota Highway 9 to junction Minnesota Highway 23, thence along Minnesota Highway 23 to junction U.S. Highway 35, and thence along U.S. Highway 35 to Duluth, Minn., to eliminate gateway of: Terminal Facilities of Kaneb Pipe Line Company, at Aberdeen, S. Dak., (8) *Liquified petroleum gas and natural gas*, in bulk, in tank vehicles, from the ports of entry on the International Boundary line in Montana and North Dakota, and Emerson, Minn., to points in Wisconsin, to eliminate gateway of: Mentor, Minn., and points within 5 miles thereof, (9) *petroleum and petroleum products*, in bulk, in tank vehicles, from ports of entry on the United States-Canada Boundary line located at or near Pembina, North Dakota, to points in Colorado and Wyoming, to eliminate gateway of: Butte County, South Dakota, (10) *petroleum and petroleum products*, in bulk, in tank vehicles, from ports of entry on the United States-Canada Boundary line, located at or near Sweetgrass, Montana, to points in Nebraska, to eliminate gateway of: Butte County, South Dakota.

No. MC 59247 (Sub-No. E4), filed June 4, 1974. Applicant: LINDEN MOTOR FREIGHT CO., INC., 1300 Lower Road, Linnen, N.J. 07036. Applicant's representative: Louis Salz (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, containers*, and *chemical supplies*, from points in Massachusetts west of Interstate Highway 91 to points in Pennsylvania west and south of a line beginning at the Pennsylvania-New Jersey State line and extending along Pennsylvania Highway 611 to junction Pennsylvania Highway 412, thence along Pennsylvania Highway 412 to Bethlehem, Pa., thence along U.S. Highway 22 to junction Pennsylvania Turnpike Extension, thence along Pennsylvania Turnpike Extension to junction junction Pennsylvania 93, thence along Pennsylvania Highway 93 to Berwick, Pa., thence along U.S. Highway 11, thence along U.S. Highway 11 to the Pennsylvania-Maryland State line. The purpose of this filing is to eliminate the gateway of Linden, N.J.

No. MC 59247 (Sub-No. E11), filed June 4, 1974. Applicant: LINDEN MOTOR FREIGHT CO., INC., 1300 Lower Road, Linden, N.J. 07036. Applicant's representative: Louis Salz (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, containers*, and *chemical supplies*, from points in Connecticut west of a line beginning at the Massachusetts-Connecticut State line and extending along Interstate Highway 91 through Thompsonville, and Windsor Locks, Conn., to junction U.S. Highway 44, thence along U.S. Highway 44 to junction U.S. Highway 202 through Farmington, Conn., to junction Connecticut Highway 8, thence along Connecticut Highway 8 to Waterbury, Conn., thence along Interstate Highway 84 through Middlebury, Conn., to junction Connecticut Highway 25, thence along Connecticut Highway 25 to junction Connecticut Highway 59, thence along Connecticut Highway 59 to junction Connecticut Highway 136, thence along Connecticut Highway 136 to junction Connecticut Highway 15, thence along Connecticut Highway 15 to Greenwich, Conn., to points in Pennsylvania east and south of a line beginning at the Pennsylvania-New Jersey State line at or near Morrisville, Pa., and extending along Pennsylvania Highway 32 to junction U.S. Highway 611, thence along U.S. Highway 611 to junction Pennsylvania Highway 412, thence along Pennsylvania Highway 412 to Bethlehem, Pa., to junction U.S. Highway 22 to junction Pennsylvania Turnpike Extension, thence along Pennsylvania Turnpike Extension to junction Pennsylvania Highway 93, thence along Pennsylvania Highway 93 to junction U.S. Highway 11 via Harrisburg and York, Pa., to the Pennsylvania-Maryland State line. The purpose of this filing is to eliminate the gateway of Linden, N.J.

No. MC 59247 (Sub-No. E15), filed June 4, 1974. Applicant: LINDEN MOTOR FREIGHT CO., INC., 1300 Lower Road, Linden, N.J. 07036. Applicant's representative: Louis Salz (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids, chemicals, containers*, and *chemical supplies* in containers, between points in Essex County, N.J., on the one

hand, and, on the other, points and places in New York bounded by a line beginning at the New York-Connecticut State line at or near Quaker Hill, N.Y., thence along New York Highway 55 through Poughkeepsie, N.Y., to junction U.S. Highway 44, thence along U.S. Highway 44 to junction U.S. Highway 209, thence along U.S. Highway 209 to junction New York Highway 52, thence along New York Highway 52 to junction New York Highway 42, thence along New York Highway 42 to junction New York Highway 8, thence along New York Highway 8 to Grahamsville, N.Y., thence along unnumbered highway to junction New York Highway 30, thence along New York Highway 30 through Roxbury and Fultonham, N.Y., to junction New York Highway 30A, thence along New York Highway 30A to at or near Gloversville, N.Y., thence along New York Highway 29 to Saratoga Springs, N.Y., thence along U.S. Highway 9 through Albany and Hudson, N.Y., thence along an unnumbered highway to junction New York Highway 82, thence along New York Highway 82, to the New York-Connecticut State line, thence along the New York-Connecticut State line to Quaker Hill, N.Y. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 59247 (Sub-No. E16), filed June 4, 1974. Applicant: LINDEN MOTOR FREIGHT CO., INC., 1300 Lower Road, Linden, N.J. 07036. Applicant's representative: Louis Salz (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids, chemicals, containers*, and *chemical supplies*, in containers, between points in Mercer County, N.J., on the one hand, and, on the other, those points in New York lying east and south of a line beginning at Port Jervis, N.Y., thence along New York Highway 42 to Grahamsville, N.Y., thence along unnumbered highways to junction New York Highway 30, thence along New York Highway 30 through Roxbury and Fultonham, N.Y., to junction New York Highway 30A, thence along New York Highway 30A to Gloversville, N.Y., thence along New York Highway 29 to Saratoga Springs, N.Y., thence along U.S. Highway 9 through Albany and Hudson, N.Y., thence along unnumbered highways to junction New York Highway 82, thence along New York Highway 82 to the New York-Connecticut State line at or near Boston Corner, N.Y. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 59247 (Sub-No. E20), filed June 4, 1974. Applicant: LINDEN MOTOR FREIGHT CO., INC., 1300 Lower Road, Linden, N.J. 07036. Applicant's representative: Louis Salz (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids, chemicals, containers*, and *chemical supplies*, in containers, between Philadelphia, Pa., on the one hand, and, on the other, those points in New York south and east of a line beginning at the junction of the New York-Connecticut and the New York-Massachusetts State lines near Boston Corner, N.Y., and extending in a northwesterly direction to Saratoga Springs, N.Y., thence westerly to Gloversville, N.Y., thence southerly to Port Jervis, N.Y., to the New York-New Jersey State line. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 61825 (Sub-No. E69), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (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, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in Maryland on and west of U.S. Highway 220, on the one hand, and, on the other, points in North Carolina on and west of a line beginning at the Virginia-North Carolina State line and extending along Interstate Highway 95 to junction North Carolina Highway 125, thence along North Carolina Highway 125 to junction U.S. Highway 64, thence along U.S. Highway 64 to Croatan Sound, thence along the Croatan Sound to the Pamlico Sound, thence along the Pamlico Sound to Drum Inlet to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Lynchburg, Va.

No. MC 61825 (Sub-No. 92E), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (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, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in South Carolina east of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 21 to junction U.S. Highway 1, to junction S.C. Highway 12, to junction U.S. Highway 601, to junction Interstate Highway 26, to the Atlantic Ocean, on the one hand, and, on the other, points in Virginia on and north of a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 60 to junction U.S. Highway 220, to junction Virginia Highway 43, to junction U.S. Highway 29, to junction Va. highway 699, to junction U.S. Highway 501, to junction Va. Highway 600, to junction Va. Highway 615, to junction Va. Highway 47, to junction U.S. Highway 460, to junction Va. Highway 45, to junction Va. Highway 606, to junction Va. Highway 629, to junction U.S. Highway 522, to junction U.S. Highway 33, to junction Va. Highway 609, to junction Va. Highway 618, to junction Va. Highway 601, to junction Va. Highway 715, to junction State Highway 739, to junction Va. Highway 639, to junction U.S. Highway 301, to the Potomac River. The purpose of this filing is to eliminate the gateway of Lynchburg, Va.

No. MC 61825 (Sub-No. E93), filed May 13, 1974. Application: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (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, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading between points in South Carolina south of a line beginning at Charleston, S.C., and extending along Interstate Highway 26 to junction U.S. Highway 601, to junction South Carolina Highway 12, to junction U.S. Highway 1, to junction Interstate Highway 20 to the Georgia-South Carolina state line, on the one hand, and, on the other, points in Virginia on and north of a line beginning at the York River and extending along Virginia Highway 33 to junction Interstate Highway 64, to junction U.S. Highway 360, to junction Virginia Highway 49, to junction Virginia Highway 834, to junction Virginia Highway 670, to junction Virginia Highway 116, to junction U.S. Highway 460, to junction Virginia Highway 311, thence northwest along State Highway 311 to the Virginia-West Virginia State line. The purpose of this filing is to eliminate the gateway of Lynchburg, Va.

No. MC 61825 (Sub-No. 94E), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (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, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in South Carolina on and west of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 21 to junction U.S. Highway 1, to junction Interstate Highway 20, to the Georgia-South Carolina State line, on the one hand, and, on the other, points in Virginia on and north of a line beginning at the James River and extending along State Highway 31 to junction State Highway 10, to junction Virginia Highway 40, to junction U.S. Highway 501, to junction Virginia Highway 699, to junction U.S. Highway 29, to junction Virginia Highway 43, to junction U.S. Highway 220, to junction U.S. Highway 60, to

the Virginia-West Virginia State line. The purpose of this filing is to eliminate the gateway of Lynchburg, Va.

No. MC 61825 (Sub E95), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in South Carolina, on the one hand, and, on the other, the District of Columbia. The purpose of this filing is to eliminate the gateway of Lynchburg, Va.

No. MC 61825 (Sub-No. E96), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor *vehicle*, over irregular routes, transporting: *furniture factory* machinery, and materials used in the manufacture of furniture from Chicago, Ill., to points in Virginia, North Carolina, and South Carolina bounded by a line beginning at the Atlantic Ocean near Georgetown, S.C., and extending along Winyah Bay to Georgetown, S.C., to U.S. Highway 521 to junction S.C. Highway 377, to junction S.C. Highway 261 to junction U.S. Highway 52, to junction U.S. Highway 1, to the South Carolina-North Carolina State line, thence north on U.S. Highway 1 to junction U.S. Highway 74, to junction U.S. Highway 220, to the North Carolina-Virginia State line, thence north on U.S. Highway 220 to junction Va. Highway 108, to junction Va. Highway 890, to junction Va. Highway 40, to junction Va. Highway 834, junction Va. Highway 122, to junction U.S. Highway 221, to junction U.S. Highway 29, to junction Va. Highway 6, to junction Va. Highway 664, to junction Va. Highway 814, to junction Va. Highway 664, to junction U.S. Highway 250, to junction Va. Highway 22, to junction U.S. Highway 33, to junction Va. Highway 54, to junction Interstate Highway 95, to junction Va. Highway 30, to junction U.S. Highway 360, to Reedville, Va., thence east to the mouth of the Pocomoke River, thence east along the Virginia-Maryland State line to the Atlantic Ocean, thence south along the Atlantic Ocean to the point of beginning including points on highways specified. The purpose of this filing is to eliminate the gateway of Martinsville and Lynchburg, Va.

No. MC 61825 (Sub-No. E97), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *furniture factory machinery*, and materials used in the manufacture of furniture, from points in Indiana located north of a line beginning at the Ohio River and extending along Interstate Highway 65 to junction Ind. Highway 60, to junction Ind. Highway 37, to junction Ind. Highway 54, to junction Ind. Highway 157, to junction Ind. Highway 59, to junction Ind. Highway 46, to junction U.S. Highway 40, to the Indiana-Illinois State line and south and west of a line beginning at the Ohio-Indiana State line and extending along on U.S. Highway 33 to junction Ind. Highway 19, to the Indiana-Michigan State line to points in North Carolina and Virginia bounded by a line beginning on the Atlantic Ocean near Carolina Beach, N.C., thence north on U.S. Highway 421 to junction NC Highway 242, to junction N.C. Highway 50 to junction U.S. Highway 70, to junction N.C. Highway 86, to the North Carolina-Virginia State line, thence north on Virginia Highway 86 to junction U.S. Highway 29, to junction U.S. Highway 60, to junction U.S. Highway 33, along the Chesapeake Bay to the Atlantic Ocean, thence south along Atlantic Shore to point of beginning including points on highways specified.

No. MC 61825 (Sub E98), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture factory machinery*, and materials used in the manufacture of furniture from points in Indiana on and south of a line beginning at the Ohio River and extending along Interstate Highway 65 to junction Ind. Highway 60 to junction Indiana Highway 37, to junction Indiana Highway 54, to junction Indiana Highway 157, to junction Indiana Highway 59, to junction Indiana Highway 46, to junction U.S. Highway 40, to the Indiana-Illinois State line, to points in North Carolina and Virginia bounded by a line beginning on the Atlantic Ocean near Carolina Beach, N.C., thence north on U.S. Highway 421 to junction North Carolina Highway 242, to junction North Carolina Highway 50, to junction U.S. Highway 70, to junction North Carolina Highway 86, to the North Carolina-Virginia State line, thence north on Virginia Highway 86 to junction U.S. Highway 29, to junction Virginia Highway 43, to junction U.S. Highway 460, to U.S. Highway 29, to junction U.S. Highway 250, to junction Virginia Highway 20, to junction Virginia Highway 3, to junction U.S. Highway 301, to the Virginia-Maryland State line, thence east along the Virginia-Maryland State line to the Atlantic Shore, thence south along the Atlantic Shore to point of beginning including points on highways specified. The purpose of this filing is to eliminate the gateway of Martinville and Lynchburg, Va.

No. MC 61825 (Sub E99), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture Factory Machinery, and materials used in the manufacture of furniture* from points in Indiana north of a line beginning at the Ohio-Indiana State line near Decatur, Ind. and extending along U.S. Highway 33 to junction Indiana Highway 19, to the Indiana-Michigan State line to points in North Carolina, South Carolina and Virginia bounded by a line beginning on the Atlantic Ocean near Myrtle Beach, S.C., and extending along U.S. Highway 501 to junction U.S. Highway 701, thence north along U.S. Highway 701 to the South Carolina-North Carolina State line, thence north on U.S. Highway 701 to junction N.C. Highway 410, to junction U.S. Highway 74 to junction U.S. Highway 301, to junction North Carolina Highway 87, to junction U.S. Highway 15, to junction North Carolina Highway 87, to junction North Carolina Highway 62, to junction North Carolina Highway 86, to the North Carolina-Virginia State line, thence north along Virginia Highway 86 to junction U.S. Highway 29, to junction Virginia Highway 56, to junction U.S. Highway 60, to junction U.S. Highway 15, to junction U.S. Highway 460, to junction Virginia Highway 36, to junction Virginia Highway 10, to junction Virginia Highway 156, to junction Virginia Highway 5, to junction the Colonial National Historical Parkway, thence east along the Colonial National Historical Parkway to Yorktown, Va., thence east to the Atlantic Ocean, thence south along the Atlantic Shore to point of beginning including points on highways specified. The purpose of this filing is to eliminate the gateway of Martinsville and Lynchburg, Va.

No. MC 61825 (Sub E100), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Cylde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture Factory Machinery*, and materials used in the manufacture of furniture, from points in Pennsylvania located on, north and west of a line beginning at the Ohio-Pennsylvania State line near New Castle, Pa. and extending along U.S. Highway 224 to junction U.S. Highway 422, to junction Pa. Highway 108, to junction Pa. Highway 8, to junction Pa. Highway 80, to junction Pa. Highway 68, to junction U.S. Highway 322, to junction Pa. Highway 66, to junction U.S. Highway 6, to junction U.S. Highway 219, to the Pennsylvania-New York State line to points in North Carolina and South Carolina bounded by a line beginning on the Atlantic Ocean at the mouth of the Savannah River, thence north along the Savannah River to junction South Carolina Highway 119, to junction U.S. Highway 321, to junction U.S. Highway 301, to junction U.S. Highway 15, to junction U.S. Highway 76, to junction Interstate

Highway 95, to the South Carolina-North Carolina State line, thence north on Interstate Highway 95 to junction North Carolina State Highway 211, to junction North Carolina Highway 41, to the South Carolina-North Carolina State line, thence south on South Carolina State Highway 41 to junction South Carolina Highway 9, to junction State Highway 410, to junction U.S. Highway 701, to junction U.S. Highway 501, to the Atlantic Ocean, thence south along the Atlantic Shore to point of beginning including points on Highways specified.

No. MC 61825 (Sub E101), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture Factory Machinery*, and materials used in the manufacture of furniture, from points in Pennsylvania bounded by a line beginning at the Pennsylvania-New York State line and extending along Pennsylvania Highway 652 to junction U.S. Highway 6, to junction U.S. Highway 11, to junction Pennsylvania Highway 309, to junction Pa. Highway 118, to junction U.S. Highway 220 to junction Interstate Highway 80, to junction Pa. Highway 153 to junction U.S. Highway 219, to junction Pa. Highway 948, to junction Pa. Highway 66, to junction U.S. Highway 6, to junction U.S. Highway 219, to the Pennsylvania-New York State line to the Delaware River, thence south along the Delaware River to point of beginning to points in South Carolina on, south and west of a line beginning on the Atlantic Ocean near Charleston, S.C., and extending along South Carolina Highway 171 to junction U.S. Highway 17, to junction U.S. Highway 52, to junction U.S. Highway 176, to junction U.S. Highway 15, to junction U.S. Highway 76, to junction Interstate Highway 26, to junction U.S. Highway 276, to the South Carolina-North Carolina State line. The purpose of this filing is to eliminate the gateway of Martinsville and Lynchburg, Virginia.

No. MC 61825 (Sub E102), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture Factory Machinery*, and materials used in the manufacture of furniture from points in Ohio bounded by a line beginning on the Ohio-Kentucky State line, and extending along Interstate Highway 75 to junction Ohio Highway 4, to junction U.S. Highway 25, to junction Ohio Highway 47, to junction Ohio Highway 739, to junction Ohio Highway 423, to junction U.S. Highway 23, to junction U.S. Highway 35, to the Ohio River, thence west along the Ohio River to point of beginning to points in Virginia bounded by a line beginning at the North Carolina-Virginia State line, and extending along U.S. Highway 501 to junction U.S. Highway 460, to junction Virginia Highway 40, to junction Virginia Highway 35 to junction U.S. Highway 58 to the Atlantic Ocean, thence south along the Atlantic Shore to the Virginia-North Carolina State line to point of beginning including points on highways specified.

No. MC 61825 (Sub E103), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture Factory Machinery*, and materials used in the manufacture of furniture, from points in Pennsylvania bounded by a line beginning on the Ohio-Pennsylvania State line near New Castle, Pa. and extending along U.S. Highway 224 to junction U.S. Highway 422, to junction Pennsylvania Highway 108, to junction Pa. Highway 8, to junction Interstate Highway 80, to junction Pa. Highway 68, to junction U.S. Highway 322, to junction Pa. Highway 66, to junction Pa. Highway 948, to junction U.S. Highway 219, to junction Pa. Highway 153, to junction Interstate Highway 80, to junction Pa. Highway 879, to junction U.S. Highway 219, to junction Pa. Highway 271, to junction U.S. Highway 30, to junction U.S. Highway 119, to junction Interstate Highway 70, to junction Pa. Highway 51, to junction U.S. Highway 119, to the Pennsylvania-West Virginia State line, thence west and north along the Pennsylvania-West Virginia State line to the Pennsylvania-Ohio State line, thence north along the Pennsylvania-Ohio State line to point of beginning to points in South Carolina located on and east of a line beginning on the Atlantic Ocean near Myrtle Beach, South Carolina, thence south along U.S. Highway 17 to the South Carolina-Georgia State line. The purpose of this filing is to eliminate the gateway of Martinsville and Lynchburg, Virginia.

No. MC 61825 (E104), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, COLLINSVILLE, VA. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *furniture factory machinery*, and materials used in the manufacture of furniture from points in Ohio bounded by a line beginning at the Ohio-Indiana State line near Edon, Ohio, and extending along Ohio Highway 34 to junction Ohio Highway 15, to junction Ohio Highway 65, to junction U.S. Highway 30–N–, to junction U.S. Highway 68, to junction U.S. Highway 30–S–, to junction Ohio Highway 423, to junction U.S. Highway 23, to junction U.S. Highway 35, to junction Ohio Highway 160, to junction Ohio Highway 689, to junction Ohio Highway 346, to junction U.S. Highway 50, to junction U.S. Highway Alternate 50, to junction U.S. Highway 33, to junction Ohio Highway 188, to junction Ohio Highway 13, to junction Ohio Highway 39, to junction Ohio Highway 61, to junction U.S. Highway 224, to junction Ohio Highway 4, to Lake Erie, thence west along the Lake Erie Shore to the Ohio-Michigan State line, thence west along the Ohio-Michigan State line, thence west along the Ohio-Michigan State line to the Ohio-Indiana State line, thence south along the Ohio-Indiana State line to point of beginning to points in Virginia bounded by a line beginning on the Virginia-North Carolina State line, thence north along U.S. Highway 501 to junction U.S. Highway 460, to junction Va. Highway 46, to the North Carolina-Viriginia State line, thence west along the North Carolina-Virginia State line to point of beginning including points on highways specified. The purpose of this filing is to eliminate the gateway of *Martinsville and Lynchburg, Va.*

No. MC 61825 (E105), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *furniture factory machinery*, and materials used in the manufacture of furniture from points in Ohio bounded by a line beginning on Lake Erie near Sandusky, Ohio, and extending along Ohio Highway 4 to junction U.S. Highway 224, to junction Ohio Highway 61, to junction Ohio Highway 39, to junction U.S. Highway 42, to junction U.S. Highway 224, to junction Interstate Highway 77, to junction Ohio Highway 8, to Cleveland, thence west along the Lake Erie Shore to point of beginning to points in Virginia bounded by a line beginning on the Virginia-North Carolina State line, and extending along U.S. Highway 29 to junction 501, to the Virginia-North Carolina State line, thence west along the Virginia-North Carolina State line to point of beginning including points on highways specified. The purpose of this filing is to eliminate the gateway of *Martinsville* and *Lynchburg, Va.*

No. MC 61825 (E106), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *furniture factory machinery*, and materials used in the manufacture of furniture from points in Ohio located on and west of a line beginning at Ohio-Indiana State line near Edon, Ohio, and extending along Ohio Highway 34 to junction Ohio Highway 15, to junction Ohio Highway 65, to junction U.S. Highway 30–N–, to junction U.S. Highway 68, to junction U.S. Highway 30–S–, to junction Ohio Highway 739, to junction Ohio Highway 47, to junction U.S. Highway 25, to junction Ohio Highway 4, to junction Interstate Highway 75, to the Ohio-Kentucky State line to points in Virginia bounded by a line beginning on the Virginia-North Caro-

lina State line near Danville, Va., thence north along U.S. Highway 29 to junction U.S. Highway 460, to junction Va. Highway 40, to junction Va. Highway 35, to junction U.S. Highway 58, to the Atlantic Ocean, thence south along the Atlantic Shore to the Virginia-North Carolina State line, thence west along the Virginia-North Carolina State line to point of beginning including points on highways specified. The purpose of this filing is to eliminate the gateway of *Martinsville and Lynchburg, Va.*

No. MC 83539 (Sub-No. E40), filed June 4, 1974. Applicant: C & H TRANSPORTATION, 2010 W. Commerce Street, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heavy machinery*, which because of size or weight, requires the use of special equipment; between (1) points in Alabama, on the one hand, and, on the other, points in Rhode Island (points in North Carolina, Virginia, Philadelphia, Pa., New York, and Worcester, Mass.); and Virginia (points in North Carolina)*; (2) points in Florida, on the one hand, and, on the other, Connecticut (points in North Carolina, Virginia, Philadelphia, Pa., New York, and Worcester, Mass)*, New Jersey (North Carolina, Virginia, New York, and Philadelphia, Pa.)*, New York (North Carolina, Virginia, and Philadelphia, Pa.)*, and Virginia (North Carolina)*; (3) points in Georgia, on the one hand, and, on the other, points in Connecticut (North Carolina, Virginia, Philadelphia, Pa., New York, and Worcester, Mass.)*, New Jersey (North Carolina, Virginia, Philadelphia, Pa., and New York)*, and Virginia (North Carolina)*; (4) points in Georgia in and south of Polk, Paulding, Cobb, Fulton, Gwinnett, Walton, Oconee, Clarke, Oglethorpe, Wilkes, and Lincoln Counties, on the one hand, and, on the other, points in New York in and east of Orleans, Genesee, Wyoming and Allegany Counties (North Carolina, Virginia, and Philadelphia, Pa.)* and (5) points in South Carolina, on the one hand, and, on the other, points, in Virginia (North Carolina)* (6) points in Pennsylvania in and east of McKean, Potter, Lycoming, Montour, Columbia, Schuylkill, Berks, and Chester Counties, on the one hand, and, on the other, points in North Carolina in and east of Camden, Pasquotank, Perquimans, Chowan, Washington, Beaufort, Pitt, Greene, Wayne, Sampson, Cumberland, and Robeson Counties (Philadelphia, Pa., and points in Virginia)*, and (7) points in Pennsylvania in and east of Susquehanna, Wyoming, Luzerne, Schuylkill, Dauphin and Lancaster Counties, on the one hand, and, on the other, points in North Carolina (Philadelphia, Pa., and points in Virginia)*. The purpose of this filing is to eliminate the gateway indicated by the asterisks above.

No. MC 83539 (Sub-No. E211), filed June 4, 1974. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Wiley C. Willingham (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, (2) *machinery, equipment, materials, and supplies* used in, or in connection with construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, and (3) *earth drilling machinery* and equipment, and machinery, equipment, materials, supplies and pipe, incidental to, used in, or in connection with the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, the completion of holes or wells drilled, the production, storage and transmission of commodities resulting from drilling operations at well or hole sites and the injection or removal of commodities into or from holes or wells, between Bakersfield, Calif., on the one hand, and, on the other, Andalusia, Anniston, Birmingham, Decatur, Dothan, Eufaula, Florence, Gadsden, Huntsville, Montgomery, Selma, Troy, and Tuscaloosa, Ala. The purpose of this filing is to eliminate the gateways of points in Wyoming and Oklahoma.

No. MC 83539 (Sub-No. E212), filed June 4, 1974. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Wiley C. Willingham (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, (2) *machinery, equipment, materials and supplies* used in, or in connection with construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, and (3) *earth drilling machinery* and equipment, and machinery, equipment, materials, supplies and pipe, incidental to, used in, or in connection with the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, the completion of holes or wells drilled, the production, storage and transmission of commodities resulting from drilling operations at well or hole sites and the injection or removal of commodities into or from holes or wells, between Barstow, Calif., on the one hand, and, on the other, Anniston, Birmingham, Decatur, Dotham, Eufaula, Florence, Gadsden, and Huntsville, Ala. The purpose of this filing is to eliminate the gateways of points in Wyoming and Oklahoma.

No. MC 83539 (Sub-No. E213) filed June 4, 1974. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Wiley C. Willingham (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, (2) *machinery, equipment, materials and supplies* used in, or in connection with construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, and (3) *earth drilling machinery* and equipment, and machinery, equipment, materials, supplies and pipe, incidental to, used in, or in connection with the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, the completion of holes or wells drilled, the production, storage and transmission of commodities resulting from drilling operations at well or hole sites and the injection or removal of commodities into or from holes or wells, between Los Angeles, Calif., on the one hand, and, on the other, Anniston, Decatur, Florence, Gadsden, and Huntsville, Ala. The purpose of this filing is to eliminate the gateways of points in Wyoming and Oklahoma.

No. MC 83539 (Sub-No. E214) filed June 4, 1974. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Wiley C. Willingham (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, (2) *machinery, equipment, materials, and supplies* used in, or in connection with construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, (3) *earth drilling machinery*, and equipment, and machinery, equipment, materials, supplies and pipe, incidental to, used in, or in connection with the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, the completion of holes or wells drilled, the production, storage and transmission of commodities resulting from drilling operations at well or hole sites and the injection or removal of commodities into or from holes or wells, between Palmdale, Calif., on the one hand, and, on the other, Anniston, Birmingham, Decatur, Florence, Gadsden, and Huntsville, Ala. The purpose of this filing is to eliminate the gateways of points in Wyoming and Oklahoma.

No. MC 83539 (Sub-No. E215) filed June 4, 1974. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Wiley C. Willingham (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, (2) *machinery, equipment, materials and supplies* used in, or in connection with construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, and (3) *earth drilling machinery* and equipment, and machinery, equipment, materials, supplies and pipe, incidental to, used in, or in connection with the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, the completion of holes or wells drilled, the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and the injection or removal of commodities into or from holes or wells, between Riverside, Calif., on the one hand, and, on the other, Gadsden, and Huntsville, Ala. The purpose of this filing is to eliminate the gateways of points in Wyoming and Oklahoma.

No. MC 83539 (Sub-No. E216), filed June 4, 1974. Applicant: C & H Transportation Co., Inc., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Wiley C. Willingham (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, (2) *machinery, equipment, materials and supplies* used in, or in connection with construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, and (3) *earth drilling machinery* and equipment, and machinery, equipment, materials, supplies and pipe, incidental to, used in, or in connection with the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, the completion of holes or wells drilled, the production, storage and transmission of commodities resulting from drilling operations at well or hole sites and the injection or removal of commodities into or from holes or wells, between San Bernardino and Santa Ana, Calif., on the one hand, and, on the other, Anniston, Decatur, Gadsden, and Huntsville, Ala. The purpose of this filing is to eliminate the getaways of points in Wyoming and Oklahoma.

No. MC 83539 (Sub-No. E217), filed June 4, 1974. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Wiley C. Willingham (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, (2) *machinery, equipment, materials and supplies* used in, or in connection with construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up of thereof, and (3) *earth drilling machinery* and equipment, and machinery, equipment, materials, supplies and pipe, incidental to, used in, or in connection with the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, the completion of holes or wells drilled, the production, storage and transmission of commodities resulting from drilling operations at well or hole sites and the injection or removal of commodities into or from holes or wells, between San Luis Obispo, Calif., on the one hand, and, on the other, Andalusia, Anniston, Birmington, Decatur, Dothan, Eufaula, Florence, Gadsden, Huntsville, Montgomery, Selma, Troy, and Tuscaloosa, Ala. The purpose of the filing is to eliminate the gateways of points in Wyoming and Oklahoma.

No. MC 83539 (Sub-No. E218), filed June 4, 1974. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Wiley C. Willingham (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, (2) *machinery, equipment, materials and supplies* used in, or in connection with construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, and (3) *earth drilling machinery* and equipment, and machinery, equipment, materials, supplies and pipe, incidental to, used in, or in connection with the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, the completion of holes or wells drilled, the production, storage and transmission of commodities resulting from drilling operations at well or hole sites and the injection or removal of commodities into or from holes or wells, between Santa Barbara, Calif., on the one hand, and, on the other, Anniston, Birmingham, Decatur, Florence, Gadsden, and Huntsville, Ala. The purpose of this filing is to eliminate the gateways of points in Wyoming and Oklahoma.

No. MC 83539 (Sub-No. E219), filed June 4, 1974. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Wiley C. Willingham (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, (2) *machinery, equipment, materials and supplies* used in, or in connection with construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, and (3) *earth drilling machinery* and equipment, and machinery, equipment, materials, supplies and pipe, incidental to, used in, or in connection with the transportation, installation, removal, operation, repair, servicing, maintenance and dismantling of drilling machinery and equipment, the completion of holes or wells drilled, the production, storage and transmission of commodities resulting from drilling operations at well or hole sites and the injection or removal of commodities into or from holes or wells, between Ventura, Calif., on the one hand, and, on the other, Anniston, Birmingham, Decatur, Florence, Gadsden, and Huntsville, Ala. The purpose of this filing is to eliminate the gateways of points in Wyoming and Oklahoma.

No. MC 83745 (Sub E26), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* requiring special equipment, restricted so that the loading and/or unloading which necessitates the special equipment is performed by the consignor or consignee, or both, between Florence, Pa., on the one hand, and, on the other, points in West Virginia (except points in Brooke, Hancock, Ohio and Marshall Counties), points in Ohio (except points in Carroll, Jefferson, Harrison, and Columbiana Counties), and points in Maryland. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa., and points within its commercial zone.

No. MC 83745 (Sub-E28), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* requiring special equipment, restricted so that the loading and/or unloading which necessitates the special equipment is performed by the

consignor or consignee, or both, between Burgettstown, Pa., on the one hand, and, on the other, points in West Virginia (except points in Brooke, Hancock, Ohio, Marshall and Wetzel Counties), points in Ohio (except points in Carroll, Columbiana, Jefferson, Harrison and Belmont Counties), and points in Maryland. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa. and its commercial zone.

No. MC 92633 (Sub E1), filed May 31, 1974. Applicant: ZIRBEL TRANSPORT, INC., 420 28 Street North, Lewiston, Idaho 83501. Applicant's representative: Donald A. Ericson, Suite 708, Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Logging, mining, and contractors' equipment, farm machinery, and tractors*, (a) between points in Washington, west of the Cascade Mountains and points in Oregon, on the one hand, and, on the other, points in Idaho, Lewis, Nez Perce, Clearwater, Latah, Shoshone, Nenewah, Kootenai Counties, Idaho, and those points in Bonner and Boundary Counties, Idaho, which are within 150 miles of Lewiston, Idaho, and (b) between points in Whatcom, Skagit, Snohomish, King, Pierce, Clallom, Jefferson, San Juan Island, Kitsap, Mason, Grays Harbor, and Thurston Counties, Washington, on the one hand, and, on the other, points in Washington, Gem, Lemhi, Adams, Valley, Payette, and Custer Counties, Idaho, which are within 150 miles of Lewiston, Idaho. The purpose of this filing is to eliminate the gateways of points in Washington within 40 miles of Lewiston, Idaho, or points in Idaho within 100 miles of Lewiston, Idaho, including Lewiston.

No. MC 92633 (Sub E2), filed May 31, 1974. Applicant: ZIRBEL TRANSPORT, INC., 420 28 Street North, Lewiston, Idaho 83501. Applicant's representative: Donald A. Ericson, Suite 708, Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Logging, mining, and contractors' equipment, farm machinery, and tractors*, between points in Clallam, Clark, Jefferson, Mason, Grays Harbor, Pacific, Wahkiakum, and Kitsap Counties, Washington; and points on and west of Washington State Highway No. 9 in Snohomish, Skagit, and Whatcom Counties, Washington; and points on and west of Interstate Highway No. 5 in Cowlitz, Lewis, Thurston, Pierce, and King Counties, Washington, on the one hand, and, on the other, points in Stevens, Pend Oreille, Spokane, Whitman, Asotin, and Garfield Counties, Washington. The purpose of this filing is to eliminate the gateway of points in Idaho within 100 miles of Lewiston, Idaho, including Lewiston.

No. MC 92633 (Sub E3), filed May 31, 1974. Applicant: ZIRBEL TRANSPORT, INC., 420 28 Street North, Lewiston, Idaho 83501. Applicant's representative: Donald A. Ericson, Suite 708, Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Logging, mining, and contractors' equipment, farm machinery, and tractors*, between points in Clallam, Mason, Pacific, Gray's Harbor, Jefferson, Wahkiakum, and Clark Counties, Washington; and points on and west of Washington State Highway No. 9 in Skagit County, Washington; and points on and west of Interstate Highway No. 5 in Lewis, Thurston, and Cowlitz Counties, Washington, on the one hand, and, on the other, points in Stevens, Pend Oreille, Spokane, Whitman, Asotin, and Garfield Counties, Washington. The purpose of this filing is to eliminate the gateway of points in Idaho within 100 miles of Lewiston, Idaho, including Lewiston.

No. MC 92633 (Sub E4), filed May 31, 1974. Applicant: ZIRBEL TRANSPORT, INC., 420 28 Street North, Lewiston, Idaho 83501. Applicant's representative: Donald A. Ericson, Suite 708, Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Logging, mining, and contractors' equipment, farm machinery, and tractors*, between points in Lane, Douglas, Coos, Curry, Josephine, Jackson, and Klamath Counties, Oregon, on the one hand, and, on the other, points in Spokane, Pend Oreille, Stevens, Whitman, Asotin, Garfield, and Columbia Counties, Washington; except between points in Lane and Douglas Counties, Oregon, on the one hand, and, on the other, points in Columbia County, Washington. The purpose of this filing is to eliminate the gateway of points in Idaho within 100 miles of Lewiston, Idaho, including Lewiston.

No. MC 92633 (Sub E5), filed May 31, 1974. Applicant: ZIRBEL TRANSPORT, INC., 420 28 Street North, Lewiston, Idaho 83501. Applicant's representative: Donald A. Ericson, Suite 708, Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Logging, mining, and contractors' equipment, farm machinery, and tractors*, between points in Clatsop, Columbia, Tillamook, Washington, Multnomah, Hood River, Wasco, Yamhill, Clackamas, Marion, Lincoln, Polk, Benton and Linn Counties, Oregon, on the one hand, and, on the other, points in Spokane, Pend Oreille, Stevens, Whitman, Asotin, and Garfield Counties, Washington. The purpose of this filing is to eliminate the gateway of points in Idaho within 100 miles of Lewiston, Idaho, including Lewiston.

No. MC 92633 (Sub E6), filed May 31, 1974. Applicant: ZIRBEL TRANSPORT, INC., 420 28 Street North, Lewiston, Idaho 83501. Applicant's representative: Donald A. Ericson, Suite 708, Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Logging, mining, and contractors' equipment, farm machinery, and tractors*, between points in Deschutes, Jefferson, Crook, and Wheeler Counties, Oregon, on the one hand, and, on the other, points in Stevens, Pend Oreille, Spokane, Whitman, Garfield, and Asotin Counties, Washington; except between points in Wheeler County, Oregon, on the one hand, and, on the other, points in Garfield and Asotin Counties, Washington. The purpose of this filing is to eliminate the gateway of points in Idaho within 100 miles of Lewiston, Idaho, including Lewiston.

No. MC 92633 (Sub E7), filed May 31, 1974. Applicant: ZIRBEL TRANSPORT, INC., 420 28 Street North, Lewiston, Idaho 83501. Applicant's representative: Donald A. Ericson, Suite 708, Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Logging, mining, and contractors' equipment, farm machinery, and tractors*, between points in Malheur, Lake, and Wallowa Counties, Oregon, on the one hand, and, on the other, points in Ferry, Okanogan, Stevens, Pend Oreille, Spokane, Whitman, Garfield, Columbia and Asotin Counties, Washington; except between points in Lake County, Oregon, on the one hand, and, on the other, points in Columbia, Ferry, and Okanogan Counties, Washington; and except between points in Wallowa County, Oregon, on the one hand, and, on the other, points in Whitman, Garfield, Columbia, and Asotin Counties, Washington. The purpose of this filing is to eliminate the gateway of points in Idaho within 100 miles of Lewiston, Idaho, including Lewiston.

No. MC 92633 (Sub E8), filed May 31, 1974. Applicant: ZIRBEL TRANSPORT, INC., 420 28 Street North, Lewiston, Idaho 83501. Applicant's representative: Donald A. Ericson, Suite 708, Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Logging, mining, and contractors' equipment, farm machinery, and tractors*, between points in Gilliam, Sherman, and Morrow Counties, Oregon, on the one hand, and, on the other, points in Stevens, Pend Oreille, and Spokane Counties, Washington, (except between points in Morrow County, Oregon, points on or north of Oregon State Highway 206 in Gilliam County, Oregon, and Rufus, Oregon) on the one hand, and, on the other, points in Spokane County, Washington. The purpose of this filing is to eliminate the gateway of points in Idaho within 100 miles of Lewiston, Idaho, including Lewiston.

No. MC 92633 (Sub E9), filed May 31, 1974. Applicant: ZIRBEL TRANSPORT, INC., 420 28 Street North, Lewiston, Idaho 83501. Applicant's representative: Donald A. Ericson, Suite 708, Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Logging, mining, and contractors' equipment,*

farm machinery, and tractors, between points in Harney and Union Counties, Oregon, on the one hand, and, on the other, points in Stevens, Pend Oreille, Spokane, Whitman and Asotin Counties, Washington; except between points in Union County, Oregon, on the one hand, and, on the other, points in Asotin County, Washington. The purpose of this filing is to eliminate the gateway of points in Idaho within 100 miles of Lewiston, Idaho, including Lewiston.

No. MC 92633 (Sub E10), filed May 31, 1974. Applicant: ZIRBEL TRANSPORT, INC., 420 28 Street North, Lewiston, Idaho 83501. Applicant's representative: Donald A. Ericson, Suite 708, Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Logging, mining, and contractors' equipment, farm machinery, and tractors,* (a) between points in Grant County, Oregon, on the one hand, and, on the other, points in Stevens, Pend Oreille, Spokane, and Whitman Counties, Washington; (b) between points in Umatilla County, Oregon, on the one hand, and, on the other, points in Stevens, Pend Oreille, Counties, Washington; and (c) between Pendleton, Oregon, and points in Umatilla County, Oregon, on and south of Interstate Highway 80N, on the one hand, and, on the other, points in Spokane County, Washington. The purpose of this filing is to eliminate the gateway of points in Idaho within 100 miles of Lewiston, Idaho, including Lewiston.

No. MC 92633 (Sub-E11), filed May 31, 1974. Applicant: ZIRBEL TRANSPORT, INC., 420 28 Street North, Lewiston, Idaho 83501. Applicant's representative: Donald A. Ericson, Suite 708, Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Logging, mining, and contractors' equipment, farm machinery, and tractors,* between Baker County, Oregon, on the one hand, and, on the other, points in Stevens, Pend Oreille, Spokane, and Whitman Counties, Washington. The purpose of this filing is to eliminate the gateway of points in Idaho within 101 miles of Lewiston, Idaho, including Lewiston.

No. MC 92633 (Sub-E12), filed May 31, 1974. Applicant: ZIRBEL TRANSPORT, INC., 420 28 Street North, Lewiston, Idaho 83501. Applicant's representative: Donald A. Ericson, Suite 708, Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Logging, mining, and contractors' equipment, farm machinery, and tractors,* between points in Crook County, Oregon, on the one hand, and, on the other, points in Stevens, Pend Oreille, Spokane, and Whitman Counties, Washington. The purpose of this filing is to eliminate the gateway of points in Idaho within 100 miles of Lewiston, Idaho, including Lewiston.

No. MC 92633 (Sub E13), filed May 31, 1974. Applicant: ZIRBEL TRANSPORT, INC., 420 28 Street North, Lewiston, Idaho 83501. Applicant's representative: Donald A. Ericson, Suite 708, Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Logging, mining, and contractors' materials and supplies, petroleum products in containers, and agricultural commodities,* between points in Washington west of the Cascade Mountains and points in Oregon, on the one hand, and, on the other, points in Idaho, Lewis, Nez, Bonner and Boundary Counties, Idaho. The purpose of this filing is to eliminate the gateway of points in Idaho within 100 miles of Lewiston, Idaho, including Lewiston.

No. MC 92633 (Sub E14), filed May 31, 1974. Applicant: ZIRBEL TRANSPORT, INC., 420 28 Street North, Lewiston, Idaho 83501. Applicant's representative: Donald A. Ericson, Suite 708, Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Logging, mining, and contractors' materials and supplies, petroleum products in containers, and agricultural commodities,* between points in Clallam, Jefferson, Mason, Grays Harbor, Pacific, Wahkiakum, and Kitsap Counties, Washington; and points on and west of Washington State Highway No. 9 in Snohomish, Skagit, and Whatcom Counties, Washington; and points on and west of Interstate Highway No. 5 in Cowlitz, Lewis, Thurston, Pierce, and King Counties, Washington, on the one hand, and, on the other, points in Stevens, Pend Oreille, Spokane, Whitman, Asotin, and Garfield Counties, Washington. The purpose of this filing is to eliminate the gateway of points in Idaho within 100 miles of Lewiston, Idaho, including Lewiston.

By the Commission.

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

[FR Doc.75-19936 Filed 7-30-75;8:45 am]

[AB 66]

MINNEAPOLIS, ANOKA AND CUYUNA RANGE RAILROAD CO.

Abandonment of Service

JULY 22, 1975.

In the matter of the Minneapolis, Anoka and Cuyuna Range Railroad Co. abandonment between North Minneapolis and Fridley, Anoka and Hennepin Counties, Minnesota.

The Interstate Commerce Commission hereby gives notice that: 1. By order served June 5, 1975, applicant was required to publish a notice in Anoka and Hennepin Counties Minn., that an environmental threshold assessment survey was made in the above-entitled proceeding and based on that assessment it was determined that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.* 2. No comments in opposition, of an environmental nature, were received by the Commission in response to the June 5, 1975, order and subsequent notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

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

[FR Doc.75-19939 Filed 7-30-75;8:45 am]

[AB 3 (Sub-No. 6)]

MISSOURI PACIFIC RAILROAD CO.

Abandonment of Service

JULY 22, 1975.

In the matter of the Missouri Pacific Railroad Company abandonment between Mission and Palmhurst, in Hidalgo County, Texas.

The Interstate Commerce Commission hereby gives notice that: 1. By order served June 5, 1975, applicant was required to publish a notice in Hidalgo County, Texas, that an environmental threshold assessment survey was made in the above-entitled proceeding and based on that assessment it was determined that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.* 2. No comments in opposition, of an environmental nature, were received by the Commission in response to the June 5, 1975, order and subsequent notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

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

[FR Doc. 75-19941 Filed 7-30-75;8.45 am]

[AB 26 (Sub-No. 6)]

SOUTHERN RAILROAD CO.

Abandonment of Service

JULY 22, 1975.

In the matter of the SOUTHERN RAILWAY COMPANY ABANDONMENT AT HAWKINSVILLE, PULASKI COUNTY, GEORGIA.

The Interstate Commerce Commission hereby gives notice that: 1. By order served June 2, 1975, applicant was required to publish a notice in Pulaski County, Ga., that an environmental threshold assessment survey was made in the above-entitled proceeding and based on that assessment it was determined that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.* 2. No comments in opposition, of an environ-

mental nature, were received by the Commission in response to the June 2, 1975, order and subsequent notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

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

[FR Doc.75–19947 Filed 7–30–75;8:45 am]

[Ex Parte No. MC–43]

RED STAR EXPRESS LINES OF AUBURN, INC. AND WALLACE TRANSPORT CO., LTD.

Lease and Interchange of Vehicles by Motor Carriers

JULY 28, 1975.

At a Session of the INTERSTATE COMMERCE COMMISSION, Motor Carrier Leasing Board, held at its office in Washington, D.C. on the 21st day of July, 1975.

It appearing, That a petition has been filed by Red Star Express Lines of Auburn, Inc. (MC–59135 and various subs) and Wallace Transport Co., Ltd. (not authorized by the Commission), under common control for waiver of paragraphs (a) (3) and (c) of § 1057.4 of the Lease and Interchange of Vehicles Regulations (49 CFR 1057), concerning equipment leased between petitioners;

It further appearing, That petitioners have a jointly administered program applying the same standards of inspection and maintenance to equipment in accordance with the motor carrier safety regulations of the U.S. Department of Transportation;

It further appearing, That the U.S. Department of Transportation recommends that the petition be granted based on an examination of petitioners' records;

It is ordered, That waiver of paragraphs (a) (3) and (c) of § 157.4, be, and, it is hereby granted provided that the equipment is inspected on the day it is to be leased and found to meet the requirements of the motor carrier safety regulations of the U.S. Department of Transportation and that petitioners remain in satisfactory compliance with those regulations and under common control.

By the Commission, Motor Carrier Leasing Board.

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

[FR Doc.75–19948 Filed 7–30–75;8:45 am]

WATER CARRIERS

Necessity To File Application for Commission Approval of Certain Transactions

In a recent decision of the United States District Court for the Western District of Pennsylvania, *The Valley Line Co.* v. *United States*, 390 F. Supp. 435 (W.D. Pa. 1975), the three-judge District Court set aside the Commission's determination that its approval need not be obtained under section 5 of the Interstate Commerce Act, 49 U.S.C. 5, of transactions involving exempt water carrier under section 302 of the Act, 49 U.S.C. 902. Subsequently, it has come to the Commission's attention that a number of such transactions have been consummated without obtaining Commission approval thereof. In light of the district court's opinion, it appears that parties so situated are in technical violation of section 5 of the Act, and that steps should be taken immediately by such parties to cure this problem.

Therefore, all such parties are directed on or before November 28, 1975 to file an appropriate application with this Commission. As part of this application the parties should specify the date on which the transaction occurred and should indicate their reliance on this Commission's prior holding that its approval of such transactions was unnecessary. In processing these applications the Commission will take the above into consideration and will also give substantial weight to the probable lack of a significant detrimental impact on the public interest occasioned by the delayed filing of an application seeking Commission approval.

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

[FR Doc.75–19949 Filed 7–30–75;8:45 am]

RAYMOND R. MANION

Statement of Changes in Financial Interests

Pursuant to subsection 302(c), Part III, Executive Order 10647 (20 FR 8769) "Providing for the appointment of certain persons under the Defense Production Act of 1950, as amended," I hereby furnish for filing with the Division of the Federal Register for publication in the FEDERAL REGISTER the following information showing any changes in my financial interests and business connections as heretofore reported and published in (30 FR 8809; 31 FR 930; 31 FR 13405; 32 FR 769; 32 FR 10786; 33 FR 522; 33 FR 10544; 33 FR 20067; 34 FR 11341; 35 FR 131; 35 FR 12175; 36 FR 1235; 36 FR 14359; 37 FR 3480; 37 FR 17100; 38 FR 3649; 38 FR 27248; 39 FR 6574; 39 FR 390; and 40 FR 6839, for the six months' period ending July 3, 1975.

No changes since report for period ending January 3, 1975.

R. R. MANION,

JULY 21, 1975.

[FR Doc.75–19900 Filed 7–30–75;8:45 am]

federal register

THURSDAY, JULY 31, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 148

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

LASER PRODUCTS

Performance Standards

Title 21—Food and Drugs

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

SUBCHAPTER J—RADIOLOGICAL HEALTH

[Docket No. 75N-0103]

PART 1010—PERFORMANCE STANDARDS FOR ELECTRONIC PRODUCTS: GENERAL

PART 1040—PERFORMANCE STANDARDS FOR LIGHT-EMITTING PRODUCTS

Performance Standard for Laser Products

The Commissioner of Food and Drugs proposed in the FEDERAL REGISTER of December 10, 1973 (38 FR 34084), to amend Chapter I of Title 21 of the Code of Federal Regulations by adding to Subchapter J a new Part 1040, prescribing a radiation safety performance standard for laser products in new §§ 1040.10 and 1040.11, and by amending Part 1010 to apply to new Part 1040.

In consideration of comments submitted, and to provide further clarification, the proposed standard was revised and republished in the FEDERAL REGISTER as a notice of proposed rulemaking on September 4, 1974 (39 FR 32094). Thirty days were provided for public comments.

On the basis of comments submitted and for purposes of clarification, the standard has been revised and under authority of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263b through 263n) is issued herein as an amendment to Chapter I, of Title 21 of the Code of Federal Regulations.

The need for such a standard was based upon several factors, including the increasingly widespread use of a variety of commercial laser products in environments ranging from restricted industrial locations to completely unrestricted public areas. Such products pose varying degrees of radiation hazards to persons in these environments. The hazard depends upon the type, magnitude, and accessibility of laser radiation which the products produce and upon the particular function or operation which they are intended to perform. Serious radiation injuries associated with accidental exposure to laser beams have been reported to the Food and Drug Administration (FDA). Surveys of laser products in high schools, colleges and industrial installations also indicate the need for additional protective features on laser products.

The purpose of this standard is to protect the public health and safety from the danger of laser radiation by assuring adequate warning to individuals of the hazards associated with accessible radiation from laser products and by reducing the possibility of injury by minimizing unnecessary accessible radiation. The requirements provide for adequate identification of radiation hazards through labels and instructions, containment of unnecessary radiation, and protective features to give the operator improved control of the radiation.

Comments on the second notice of proposed rule making (39 FR 32094) were received from a trade association representing manufacturers of laser products, a physics education association representing users of laser products, the Occupational Safety and Health Administration in the Department of Labor, the Veterans Administration, a State health department, and numerous individual manufacturers of laser products. These comments, the Commissioner's analysis and his final action are summarized as follows:

1. Two comments concerning the definition of "Class I laser product" in § 1040.10(b)(5) contended that the manufacturer's intended use of a product is a sufficient basis for the selection of the maximum emission duration in Table I–A to classify a product as Class I. Specifically, it was suggested that there should be included in the regulation a provision for Class I laser products not intended by the manufacturer for chronic viewing, but which might accidentally be viewed only for much shorter intervals.

The Commissioner concludes that a manufacturer of laser products cannot always know how his products may be used. Therefore, he cannot assure that chronic or long-term viewing will not occur. Because the performance standard must be based on the inherent emission characteristics of the product, the Commissioner concludes that only if the possibility of chronic exposure can be limited by product design would classification be based upon an emission duration consistent with such limitation. The standard does allow this option by basing the accessible emission limits upon the cumulative energy emitted during a particular emission duration.

2. One comment concerning the definition of "Demonstration laser product" in § 1040.10(b)(10) contended that, since a manufacturer's intended function for the product may not be limited to those representations made in his advertising, he might be held in violation of the standard if any of his laser products are used for demonstration purposes by the user and if it could not be proved that the manufacturer did not intend such use at the time of sale.

The Commissioner concludes that although the manufacturer cannot always know the manner in which a product is actually used, he does control how his product is designed and promoted, and may specify possible applications. The manufacturer is responsible for compliance with the requirements for a demonstration laser product only if the product is "manufactured, designed, intended, or promoted for purposes of demonstration."

3. Concerning the Commissioner's statement in the preamble of the proposal published in the FEDERAL REGISTER of September 4, 1974 (39 FR 32094), that the standard in no way prohibits the purchase and use of any laser product for any purpose, one comment asked how a user, under § 1040.11(c) of the proposed rule, could purchase from a manufacturer a demonstration laser product of a class higher than Class II.

The FDA has no authority over the manner in which electronic products are used. Thus, while a manufacturer is prohibited from selling a laser product which is "manufactured, designed, intended or promoted for purposes of demonstration" and which has an accessible emission level in excess of the Class II limit, the standard does not prohibit the purchase of other laser products, of any classification, for any purpose.

4. Another comment stated that the definition of "demonstration laser product" could be interpreted to exclude a general purpose CW visible 5mW laser not designed, intended, or promoted for demonstration purposes. The comment further suggested clarifying the definition of "demonstration laser product" to include lasers used in classroom environments and to exclude laser products which are manufactured "primarily" for other applications, such as laboratory experiments or research.

The Commissioner agrees that a CW visible 5mW laser can be sold as a general purpose laser even though it may be used for demonstration purposes by the user. The Commissioner also concludes that specific reference to use in classroom environments is unnecessary and that insertion of the word "primarily" in the definition is unacceptable. The intent as expressed in the revised definition is that no laser product which is "manufactured, designed, intended, or promoted" for demonstration purposes may exceed the Class II limits, regardless of any other intended use.

5. Several comments stated that the use of the terms "emission duration" and "sampling interval," as defined in § 1040.10(b) (11) and (32), is ambiguous. In particular, one comment asked how long an emission duration a manufacturer should consider in determining compliance with the standard.

The Commissioner agrees that the terms can be used more appropriately to clarify the standard, and the final rule has been revised accordingly. The term "emission duration" is employed to refer to an emission characteristic of the product while the term "sampling interval" refers to a characteristic of the measurement process for applying the accessible emission limits to the laser output. The maximum emission duration which needs to be considered in most cases is the lower boundary of the highest range of emission duration in Tables I–A, I–B, and I–C, because the accessible emission limit in effect becomes a power criterion above that boundary. Furthermore, the actual measurement sampling interval need not be as long as such maximum emission duration, if a reliable extrapolation can be made into the highest emission duration range.

6. One comment concerning the definition of "human access" in § 1040.10(b)(12) stated that since some probes could reach through small cracks without constituting a hazard, the diameters of the test probe should be specified in the definition. Another comment suggested that the spatial location of probe

entry with respect to the axis of the laser beam should be stated.

The Commissioner concludes that very small diameter probe types may be used in testing for "human access." Because current research and development leads to the production of very small diameter optical probes, such as optical fibers, a minimum diameter for a test probe should not be specified. Furthermore, it is impractical to specify the orientation of the probe with respect to the laser beam since testing may involve more than one geometric configuration. The Commissioner also concludes that even "small cracks" can constitute a hazard, especially considering the possibility of insertion of objects into such cracks. Such insertion could result in access to laser radiation and thereby pose a risk of human injury from the reflected radiation.

7. Two comments objected to the definition of "human access" in § 1040.10(b)(12) because it could be interpreted to include human access during service, especially as a basis for classification, and suggested modification of the definition to exclude service.

The Commissioner agrees that in certain instances the definition includes human access during service, but intends that each requirement of the standard delineate whether it is necessary to test human access during operation, maintenance, or service as stated in § 1040.10(e)(2)(iii). For example, since classification is based upon operation, human access is tested only over the full range of operational capability, and not with the product in a service configuration. However, other requirements of the standard do require human access to be tested under service conditions.

8. Another comment concerning § 1040.10(b)(12) questioned the rationale used in defining the length of probes for determining "human access," and stated that a distance of 100 centimeters would not attenuate radiation to a safe level.

The Commissioner notes that the 100-centimeter length was not intended to represent a safe distance, but was intended as a reasonable distance beyond the point of closest approach by any part of the human body, including the eye, for testing human access. The reference to the 10-centimeter length in this definition takes into account the existence of small, flexible optical fibers, which can be used to probe very small openings and therefore permit human access to laser radiation.

9. One comment observed that the definition of "human access" in §1040.10(b)(12) appeared to include both a concept and a test specification. The comment included the recommendation to delete the test specification from the definition and, instead, to add other access criteria such as reflection or conduction of laser or collateral radiation. Another comment suggested using a line of sight 100 centimeters or less in length and a curved or baffled line 10 centimeters or less in length to define human access by other than a part of the human body, rather than by a test object.

The Commissioner agrees that the definition should be further clarified. However, access by reflection or conduction cannot be adequately defined for measuring purposes. The suggested line-of-sight and curved line concept correctly expresses the intent, and therefore this concept is accepted. The definition of human access in § 1040.10(b)(12) is reworded by referring to access by a straight line having an unobstructed length of 100 centimeters, or by any line having an unobstructed length of 10 centimeters.

10. One comment noted that the definition of "laser" in § 1040.10(b)(15) might be interpreted to include "SRL sources," which are small discs of semiconductor granules, such as cadmium sulfide, as laser products since, when bombarded by electron beams, they produce stimulated but incoherent emission. However, the only control of such emission is that of excitation by the electron beam.

The present definition of "laser" was not intended to include such sources, and the Commissioner concludes that the definition should not be amended. However, the Food and Drug Administration will continue to explore and review the need for future revision of the scope of the definition.

11. One comment stated that the definition of "laser product" in § 1040.10(b)(17) and the definition of "surveying, leveling and alignment laser products" in § 1040.10(b)(35) could be construed to include products intended solely for research and development and not for sale.

The Commissioner concludes that, generally, products used solely by their manufacturer for in-house research and development purposes would not be subject to the standard. The performance standard would apply to all laser products as defined in § 1040.10(b)(17) which any person is engaged in the business of manufacturing, assembling or importing. While most laser products are intended for sale or other transfer, there may be situations in which a person who fabricates or assembles laser products for use in his business might be considered a manufacturer of a laser product subject to the standard. In all cases, developmental prototypes of commercial laser products would be subject to the standard when delivered to a user for field testing, even if the manufacturer retains ownership or control of such prototypes.

12. One comment stated that since lasers and laser systems sold directly to a manufacturer of an electronic product for use as replacement components would not be subject to the standard under § 1040.10(b)(17), as proposed in the FEDERAL REGISTER of September 4, 1974 (39 FR 32094), identical replacement components should also be excluded from the requirements of the standard if sold by the manufacturer or his component supplier directly to a service organization or ultimate user. The comment further stated that lasers and laser systems manufactured after the effective date of the standard should not have to comply with the standard if they are sold for use as replacement components in electronic products manufactured before the effective date of the standard.

The Commissioner agrees that alternate methods of distributing replacement components should not result in some being subject to the performance standard while identical components, shipped under another distribution plan, are not, provided the manufacturer of the final product would be responsible for compliance of the complete and final laser product containing the replacement components. Therefore, § 1040.10(a) has been revised to exclude laser products from the applicability of the standard when sold either as original or replacement components directly "to" another manufacturer, or to a final product user or service organization under any circumstances in which such components are labeled for such use and sold "by" or "for" the manufacturer of the final certified laser product with adequate installation instructions so that such manufacturer is legally responsible for compliance with the standard of the complete and final products containing such components. For example, a user of the final product or a service organization could submit a component purchase order to the manufacturer of the final product and either he or his component manufacturer could ship the labeled laser component with installation instructions, or the component manufacturer could receive purchase orders directly from such a user or service organization, as long as the final product manufacturer accepts responsibility for the components when installed in his products. However, because § 1040.10(c)(2) also makes subject to the standard removable laser systems that are intended for use in products subject to the standard, any such removable laser system that is capable of independent operation without modification as described in paragraph (c)(2) would be subject to the standard when sold directly to a user or service organization, even when sold by or for the final product manufacturer.

In all cases, § 1040.10(a) provides that only laser products which are manufactured or assembled on or after the effective date of the standard will be subject to its requirements. Therefore, the Commissioner concludes that a final laser product manufactured before the effective date of the standard would not be subject to the standard, even if a component laser or laser system were replaced by one manufactured after the effective date. Furthermore, the replacement laser or laser system itself would not be subject to the standard, although manufactured after the effective date, if it were sold either to, for, or by the manufacturer of the old final product. Even removable laser systems replaced in products manufactured before the effective date would not be subject to the standard, if sold to, for,

or by the manufacturer of the old product since § 1040.10(c)(2) has been clarified to apply only to those removable laser systems used as components of products subject to the standard. However, all lasers and laser systems manufactured after the effective date of the standard for use as components of an electronic product would be subject to the standard if not sold by, to, or for the manufacturer of such electronic product, regardless of when the electronic product was manufactured, because they would be laser products under § 1040.10(b)(17) which are not excluded by § 1040.10(a).

13. Three comments concerning Table I-A in § 1040.10(d) contended that recent biological evidence exists to support a lower chronic exposure hazard potential for Helium-Neon laser products than is used as a basis for the Class I accessible emission limits for visible laser radiation.

The Commissioner has reviewed the experimental data submitted with the comments and concludes that such data support the present general Class I accessible emission limits for visible wavelengths, and that the data specifically for Helium-Neon laser radiation are insufficient to indicate a need for changing the Class I limits for that wavelength.

14. One comment suggested that the Class I dual limits in § 1040.10(d)(4) were included to accommodate highly divergent sources such as the gallium-arsenide (GaAs) junction diode, and that the proposed rule may not fully take into account the less stable optical emission frequency and the lesser coherence believed to characterize the output of GaAs diodes. Further, the comment suggested that the standard should provide additional guidance concerning the use of the integrated radiance alternative for classifying laser products under conditions where the beam approaches the collimated case.

The Commissioner notes that the Class I accessible emission limits for radiant energy were based on data which included tests with GaAs laser diodes. The intent of the integrated radiance alternative is to accommodate extended sources (real or virtual) such as holographic images, diffuse reflections, transmissions through diffusers, or diffuse collateral radiation. If the concept of integrated radiance is considered for GaAs output, either the source area or the intrinsic divergence (or both) are small, yielding a radiance which is too high to be used as the alternative for classification. However, the dual limits of Class I are exceeded only if both the limits for radiant energy and integrated radiance are exceeded.

15. One comment stated that the requirement concerning tests for certification in § 1040.10(e)(1) to account for measurement error and uncertainty is unnecessarily stringent and without precedent. It was suggested that measurement error and uncertainty should be included only to the extent that they exceed ±20 percent. Another comment suggested deleting the requirement to account for degradation of radiation safety with age.

The Commissioner concludes that the requirement is not unnecessarily restrictive. Since the manufacturer must assure that each product which he certifies does not exceed the accessible emission limits applicable to that product at any time after manufacture, his test and testing program for certification must take into account all measurement uncertainty as well as increases in emission and degradation of the product with age. Failure to do so could result in some products permitting human access to radiation above the limits upon which certification was based or otherwise failing to comply with the standard.

16. One comment concerning § 1040.10(e)(2)(ii), regarding test conditions, stated that since this provision requires maximizing those controls and adjustments listed in user or service instructions, a manufacturer could avoid having to maximize pre-set factory adjustments, when testing for compliance, by not listing those adjustments in such instructions. The comment also interpreted "functional integrity" to mean satisfactory operation and not physical damage. Another comment stated that § 1040.10(e)(2)(ii) should not require tests to be made during servicing, with service controls set for maximum radiation emission, when determining compliance with the Class I transmission limit for viewing optics under § 1040.10(f)(8), because typical service procedures would take less than 10^4 seconds, and adjusting service controls beyond the point of maximum accessible emission during operation would render the product inoperable and therefore not present a chronic hazard to the user.

The Commissioner notes that § 1040.10(h)(2)(ii), concerning servicing informational requirements requires all controls, including pre-set factory adjustments, to be listed in instructions available to the user if they "could be utilized by persons other than the manufacturer or his agents to increase accessible emission levels of radiation." Section 1040.10(e)(2)(ii) requires adjusting all such listed controls for the maximum accessible radiation under the appropriate conditions during operation, maintenance or service for testing compliance with a particular requirement of the standard. The Commissioner concludes that product classification pursuant to § 1040.10(c)(1) is determined only during "operation," as defined in § 1040.10(b)(23). Therefore, when testing classification or other requirements applicable during operation, the listed controls only need to be adjusted for the maximum level of radiation accessible during operation. For example, a product whose function is simply to emit laser radiation would be in "operation" whenever it emits laser radiation and would be classified on the basis of the highest level of accessible laser radiation that could be emitted. A product with more specialized functions would be considered in "operation" whenever there is no clear indication of malfunctioning and would be classified on the basis of the highest level of laser radiation which could be accessible without such clear indication of malfunctioning.

When determining compliance with a requirement of the standard which applies during maintenance or service, such as the Class I transmission limit for viewing optics in § 1040.10(f)(8), the listed controls would have to be adjusted for the maximum accessible radiation during such maintenance or service. However, if adjustment for maximum accessible radiation could damage the product, § 1010.13 permits the use of alternate test procedures, but compliance with the particular requirement would still be based on the projected highest accessible emission level. Because viewing optics invite chronic eye exposure and the manufacturer cannot be certain that service procedures could not result in such chronic exposure, the Commissioner concludes that § 1040.10(f)(8) should restrict transmission of radiation by viewing optics to less than Class I at all times, including during service. Likewise, because some service controls may affect the accessible levels of radiation during operation, maintenance, and service, the Commissioner concludes that § 1040.10(e)(2)(ii) should include adjustment of service controls, with the language revised to clarify the test conditions.

17. According to one comment, § 1040.10(f)(2) concerning safety interlocks implies that an electrical interlock switch is not sufficiently reliable, possibly based on an assumption that the protective housing will be removed frequently. The comment suggested alternative language which would permit use of redundant electrical interlock switches as an alternative to the other interlock requirements for portions of the protective housing removed only infrequently, if it can be demonstrated that the expected usage is less than 40 percent of the reliability of the circuit. It was also stated that § 1040.10(f)(2)(i) does not appear to permit protective housing warning labels as an alternative to safety interlocks, while § 1040.10(g)(6) apparently does.

Manufacturers cannot conclusively predict nor control the frequency of use of a safety interlock; therefore, the Commissioner concludes that such a prediction should not be used as a basis for defining the reliability of the interlock. A safety interlock employing an electrical switch is not necessarily unacceptable if, upon its failure, removal of the protective housing would be precluded either by an independent monitor or by a built-in fail-safe design. Assuming equally high reliability of individual electrical switches, the approach required by the standard is more reliable than redundant interlocks. Should either redundant interlock fail, such failure would not be apparent until the other interlock also failed. However, if the proposed monitored or fail-safe interlock failed, the failure would be made apparent by the inability to remove the protective housing and could be repaired before hazardous exposure could occur. Only prior failure of the independent monitor function would not be apparent until the inter-

lock also failed. Thus, complete failure of an interlock system resulting in hazardous exposure is less probable with a monitored or fail-safe interlock than with a redundant interlock.

Concerning the second portion of this comment, § 1040.10(g)(6) does not permit a general alternative between safety interlocks and protective housing warning labels, but rather requires warning labels whenever safety interlocks are either not required by § 1040.10(f)(2)(i) or not voluntarily provided in lieu of warning labels. Thus, a portion of the protective housing designed to be removed only during service could have either a safety interlock or a warning label. However, a protective housing portion designed to be removed during operation or maintenance would have to be interlocked, unless it is designed to be removed during operation only when access to the resultant levels of radiation is necessary to perform the intended function of the product.

18. Two comments stated that the requirements in § 1040.10(f)(3), (4), (5), and (6) for remote control connectors, key controls, emission indicators and beam attenuators, respectively, add no additional safety to laser systems which emit less than 5 milliwatts in the visible wavelength range of 400 to 700 nanometers. Another comment agreed and suggested that low power laser products have an insignificant hazard potential, and that the imposition of these requirements on low power products is unnecessary and could be detrimental to the public health and safety because users faced with "overly conservative safety measures" tend to ignore all safety measures. In addition, the comments contended that imposition of these requirements for many such products would be wasteful of resources and result in substantial increased cost.

The Commissioner notes that Class II laser systems under chronic exposure conditions may cause permanent retinal burns, and that such risks also are posed by Class III laser sytsems under chronic, as well as certain acute, exposure conditions for laser radiation of less than 5 milliwatts in the visible wavelength range. Hence, these requirements are not overly conservative. The Commissioner concludes that remote control connectors and key controls are needed to permit better control and prevent unauthorized operation of acutely hazardous laser products. The Commissioner also concludes that the emission indicator will alert the user when hazardous laser radiation is accessible and that such indication is needed, along with a beam attenuator to control such access since many laser products of this type are used in relatively unrestricted areas such as classrooms. Furthermore, the Commissioner believes, on the basis of manufacturers' reports required by 21 CFR Part 1002, that such safety features as presently incorporated in many products provide suitable indication and control of laser radiation, and do not result in excessive cost. Modification of the scope of these requirements is therefore not in the interest of public health and safety.

19. Other comments concerning § 1040.10(f)(5) expressed concern over the difficulty in meeting the proposed requirement that the emission indication be provided immediately before the emission of accessible laser radiation in excess of the limits of Class I. More specifically, it was pointed out that the words "immediately before" could mean a time too short to adequately react to the ensuing emission for some laser products, that the requirement precludes the use of the laser power circuit turning on the alarm, and that the proposed requirement for predicting or sensing a Class II, III or IV laser beam adds complexity of design. One comment recommended that the emission indicator concept be changed to one of an indication that the laser system power supply is energized and there is a likelihood of emission.

It was always the intent of the Food and Drug Administration that, for Class II laser products, the use of the laser energy source to actuate the emission indicator would be acceptable. Thus, a pilot light as presently incorporated in such products may be a suitable indication of laser radiation. Therefore, to clearly set forth the intent with regard to the emission indicator for Class II laser systems the words "immediately before" have been deleted and the language in § 1040.10(f)(5) has been revised. The emission indicator requirements for Class II laser systems are now specified in § 1040.10(f)(5)(i), (iii), (iv), and (v).

Concerning Class III or IV laser systems, the intent of the proposed requirements for a visible or audible indication "immediately before and during" the emission of accessible laser radiation was to provide a warning during emission and sufficiently in advance of emission so that appropriate action can be taken. The Commissioner agrees that for some laser systems the words "immediately before" could mean a time too short to react appropriately to the ensuing emission. However, the recommended indication that the laser system power supply is energized may not provide an adequate warning for all laser systems when laser radiation is being emitted. Further, no documentation was submitted to support the recommendation to delete the requirement for a warning sufficiently prior to and during the emission of accessible laser radiation for Class III and Class IV laser systems. The Commissioner concludes, therefore, that the intent of FDA with regard to this requirement must be retained, but for Class III and IV laser systems the language has been clarified by deleting the phrase "immediately before" and adding the phrase "sufficiently prior to emission of such radiation to allow appropriate action to avoid the laser radiation." The emission indicator requirements for Class III and Class IV laser products are specified in § 1040.10(f)(5)(ii), (iii), (iv), and (v).

20. Another comment on § 1040.10(f)(5) recommended that an audible emission indicator should include specification of a minimum acceptable sound level.

The Commissioner concludes that it is not practical to quantitatively specify a minimum sound level which would be appropriate under all conditions, and for all products. The intent of the FDA is to assure that the emission indication is suitable to the particular product.

21. One comment on § 1040.10(g)(2), concerning labeling requirements, suggested that products subject to § 1040.10(g)(2)(i) be distinguished from products subject to § 1040.10(g)(2)(ii) by use of the designations "Class IIIa" and "Class IIIb" respectively, to indicate clearly that separate warnings apply. This comment further proposed that the content of the required warning labels be indicated by examples, rather than requiring specific language since this change would allow better use of the FDA labeling scheme by other regulatory agencies.

The Commissioner has concluded that there is a need for Class IIIa and IIIb designations to permit effective use of the FDA classification by other Federal agencies or state agencies. Accordingly, the label specification has been modified to include the separate designations. Reference to these designations for labeling purposes has been included in the definition of Class III laser products in § 1040.10(b)(7). With respect to the second suggestion, the Commissioner has concluded that permitting flexible wording on labels may lead to non-standard expressions that would inadequately express the appropriate warning.

22. Several comments concerning § 1040.10(g)(2)(ii) regarding Class III designation and warning suggested that the implied potential hazard from exposure to any part of the body is appropriate only above 5 milliwatts for visible emissions. A warning against eye exposure only, for exposures just below that level, was suggested by the comments.

The biological data upon which the accessible emission limits were based support the conclusion of the Commissioner that other body tissues, as well as the eye, may be at risk for visible emissions from Class III products at power levels less than 5 milliwatts. Limiting the warning to only eye exposure hazards, as suggested, would reduce user awareness of other possible dangers, and is therefore not acceptable.

23. Several comments concerning § 1040.10(g)(2)(ii) noted omission of the word "DIRECT" from the required wording for position 1 on the logotype.

The omission was inadvertent and the word has been included in the final rule.

24. One comment concerning § 1040.10(g)(4) indicated that the word "radiation" appearing on the required aperture label implies rays that are very hazardous, penetrating, and invisible, such as nuclear and x-radiation. Since apertures in most laser products do not emit this kind of radiation above the limits of Table III, the comment recommended that for such products the wording of the

label would be more appropriate if the word "laser" was inserted before the word "radiation."

The Commissioner agrees that the wording for the aperture label may be misleading, and, therefore, agrees to make the wording more appropriate to the laser product while still assuring radiation safety. Section 1040.10(g)(4) has been changed to require wording consistent with the specific type of radiation emitted.

25. One comment indicated that the basic concept of laser product classification is to identify the anticipated laser radiation hazard by a simple system, and therefore having the radiation output information as required by § 1040.10(g)(5) at position 2 on the required logotype is unnecessary because that information is inherently included in the classification information required for position 3. Another comment on § 1040.10(g)(5) stated that the maximum output appearing on the product could, by definition, have a magnitude greater than the accessible emissions used for classification, thus creating a confusing and unreasonable situation.

The Commissioner concludes that the laser product classification conveys information concerning the qualitative and semi-quantitative characteristics of the radiation hazard afforded by the laser product. The required radiation output information better quantifies the hazard, and thereby enables the user to develop an appropriate safety program. The Commissioner concludes that the maximum output could be clarified and therefore, to minimize the possible confusion resulting from its inclusion on the product, the definition of "maximum output" in § 1040.10(b)(21) has been revised by deleting the reference to "total" radiation emitted "in all directions." Also, § 1040.10(h)(1)(ii) concerning informational requirements has been amended to reflect more accurately the intent to provide the user with information on all emissions from a laser product.

26. One comment on § 1040.10(g)(7) concerning labels for defeatably interlocked protective housings stated that any interlock is defeatable, with the proper tools, so that the special case covered by this requirement needs clarification. Another comment suggested clarification of the applicability of this requirement to each "portion of the protective housing."

The Commissioner intended that § 1040.10(g)(7) apply only to "safety interlocks designed to allow safety interlock defeat," as described in § 1040.10(f)(2)(ii). Thus, labels must be provided for all safety interlocks for which the manufacturer gives directions in the user or service instructions for defeat in order to gain access to laser or collateral radiation, whether or not tools are required to defeat such interlocks. Warning labels would also be required for safety interlocks designed to be readily defeated without tools, whether or not directions are provided, such as an openly exposed interlock switch that merely has to be depressed or disconnected for defeat. The Commissioner agrees that clarification is needed and has revised paragraph (g)(6) and (7) in § 1040.10 to clarify the positioning of such labels and their applicability to removable portions of the protective housing, in addition to cross-referencing § 1040.10(f)(2)(ii).

27. Several comments indicated that in the proposal of December 10, 1973, § 1040.10(g)(10) permitted manufacturers to imprint the appropriate labels on the innermost container or packaging in which the laser product is supplied to the purchaser, if the largest surface area of the product is less than 25 square centimeters. The comments indicated that this concept was deleted in the proposal of September 4, 1974. It was requested that this provision be reinserted in the final rule.

The Commissioner concludes that it is not feasible to specify label proportions and minimum dimensions which would be appropriate for all of the great variety of laser products subject to the standard. Accordingly, the request is rejected. It should be noted that this section allows an alternate means of providing such labels if it can be demonstrated by the manufacturer that compliance is not technically feasible.

28. One comment on § 1040.10(h)(2)(ii) concerning servicing information stated that while manufacturers do not object to providing service instructions, they do object to having to provide such materials at cost to anyone who requests them. The comment also questioned the authority of FDA to regulate a manufacturer's pricing policy.

The Commissioner concludes that FDA has the authority to assure that radiation safety information is readily available. Since service instructions for radiation safety are required to be provided only upon request, any discouragement of subsequent purchase of this safety information by any person desiring to service a laser product should be minimized. By limiting the charge for such safety information to its actual cost, the availability is optimized without involving regulation of what is a fair pricing policy for manufacturers.

29. Two comments on § 1040.11(a)(3) concerning medical laser products stated that the requirement for an aperture label for such products was both unnecessary and misleading. It was argued that these devices are operated only by trained physicians who are thoroughly familiar with the product, thereby making the label unnecessary. Furthermore, the comments stated that the radiation aperture label would be confusing to hospital personnel and patients since the warning did not distinguish between laser and other types of radiation, such as x-rays. It was also pointed out that the label will be disturbing to the patient.

The Commissioner concludes that the the aperture label requirement for medical laser products is needed to minimize the possibility of accidental exposure to laser radiation through misuse of an unfamiliar product by either physicians or ancillary personnel. However, because of the possibility of confusing or disturbing patients or other nonmedical personnel, all reference to the emission of radiation has been deleted from the aperture label, and the requirement has been revised to apply only to apertures through which laser radiation is emitted.

30. One comment on § 1040.11(c) concerning demonstration laser products stated that the blink reflex and slight eye movements, which occur during maintained eye fixation, constitute a substantial degree of protection and that it has not been demonstrated that visible classroom lasers now in use represent a significant classroom hazard to justify the controls imposed.

The Commissioner concludes, on the basis of the available literature, that the blink reflex is not a reliable mechanism of protection. Published reports also indicate that under those circumstances where a blink can be elicited, an individual can override the reflex so that its potential utility would be negated. Thus, the possibility of human injury exists at these levels, particularly if some degree of fixation occurs.

Concerning the justification for the proposed special requirements for demonstration laser products, the Commissioner concludes that there are sufficient animal data to indicate a definite hazard at levels above the accessible emission limits in Table I-B. In addition, a field study conducted by FDA revealed that lasers are being used in demonstrations in ways which would cause unintended exposure to students. The Commissioner recognizes the educational value of demonstration laser products and does not intend to prohibit their continued use in a classroom environment. However, he concludes that a definite hazard to both students and instructors can exist in the classroom situation and appropriate safety features must be incorporated in those products intended by the manufacturer for demonstration purposes.

31. One comment stated that the product reporting provisions in 21 CFR 1002.61 should be revised to be compatible with new Part 1040.

The Commissioner agrees that revision of 21 CFR 1002.61 is necessary and concludes that appropriate revisions will be made prior to the effective date of Part 1040.

The Commissioner concludes that promulgation of this performance standard for laser products will not significantly affect the quality of the human environment and, therefore, that no environmental impact statement is necessary pursuant to 21 CFR Part 6 and 40 CFR Part 1500. The environmental impact analysis report and environmental assessment, along with other pertinent background data and information supporting the Commissioner's conclusions with respect to this standard are available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

Therefore, pursuant to provisions of the Public Health Service Act, as amended by the Radiation Control for Health and

Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f)) and under authority delegated to him (21 CFR 5.1), the Commissioner hereby amends Chapter I of Title 21 of the Code of Federal Regulations as follows:

1. In Part 1010:

a. By revising § 1010.1 to read as follows:

§ 1010.1 Scope.

The standards listed in this subchapter are prescribed pursuant to section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f) and are applicable to electronic products as specified herein, to control electronic product radiation from such products. Standards so prescribed are subject to amendment or revocation and additional standards may be prescribed as are determined necessary for the protection of the public health and safety.

b. By revising paragraphs (a), (c), and (d) of § 1010.2 to read as follows:

§ 1010.2 Certification.

(a) Every manufacturer of an electronic product for which an applicable standard is in effect under this subchapter shall furnish to the dealer or distributor, at the time of delivery of such product, the certification that such product conforms to all applicable standards under this subchapter.

* * * * *

(c) Such certification shall be based upon a test, in accordance with the standard, of the individual article to which it is attached or upon a testing program which is in accordance with good manufacturing practices. The Director, Bureau of Radiological Health may disapprove such a testing program on the grounds that it does not assure the adequacy of safeguards against hazardous electronic product radiation or that it does not assure that electronic products comply with the standards prescribed under this subchapter.

(d) In the case of products for which it is not feasible to certify in accordance with paragraph (b) of this section, upon application by the manufacturer, the Director, Bureau of Radiological Health may approve an alternate means by which such certification may be provided.

c. By revising § 1010.3 to read as follows:

§ 1010.3 Identification.

(a) Every manufacturer of an electronic product to which a standard under this subchapter is applicable shall set forth the information specified in paragraph (a) (1) and (2) of this section. This information shall be provided in the form of a tag or label permanently affixed to or inscribed on such product so as to be legible and readily accessible to view when the product is fully assembled for use or in such other manner as may be prescribed in the applicable standard.

(1) The full name and address of the manufacturer of the product; abbreviations such as "Co.," "Inc.," or their foreign equivalents and the first and middle initials of individuals may be used. Where products are sold under a name other than that of the manufacturer of the product, the full name and address of the individual or company under whose name the product was sold may be set forth, provided such individual or company has previously supplied the Director, Bureau of Radiological Health with sufficient information to identify the manufacturer of the product.

(2) The place and month and year of manufacture: (i) The place of manufacture may be expressed in code provided the manufacturer has previously supplied the Director, Bureau of Radiological Health with the key to such code. (ii) The month and year of manufacture shall be provided clearly and legibly, without abbreviation, and with the year shown as a four-digit number as follows:

MANUFACTURED: (INSERT MONTH AND YEAR OF MANUFACTURE.)

(b) In the case of products for which it is not feasible to affix identification labeling in accordance with paragraph (a) of this section, upon application by the manufacturer, the Director, Bureau of Radiological Health may approve an alternate means by which such identification may be provided.

(c) Every manufacturer of an electronic product to which a standard under this subchapter is applicable shall provide to the Director, Bureau of Radiological Health, a list identifying each brand name which is applied to the product together with the full name and address of the individual or company for whom each product so branded is manufactured.

d. By revising § 1010.13 to read as follows:

§ 1010.13 Special test procedures.

The Director, Bureau of Radiological Health may, on the basis of a written application by a manufacturer, authorize test programs other than those set forth in the standards under this subchapter for an electronic product if he determines that such products are not susceptible to satisfactory testing by the procedures set forth in the standard and that the alternative test procedures assure compliance with the standard.

e. By revising § 1010.20 to read as follows:

§ 1010.20 Electronic products intended for export.

The performance standards prescribed in this subchapter shall not apply to any electronic product which is intended solely for export if:

(a) Such product and the outside of any shipping container used in the export of such product are labeled or tagged to show that such product is intended for export, and

(b) Such product meets all the applicable requirements of the country to which such product is intended for export.

2. By adding a new Part 1040 to read as follows:

Sec.
1040.10 Laser products.
1040.11 Specific purpose laser products.

AUTHORITY: Sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f).

§ 1040.10 Laser products.

(a) *Applicability.* The provisions of this section and § 1040.11 are applicable as specified herein to all laser products manufactured or assembled on or after August 2, 1976, except when such a laser product is:

(1) Sold to a manufacturer of an electronic product for use as a component (or replacement thereof) in such electronic product, or

(2) Sold by or for a manufacturer of an electronic product for use as a component (or replacement thereof) in such electronic product, provided that such laser product:

(i) Is accompanied by adequate instructions for installation in such electronic product,

(ii) Is labeled with a statement that it is designed for use solely as a component of such electronic product and therefore does not comply with the appropriate requirements of this section and § 1040.11 for complete laser products, and

(iii) Is not a removable laser system as described in paragraph (c) (2) of this section.

(b) *Definitions.* As used in this section and § 1040.11, the following definitions apply:

(1) "Accessible emission level" means the magnitude of emission from a laser product of laser or collateral radiation of a wavelength and emission duration to which human access is possible as measured pursuant to paragraph (e) of this section.

(2) "Accessible emission limit" means the maximum accessible emission level permitted within a particular class as set forth in paragraphs (c), (d), and (e) of this section.

(3) "Aperture" means any opening in the protective housing or other enclosure of a laser product through which laser or collateral radiation is emitted, thereby allowing human access to such radiation.

(4) "Aperture stop" means an opening serving to limit the size and to define the shape of the area over which radiation is measured.

(5) "Class I laser product" means any laser product which does not permit human access to laser radiation in excess of the accessible emission limits of Class I for any combination of emission duration and wavelength range.

(6) "Class II laser product" means any laser product which:

(i) Permits human access to laser radiation in excess of the accessible emission limits of Class I but not in excess of the accessible emission limits of Class II in the wavelength range of greater than 400 nanometers (nm) but less than or equal to 700 nm for emission durations greater than 0.25 second; and,

(ii) Does not permit human access to laser radiation in excess of the accessible

emission limits of Class I for any other combination of emission duration and wavelength range.

(7) "Class III laser product" means any laser product which permits human access to laser radiation in excess of the accessible emission limits of Class I and, if applicable, Class II, but which does not permit human access to laser radiation in excess of the accessible emission limits of Class III for any combination of emission duration and wavelength range. Class III laser products are separately designated as Class IIIa or Class IIIb laser products in labeling pursuant to paragraph (g)(2) (i) and (ii) of this section.

(8) "Class IV laser product" means any laser product which permits human access to laser radiation in excess of the accessible emission limits of Class III.

(9) "Collateral radiation" means any electronic product radiation, except laser radiation, emitted by a laser product as a result of or necessary for the operation of a laser incorporated into that product.

(10) "Demonstration laser product" means any laser product manufactured, designed, intended, or promoted for purposes of demonstration, entertainment, advertising display or artistic composition. The term "demonstration laser product" does not apply to laser products which are not manufactured, designed, intended, or promoted for such purposes, even though they may be used for those purposes or are intended to demonstrate other applications.

(11) "Emission duration" means the temporal duration of a pulse, a series of pulses, or continuous operation, expressed in seconds, during which human access to laser or collateral radiation could be permitted as a result of operation, maintenance or service of a laser product.

(12) "Human access" means access at a particular point to laser or collateral radiation by any part of the human body, by a straight line having an unobstructed length of 100 centimeters, or by any line having an unobstructed length of 10 centimeters, when laser or collateral radiation is incident at that point.

(13) "Integrated radiance" means radiant energy per unit area of a radiating surface per unit solid angle of emission, expressed in joules per square centimeter per steradian ($Jcm^{-2}sr^{-1}$).

(14) "Irradiance" means the radiant power incident on an element of a surface divided by the area of that element, expressed in watts per square centimeter (Wcm^{-2}).

(15) "Laser" means any device which can be made to produce or amplify electromagnetic radiation in the wavelength range of greater than 250 nm but less than or equal to 13,000 nm primarily by the process of controlled stimulated emission.

(16) "Laser energy source" means any device intended for use in conjunction with a laser to supply energy for the operation of the laser. General energy sources such as electrical supply mains or batteries shall not be considered to constitute laser energy sources.

(17) "Laser product" means any manufactured product or assemblage of components which constitutes, incorporates, or is intended to incorporate a laser or laser system. A laser or laser system which is intended for use as a component of an electronic product shall itself be considered a laser product.

(18) "Laser radiation" means all electromagnetic radiation emitted by a laser product within the spectral range specified in paragraph (b)(15) of this section which is produced as a result of controlled stimulated emission, or which is detectable with radiation so produced within the appropriate aperture stop specified in paragraph (e) of this section.

(19) "Laser system" means a laser in combination with an appropriate laser energy source with or without additional incorporated components.

(20) "Maintenance" means performance of those adjustments or procedures specified in user information provided by the manufacturer with the laser product which are to be performed by the user for the purpose of assuring the intended performance of the product. It does not include operation or service as defined in paragraph (b) (23) and (34) of this section.

(21) "Maximum output" means the maximum radiant power and, where applicable, the maximum radiant energy per pulse of accessible laser radiation emitted by a laser product during operation, as determined pursuant to paragraph (e) of this section.

(22) "Medical laser product" means any laser product manufactured, designed, intended or promoted for purposes of in vivo diagnostic, surgical, or therapeutic laser irradiation of any part of the human body.

(23) "Operation" means the performance of the laser product over the full range of its functions. It does not include maintenance or service as defined in paragraph (b) (20) and (34) of this section.

(24) "Protective housing" means those portions of a laser product which are designed to prevent human access to laser or collateral radiation in excess of the prescribed accessible emission limits under conditions specified in this section and in § 1040.11.

(25) "Pulse duration" means the time increment measured between the half-peak-power points at the leading and trailing edges of a pulse.

(26) "Radiance" means radiant power per unit area of a radiating surface per unit solid angle of emission, expressed in watts per square centimeter per steradian ($Wcm^{-2}sr^{-1}$).

(27) "Radiant energy" means energy emitted, transferred or received in the form of radiation, expressed in joules (J).

(28) "Radiant exposure" means the radiant energy incident on an element of a surface divided by the area of that element, expressed in joules per square centimeter (Jcm^{-2}).

(29) "Radiant power" means power emitted, transferred or received in the form of radiation, expressed in watts (W).

(30) "Remote control connector" means an electrical connector which permits the connection of external controls placed apart from other components of the laser product to prevent human access to all laser and collateral radiation in excess of the limits specified in this section and in § 1040.11.

(31) "Safety interlock" means a device associated with the protective housing of a laser product to prevent human access to excessive radiation in accordance with paragraph (f)(2) of this section.

(32) "Sampling interval" means the time interval during which the level of accessible laser or collateral radiation is sampled by a measurement process. The magnitude of the sampling interval in units of seconds is represented by the symbol (t).

(33) "Scanned laser radiation" means laser radiation having a time-varying direction, origin or pattern of propagation with respect to a stationary frame of reference.

(34) "Service" means the performance of those procedures or adjustments described in the manufacturer's service instructions which may affect any aspect of the product's performance for which this section and § 1040.11 have applicable requirements. It does not include maintenance or operation as defined in paragraph (b) (20) and (23) of this section.

(35) "Surveying, leveling, or alignment laser product" means a laser product manufactured, designed, intended or promoted for one or more of the following uses:

(i) Determining and delineating the form, extent, or position of a point, body, or area by taking angular measurement.

(ii) Positioning or adjusting parts in proper relation to one another.

(iii) Defining a plane, level, elevation, or straight line.

(36) "Warning logotype" means a logotype as illustrated in either Figure 1 or Figure 2 of paragraph (g) of this section.

(37) "Wavelength" means the propagation wavelength in air of electromagnetic radiation.

(c) *Classification of laser products*—(1) *All laser products.* Each laser product shall be classified in accordance with definitions set forth in paragraph (b) (5) through (8) of this section on the basis of that combination of emission level(s), emission duration(s), and wavelength(s) of accessible laser radiation emitted during operation which results, at any time after manufacture, in the highest class specified in Tables I–A, I–B, and I–C of paragraph (d) of this section pursuant to paragraphs (d) and (e) of this section. For purposes of classification, Class II is higher than Class I, Class III is higher than Class II, and Class IV is higher than Class III.

(2) *Removable laser systems.* Any laser system which is incorporated into

a laser product subject to the requirements of this section and which is capable, without modification, of producing laser radiation when removed from such laser product, shall itself be considered a laser product and shall be separately subject to the applicable requirements in this subchapter for laser products of its class. It shall be classified on the basis of accessible emission of laser radiation when so removed.

(d) *Accessible emission limits.* Accessible emission limits for laser radiation in each class are specified in Tables I–A, I–B, and I–C of this paragraph in terms of the factors, k_1 and k_2, for different ranges of wavelength and emission duration. These factors are given in Table II–A of this paragraph, with selected numerical values in Table II–B of this paragraph, for various subranges of wavelength and sampling interval. The accessible emission limits in Tables I–A, I–B, and I–C of this paragraph are also expressed in terms of the sampling interval (t) for some ranges of emission duration; and the correction factors in Table II–A of this paragraph are expressed in terms of the specific wavelength (λ) and sampling interval (t) for some subranges of wavelength and sampling interval. Accessible emission limits for collateral radiation are specified in Table III of this paragraph.

TABLE I–A

CLASS I ACCESSIBLE EMISSION LIMITS FOR LASER RADIATION

Wavelength (nanometers)	Emission duration (seconds)	Class I – Accessible emission limits
>250 but ≤400	$\leq 3.0 \times 10^4$	$2.4 \times 10^{-5} k_1 k_2$ J*
	$> 3.0 \times 10^4$	$8.0 \times 10^{-10} k_1 k_2 t$ J
>400 but ≤1400	$> 1.0 \times 10^{-9}$ to 2.0×10^{-5}	$2.0 \times 10^{-7} k_1 k_2$ J
	$> 2.0 \times 10^{-5}$ to 1.0×10^{1}	$7.0 \times 10^{-4} k_1 k_2 t^{3/4}$ J
	$> 1.0 \times 10^{1}$ to 1.0×10^{4}	$3.9 \times 10^{-3} k_1 k_2$ J
	$> 1.0 \times 10^{4}$	$3.9 \times 10^{-7} k_1 k_2 t$ J
	OR**	
	$> 1.0 \times 10^{-9}$ to 1.0×10^{1}	$10 k_1 k_2 t^{1/3}$ J cm^{-2} sr^{-1}
	$> 1.0 \times 10^{1}$ to 1.0×10^{4}	$20 k_1 k_2$ J cm^{-2} sr^{-1}
	$> 1.0 \times 10^{4}$	$2.0 \times 10^{-3} k_1 k_2 t$ J cm^{-2} sr^{-1}
>1400 but ≤13000	$> 1.0 \times 10^{-9}$ to 1.0×10^{-7}	$7.9 \times 10^{-5} k_1 k_2$ J
	$> 1.0 \times 10^{-7}$ to 1.0×10^{1}	$4.4 \times 10^{-3} k_1 k_2 t^{1/4}$ J
	$> 1.0 \times 10^{1}$	$7.9 \times 10^{-4} k_1 k_2 t$ J

* Class I accessible emission limits for the wavelength range of greater than 250 nm but less than or equal to 400 nm shall not exceed the Class I accessible emission limits for the wavelength range of greater than 1400 nm but less than or equal to 13000 nm with a k_1 and k_2 of 1.0 for comparable sampling intervals.

** Instructions for the Class I dual limits are set forth in paragraph (d)(4) of this section.

TABLE I–B

CLASS II ACCESSIBLE EMISSION LIMITS FOR LASER RADIATION

Wavelength (nanometers)	Emission duration (seconds)	Class II – Accessible emission limits
>400 but ≤700	$> 2.5 \times 10^{-1}$	$1.0 \times 10^{-3} k_1 k_2 t$ J

TABLE I–C

CLASS III ACCESSIBLE EMISSION LIMITS FOR LASER RADIATION

Wavelength (nanometers)	Emission duration (seconds)	Class III – Accessible emission limits
>250 but ≤ 400	$\leq 2.5 \times 10^{-1}$	$3.8 \times 10^{-4} k_1 k_2$ J
	$>2.5 \times 10^{-1}$	$1.5 \times 10^{-3} k_1 k_2 t$ J
>400 but ≤ 1400	$>1.0 \times 10^{-9}$ to 2.5×10^{-1}	$10 k_1 k_2 t^{1/3}$ J cm^{-2} to a maximum value of 10 J cm^{-2}
	$>2.5 \times 10^{-1}$	$5.0 \times 10^{-1} t$ J
>1400 but ≤ 13000	$>1.0 \times 10^{-9}$ to 1.0×10^{1}	10 J cm^{-2}
	$>1.0 \times 10^{1}$	$5.0 \times 10^{-1} t$ J

TABLE II–A

VALUES OF WAVELENGTH DEPENDENT CORRECTION FACTORS k_1 AND k_2

Wavelength (nanometers)	k_1	k_2		
250 to 302.4	1.0	1.0		
>302.4 to 315	$10^{\left[\frac{\lambda - 302.4}{5}\right]}$	1.0		
>315 to 400	330.0	1.0		
>400 to 700	1.0	1.0		
>700 to 800	$10^{\left[\frac{\lambda - 700}{515}\right]}$	if: $t \leq \frac{10100}{\lambda - 699}$ then: $k_2 = 1.0$	if: $\frac{10100}{\lambda - 699} < t \leq 10^4$ then: $k_2 = \frac{t(\lambda - 699)}{10100}$	if: $t > 10^4$ then: $k_2 = \frac{\lambda - 699}{1.01}$
>800 to 1060	$10^{\left[\frac{\lambda - 700}{515}\right]}$	if: $t \leq 100$ then: $k_2 = 1.0$	if: $100 < t \leq 10^4$ then: $k_2 = \frac{t}{100}$	if: $t > 10^4$ then: $k_2 = 100$
>1060 to 1400	5.0			
>1400 to 1535	1.0	1.0		
>1535 to 1545	$t \leq 10^{-7}$ $k_1 = 100.0$	1.0		
	$t > 10^{-7}$ $k_1 = 1.0$			
>1545 to 13000	1.0	1.0		

Note: The variables in the expressions are the magnitudes of the sampling interval (t), in units of seconds, and the wavelength (λ), in units of nanometers.

TABLE II–B

SELECTED NUMERICAL SOLUTIONS FOR k_1 AND k_2

Wavelength (nanometers)	k_1	k_2				
		$t \leq 100$	$t = 300$	$t = 1000$	$t = 3000$	$t \geq 10{,}000$
250	1.0	1.0				
300	1.0					
302	1.0					
303	1.32					
304	2.09					
305	3.31					
306	5.25					
307	8.32					
308	13.2					
309	20.9					
310	33.1					
311	52.5					
312	83.2					
313	132.0					
314	209.0					
315	330.0					
400	330.0					
401	1.0					
500	1.0					
600	1.0					
700	1.0					
710	1.06	1	1	1.1	3.3	11.0
720	1.09	1	1	2.1	6.3	21.0
730	1.14	1	1	3.1	9.3	31.0
740	1.20	1	1.2	4.1	12.0	41.0
750	1.25	1	1.5	5.0	15.0	50.0
760	1.31	1	1.8	6.0	18.0	60.0
770	1.37	1	2.1	7.0	21.0	70.0
780	1.43	1	2.4	8.0	24.0	80.0
790	1.50	1	2.7	9.0	27.0	90.0
800	1.56	1	3.0	10.0	30.0	100.0
850	1.95	1	3.0	10.0	30.0	100.0
900	2.44	1	3.0	10.0	30.0	100.0
950	3.05	1	3.0	10.0	30.0	100.0
1000	3.82	1	3.0	10.0	30.0	100.0
1050	4.78	1	3.0	10.0	30.0	100.0
1060	5.00	1	3.0	10.0	30.0	100.0
1100	5.00	1	3.0	10.0	30.0	100.0
1400	5.00	1	3.0	10.0	30.0	100.0
1500	1.0	1.0				
1540	100.0*					
1600	1.0					
13000	1.0					

*The factor $k_1 = 100.0$ when $t \leq 10^{-7}$, and $k_1 = 1.0$ when $t > 10^{-7}$

Note: The variable (t) is the magnitude of the sampling interval in units of seconds.

Notes applicable to Tables I–A, I–B, and I–C:

(1) The quantities presented in the tables are radiant energy expressed in joules (J); radiant exposure expressed in joules per square centimeter (Jcm^{-2}); and integrated radiance expressed in joules per square centimeter per steradian ($Jcm^{-2}sr^{-1}$).

(2) The factors k_1 and k_2 are wavelength dependent correction factors determined from Table II–A.

(3) The variable t in the expressions of emission limits is the magnitude of the sampling interval in units of seconds.

(4) An accessible emission limit containing the units of joules, when divided by the sampling interval (t), is equivalent to an accessible emission limit containing the units of watts.

TABLE III

ACCESSIBLE EMISSION LIMITS FOR COLLATERAL RADIATION FROM LASER PRODUCTS

1. *Accessible emission limits* for collateral radiation having wavelengths greater than 250 nm but less than or equal to 13,000 nm are identical to the accessible emission limits of Class I laser radiation, as determined from Tables I–A and II–A in this paragraph, for the appropriate ranges of wavelength and emission duration.

2. *Accessible emission limit* for collateral radiation within the x-ray range of wavelengths is 0.5 milliroentgen in an hour, averaged over a cross-section parallel to the external surface of the product, having an area of 10 square centimeters with no dimension greater than 5 centimeters.

(1) *Beam of a single wavelength.* Laser or collateral radiation of a single wavelength exceeds the accessible emission limits of a class if its accessible emission level is greater than the accessible emission limit of that class within any of the ranges of emission duration specified in Tables I–A, I–B, and I–C of this paragraph.

(2) *Beam of multiple wavelengths in same range.* Laser or collateral radiation, having two or more wavelengths within any one of the wavelength ranges specified in Tables I–A, I–B, and I–C of this paragraph, exceeds the accessible emission limits of a class if the sum of the ratios of the accessible emission level to the corresponding accessible emission limit at each such wavelength is greater than unity for that combination of emission duration and wavelength distribution which results in the maximum sum.

(3) *Beam with multiple wavelengths in different ranges.* Laser or collateral radiation having wavelengths within two or more of the wavelength ranges specified in Tables I–A, I–B, and I–C of this paragraph exceeds the accessible emission limits of a class if it exceeds the applicable limits within any one of those wavelength ranges. This determination is made for each wavelength range in accordance with paragraph (d) (1) or (2) of this section.

(4) *Class I dual limits.* Laser or collateral radiation in the wavelength range of greater than 400 nm but less than or equal to 1,400 nm exceeds the accessible emission limits of Class I if it exceeds both:

(i) The Class I accessible emission limits for radiant energy within any range of emission duration specified in Table I–A of this paragraph and,

(ii) The Class I accessible emission limits for integrated radiance within any range of emission duration specified in Table I–A of this paragraph.

(e) *Tests for determination of compliance*—(1) *Tests for certification.* Tests on which certification pursuant to § 1010.2 of this chapter is based shall account for all errors and statistical uncertainties in the measurement process. Because compliance with the standard is required for the useful life of a product, such tests shall also account for increases in emission and degradation in radiation safety with age.

(2) *Test conditions.* Except as provided in § 1010.13 of this chapter, tests for compliance with each of the applicable requirements of this section and § 1040.11 shall be made during operation, maintenance or service as appropriate:

(i) Under those conditions and procedures which maximize the accessible emission levels, including start-up, stabilized emission, and shut-down of the laser product; and,

(ii) With all controls and adjustments listed in the operation, maintenance, and service instructions adjusted in combination to result in the maximum accessible emission level of radiation; and,

(iii) At points in space to which human access is possible in the product configuration which is necessary to determine compliance with each requirement, e.g., if operation may require removal of portions of the protective housing and defeat of safety interlocks, measurements shall be made at points accessible in that product configuration; and,

(iv) With the measuring instrument detector so positioned and so oriented with respect to the laser product as to result in the maximum detection of radiation by the instrument; and,

(v) For a laser product other than a laser system, with the laser coupled to that type of laser energy source which is specified as compatible by the laser product manufacturer and which produces the maximum emission level of accessible radiation from that product.

(3) *Measurement parameters.* Accessible emission levels of laser and collateral radiation shall be based upon the following measurements as appropriate, or their equivalent:

(i) The radiant power (W) or radiant energy (J) detectable within a circular aperture stop having a diameter of 80 millimeters (except for scanned laser radiation).

(ii) The irradiance (Wcm^{-2}) or radiant exposure (Jcm^{-2}) averaged over a circular aperture stop having a diameter of 7 millimeters.

(iii) The radiance ($Wcm^{-2}sr^{-1}$) or integrated radiance ($Jcm^{-2}sr^{-1}$) which is equivalent to the radiant power (W) or radiant energy (J) detectable through a circular aperture stop having a diameter of 7 millimeters and within an effective solid angle of acceptance of 10^{-5}sr, divided by that solid angle (sr) and by the area of the aperture stop (cm^2).

(4) *Measurement parameters for scanned laser radiation.* Accessible emission levels of scanned laser radiation shall be based upon the measurement of radiation detectable within a stationary circular aperture stop having a 7-millimeter diameter. The resulting temporal variation of detected radiation shall be considered as a pulse or series of pulses.

(f) *Performance requirements*—(1) *Protective housing.* Each laser product, regardless of its class, shall have a protective housing which, when in place, prevents human access during operation to:

(i) Laser radiation in excess of the accessible emission limits of Class I wherever and whenever human access to laser radiation exceeding the limits of Class I is not necessary for the performance of the function(s) of the product; and,

(ii) Laser radiation in excess of the accessible emission limits of Class II wherever and whenever human access to laser radiation exceeding the limits of Class II is not necessary for the performance of the function(s) of the product; and,

(iii) Laser radiation in excess of the accessible emission limits of Class III wherever and whenever human access to laser radiation exceeding the limits of Class III is not necessary for the performance of the function(s) of the product; and,

(iv) Collateral radiation in excess of the accessible emission limits specified in Table III in paragraph (d) of this section wherever and whenever human access to collateral radiation in excess of those limits is not necessary for the performance of the function(s) of the product.

(2) *Safety interlocks.* (i) Each laser product, regardless of its class, shall be provided with a safety interlock for each portion of the protective housing which is designed to be removed or displaced during operation or maintenance, if removal or displacement of such portion of the protective housing could permit human access to laser or collateral radiation in excess of the accessible emission limits applicable under paragraph (f) (1) of this section. Each required safety interlock, unless defeated, shall:

(*a*) Prevent such human access to laser and collateral radiation upon removal or displacement of such portion of the protective housing; and,

(*b*) Preclude removal or displacement of such portion of the protective housing upon failure to prevent human access to laser and collateral radiation as required in paragraph (f) (2) (i) (*a*) of this section.

(ii) Laser products which incorporate safety interlocks designed to allow safety interlock defeat shall incorporate a means of visual or aural indication of interlock defeat. During interlock defeat, such indication shall be visible or audible whenever the laser product is energized, with and without the associated portion of the protective housing removed or displaced.

(iii) Replacement of a removed or displaced portion of the protective housing shall not be possible while required safety interlocks are defeated.

(3) *Remote control connector.* Each laser system classified as a Class III or IV laser product shall incorporate a readily accessible remote control connector having an electrical potential difference on the remote control connector no greater than 130 root-mean-square volts. When the terminals of the connector are not electrically joined, human access to all laser and collateral radiation from the laser product in excess of the accessible emission limits of Class I and Table III of paragraph (d) of this section shall be prevented.

(4) *Key control.* Each laser system classified as a Class III or IV laser product shall incorporate a key-actuated master control. The key shall be removable and the laser shall not be operable when the key is removed.

(5) *Laser radiation emission indicator.* (i) Each laser system classified as a Class II laser product shall incorporate an emission indicator which provides a visible or audible signal during emission of accessible laser radiation in excess of the accessible emission limits of Class I.

(ii) Each laser system classified as a Class III or IV laser product shall incorporate an emission indicator which provides a visible or audible signal during emission of accessible laser radiation in excess of the accessible emission limits of Class I, and sufficiently prior to emission of such radiation to allow appropriate action to avoid exposure to the laser radiation.

(iii) If the laser and laser energy source are housed separately and can be operated at a separation distance of greater than 2 meters, both laser and laser energy source shall incorporate an emission indicator as required in accordance with paragraphs (f) (5) (i) or (ii) of this section.

(iv) Any visible signal required by paragraphs (f) (5) (i) or (ii) of this section shall be clearly visible through protective eyewear designed specifically for the wavelength(s) of the emitted laser radiation.

(v) Emission indicators required by paragraph (f) (5) (i) or (ii) of this section shall be located so that viewing does not require human exposure to laser or collateral radiation in excess of the accessible emission limits of Class I and Table III.

(6) *Beam attenuator.* Each laser system classified as a Class II, III, or IV laser product shall be provided with one or more permanently attached means, other than laser energy source switch (es), electrical supply main connectors or the key-actuated master control, capable of preventing human access to all laser and collateral radiation in excess of the accessible emission limits of Class I and Table III.

(7) *Location of controls.* Each Class II, III, or IV laser product shall have operational and adjustment controls located so that human exposure to laser or collateral radiation in excess of the accessible emission limits of Class I and Table III of paragraph (d) of this section is unnecessary for operation or adjustment of such controls.

(8) *Viewing optics.* All viewing optics, viewports, and display screens incorporated into a laser product, regardless of its class, shall attenuate at all times the accessible levels of transmitted laser and collateral radiation to less than the accessible emission limits of Class I and Table III of paragraph (d) of this section. For any shutter or variable attenuator incorporated into such viewing optics, viewports, or display screens, a means shall be provided:

(i) To prevent human access to laser and collateral radiation in excess of the accessible emission limits of Class I and Table III of paragraph (d) of this section whenever the shutter is opened or the attenuator varied; and,

(ii) To preclude, upon failure of such means as required in paragraph (f) (8) (i) of this section, opening the shutter or varying the attenuator when human access is possible to transmitted laser or collateral radiation in excess of the accessible emission limits of Class I and Table III of paragraph (d) of this section.

(9) *Scanning safeguard.* Laser products which emit accessible scanned laser radiation shall not, as a result of scan failure or other failure causing a change in either scan velocity or amplitude, permit human access to laser radiation in excess of the accessible emission limit(s) which are applicable to the scanned laser radiation.

(g) *Labeling requirements.* In addition to the requirements of §§ 1010.2 and 1010.3 of this chapter, each laser product

shall be subject to the applicable labeling requirements of this paragraph.

(1) *Class II designation and warning.* Each Class II laser product shall have affixed a label bearing the warning logotype A (Figure 1 in this paragraph) and including the following wording:

[Position 1 on the logotype]

"LASER RADIATION—DO NOT STARE INTO BEAM";

and

[Position 3 on the logotype]

"CLASS II LASER PRODUCT".

WARNING LOGOTYPE A

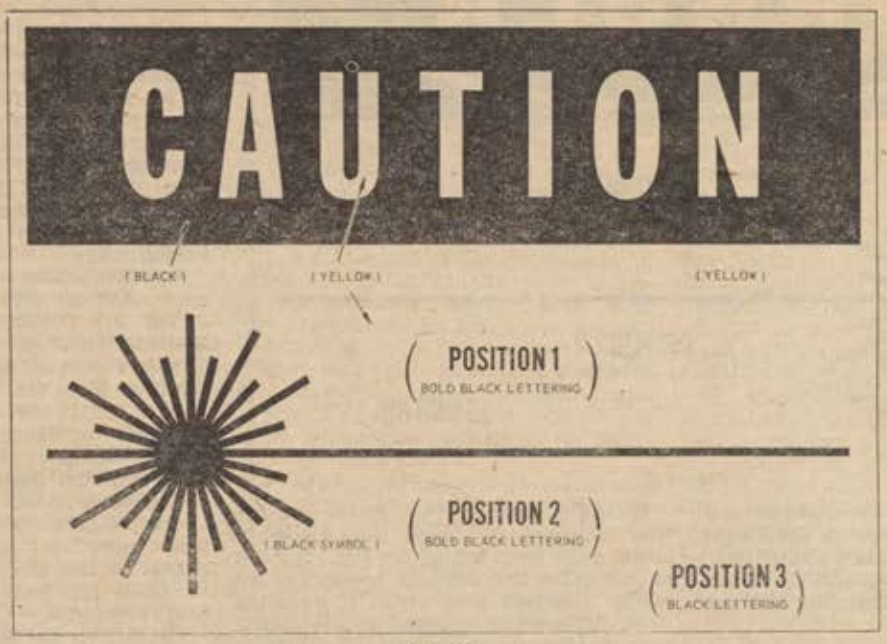


Figure 1

(2) *Class III designation and warning.* (i) Each laser product classified in Class III solely because of the emission of accessible laser radiation for emission durations greater than 3.8×10^{-4} second and in the wavelength range of greater than 400 nm but less than or equal to 700 nm, with an irradiance of less than or equal to 2.5×10^{-3} W/cm^{-2} and with a radiant power of less than or equal to 5.0×10^{-3} W shall have affixed a label bearing the warning logotype A (Figure 1 of paragraph (g)(1) of this section) and including the following wording:

[Position 1 on the logotype]

"LASER RADIATION—DO NOT STARE INTO BEAM OR VIEW DIRECTLY WITH OPTICAL INSTRUMENTS"; and,

[Position 3 on the logotype]

"CLASS IIIa LASER PRODUCT".

(ii) Each Class III laser product other than those described in paragraph (g)(2)(i) of this section shall have affixed a label bearing the warning logotype B (Figure 2 in this paragraph) and including the following wording:

[Position 1 on the logotype]

"LASER RADIATION—AVOID DIRECT EXPOSURE TO BEAM"; and,

[Position 3 on the logotype]

"CLASS IIIb LASER PRODUCT".

WARNING LOGOTYPE B

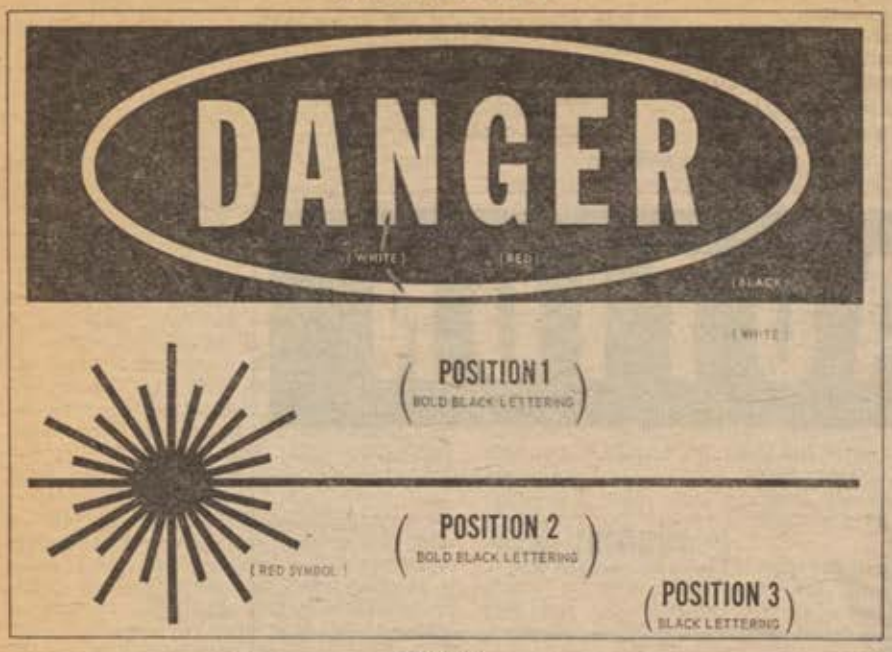


Figure 2

(3) *Class IV designation and warning.* Each Class IV laser product shall have affixed a label bearing the warning logotype B (Figure 2 of paragraph (g) (2) (ii) of this section), and including the following wording:

[Position 1 on the logotype]

"LASER RADIATION—AVOID EYE OR SKIN EXPOSURE TO DIRECT OR SCATTERED RADIATION"; and,

[Position 3 on the logotype]

"CLASS IV LASER PRODUCT".

(4) *Aperture label.* Each laser product, except medical laser products, shall have affixed, in close proximity to each aperture through which is emitted accessible laser or collateral radiation in excess of the accessible emission limits of Class I and Table III of paragraph (d) of this section, a label(s) bearing the following wording as applicable:

(i) "AVOID EXPOSURE—Laser radiation is emitted from this aperture," if the radiation emitted through such aperture is laser radiation.

(ii) "AVOID EXPOSURE—Hazardous electromagnetic radiation is emitted from this aperture," if the radiation emitted through such aperture is collateral radiation described in Table III, item 1.

(iii) "AVOID EXPOSURE—Hazardous x-rays are emitted from this aperture," if the radiation emitted through such aperture is collateral radiation described in Table III, item 2.

(5) *Radiation output information.* Each Class II, III, and IV laser product shall state in appropriate units, at position 2 on the required warning logotype, the maximum output of laser radiation, the pulse duration when appropriate, and the laser medium or emitted wavelength(s).

(6) *Labels for noninterlocked protective housings.* For each laser product, labels shall be provided for each portion of the protective housing which has no safety interlock and which is designed to be displaced or removed during operation, maintenance or service, and thereby could permit human access to laser or collateral radiation in excess of the limits of Class I and Table III in paragraph (d) of this section. Such labels shall be visible on the protective housing prior to displacement or removal of such portion of the protective housing and visible on the product in close proximity to the opening created by removal or displacement of such portion of the protective housing, and shall include the wording:

(i) "CAUTION—Laser radiation when open. DO NOT STARE INTO BEAM." for accessible laser radiation:

(*a*) In excess of the accessible emission limits of Class I for emission durations greater than 0.25 second and in the wavelength range greater than 400 nm but less than or equal to 700 nm; and,

(*b*) Not in excess of the accessible emission limits of Class II; and,

(*c*) Not in excess of the accessible emission limits of Class I for any other combination of emission duration and wavelength range.

(ii) "CAUTION—Laser radiation when open. DO NOT STARE INTO BEAM OR VIEW DIRECTLY WITH OPTICAL INSTRUMENTS." for accessible laser radiation:

(*a*) In excess of the accessible emission limits of Class II; and,

(*b*) In excess of neither an irradiance of 2.5×10^{-3} Wcm^{-2} nor a radiant power of 5.0×10^{-3} W for emission durations greater than 3.8×10^{-4} second for wavelengths greater than 400 nm but less than or equal to 700 nm; and,

(*c*) Not in excess of the accessible emission limits of Class I for any other combination of emission duration and wavelength range.

(ii) "DANGER—Laser radiation when open. AVOID DIRECT EXPOSURE TO BEAM." for accessible laser radiation:

(*a*) Not in excess of the accessible emission limits of Class III for any combination of emission duration and wavelength range; and either,

(*b*) In excess of either an irradiance of 2.5×10^{-3} Wcm^{-2} or a radiant power of 5.0×10^{-3} W for emission durations greater than 3.8×10^{-4} second for wavelengths greater than 400 nm but less than or equal to 700 nm; or,

(*c*) In excess of the accessible emission limits of Class I for any other combination of emission duration and wavelength range.

(iv) "DANGER—Laser radiation when open. AVOID EYE OR SKIN EXPOSURE TO DIRECT OR SCATTERED RADIATION." for accessible laser radiation in excess of the accessible emission limits of Class III.

(v) "CAUTION—Hazardous electromagnetic radiation when open." for collateral radiation in excess of the accessible emission limits in Table III, item 1 of paragraph (d) of this section.

(vi) "CAUTION—Hazardous x-rays when open." for collateral radiation in excess of the accessible emission limits in Table III, item 2 of paragraph (d) of this section.

(7) *Labels for defeatably interlocked protective housings.* For each laser product, labels shall be provided for each defeatably interlocked (as described in paragraph (f) (2) (ii) of this section) portion of the protective housing which is designed to be displaced or removed during operation, maintenance or service, and which upon interlock defeat could permit human access to laser or collateral radiation in excess of the limits of Class I or Table III in paragraph (d) of this section. Such labels shall be visible on the product prior to and during interlock defeat and in close proximity to the opening created by the removal or displacement of such portion of the protective housing, and shall include the wording:

(i) "CAUTION—Laser radiation when open and interlock defeated. DO NOT STARE INTO BEAM." for accessible laser radiation:

(*a*) In excess of the accessible emission limits of Class I for emission durations greater than 0.25 second and in the wavelength range greater than 400 nm but less than or equal to 700 nm; and,

(*b*) Not in excess of the accessible emission limits of Class II; and,

(*c*) Not in excess of the accessible emission limits of Class I for any other combination of emission duration and wavelength range.

(ii) "CAUTION—Laser radiation when open and interlock defeated. DO NOT STARE INTO BEAM OR VIEW DIRECTLY WITH OPTICAL INSTRUMENTS." for accessible laser radiation:

(*a*) In excess of the accessible emission limits of Class II; and,

(b) In excess of neither an irradiance of 2.5×10^{-3} Wcm^{-2} nor a radiant power of 5.0×10^{-8} W for emission durations greater than 3.8×10^{-4} second for wavelengths greater than 400 nm but less than or equal to 700 nm; and,

(c) Not in excess of the accessible emission limits of Class I for any other combination of emission duration and wavelength range.

(iii) "DANGER—Laser radiation when open and interlock defeated. AVOID DIRECT EXPOSURE TO BEAM." for accessible laser radiation:

(a) Not in excess of the accessible emission limits of Class III for any combination of emission duration and wavelength range; and either,

(b) In excess of either an irradiance of 2.5×10^{-3} Wcm^{-2} or a radiant power of 5.0×10^{-8} W for emission durations greater than 3.8×10^{-4} second for wavelengths greater than 400 nm but less than or equal to 700 nm; or,

(c) In excess of the accessible emission limits of Class I for any other combination of emission duration and wavelength range.

(iv) "DANGER—Laser radiation when open and interlock defeated. AVOID EYE OR SKIN EXPOSURE TO DIRECT OR SCATTERED RADIATION." for accessible laser radiation in excess of the accessible emission limits of Class III.

(v) "CAUTION—Hazardous electromagnetic radiation when open and interlock defeated." for collateral radiation in excess of the accessible emission limits in Table III, item 1 of paragraph (d) of this section.

(vi) "CAUTION—Hazardous x-rays when open and interlock defeated." for collateral radiation in excess of the accessible emission limits in Table III, item 2 of paragraph (d) of this section.

(8) *Warning for invisible radiation.* On the labels specified in this paragraph, if the wavelength(s) of the laser or collateral radiation referred to is:

(i) Less than or equal to 400 nm or greater than 700 nm, the word "invisible" shall appropriately precede the word "radiation"; or,

(ii) In a range specified in paragraph (g)(8)(i) of this section and also within the range of greater than 400 nm but less than or equal to 700 nm, the words "visible and invisible" shall appropriately precede the word "radiation."

(9) *Positioning of labels.* All labels affixed to a laser product shall be positioned so as to make unnecessary, during reading, human exposure to laser or collateral radiation in excess of the accessible emission limits of Class I and Table III of paragraph (d) of this section.

(10) *Label specifications.* Labels required by this section and § 1040.11 shall be permanently affixed to the laser product, legible, and clearly visible during operation, maintenance or service as appropriate. If the size, configuration, or design of the laser product would preclude compliance with the requirements for any required label, the Director, Bureau of Radiological Health, upon written application by the manufacturer, may approve alternate means of providing such label(s).

(h) *Informational requirements*—(1) *User information.* Manufacturers of laser products shall provide as an integral part of any user instruction or operation manual which is regularly supplied with the product, or, if not so supplied, shall cause to be provided with each laser product:

(i) Adequate instructions for assembly, operation and maintenance, including clear warnings concerning precautions to avoid possible exposure to laser and collateral radiation in excess of the accessible emission limits in Tables I–A, I–B, I–C and III of paragraph (d) of this section, and a schedule of maintenance necessary to keep the product in compliance with this section and § 1040.11.

(ii) A statement of the magnitude, in appropriate units, of the pulse duration(s), maximum radiant power and, where applicable, the maximum radiant energy per pulse of the accessible laser radiation detectable in each direction in excess of the accessible emission limits in Table I–A of paragraph (d) of this section determined pursuant to paragraph (e) of this section.

(iii) Legible reproductions (color optional) of all labels and hazard warnings required by paragraph (g) of this section and § 1040.11 to be affixed to the laser product or provided with the laser product, including the information required for positions 1, 2, and 3 of the applicable logotype (Figure 1 or 2 of paragraph (g)(1) and (2)(ii) of this section). The corresponding position of each label affixed to the product shall be indicated or, if provided with the product, a statement that such labels could not be affixed to the product but were supplied with the product and a statement of the form and manner in which they were supplied shall be provided.

(iv) A listing of all controls, adjustments and procedures for operation and maintenance, including the warning "Caution—use of controls or adjustments or performance of procedures other than those specified herein may result in hazardous radiation exposure."

(v) In the case of laser products other than laser systems, a statement of the compatibility requirements for a laser energy source that will assure compliance of the laser product with this section and § 1040.11.

(2) *Purchasing and servicing information.* Manufacturers of laser products shall provide or cause to be provided:

(i) In all catalogs, specification sheets, and descriptive brochures pertaining to each laser product, a legible reproduction (color optional) of the warning logotype required to be affixed to that product, including the information required for positions 1, 2, and 3 of the applicable logotype (Figure 1 or 2 of paragraph (g)(1) and (2)(ii) of this section).

(ii) To servicing dealers and distributors and to others upon request at a cost not to exceed the cost of preparation and distribution, adequate instructions for service adjustments and service procedures for each laser product model, including clear warnings and precautions to be taken to avoid possible exposure to laser and collateral radiation in excess of the accessible emission limits in Tables I–A, I–B, I–C and III of paragraph (d) of this section, and a schedule of maintenance necessary to keep the product in compliance with this section and § 1040.11; and, in all such service instructions a listing of those controls and procedures which could be utilized by persons other than the manufacturer or his agents to increase accessible emission levels of radiation, and a clear description of the location of displaceable portions of the protective housing which could allow access to laser or collateral radiation in excess of the accessible emission limits in Tables I–A, I–B, I–C and III of paragraph (d) of this section. The instructions shall include protective procedures for service personnel, and legible reproductions (color optional) of required labels and hazard warnings.

(i) *Modification of a certified product.* The modification of a laser product, previously certified pursuant to § 1010.2 of this chapter, by any person engaged in the business of manufacturing, assembling or modifying laser products shall be construed as manufacturing under the act if the modification affects any aspect of the product's performance or intended function(s) for which this section and § 1040.11 have an applicable requirement. The manufacturer who performs such modification shall recertify and reidentify the product in accordance with the provisions of §§ 1010.2 and 1010.3 of this chapter.

§ 1040.11 Specific purpose laser products.

(a) *Medical laser products.* Each medical laser product shall comply with all of the applicable requirements of § 1040.10 for laser products of its class. In addition, the manufacturer shall:

(1) Incorporate in each Class III or IV medical laser product a means for the measurement of the level of that laser radiation intended for irradiation of the human body with an error in measurement of no more than ±20 percent when calibrated in accordance with paragraph (a)(2) of this section. Indication of the measurement shall be in International System Units.

(2) Supply with each Class III or IV medical laser product instructions specifying a procedure and schedule for calibration of the measurement system required by paragraph (a)(1) of this section.

(3) Affix to each medical laser product, in close proximity to each aperture through which is emitted accessible laser radiation in excess of the accessible emission limits of Class I, a label bearing the wording: "Laser aperture."

(b) *Surveying, leveling, and alignment laser products.* Each surveying, leveling, or alignment laser product shall comply with all of the applicable requirements of § 1040.10 for a Class I, Class II, or Class III laser product and, in addition:

(1) Shall not permit human access to laser radiation in the wavelength range of greater than 400 nm but less than or equal to 700 nm with a radiant power that exceeds 5.0×10^{-3} W for any emission duration greater than 3.8×10^{-4} second; and,

(2) Shall not permit human access to laser radiation in excess of the accessible emission limits of Class I for any other combination of emission duration and wavelength range.

(c) *Demonstration laser products.* Each demonstration laser product shall comply with all of the applicable requirements of § 1040.10 for a Class I or Class II laser product and shall not permit human access to laser radiation in excess of the accessible emission limits of Class I and, if applicable, Class II.

Effective date. This order shall become effective on August 2, 1976.

(Sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f).)

Dated: July 1, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

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PART III

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

■

COKE OVEN EMISSIONS

Proposed Standards for Exposure

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-017]

EXPOSURE TO COKE OVEN EMISSIONS

Proposed Standard

Pursuant to sections 6(b) and 8(c) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1599; 29 U.S.C. 655, 657), and 29 CFR Part 1911, it is proposed to amend Part 1910 of Title 29 Code of Federal Regulations by adding a new occupational safety and health standard for exposure to coke oven emissions as § 1910.1029.

The accompanying document is a proposal, required by section 6(b) of the Act as a step in the administrative rulemaking process. The notice requests the submission of written comments, data, and arguments from any interested persons on a variety of issues. In addition, an informal hearing has been scheduled to provide an additional opportunity for discussion of the issues. After the hearing, OSHA will issue a final standard based on the full record of the evidence.

The proposed standard contains a requirement limiting employee exposure to an 8-hour time-weighted average concentration based on a 40-hour week of respirable particulates of 0.3 milligrams per cubic meter of air (0.3 mg/m³). The proposal also provides for employee exposure measurements, method of compliance, personal protective equipment and clothing, training, medical surveillance, and recordkeeping.

The issues raised in the proposal include, among others, the following:

1. The selection of the substance to be regulated, namely respirable particulates, and the technological feasibility of compliance with the permissible exposure limit of 0.3 mg/m³. In addition, the alternative substances considered including benzo(a)pyrene (B(a)P) and total coal tar pitch volatiles (CTPV) and the technological feasibility of compliance under these alternatives should be considered.

2. The application of the concepts of latency periods and threshold levels for carcinogens in the context of setting a limit for employee exposure to a carcinogenic substance or substances;

3. The selection of an appropriate level of any of the above indicator substances;

4. The provisions for, among other things, employee exposure measurements, compliance procedures, medical surveillance, and protective equipment and clothing, hygiene facilities, and recordkeeping;

5. The determination as to what protection can or should be afforded employees who are removed from their present jobs as a result of the medical surveillance program;

6. The impact of overtime on determining the permissible exposure limit; and

7. The environmental and inflationary impact of this proposal.

In the development of this proposal, the Occupational Safety and Health Administration (OSHA) has considered recommendations obtained in the document "Criteria for a Recommended Standard * * * Occupational Exposure to Coke Oven Emissions" which was developed for the Secretary of Labor by the National Institute for Occupational Safety and Health (NIOSH), Department of Health, Education, and Welfare. Further, OSHA has considered the detailed record compiled by the Standards Advisory Committee on Coke Oven Emissions, with particular emphasis on the recommended standard and supporting documentation contained in the Committee's report which was submitted to the Secretary on May 24, 1975.

Signed at Washington, D.C. this 24th day of July, 1975.

JOHN T. DUNLOP,
Secretary of Labor

I. PERTINENT STATUTORY BACKGROUND

The Occupational Safety and Health Act of 1970 provides, among other things, that the Secretary of Labor:

> * * * in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life.
>
> * * * * *
>
> In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws.

While standard is to be based on the best available evidence, the legislative history makes it clear that "it is not intended that the Secretary be paralyzed by debate surrounding diverse medical opinion. H.R. 91-1291, p. 18."

In addition to the basic statutory provision outlining the criteria for setting standards, the Act also provides that standards shall include, where appropriate, labels or other forms of warnings to apprise employees of hazards to which they are exposed. Other items to be included are provisions for suitable protective equipment, control procedures, monitoring and measuring employee exposure, employee observation and access to the results of such monitoring, the type and frequency of medical examinations to be made available at no cost to the employee, and recordkeeping. The proposal reflects these statutory criteria.

II. BACKGROUND

Coke is the porous, cellular material which results from the destructive distillation of coal. It is used in steelmaking as a fuel and reducing agent in blast furnace operations, and in foundries as a cupola fuel. Of the approximately 65 million tons of coke produced annually in the United States, 92 percent is blast furnace coke and 8 percent is foundry coke. Two basic processes are utilized in the production of coke, one that removes vapors and other by-products from the coking process and one that does not. No new process is sufficiently advanced to be considered as a replacement for currently utilized coke oven technology. Indeed, two thirds of the ovens in use at this time are 20 or more years old and will continue to be used for many more years.

Moreover, coke presently is in short supply in the United States. However, several new coke oven batteries are under construction and over the next few years it is anticipated that 3 to 4 million tons of new coke making capacity will be added each year. In addition, while the demand for coal chemicals has declined in recent years in favor of petrochemicals, the situation may well be reversed as petroleum supplies become increasingly scarce.

A. BEEHIVE OVEN COKE PRODUCTION

Prior to 1910, the use of beehive ovens predominated in the production of coke. By 1910, there were 548 beehive coke plants with over 100,000 ovens. As by-product coke ovens became established, the number of beehive coke ovens declined steadily, except for a brief increase during World War II and the Korean War.

The name "beehive" accurately describes the shape of the oven. The coal is dropped into the opening or "trunnel head" at the top of the oven from the "larry car." The pile of coal is leveled either by machine or by hand to assure uniform coking. The door on the side of the oven is almost completely bricked up following leveling to provide proper heating of the coal. At the end of the coking cycle, the brickwork on the door is removed and the coke is "watered out" prior to removal from the oven by machine or hand.

B. BY-PRODUCT COKE PRODUCTION

The first by-product coke ovens in the United States began operation in the 1890's. Industrial expansion resulted in a continued increase in the number of by-product coke plants in the early 1900's. Additional coke and by-product capacity necessitated by the need for coke oven gas, by gas utilities resulted in further expansion of the industry during the 1920's. The depression of the 1930's halted construction of new plants and decreased the number of ovens in use. Construction resumed after the outbreak of World War II and continued into the 1950's, with the number of operating ovens peaking in 1958. Since then the number of plants and ovens has declined slowly, dropping from 66 by-product coke plants in 1966, to 64 in 1968, and 61 in 1973. However, with the increasing demand for coke, production capacity is expected to rise to meet this increased demand.

A by-product coke battery consists of 10 to 100 ovens made up of heating chambers, coking chambers, and regenerative chambers. Heating and coking chambers alternate with each other so that there is a heating chamber on either side of a coking chamber containing a series of flues; the regenerative chambers are located underneath. Oven size varies considerably. Present day ovens measure from 3 to 6 meters (10 to 20 feet) in height, 11 to 15 meters (37 to 50 feet) in length, and 42.5 to 50 centimeters (17 to 20 inches) in width. Ovens with the larger dimensions are generally of more recent construction.

The coking cycle begins with the introduction of coal into the coke oven. This procedure, called "charging," is carried out by means of a mechanical "larry car" which operates on rails on the top of the battery. The larry car receives a load of coal from the coal bunker at the end of the battery in a number of coal hoppers which correspond to the number of charging holes, usually either 3 or 4. The car then moves down the battery to the oven to be charged. The lids on the oven charging holes are removed, the larry car is positioned over the holes, and the hoppers are emptied. During the charge, the oven is placed under steam aspiration by the use of steam jets located in the standpipes connecting the by-product gas collector main with the oven. This operation, called "charging on the main," is designed to limit the escape of gases from the oven during the charging process so that they can be collected for processing in the by-product plant. After the charge is completed the lids are replaced and the aspiration system shut off.

The "coking time," the time required to produce coke from coal, is governed by numerous factors including the condition and design of the oven heating system, width of the coking chamber, and the nature of the coals being coked. A coking time is selected which will give the coke adjacent to the chamber walls a temperature of 1046 C (1900 F) to 1100 C (2000 F) when the coal has been coked all the way through to the center. Actual heating chamber flue temperatures should not exceed 1438 C (2600 F) to 1550 C (2800 F), the maximum safe temperature for the refractory brick. The coking time for blast furnace coke varies from 16 to 20 hours, averaging 17 to 18 hours. Coking times for foundry coke are longer than for blast furnace coke because coke of higher purity is required for foundry operations.

When the coal is coked the doors on each side of the oven are removed and the coke is pushed. A large mechanically operated ram attached to a pusher machine moves the coke out the opposite side of the oven, called the "coke-side," through the "coke-guide" attached to the door machine and into a railroad car called the "hot car" or "quench car." The quench car moves down the battery to a "quench tower" where the hot coke is cooled with water. The quenched coke is then dumped onto the coke wharf from which it is conveyed to the screening station for sizing then to the blast furnace or removed for whatever other purpose it is used. When the doors on the oven are replaced, the oven is ready to be charged again.

C. PRODUCTS OF COKE PRODUCTION

The coking process involves many complex reactions which can be analysed in three basic steps. First, there is a breakdown of coal at temperatures below 700 C (1296 F) to primary products consisting of water, carbon monoxide, carbon dioxide, hydrogen sulfide, olefins, paraffins, hydroaromatics, phenolic and nitrogen-containing compounds. Second, thermal reactions of the primary products occur as they pass through the hot coke, along the heated oven walls, and through the hot free spaces in the oven above 700 C (1296 F) resulting in the formation of aromatic hydrocarbons, methane, and the evolution of large amounts of hydrogen, and decomposition of nitrogen-containing compounds, hydrogen cyanide, pyridine bases, ammonia and nitrogen. Third, production of the hard coke occurs by the progressive removal of hydrogen.

Twenty to thirty-five percent by weight of the initial coke charge is evolved as vapors and gases and are collected in by-product coke production. One ton of coal yields the following amounts of coke and coal chemicals:

- Blast Furnace Coke—545–635kg (1,200–1,400 lb.)
- Coke Breeze (Large coke particulates)—45–90kg (100–200 lb.)
- Coke Oven Gas—285–345m³ (9,500–11,500 ft³)
- Tar—30–45 l (8–12 gal.)
- Ammonia Sulfate—9–14kg (20–30 lb.)
- Ammonia Liquor—55–135 l (15–35 gal.)
- Light Oil—10–15 l (2.5–4 gal.)

The coke oven gas contains numerous fixed gases, i.e., those which are gases at 16 C (60 F) and 760 mm pressure. The fixed gases are hydrogen, methane, ethane, carbon monoxide, carbon dioxide, ethylene, propylene, britylene, acetylene, hydrogen sulfide, ammonia, oxygen, and nitrogen. The ammonia liquor is an aqueous solution of a number of ammonium salts condensed from the gas. The tar is black viscous liquid which condenses from the gas in the collector main. It is the source of pyridine, tar acids, naphthalene, creosote oil, and coal tar pitch. The light oil fraction is a yellow-brown liquid of varying composition. Principal products recovered from the light oil are benzene, xylene, toluene, and solvent naphthas.

D. HISTORY OF REGULATION

As we point out more fully below, emissions from coke ovens pose a significant risk of cancer to the exposed working population. Occupational cancer resulting from exposure to the products of combustion or distillation of coal was first noted in 1775 and officially recognized in England when cancers or skin lesions resulting from the handling or use of "pitch, tar and tarry compounds" were listed in 1907 as compensable diseases under the Workmen's Compensation Schedule. In 1920, these conditions were added to the list of notifiable diseases in the Factories Act.

In the United States, the American Conference of Governmental Industrial Hygienists (ACGIH) adopted in 1967 an 8-hour time-weighted average of 0.2 mg/m³ coal tar pitch volatiles (CTPV), defined as the benzene soluble fraction of the total particulates. The limit was established to minimize exposure to the carcinogenic components of CTPV. In 1969, the Secretary of Labor promulgated the 1968 Threshold Limit Values of the ACGIH, including the CTPV limit of 0.2 mg/m³, under the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq.) (34 FR 788–796).

These standards were subsequently adopted as established Federal standards under section 6(a) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655). The applicability of the CTPV standard to coke oven emissions was challenged in a petition filed with the Department of Labor (DOL) on 8 June 1971, by the American Iron and Steel Institute (AISI). In addition to revocation of the existing standard, AISI requested appointment of an advisory committee under sections 6 and 7 of the Act (29 U.S.C. 655, 656) and the establishment of the use of respirators as an interim control measure. Following the receipt of the AISI petition, the United Steelworkers of America, on 12 July 1971 requested DOL to develop stringent standards for exposure to CTPV in coke ovens, refineries, and smelters.

On 9 September 1971 (36 FR 18129), DOL denied the petitions insofar as they related to the commencement of a standard-setting proceeding, pending further research by NIOSH. The notice affirmed the propriety of the promulgation of the CTPV standard and stated that coke oven operators could comply with that standard. To provide guidance as to the methods of compliance, the notice set out certain protective measures that should be adopted pending the implementation of feasible engineering controls. These included the use of respirators, protective skin creams, and medical examinations. The development and implementation of engineering controls to reduce employee exposure to CTPV was expected to continue pending completion of the NIOSH research and any subsequent rulemaking proceedings.

In February of 1973, NIOSH published the document "Criteria for a Recommended Standard * * * Occupational Exposure to Coke Oven Emissions." Acknowledging the lack of data to establish a safe environmental level for coke oven emissions, the criteria document recommended the use of engineering controls and operating procedures, supplemented by respiratory protection, to reduce employee exposure to coke oven emissions. NIOSH did not recommend a change in the CTPV standard but rather stated that it could be used ". . . both as an index of worker exposure to coke oven emissions and as a measure of the effective-

ness of engineering controls and operating procedures."

In accordance with the Federal Advisory Committee Act (84 Stat. 770, 5 U.S.C. App. I) and section 7(b) of the Act (29 U.S.C. 656), the Assistant Secretary established a Standards Advisory Committee on Coke Oven Emissions. The Committee was chartered ". . . to study the problems of coke oven emissions with respect to the exposure of workers to such emissions in order to prepare recommendations for an effective standard in the assigned area." The Committee held its first meeting in Washington, D.C., on November 6, 1974. During the course of its operation, the Committee scheduled twenty-eight (28) meeting days during which testimony was presented by numerous experts and over 200 exhibits were received. As a result of its deliberations the Committee prepared a recommended standard for employee exposure to coke oven emissions and submitted it to the Secretary on 24 May 1974, for consideration in the development of a proposed standard for exposure to coke oven emissions. The various committee recommendations are discussed in section IV of this notice on the proposed standard.

III. Carcinogenesis of Coke Oven Emissions

A. Certain General Considerations

Despite the manpower and resources which have been devoted over several decades to the study of cancer, scientists are still far from agreement on the causes, nature, and even definition of cancer. In general, certain theories which are believed to represent some of the most advanced research findings and policy of both national and international cancer experts and agencies have been considered by the Department of Labor in dealing with the problems of occupational exposure to emissions from coke ovens. In such an inquiry, we recognize that we are perhaps operating on the frontiers of knowledge.[1] We however relied upon what we believe to be the best available evidence and interpretations and are prepared to modify our views if future scientific advances show we were in error.

1. *The latency of carcinogenic effect.* In man, as well as in experimental animals, the latency period for chemical carcinogens may well be as long as 15, 20, or even 30 years in man. This means that the disease may undergo a long development before a tumor is actually detected. At that point, it has reached a stage where removal of the worker from the workplace may be of no avail and where treatment may be extremely difficult, if not futile. Prudent policy would therefore seem to indicate that every reasonable measure should be taken to eliminate human exposure to chemical compounds as soon as their carcinogenic nature is identified.

2. *The variability in individual susceptibility in relation to the concept of a threshold.* Cancer development may be influenced by such factors as the differing susceptibility of various body organs. In animal studies it has been found that individual variability in response to carcinogens is great, depending upon factors such as age, sex, hormonal status, diet, and genetic factors. Thus, in the working population, certain groups such as smokers and workers exposed to carcinogens when young, may be more susceptible than other groups.

3. *A "threshold level".* Because of the variability of individual response to carcinogens and other factors, the concept of a "threshold level" may have little applicability on the basis of existing knowledge. Cancer may be a process which can be initiated by the transformation of only one or a few cells; its development may take close to a lifetime to manifest itself; and some individuals may be more susceptible than others. Thus, while a "threshold" exposure level, below which exposure does not cause cancer, may conceivably exist for an individual, susceptible individuals in the working population may have cancer induced by doses so low as to be effectively zero.

These theoretical concepts have a bearing on the coke oven emissions issue, particularly as to the question of the existence, or nonexistence, of a threshold level of carcinogenic effect. A "no-effect" level theoretically may exist, but it has not been demonstrated.[2]

In previous rulemaking proceedings, OSHA has considered these issues and determined that in the absence of evidence to establish a safe level on the basis of present knowledge, employee exposure must be reduced as low as feasible. (See the preambles to the carcinogen standards 29 CFR 1910.1003–1016 (39 FR 3758) and the vinyl chloride standard 29 CFR 1910.1018 (39 FR 35892)). We welcome all views and comments on these subjects as well as the other issues raised by this proposal.

B. Evidence of Carcinogenicity

It has long been recognized that the combustion or distillation products of coal are carcinogenic to humans. Over the past 200 years it has been demonstrated that a variety of industrial populations exposed either to emissions from these processes or to the handling of the products have a special susceptibility to cancer of the lung, skin, and urinary organs (1).

The first observation of cancer from coal products was made in 1775 by Percivall Pott who noted that cancer of the scrotum in London chimney sweeps was peculiar to that occupation (2). For almost 100 years, Pott's observations were looked upon as a medical curiosity and no further attempt was made to further relate cancer incidence to occupation.

In 1873, three cases of scrotal cancer were reported by Volkmann in men handling tar and paraffin recovered from the carbonization of lignite. These cases ". . . agreed to the last detail with the so-called chimney-sweep cancer of the British." (3). Additional reports of unusual skin cancer experience among coal carbonization workers and handlers of various by-products soon appeared (4,5, 6).

Experimental studies on cancer induction further demonstrated the carcinogenicity of materials produced during the destructive distillation of coal, and eventually led to the isolation of the first known chemical carcinogen. In 1915, Yamagiwa and Ichikawa (7) showed that coal tar was carcinogenic for the skin of the rabbit and in 1922, Passey induced skin cancer with an ether extract of chimney soot (8). Following many years of research on the constituents of coal tar distillates many discrete chemicals, potent carcinogens in animals, were isolated, including benzo(a)prene (9). As early as 1892, it was suggested that exposure to coal tar products might be responsible for cancer of internal organs (4), and many investigators during the early 20th century speculated that the increasing rate of lung cancer might be attributed to the increased use of tar and tar products (10,11). Prior to 1936, however, the evidence linking lung cancer to coal tar exposures was limited to single case reports and to the observation by Kennaway that a high proportion of non-cutaneous cancers in chimney-sweeps were situated in the respiratory tract and in the alimentary tract above the stomach (12).

1. *Lung cancer.* The first report of unusual lung cancer experience for men engaged in coal carbonization concerned producer gas workers in Japan (13). In 1936, lung cancer was a relatively uncommon disease in Japan, accounting for only 3.1 percent of all malignancies (14). However, there was an extreme high lung cancer rate for gas generator workers which was even more striking in contrast with the experience of other employees at the same steel plant. Not a single lung cancer was noted among the 46 malignant neoplasms observed in the other employees. In the same year that the Japanese reported the lung cancer excess in gas generator workers, Kennaway's survey of death certificates for England and Wales, 1921 to 1932, showed that other coal carbonization and by-product workers had experienced higher than expected lung cancer mortality (15). In this and a later report for 1921 to 1938, the Kennaways reported excess lung cancer mortality for gas producermen, chimney-sweeps, and several categories of gas works employees (16). The excess indicated for "gas stokers and coke oven chargers" was approximately threefold. Doll, in a study of gas retort pen-

[1] "I.U.D., vs Hodgson," 499 F 2d 467, 474 (DC Cir. 1974).

[2] This principle has been adopted by the Secretary of the Department of Health, Education, and Welfare, Casper Weinberger, in a letter dated June 14, 1974, to Congress objecting to proposed legislation amending the "anti-cancer" clauses of the Food, Drug and Cosmetic Act: "At present, the Department of Health, Education, and Welfare lacks the scientific information necessary to establish no-effect levels for carcinogenic substances in animals in general and in man in particular * * *"

sioners in 1952, observed an 81 percent excess of lung cancer deaths in comparison with the general population (17). More recently, he has confirmed a high risk for British gas workers and has noted differential rates by type of retort and by level of exposure (18).

Most recently, Lloyd and Redmond have shown that men employed at coke ovens have an excess risk of lung cancer (19). They note that men employed five (5) or more years at the top of these ovens have experienced ten (10) times the lung cancer mortality rate of other steelworkers. Men who had a mixture of both top and side oven experience were found to have 3.2 times the expected lung cancer mortality. Men with five (5) or more years of only side oven experience were found to have 2.1 times the expected lung cancer mortality. Researchers have disagreed on the cancer incidence rate for persons exposed to coke oven and related emissions.

Although Reid and Buck concluded from a mortality study of British coke plant workers that "* * * the mortality in the coking industry from cancer in general and cancer of the lung in particular, is not as excessive as had been feared, and may in fact be negligible." (20) Christian, reported a 24-fold excess of lung cancer for coke workers at a large public utility (21). Review of these studies shows that the apparent discrepancies between these findings may be explained in large part by differences in the definition of the study populations and the comparison groups, and by the fact that the extremely high risk is limited to a relatively small proportion of the coke oven workers.

2. *Skin cancer.* The first American cases of skin cancer associated with exposure to coal tar products were carbon workers reported by Lueke in 1907 (22). In the same year, the British included in the Workmen's Compensation Schedule "* * * scrotal epithelioma occurring in chimney sweeps and epitheliomatous cancer or ulceration of the skin occurring in chimney sweeps and epitheliomatous cancer or ulceration of the skin occurring in the handling or use of pitch, tar, and tarry compounds * * *" and later made these diseases reportable under the Factories Act. The extent of the skin cancer problem among coal tar workers and the variation in incidence within occupation are reported in a comprehensive review by Henry (23). For the period 1900 to 1943, eighty-four (84) cases of epitheliomatous ulceration or cancer of the skin, including forty (40) scrotal cancers, were reported for British coke oven workers. Among men with prior coke oven employment eleven (11) fatal scrotal cancers were reported.

In contrast, of fifteen (15) skin cancer deaths reported in a recent survey of United States steelworkers none had been reported in workers employed at the coke oven (24). Because of the relatively low incidence rate of this disease and the high survival rate for skin cancer, it is impossible to determine whether the lower rate of skin cancer deaths among American coke oven workers is a reflection of differential response, differences in medical care, or other factors such as sampling variations.

3. *Cancer of the urinary system.* Workers exposed to emissions from coke ovens and gas retorts also show an excess of mortality from urinary system cancers. In their review of bladder cancer deaths for 1921 to 1928, Henry, et al., reports greater-than-expected mortality for nine occupational groups exhibiting an excess of 50% or greater (25). Five of the groups were among the "coal tar" occupations. Their finding of a higher rate for gas retort workers has since been verified by Doll, et al. (18). Bruusgaard (26) and Batye (27) also have reported an excess of bladder cancers in retort house workers.

Data on urinary cancer excess is not specific enough to detail its extent by anatomic site and by type of exposure. The bladder cancer findings of Henry, et al. (25), suggest a greater level of risk for by-product workers than for men engaged in the carbonization process. Unfortunately this group cannot be separated to obtain an estimate for coke oven workers. No excess of bladder cancer deaths has been observed to date in the United States coke plant workers. Redmond, however, has noted a seven-fold risk of kidney cancer mortality for these workers (19). While this excess is based on a small number of cases, kidney cancer usually is a rare form of cancer in our society.

On the basis of the information accumulated to date, it is clear that an agent or agents emitted or produced during combustion or destructive distillation of coal results in the development of lung, skin, and urinary system cancers among those exposed to such emissions.

IV. The Proposal

The following section discusses and analyzes the significant issues of the proposed standard for occupational exposure to coke oven emissions. Because of the nature of the emissions to be regulated and the lack of information as to the specific causal agent, it is important to discuss in some detail at the outset of the description of the proposal, the selection of the substance to be regulated as well as a general discussion of the technical feasibility of compliance with the permissible exposure limit. Comments and information at the hearing are requested on all of the alternatives discussed in this section in particular with regard to their use in regulating exposure to coke oven emissions and their technological feasibility.

A. Selection of the substance to be regulated and proposed levels

The determination of the precise component or components of coke oven emissions which are responsible for the excess of lung and other cancer in coke oven workers has not yet been made. This by itself makes the attempt to set a safe exposure limit quite difficult.

Several compounds, the polynuclear aromatic hydrocarbons (PNA) in particular, present in the products of combustion or distillation of organic matter such as coal have been shown to be carcinogenic.

1. *The Present coal tar pitch volatile standard.* The existing standard of 0.2 mg/m³ benzene-soluble fraction of coal tar pitch volatiles (CTPV) is a nonspecific measurement, as a wide variety of substances which may or may not be carcinogenic are present. The composition of CTPV may vary depending on various factors such as coking procedures and the original coals used. These substances may include polynuclear aromatic hydrocarbons (PNA), aliphatic hydrocarbons, and amines. This value of 0.2 mg/m³ for CTPV was adopted by the American Conference of Governmental Industrial Hygienists in 1967 as a level that "should minimize exposure" to the carcinogens present, but no definite statement presently can be made as to its relationship to a safe exposure. Consequently, the chemical complexity of coke oven emissions may limit the usefulness of CTPV samples collected at coke ovens. Problems associated with the sampling and analytical method further reduce the value of the CTPV sampling. For example, the silver membrane upon which the sample is collected may break during handling resulting in false measurement. The use of benzene in the extraction process has health problems of its own since benzene itself is toxic and its use should be restricted.

2. *An alternative CTPV proposal based on Redmond data.* The suggestion has been made that the level of 0.56 mg/m³ CTPV is a safe exposure. This is based on a study by Dr. Carol Redmond and associates of the University of Pittsburgh Graduate School of Public Health (29). This study attempted to correlate mortality data with exposure data. Coal tar pitch volatile data by job category collected in Allegheny County, Pa. after 1967 was used. Mortality data was for coke oven workers employed prior to that year. Cumulative exposure over time was calculated based on the number of years worked at a particular job and the CTPV levels measured for that job. The point in time in which cancer developed was noted and the exposure up to that time calculated. This treatment of the data yielded a figure of 0.56 mg/m³ CTPV as a level below which cancers were not seen. This analysis has several inherent problems that dictate caution in relying on the results. The mortality data and exposure data were from different times. Levels of exposure measured after 1967 cannot be assumed to represent the levels to which the men in the study were exposed. There may be therefore, no relationship between the two data sets involved.[5] Moreover, the model of cancer development used in this study was the "instantaneous cancer model" which assumes that the total accumulated dose of the carcinogen was necessary for the development of the cancer. It is equally conceivable that the actual carcinogenic dose was well below the total accumulated and that the remaining dose accumulated was extraneous. These problems were not reflected in the study.

3. *The cyclohexane soluble proposal.* The use of cyclohexane as a replacement for benzene in the analysis of particulates has been suggested by some individuals (32,33,34). Cyclohexane dissolves a narrower spectrum of compounds than benzene thereby eliminating some materials not considered significant (e.g., aliphatic hydrocarbons), and is less toxic than benzene. There is no epidemiological data, however, upon which a level of exposure to cyclohexane soluble material can be set at the present time.

4. *The benzo(a)pyrene proposal.* The Standards Advisory Committee on Coke Oven Emissions recommended a standard for exposure to benzo(a)pyrene (B(a)P) one of the PNA, which has been identified in coke oven emissions. The committee recommended that employees not be exposed to B(a)P in excess of 0.2 micrograms per cubic meter of air (ug/m³) calculated on an eight-hour time-weighted average basis. This level was selected as representative of background or ambient levels of B(a)P in urban air as determined by the National Air Sampling Network of the Environmental Protection Agency.

B(a)P has induced lung tumors experimentally when a particulate carrier is used to ensure extended retention (35,36, 37). In other words, the successful induction of lung tumors with B(a)P occurs in the presence of some physical factor which keeps the carcinogen in contact with the tissue for a prolonged period. It has been suggested that the carcinogenic effect occurs as a result of adherence of the PNA to the particle surface from which it is slowly released into the tissue. More prolonged and constant action is thus achieved (38,39,40).

Rate of clearance of the carcinogen also plays a role. Thus, smaller particles are eliminated from the lungs more slowly thus allowing longer contact time. Interference with ciliary activity in the respiratory tract will also inhibit clearance of inhaled material as demonstrated in studies by Laskin et al. (41), who induced lung tumors in rats with B(a)P following exposure to sulfur dioxide (SO_2), a known pulmonary irritant.

There is no environment in which B(a)P is present without other pollutants also being present. In the coke oven environment, there are a myriad of other substances including other carcinogenic hydrocarbons as well as B(a)P.

Development of lung cancer as a result of the synergistic action of two or more of these substances is a possibility. However, the carcinogenic potency of complex mixtures containing B(a)P may be accounted for to a large extent by its content of B(a)P (42). For the reasons below, we believe that respirable particulates will provide a better measure of employee exposure to coke oven emissions.

[3] These factors were recognized by the author of the study in testimony before the Standards Advisory Committee on Coke Oven Emissions and reiterated by Dr. J. William Lloyd, a member of the Committee.

5. *The respirable particulate proposal.* The importance of the role of particulate matter in inhalation of PNA has been established (43). PNA occur in the air primarily as adsorbed compounds on particulates (32). Particle size determines the extent to which the particle will penetrate the tracheobronchial tree. Models of particle deposition in the lung have been developed to provide an index for determining the potential hazard from inhaled particulates (44, 45). The Task Group on Lung Dynamics of the International Commission on Radiological Protection proposed a model for deposition and retention based on nose breathing (44). Deposition was based on particle mass median diameter (MMD). At the 1450 cc tidal volume, and a respiratory frequency of 15 cycles per minute, 55–65% of particles less than 0.1 micron MMD will be deposited in the deep, nonciliated region of the lung. Limitations of this model, and all mathematical formulations, include assumption of equal and constant flowrates, constant branching angles, and constant dimensions during respiratory excursions (48).

Data presently available is not sufficient to indicate which specific components of coke oven emissions are responsible for the lung cancer, and at what level such emissions should be regulated. Available information does indicate that particulates are the means by which the polynuclear aromatic hydrocarbons (PNA) gain entry to the respiratory tract. In fact, respirable dust standards have been set by several organizations including the Nuclear Regulatory Commission, formerly the Atomic Energy Commission (46) and ACGIH whose standards have been adopted by OSHA, 29 CFR 1910.1000 Table Z–3. The use of respirable particulates will assure that the samples collected will include those compounds believed to be the lung carcinogens. The Standards Advisory Committee on Coke Oven Emissions recommended that measurements for respirable particulates be carried out every six months as part of the regular employee exposure monitoring program.

The level of respirable particulates in the proposal is 0.3 milligrams of respirable particulates per cubic meter of air. This level is based on a correlation of B(a)P in respirable particulate levels on the coke oven topside with levels of B(a)P in urban air (0.2 ug/m³). This correlation was derived from data presented to the Advisory Committee and included in its report (47, 48). Measurement of respirable particulates can be accomplished with relative ease and will give a good index of the hazard from coke oven emissions. In light of relatively low ambient levels of respirable particulates which have been found in urban environments, it is not anticipated that the background levels will interfere with the measurement of there spirable particulates contributed by coke oven emissions in the work environment.

Because of the relationship of PNA to particulates, semi annual analysis of samples for benzo(a)pyrene (B(a)P) is required as an additional index for evaluating the carcinogenic potential of exposure to coke oven emissions. Section (8)(c)(1) of the Act authorizes the Secretary to require employers to make, keep, and preserve such records as may be necessary for developing information on the causes and prevention of occupational illnesses. The measurement of B(a)P and the recording of these measurements will assist in performing this function with respect to the carcinogenic hazard of coke oven emissions.

B. EFFECTS OF OVERTIME ON EXPOSURE

The permissible exposure limit is based on an eight-hour time-weighted-average (TWA) concentration. OSHA recognizes, however, that work shifts can extend beyond the regular eight-hour period as the result of overtime or other alterations of the work schedule. This extension of work time also extends the time during which the employee is exposed. The effects of this additional exposure time must be considered in arriving at a level of exposure.

For the purpose of calculating an exposure level, the relationship of concentration and time of exposure has been assumed to be linear. As the exposure time increases, the factor of concentration multiplied by time (C x T) should remain constant.

It is believed that by equating exposure with the eight-hour TWA, reasonable assurance of maintaining a safe exposure level is retained.

C. METHODS OF COMPLIANCE AND TECHNOLOGICAL FEASIBILITY

1. *Compliance program.* The proposed standard requires that employers immediately institute feasible engineering controls to reduce employee exposure to coke oven emissions where that exposure exceeds the permissible exposure limit. In workplaces where controls that can be instituted immediately will not reduce exposure to the permissible limit, they must nonetheless be implemented to reduce exposure to the lowest practicable level, and supplemented by the use of work practice controls. This is because of the problems generally associated with the use of work practice controls, which are effective only when strong supervisory control is maintained.

Respirators can be used only where the feasible engineering and work practice controls are insufficient to reduce exposures to or below the permissible exposure limit because of the problems associated with the use of respirators. Respirators are capable of providing good protection only if they are properly selected for the concentrations of airborne contaminants present, properly fitted to the employee, worn by the employee, and replaced when they have ceased to provide protection. While it is theoretically possible for all of these conditions to be met, often they are not, and as a consequence, the protection of employees by respirators can only be used where engineering and work practice controls cannot reduce exposure to the permissible exposure limit.

Where, as stated above, compliance with this standard cannot be achieved immediately through the institution of engineering and work practice controls, they must nevertheless be used to control exposure to the lowest practicable level. In addition, a written program must be established and implemented to reduce exposures to the permissible exposure limit by means of engineering controls and supplementary work practices. This program, to be developed by the employer, must include specific items similar to those recommended by the Advisory Committee. Most importantly, the plan must include a schedule for implementation of the compliance program where the controls cannot be instituted immediately. The standard provides that this program must be furnished upon request to the Secretary and the Director of NIOSH and must be available at the worksite not only to those government officials, but also to the employee representative. The employer is required to review and update the plan at least every 6 months to reflect the current status of the program.

The Committee recommendations contain a specific administrative procedure for OSHA to implement as part of the standard in order to assure the adequacy of these plans. It included the issuance of an abatement order by the Secretary following an administrative procedure involving possible pre-approval inspections and a hearing with participation by interested parties, including the employer and employees. While the eventual development of such a program is possible, it is believed that its inclusion in a standard regulating a specific hazard is inappropriate since it really is applicable not only to OSHA's compliance operations in the area of coke oven emissions, but also to other standards with similar requirements for a compliance program.

1. *Technological feasibility.* As part of its recommended standard, the Advisory Committee included detailed requirements mandating specific engineering and work practice controls. OSHA prefers, however, not to include detailed specifications on possible methods of compliance in the standard in order not to limit the development of new technology or necessitate frequent revision of the standard. However, in order to provide some information and guidance as to the technology currently available and its application to existing and rehabilitated or new batteries, a list of some engineering controls and work practices is included as Appendix B to the standard.

On the basis of the record compiled by the Advisory Committee and OSHA's current compliance activity under the existing standard, it is apparent that it is technologically feasible to reduce employee exposure to or below the permissible exposure limit through the implementation of engineering, work practice, and personal protective controls. Information is requested as part of the proceeding as to the feasibility of reaching the permissible exposure limit solely through the use of engineering controls and supplementary work practices, including the question of retrofitting existing coke oven batteries with new technology. In addition, information is sought as to any specific difficulties associated with the supplementary work practices and personal protective controls which might affect the feasibility of reducing exposure to the permissible exposure limit.

Finally, it is OSHA's opinion that the application of well-designed emission control technology will not necessarily preclude the attainment of the level of worker health protection provided by this proposal.

D. SCOPE AND APPLICATION

This standard is applicable to the process of the destructive distillation of coal for the production of coke and it is intended to cover employee exposure to the emissions which are present during this process. The work environment to be included therefore centers on the operation where this process occurs i.e., the coke oven. Since the operation to be regulated is conducted in the open environment, however, it is not possible to define with certainty the confines of the process and hence the extent of the emissions. Therefore, the scope of the standard provides for flexibility in determining the area where employees may be exposed while at the same time limiting its scope to that portion of the employer's operation where coke is being produced.

Another aspect of the applicability of this standard is its relationship to the existing standard for coal tar pitch volatiles in 29 CFR 1910.1000 Table Z–1. This proposal is not intended to alter the applicability of the existing standard to those places of employment where employees are exposed to coal tar pitch volatiles such as the aluminum smelting industry. The need for regulating exposure to coke oven emissions under a separate standard reflects the different process involved that results in employee exposure to the volatile matter released by the coal and not primarily to that released from a by-product of the destructive distillation of coal such as coal tar pitch. In addition, evidence is available to document an increased cancer risk from exposure to coke oven emissions as a separate entity and, therefore, requires that the standard, to be effective, focus on that operation and the type of exposure to be controlled in order to assure employee protection. Therefore, the proposed standard, and not the CTPV standard, would apply to coke oven emissions.

E. REGULATED AREA

The proposal requires that regulated areas be established, that access be limited to authorized persons, and that a roster of persons authorized to enter be made daily and maintained for at least 40 years or for the duration of the employment plus 20 years, whichever is longer. One purpose of establishing regulated areas is to limit the exposure to as few people as possible. In addition, by designating certain areas in the coking operations as regulated areas regardless of the exposure limit, this section assists in defining the scope of the standard. It also serves as the mechanism for instituting requirements such as medical surveillance, training, and information such as the location of signs.

F. EXPOSURE MEASUREMENT

Under the provisions of the proposed standard, the employer would be required to monitor each workplace involved in the coking operation to measure the exposure of the employees to coke oven emissions. Actual measurement of airborne concentrations of coke oven emissions would be required. This is the only reliable method by which exposure can be determined, as the coking operations result in the continuous evolution of particulate matter into the air.

Measurements which reveal levels of coke oven emissions below the permissible exposure limit reduce the monitoring requirement from monthly to quarterly. Quarterly monitoring of employee exposure is required as the carcinogenic nature of the emissions and the variability of the coking process itself dictate that monitoring be done regularly to ensure that the employee's exposure remains below the permissible limit.

Where the initial measurements reveal levels of coke oven emissions to be over the permissible exposure limit, monthly monitoring is required. Monthly measurements would be required because OSHA believes that exposure above the permissible exposure limit presents a serious hazard to the employee. Monthly measurement would be required even if the employees routinely wear respirators. However, where two consecutive monthly measurements are below the permissible exposure limit, quarterly monitoring would be applicable.

The results of the exposure measurement program would determine further action to be taken by the employer. In addition to monthly monitoring, measurement of exposure above the permissible exposure limit would require the employer to institute engineering and work practice controls to reduce the exposure to below the permissible exposure limit. Areas in which these levels are found would be designated as regulated areas if they are not already specified as such by the proposed standard.

It should be noted that the reduction or termination of monitoring from monthly to quarterly would be effective only as long as there is no change in production, process, or control which could result in new or additional exposure. If such a change increases the exposure over the permissible limit, monthly monitoring must resume.

The proposed standard provides that the employer inform the employees of their exposure levels as determined by the monitoring program. This information is to be provided regardless of what

the level is measured to be. OSHA believes that the employee has the right to know what his or her exposure level is and whether it is above or below the permissible exposure limit. In addition, if the employee's exposure is above the permissible exposure limit, the employer is required to notify the employee of all measures to be taken to reduce the employee's exposure to below the permissible exposure limit.

The monitoring provisions of the proposed standard state that the accuracy of the sampling method must have a confidence level of 95 percent. The term accuracy refers to the difference between the measured value and the time value. It allows for both the random variation of the method (precision) and the difference between the average result of the method and the true value (bias of the method). The required accuracy for concentrations above the permissible exposure limit is 25 percent at a 95 percent level of confidence. This means that in a series of measurements, 95 percent must be within 25 percent of the true value. The required accuracy value allows the use of relatively inexpensive sampling and analytical equipment.

G. RESPIRATORY PROTECTION

When engineering controls and work practices are not sufficient to reduce employee exposure to below the permissible exposure limit, respirators would be required. In addition, provision is made for the use of respirators in other situations, such as during installation of engineering controls or in emergencies.

The proposal requires the employer to select respirators that have been approved by NIOSH. The employer must select the type of respirator to be used from those in the proposed standard.

Two types of respirators are listed in the proposed standard, consistent with the Advisory Committee's report, the air-purifying high efficiency particulate respirator and the power air-purifying high efficiency particulate respirator. The latter is not presently approved by NIOSH or generally available in the United States. It is in the developmental stage in this country and the Committee believed that recommendation of this respirator would speed its development and hasten its availability for general use.

In addition to the two previously mentioned respirators, the NIOSH criteria document recommended the use of Type C positive pressure air-supplied respirators. These respirators have hazards inherent in their use. The air supply hose is a mechanical hazard in an area with a great deal of moving machinery such as a coke oven battery. Also the presence the hose limits the wearer's mobility as it must be connected to a clean air source. OSHA has included air-supplied respirators in the proposal recognizing that problems exist with their use. It may be possible, however, to modify or create an air-supplied respirator that can be adapted for use in some parts of the coke oven operation.

H. PROTECTIVE CLOTHING AND EQUIPMENT

The proposal requires the employer to provide, and assure that employees use, clean protective clothing and equipment such as, but not limited to waterproof, flame and heat resistant full body covering, face shields, or vented goggles, fire-resistant gloves, shoes, and protective helmets. This requirement is intended to prevent the accumulation of coke oven emission dust on the body or street clothes of the employee.

The proposed standard requires the employer to assure that all protective clothing is removed in special change rooms and that contaminated protective clothing is removed from these rooms only in closed, impermeable containers. The employer is responsible for cleaning, laundering, maintenance, and disposal of protective clothing and equipment. The employer is also required to assure that no employee removes contaminated protective clothing from the change rooms, except those employees authorized to do so for the purpose of cleaning, laundering, maintenance, or disposal. In addition, the employer must assure that the person who is charged with laundering or cleaning contaminated protective clothing or equipment is apprised of the harmful effects of exposure to coke oven emissions.

The requirements for cleaning and control of unnecessary exposure to clothing and equipment contaminated with coke oven emissions is in line with the Advisory Committee's recommendations. Because of the increased incidence of lung cancer associated with coke oven emissions, it is necessary to assure that the potential for exposure to the coke oven dust of other persons such as members of the employee's family and employees who clean or launder the clothing is restricted by the proper precautions in handling material contaminated with coke oven emissions.

I. HYGIENE FACILITIES AND PRACTICES

The proposal provides that all employees working in regulated areas must be required to wash hands, face, and forearms before eating, drinking, smoking, or applying cosmetics. In addition employees working in regulated areas are required to shower before leaving at the end of the work shift. This section of the proposed standard also requires that the employer provide for the hygiene facilities such as change rooms and showers in accordance with 29 CFR 1910.141. Because the requirement for the number of lavatories for industrial employment has been revoked (40 FR 18445) the proposal requires the employer to provide an adequate number of lavatory facilities which shall meet the requirements in 29 CFR 1910.141(d)(2). In addition, the proposal requires the separation between contaminated and uncontaminated areas in locker and shower facilities and the location of lavatory and toilet facilities in such a manner as to prevent access to uncontaminated areas.

In addition, the proposal requires lunchroom facilities which shall be provided with temperature controlled positive-pressure filtered air supply. Finally, smoking, nonfood chewing products, drinking, eating, and the application of cosmetics, are prohibited in regulated areas. The presence of such items is also prohibited in regulated areas.

This section is consistent with the Advisory Committee recommendations and reflects the need for careful hygiene practices where employees are exposed to a carcinogenic agent or agents. In view of the increased incidence of kidney cancer as well as the skin cancer hazard associated with exposure to material containing polynuclear aromatic hydrocarbons, it is important to limit employee exposure to coke oven emissions by ingestion and skin contact as well as inhalation.

J. MEDICAL SURVEILLANCE

Medical surveillance provisions have been included in the proposal to provide for early diagnosis of health effects of exposure to coke oven emissions. This is consistent with the recommendations of the Advisory Committee.

The employer must make medical examinations and tests available to all employees who work in a regulated area for more than 30 days per year. All examinations and procedures must be performed by, or under the supervision of a licensed physician, and provided during the employee's normal working hours without cost to the employee. Examinations are to be performed every six months for employees who are over 45 years of age or have worked at coke ovens for 10 or more years and annually for other employees.

Consistent with the Advisory Committee's recommendations, OSHA has proposed additional medical examinations for a special high risk group of employees, those who are over 45 years of age or have worked at coke ovens for 10 years or more. The proposal has expanded the high risk group as defined by the Advisory Committee to include additional workers believed to be at greater risk of developing lung cancer.

The basic medical examination includes a comprehensive work and medical history, a 14" by 17" posterior-anterior chest x-ray (with UICC classification), pulmonary function tests including forced vital capacity (FVC), baseline weight, and a skin examination. For employees with five or more years coke oven employment or who are 40 years of age or older, a urinary cytologic examination is required. This is to aid in the early detection of kidney cancer, that resulted in a seven-fold excess in coke oven workers as reported by Redmond, et al. (19).

The principal purpose of the chest x-ray and pulmonary function tests is to identify those workers who should not be exposed to coke oven emissions by detecting reduced lung capacity or x-ray changes.

Methods for early detection of lung cancer, chest x-ray and sputum cytology, have a high specificity but low sensitivities. These two procedures are, however, the best screening methods presently available (49). The use of sputum cytology is proposed only for those workers who are 45 years of age or older or who have been employed at coke ovens 10 years or more. This represents a spe-

cial high risk group in which such tests can be useful. Studies by Saccomanno showed a morphological progression to malignant cells over a one to ten year period in cytologic specimens (50). Abnormal cells were present in the sputum before clinical symptoms appeared. Significant symptoms tend to occur only when the disease has reached an advanced stage (51). The cytologic examination is designed to detect not only malignant cells but preferably cells which exhibit abnormal morphology. These may indicate a pre-malignant condition in which case removal of the employee from further exposure or other measures may be taken.

The use of cytologic examinations of sputum in addition to chest x-rays is advisable since individuals with negative x-rays and positive cytologies may have a higher survival rate following surgery (52, 53).

There is disagreement as to the value of sputum cytology, and its inclusion in a medical surveillance protocol has been questioned (54, 55). It is included in the proposed standard, however, as it is felt that it can be of benefit in the high risk group for which it is specified.

Alternative medical examinations may be made available so long as they provide equal assurance of detecting medical conditions relating to exposure to coke oven emissions. The employer may accept a physician's alternative medical examinations provided the employer obtains a statement as to the rationale for the substitution and submits that to the Secretary; and provided the employee is informed of the alternative procedures.

The employer must provide the examining physician with a copy of the standard for coke oven emissions, including appendixes, a description of the employee's duties, a description of any personal protective equipment used by the employee, and information concerning exposure levels to which the employee has been or may be exposed. The employer must also provide any available employee medical history information requested by the physician.

Following the medical examination, the employer must obtain a written opinion from the examining physician stating whether the employee has any medical condition that would place him or her at increased risk to his or her health or that would be aggravated by exposure to coke oven emissions. Additionally, the physician's written opinion must state any recommended limitations upon the employee's exposure or upon the use of protective equipment or respirators. Also, the opinion must state that the employee has been informed of any medical conditions which require further examination or treatment; however, the opinion shall not contain specific medical findings or diagnoses unrelated to occupational exposure. The employer must provide a copy of the physician's opinion to the affected employee.

If, the employer determines that exposure of an employee to coke oven emissions would materially impair the employee's health, it is the responsibility of the employer to remove that employee from exposure. This determination may be based on the physician's written opinion.

The proposal does not contain any provision for job transfer for that employee, nor does it include the Advisory Committee's recommendation that any removal from exposure to coke oven emissions "shall not result in loss of earnings or seniority status to the affected employee."

OSHA recognized that there is great concern over what, if any, protection can or should be afforded employees who are removed from their present jobs as a result of the medical surveillance program. The absence of a job transfer provision such as that recommended by the Committee, it is argued will result in employee refusal to take the medical examinations. On the other hand, there is the question of the extent of the employer's responsibility to guarantee the present income of an employee where, for medical reasons which may or may not be related to any occupational exposure, a physician recommends that action should be taken to avoid either a future health hazard or aggravation of an existing condition. Just as the absence of a transfer provision may result in employee refusal to take a medical examination, so the inclusion of such a provision may represent a disincentive to employers to remove an employee from such exposure because of the impact on the wage and seniority systems currently in existence. Finally, the legal authority of OSHA to require and enforce such a provision has been challenged.

Therefore, although a job transfer provision is not included in the proposal, OSHA hopes that parties to the hearing will address this issue to provide additional information and possible solutions.

K. EMPLOYEE INFORMATION AND TRAINING

Information and training are essential for the protection of employees because an employee can do much to protect himself if he is informed of the nature of the hazards in the workplace. To be effective, however, an employee education system must apprise the employee of the specific hazards associated with the work environment. For this reason, the employer would be required to inform each employee assigned to a regulated area about the nature of coke oven emission-related health problems, the necessity for exposure control, the work practices and engineering controls associated with that employee's job assignment, and the medical and industrial hygiene monitoring programs.

L. SIGNS AND LABELS

Due to the hazardous nature of coke oven emissions, OSHA believes that emphasis should be placed on warning employees and other persons about the dangers of exposure. For this reason, the proposed standard includes a section on signs for regulated areas and areas where the permissible exposure limit is exceeded and labels for containers of contaminated protective clothing.

The signs to be posted at regulated areas inform employees of the carcinogenic hazard of coke oven emissions and alert them to the fact that only persons authorized by the employer should enter the area. Signs posted where the permissible exposure limit is exceeded, and where respiratory protection is required, reiterate the warning of carcinogenicity and advise that respirators are necessary for entry and that such entry is limited to authorized persons.

Containers of contaminated protective clothing are required to be labeled with a statement of the hazard and practices to be avoided in the handling of the clothing. No sign or instruction may contradict or detract from the effect of the warnings, information, or instructions on any sign or label required by this section.

M. RECORDKEEPING

The proposed standard would require employers to keep written records of the following: measurements which indicate whether or not employees are exposed at or above the permissible exposure limit, tests of mechanical ventilation system efficiency (where such systems are used for engineering control), respirator usage, annual training and information sessions, medical examinations and preplacement histories, and rosters of employees who enter regulated areas.

Because symptoms of lung cancer can have a latency period of approximately 20 years or more, records of employee exposure measurements and medical examinations should be retained for at least 40 years to aid physicians in diagnosing potential future illness. For this reason, the recordkeeping provisions of this proposal require the employer to retain exposure measurements for at least 40 years and medical examinations records for at least 40 years, or for the duration of the employee's employment plus 20 years, whichever is longer.

A record of the tests of mechanical ventilation system efficiency is required to be maintained so that the employee can ensure that tests of the system are being made at the required time intervals. Further, the record is useful to the employer since the evaluation of the data obtained in any individual test is needed to compare the most recent test with previous tests to detect any trends that may be occurring.

Section 8(c)(3) of the Act requires, and paragraph (m) of this proposal contains provisions for access to records of exposure measurements by employees, former employees or their representatives, and for access to medical records made pursuant to paragraph (j) by physicians designated by employees or former employees. It should be noted that such access is limited only to the records of determinations, exposure measurements, and medical examinations that are being maintained by the employer in accordance with the record-

keeping requirements; and that the employer is not required to retain or make those records accessible for periods longer than those required in paragraph (m).

N. OBSERVATION OF MONITORING

Section 8(c)(3) of the Act requires that employers provide employees or their representatives with the opportunity to observe monitoring of employee exposures to toxic materials or harmful physical agents. In accordance with this section, the proposed standard contains provisions for such observation. To ensure that this right is meaningful, observers would be entitled to an explanation of the measurement procedure, to observe all steps related to the measurement procedure, and to record the results obtained.

The observer, whether an employee or designated representative, must be provided with and is required to use any personal protective devices required to be worn by employees working in the area that is being monitored, and must comply with all other appplicable safety and health procedures.

V. CONCLUSIONS

The Secretary recognizes that many of the matters considered in this proposal are controversial and that, at best, gaps exist in the available scientific evidence. The Secretary does believe that in this case we are dealing with an agent or agents that are carcinogenic in man. Based on the best available evidence, we do not know whether "safe" levels or "no-effect" levels exist for a carcinogen and, if so, what they may be. Therefore, attempts to set "safe" or "no-effect" levels are compromises between the best medical and scientific evidence on the one hand and practical considerations of technological and economic feasibility on the other. These unanswered questions cannot be permitted to hold back the process of setting a standard for protecting workers exposed to coke oven emissions.

Therefore, based on the available evidence and in view of the above considerations, we believe that employee exposures to coke oven emissions must be reduced to the level of 0.3 mg/m³ respirable particulates as set forth in the proposal. We further believe that on the basis of available information, it will be feasible to reduce employee exposure to the permissible exposure limit by use of engineering controls.

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VI. Public Participation

Public participation. Interested persons are invited to comment on the proposed standard. Written data, views, and arguments concerning the proposal must be submitted in quadruplicate to the Docket Officer, Docket No. H–017, Room N–3620, 200 Constitution Avenue, NW., Washington, D.C. 20210, on or before September 15, 1975. Written submissions must clearly identify the provision of the proposal addressed and the position taken with respect to each such provision. The data, views, and arguments will be available for public inspection and copying at the above address. All written submissions received will be made a part of the record of this proceeding.

In order to expedite this rulemaking proceeding and in anticipation of requests for a hearing, we are scheduling an informal public hearing, pursuant to section 6(b) of the Act and 29 CFR Part 1911, to begin on November 4, 1975, in the Departmental Auditorium, Conference Room B, Constitution Avenue between 12th and 14th Sts., NW., Washington, D.C. All aspects of the proposed standard, including its environmental impact will be at issue in the hearing.

In addition to the proposal and its environmental impact, OSHA hereby solicits comments from interested persons regarding the potential inflation impact of the proposed standard. These comments must be submitted in accordance with the requirements of this section. Comments may be directed toward any or all of the following subjects:

(1) Cost impact on consumers, businesses, markets, or Federal, State, or local government;

(2) Effect on the productivity of wage earners, businesses, or government;

(3) Effect on competition;

(4) Effect on supplies of important materials, products or services;

(5) Effect on employment; and

(6) Effect on energy supply or demand.

A preliminary study of the cost impact of the proposal has been prepared, and is available for public inspection and copying at the above address. This study indicates that a full inflation input analysis will be required pursuant to Executive Order 11821 (39 FR 41501, November 27, 1974) and Office of Management and Budget Circular A–107 (January 28, 1975).

Accordingly, it is OSHA's intention to prepare an inflation impact statement and analysis, which will be published on October 4, 1975. Public inspection and comment is invited, and shall be accepted if presented to OSHA on or before December 4, 1975, or until the close of the official hearing record, if such closure occurs after December 4, 1975.

This procedure has been concurred in by the Council on Wage and Price Stability in accordance with OMB Circular A–107 issued pursuant to Executive Order 11821.

Persons desiring to appear at the hearing must file a notice of intention to appear postmarked on or before September 15, 1975, with OSHA Committee Management Office, Docket No. H–017, Room N–3633, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210 (Telephone: 202–523–8023). The notices of intention to appear, which will be available for inspection and copying at the above address, must contain the following information:

(1) The name and address of the person to appear;

(2) The capacity in which the person will appear;

(3) The approximate amount of time required for the presentation;

(4) The specific provisions of the proposal that will be addressed;

(5) A detailed statement of the position that will be taken with respect to each provision addressed; and

(6) A detailed statement of the evidence with respect to each such provision proposed to be adduced at the hearing.

OSHA has determined that strict enforcement of its procedural rules contained in 29 CFR 1911.11 is necessary for an expeditious and orderly proceeding. Therefore, the notices of intent to appear will be scrutinized closely for sufficiently detailed information concerning the position to be taken with regard to the issues specified and the evidence to be adduced in support of the position. Persons filing notices of intent to appear which are not sufficiently detailed will be so informed and given fifteen (15) days from the date they are so informed to file a proper notice of intent to appear. In addition, the amount of time requested for each presentation will be reivewed in light of the contents of the notice of intention to appear. In those cases where the information contained in the notice of intention to appear does not seem to warrant the amount of time requested, the participant will be allocated a more appropriate amount of time and notified of this fact. The participant will have fifteen (15) days from the date on which he is so informed to demonstrate why the allocated time is inappropriate.

The hearing will commence at 9:30 a.m. with the establishment of the order for the presentation of statements and the resolution of any other procedural matters relating to the proceeding. The hearing will be conducted, and the decisions made, in accordance with 29 CFR Part 1911.

The oral proceedings will be reported verbatim and a transcript will be made available for inspection and copying to interested persons. Prepared statements and documents that are intended to be submitted for the record at the hearing shall be submitted in quadruplicate before such testimony is presented.

The Administrative Law Judge who will be designated to preside at the hearing shall have all the powers necessary or appropriate to conduct a fair and full informal hearing, including the powers:

(1) To regulate the course of the proceedings;

(2) To dispose of procedural requests, objections, and comparable matters;

(3) To confine the presentations to matters pertinent to the proposed standard;

(4) To regulate the conduct of those present at the hearing by appropriate means;

(5) In his discretion, to question and permit questioning of any witness; and

(6) In his discretion, to keep the record open for a reasonable, stated time to receive written information and additional data, views, and arguments from any person who has participated in the oral proceedings.

Following the close of the hearing, the presiding Administrative Law Judge shall certify the record thereof to the Secretary of Labor. The proposal will be reviewed in light of all oral and written submissions received as part of the record in this and related proceedings, and appropriate action will be taken.

Accordingly, pursuant to sections 6(b) and 8(c)(3) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1599; 29 U.S.C. 655, 657) and 29 CFR Part 1911, it is hereby proposed to amend Part 1910 of Title 29, Code of Federal Regulations by adding a new § 1910.1029 as set forth below.

§ 1910.1029 Coke oven emissions.

(a) *Scope and application.* This section applies to the control of employee exposure to the emissions present during the destructive distillation of coal for the production of coke, except that this section will not apply to working conditions with regard to which other Federal agencies have exercised statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(b) *Definitions.* For the purpose of this section:

"Authorized person" means any person authorized by the employer to enter a regulated area, or any person entering such an area as a designated representative of employees for the purpose of exercising the opportunity to observe monitoring and measuring procedures under paragraph (n) of this section.

"Beehive oven" means a coke oven in which the products of distillation other than coke are not recovered, but are released into the ambient air.

"Coke oven" means a retort in which coke is produced by the destructive distillation of coal.

"Coke oven battery" means a structure consisting of a number of slot-type coke ovens supported on each end by a retaining wall, usually called a pinion wall.

"Coke oven emissions" means respirable particulate matter present in the work environment during the destructive distillation of coal for the production of coke.

"Director" means the Director, National Institute for Occupational Safety and Health (NIOSH), U.S. Department of Health, Education and Welfare, or his designee.

"Emergency" means any occurrence such as, but not limited to, equipment failure, or failure of control equipment which is likely to, or does, result in an unexpected exposure to coke oven emissions in excess of the permissible limit.

"Respirable particulates" means particulate matter collected by the use of a Dorr-Oliver cyclone or equivalent.

"Secretary" means the Secretary of Labor, U.S. Department of Labor, or his designee.

(c) *Permissible exposure limit.* No employee may be exposed to coke oven emissions in excess of 0.3 milligrams per cubic meter of air (0.3 mg/m³), as determined on an 8-hour time-weighted average based on a 40-hour week.

(d) *Regulated area.* (1) *Requirement.* Regulated areas shall be established and access to them shall be limited to authorized persons.

(2) *Establishment.* The following shall be established as regulated areas:

(i) The coke oven battery including topside and its machinery, pushside and its machinery, coke side and its machinery, and the wharf;

(ii) The beehive oven(s) and machinery; and

(iii) Any other coke plant work area where the permissible exposure limit is exceeded.

(3) *Roster.* A daily roster shall be made of all persons who enter a regulated area.

(e) *Exposure monitoring and measurement.* (1) *Initial monitoring.* Each employer who has a place of employment in which coke oven emissions are present shall monitor each such workplace and work operation to accurately measure if any employee may be exposed without regard to the use of respirators, to coke oven emissions above the permissible exposure limit. Such a determination shall be made by monitoring which is representative of each employee's exposure to coke oven emissions over an 8-hour period.

(2) *Measurements below the permissible limit.* If the measurements under paragraph (e)(1) of this section reveal employee exposure, without regard to the use of respirators, to be below the permissible exposure limit, the employer shall repeat the measurements for each employee at least quarterly.

(3) *Measurements above the permissible limit.* Where an employee is exposed to coke oven emissions in excess of the permissible exposure limit, the measurements required under paragraph (e)(1) of this section shall be repeated at least monthly. The employer shall continue measurements under this section until at least two consecutive measurements are below the permissible exposure limit and then paragraph (e)(2) shall apply.

(4) *Benzo(a)pyrene analysis.* At least every six months, the samples required under paragraph (e) (2) and (3) of this section shall be analyzed for benzo(a) pyrene content.

(5) *Redetermination.* Whenever there has been a production, process, or control change which may result in new or additional exposures to coke oven emissions, or whenever the employer has any other reason to suspect a change in exposure conditions, a new determination of the regulated areas shall be made in accordance with paragraph (e)(1) of this section.

(6) *Employee notification.* (i) Within five (5) working days after the receipt of the measurement results, the employer shall notify each employee in writing of the results of that employee's measurement. Such notification need not be given more frequently than once monthly on the basis of measurements made pursuant to paragraphs (e) (2) and (3) of this section.

(ii) Where the results reveal the employee's exposure to be over the permissible exposure limit, such notification shall also include the corrective action being taken to reduce exposure to or below the permissible exposure limit.

(7) *Accuracy of measurement.* The method of monitoring and measurement shall have an accuracy (with a confidence limit of 95%) of not less than plus or minus 25% for airborne concentrations of coke oven emissions greater than or equal to 0.3 mg/m³.

(f) *Methods of compliance.* Employee exposure to coke oven emissions shall be controlled to or below the permissible exposure limit by engineering controls, work practices, and personal protection controls as follows:

(1) *Engineering and work practice controls.* Engineering controls shall be instituted immediately to reduce exposures to or below the permissible exposure limit, except to the extent that such controls are not feasible. Where engineering controls which can be instituted are not sufficient to reduce exposures to or below the permissible exposure limit, they shall nonetheless be used to reduce exposures to the lowest practicable level, and shall be supplemented by the use of work practice controls. (Appendix B contains a list of some of the engineering and work practice controls available to reduce employee exposure to coke oven emissions.)

(2) *Personal protection controls.* Where engineering and work practice controls are not sufficient to reduce exposures to or below the permissible exposure limit, they shall nonetheless be used to reduce exposure to the lowest possible level, and shall be supplemented by the use of respirators, in accordance with paragraph (g) of this section.

(3) *Mechanical ventilation.* When mechanical ventilation is used to control exposure, measurements which demonstrate the effectiveness of the system to control the exposure, such as capture velocity, duct velocity, or static pressure, shall be made at least every 3 months. Measurements of the system's effectiveness to control exposure shall also be made within 5 days of any change in production, process, or control which might result in any change in employee exposure to coke oven emissions.

(4) *Compliance program.* (i) Each employer shall establish and implement a written program to reduce exposures to or below the permissible exposure limit solely by means of engineering and work practice controls.

(ii) The written program shall include at least the following:

(*a*) A description of each coke oven operation e.g., crew size, coking time, operating procedures and maintenance practices;

(*b*) Engineering plans and studies used to determine the controls for the coke oven(s);

(*c*) A report of the technology considered in meeting the permissible exposure limit;

(*d*) Monitoring data;

(*e*) A detailed schedule for implementation of the engineering controls and work practices that cannot be implemented immediately as well as for the development and implementation of any additional engineering and work practices necessary to meet the permissible exposure limit; and

(*f*) Other relevant information.

(iii) Written plans for such a program shall be submitted upon request by the Secretary and the Director and shall be available at the worksite for examination and copying by the Secretary, Director and the authorized employee representative. Such plans shall be revised and updated at least every six months to reflect the current status of the program.

(g) *Respiratory protection.* (1) *Use.* Respirators shall be used where required under this section. Compliance with the permissible exposure limit may not be achieved by the use of respirators except:

(i) During the time period necessary to install engineering or work practice controls; or

(ii) In work operations such as maintenance and repair activites in which engineering controls are not feasible; or

(iii) In work situations in which engineering controls and supplemental work practice controls are insufficient to reduce exposure to or below the permissible exposure limit; or

(iv) In emergencies.

(2) *Selection.* (i) Where respirators are required under this section the employer shall select and provide the appropriate respirator from the list below and shall assure the employee uses the respirator provided.

RESPIRATORY PROTECTION FOR COKE OVEN EMISSIONS

1. Air-purifying respirator equipped with high efficiency particulate filter.
2. Powered air-purifying respirator equipped with high efficiency particulate filter.
3. Type C, positive pressure supplied-air respirators.

NOTE: High-efficiency particulate filter means 99.97 percent efficient against 0.3 micron particles.

(ii) Respirators shall be selected from those approved by the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 11.

(3) *Respirator program.* (i) Respirators shall be used and maintained in accordance with § 1910.134 (e) and (f) of this part.

(ii) The employer shall institute a respiratory protection program in accordance with § 1910.134(b) of this part.

(iii) Employees who wear respirators shall be allowed to leave work areas to wash their face and respirator facepiece to prevent skin irritation associated with respirator use.

(h) *Protective clothing and equipment.* (1) *Provision and use.* (i) Where the possibility of repeated skin contact with coke oven emissions exists or where the employee may be exposed to the heat generated by the coke oven, the employer shall provide and assure that employees use appropriate clean protective clothing and equipment such as, but not limited to:

(*a*) Water-proof and flame and heat resistant full body covering;

(*b*) Face shields or vented goggles, complying with the requirements of § 1910.133(a)(2)–(a)(6) of this part including those appropriate for protecting against heat and for protecting the eyes when directly viewing incandescent coke;

(*c*) Fire resistant gloves;

(*d*) Safety shoes complying with the requirements of § 1910.136 of this part insulated from hot surfaces; and

(e) Protective helmets complying with the requirements of § 1910.135 of this part.

(ii) Such protective clothing and equipment shall prevent contamination of the employee's street clothing and shall prevent skin contact with coke oven emissions.

(iii) Clean and dry protective clothing and equipment shall be provided to each affected employee at least daily.

(2) *Cleaning.* (i) The employer shall clean, launder, maintain, or dispose of protective clothing and equipment required by this section.

(ii) The employer shall assure that all protective clothing and equipment is removed only in change rooms as prescribed in paragraph (i)(1) of this section and shall assure that contaminated protective clothing and equipment is removed from the facility only in accordance with paragraph (h)(2)(iii) of this section.

(iii) The employer shall assure that no employee removes contaminated protective clothing and equipment from the change room except for those employees authorized to do so for the purpose of cleaning, laundering, maintenance, or disposal.

(iv) Contaminated protective clothing and equipment shall be placed in impermeable closed containers.

(v) The employer shall inform any person who launders or cleans protective clothing and equipment required by this section, of the potentially harmful effects of exposure to coke oven emissions.

(i) *Hygiene facilities and practices.* (1) *Change rooms.* Where employees wear protective clothing and equipment, clean change rooms equipped with storage facilities for street clothes and separate storage facilities for protective clothing shall be provided.

(2) *Showers.* Employees working in regulated areas shall be required to shower before leaving at the end of the work shift. The employer shall provide shower facilities in accordance with § 1910.141(d)(3) of this part.

(3) *Lavatories.* Employees working in regulated areas shall be required to wash hands, face, and forearms prior to drinking, eating, smoking, or applying cosmetics. The employer shall provide an adequate number of lavatories for this purpose which shall meet the requirements of § 1910.141(d)(2) of this part.

(4) *Arrangement of shower facilities.* Clothes locker and shower facilities shall be so arranged that the showers serve to demarcate between potentially contaminated and uncontaminated areas.

(5) *Arrangement of lavatory facilities.* Lavatory and toilet facilities which are located in coke oven emission-contaminated areas shall be so arranged that no access is available to an uncontaminated area.

(6) *Lunchroom.* Lunchroom facilities shall be provided and shall have a temperature controlled, positive pressure, filtered air supply.

(7) *Prohibition of activities in regulated areas.* The presence or consumption of food or beverages, the presence or use of smoking or nonfood chewing products, and the presence or application of cosmetics shall be prohibited in regulated areas.

(j) *Medical surveillance.* (1) *General requirements.* (i) Each employer shall institute a medical surveillance program for all employees who work in regulated areas at least 30 days per year.

(ii) The program shall provide each employee covered under paragraph (j)(1)(i) of this section with an opportunity for medical examinations in accordance with this paragraph.

(iii) If any employee refuses any required medical examination, the employer shall inform the employee of the possible health consequences of such refusal and obtain a signed statement from the employee indicating that the employee understands the risk involved in the refusal to be examined.

(iv) All medical examinations and procedures shall be performed by or under the supervision of a licensed physician, and shall be provided during the employee's normal working hours, without cost to the employee.

(2) *Initial examinations.* At the time of initial assignment to a regulated area, subject to paragraph (j)(1)(i) of this section, or upon institution of the medical surveillance program, the following shall be performed by a person specified in paragraph (j)(2)(iv) of this section.

(i) A work history and a comprehensive medical history which shall include the presence and degree of respiratory symptoms, i.e. breathlessness, cough, sputum production and wheezing; and

(ii) A medical examination which shall include as a minimum the following:

(*a*) A 14" by 17" posterior-anterior chest x-ray and UICC classification;

(*b*) Pulmonary function tests to include forced vital capacity (FVC) with recording of the equipment used;

(*c*) Baseline weight;

(*d*) A skin examination;

(*e*) Urinalysis for sugar, albumin, and hematuria;

(*f*) A urinary cytology examination (for employees having 5 or more years employment in coke ovens or who are 40 years of age or older); and

(*g*) A sputum cytology examination (for employees having 10 or more years employment in coke ovens or who are 45 years of age or older).

(3) *Periodic examinations.* (i) Examinations specified in paragraph (j)(2) of this section shall be performed at least annually for employees covered under paragraph (j)(1)(i) of this section, and semi-annually for employees 45 years of age or older or with 10 or more years employment in coke oven.

(ii) When an employee otherwise covered by this paragraph transfers or is transferred from employment in a regulated area, the examinations specified in paragraph (j)(2) of this section shall be continued as long as that employee is employed by the same employer or a successor employer.

(iii) If an employee has not had the examinations specified in paragraph (j)(2) of this section within 3 months of the termination of employment, the employer shall make such examinations available to the employee.

(4) *Alternative medical examinations.* If the examining physician determines that medical examinations alternative to those specified in paragraph (j)(2) of this section will provide at least equal assurance of detecting medical conditions pertinent to protecting the employee from the health hazards associated with exposure to coke oven emissions, the employer may accept such alternative medical surveillance examinations as meeting the requirement of this section, provided that the employer:

(i) Obtains a statement from the examining physician setting forth the alternative medical examinations and the rationale for their substitution and submits such statement to the Secretary; and

(ii) Informs each employee of the fact that medical examinations alternative to those required by paragraph (j)(2) of this section are to be made available.

(5) *Information provided to the physician.* The employer shall provide the following information to the examining physician.

(i) A copy of this regulation for coke oven emissions including Appendixes A and B;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The results of the employee's exposure measurement, if available;

(iv) A description of any personal protective equipment used, or to be used;

(v) The employee's anticipated or estimated exposure level and;

(vi) Upon request of the physician, information from previous medical examination of the affected employee.

(6) *Physician's written opinion.* (i) The employer shall obtain a written opinion from the examining physician, containing the following:

(*a*) The physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of the employee's health from exposure to coke oven emissions, or which would directly or indirectly aggravate any detected medical condition;

(*b*) Any recommended limitations upon the employee's exposure to coke oven emissions and upon the use of protective clothing and equipment such as respirators; and

(*c*) A statement that the employee has been informed by the physician of any medical conditions which require further examination or treatment.

(ii) The written opinion shall not reveal specific findings or diagnoses unrelated to occupational exposure.

(iii) A copy of the written opinion shall be provided to the affected employee.

(7) *Withdrawal from exposure.* No employee shall be exposed to coke oven emissions in such a way as would put the employee at increased risk of material impairment of his or her health from such exposure. This determination may be based on the physician's written opinion.

(k) *Employee information and training.* (1) *Training program.* (i) The employer shall provide a training program for employees assigned to regulated areas.

(ii) The training program shall be provided at the time of initial assignment, and at least annually thereafter, and shall include informing each employee of:

(*a*) The information contained in the substance information sheet for coke oven emissions (Appendix A);

(*b*) The specific nature of operations which could result in exposure to coke oven emissions as well as any necessary protective steps;

(*c*) The engineering controls and work practices associated with that employee's job assignment;

(*d*) The purpose, proper use, and limitations of respiratory protection devices as specified in § 1910.134 (b), (e), and (f) of this part;

(*e*) The purpose for and a description of the medical surveillance program as required by paragraph (j) of this section; and

(*f*) A review of this standard.

(2) *Access to training materials.* (i) A copy of this standard and its appendixes shall be made readily available to all employees working in regulated areas.

(ii) All materials relating to the employee information and training program shall be provided upon request to the Secretary and the Director.

(l) *Precautionary labels and signs.* (1) *General.* (i) Labels or signs required by other statutes, regulations or ordinances may be used in addition to, or in combination with, labels or signs required by this paragraph.

(ii) No statement shall appear on or near any required sign, label or instruction required by this paragraph which contradicts or detracts from the effect of the required sign, label or instruction.

(2) *Labels.* Precautionary labels shall be applied to all containers of protective clothing or equipment contaminated with coke oven emissions. The labels shall read as follows:

DANGER

CANCER HAZARD

CONTAMINATED WITH COKE OVEN EMISSIONS

DO NOT REMOVE DUST BY BLOWING OR SHAKING

(i) Regulated areas shall be posted with signs bearing the legend:

DANGER

CANCER HAZARD

AUTHORIZED PERSONNEL ONLY

NO SMOKING

(ii) Areas where the permissible exposure limit is exceeded shall be posted with signs bearing the legend:

DANGER

CANCER HAZARD

AUTHORIZED PERSONNEL ONLY

RESPIRATOR REQUIRED

(iii) Signs required by this paragraph shall be illuminated during non-daylight hours and cleaned regularly so that the legend is clearly visible to employees.

(m) *Recordkeeping.* (1) *Exposure measurements.* The employer shall keep an accurate record of all measurements taken to monitor employee exposure to coke oven emissions required in paragraph (e) of this section.

(i) This record shall include:

(*a*) The date of measurement;

(*b*) The operation involving exposure to coke oven emissions which is being monitored;

(*c*) Sampling and analytical methods used and evidence of their accuracy;

(*d*) Number, duration, and results of samples taken;

(*e*) Type of protective devices worn, if any;

(*f*) Name, social security number, job title, and exposure of the employee monitored; and

(*g*) The environmental variables that could affect employee exposure.

(ii) This record shall be maintained for at least 40 years or for the duration of employment plus 20 years, whichever is longer.

(2) *Mechanical ventilation measurements.* When mechanical ventilation is used as an engineering control, the employer shall maintain a record of the measurements demonstrating the effectiveness of such ventilation required by paragraph (f)(3) of this section.

(i) This record shall include:

(*a*) Date and location of measurement;

(*b*) Type of measurement taken; and

(*c*) Result of measurement;

(ii) This record shall be maintained for at least two years.

(3) *Employee training.* The employer shall keep an accurate record of all employee training required by paragraph (k) of this section.

(i) This record shall include:

(*a*) Date of training;

(*b*) Name, social security number and job title of employee trained;

(*c*) Content or scope of training provided; and

(*d*) Identification of materials distributed to the employee.

(ii) This record shall be maintained for at least 2 years.

(4) *Medical surveillance.* The employer shall keep an accurate medical record for each employee subject to medical surveillance as required by paragraph (j) of this section.

(i) The record shall include:

(*a*) The physician's written opinion;

(*b*) Any employee medical complaints related to exposure to coke oven emissions;

(*c*) A copy of the information provided to the physician as required by paragraph (j)(5) of this section; and

(*d*) A signed statement of each refusal of medical examination, if any.

(ii) This record shall be maintained for at least 40 years, or for the duration of employment plus 20 years, whichever is longer.

(5) *Rosters.* Authorized personnel rosters required by pargraph (d)(3) of this section shall be maintained for at least 40 years or for the duration of employment plus 20 years, whichever is longer.

(6) *Availability.* (i) All records required to be maintained by this section shall be made available upon request to the Secretary and the Director for examination and copying.

(ii) Records of employee exposure measurements required by paragraph (m)(1) of this section shall be made available for examination and copying to employees, former employees, and their designated representatives.

(iii) Employee medical records required to be maintained by paragraph (m)(4) of this section shall be made available upon request for examination and copying to a physician designated by the affected employee or former employee.

(7) *Transfer of records.* (i) In the event the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section.

(ii) In the event the employer ceases to do business and there is no successor to receive and retain the records for the prescribed period, these records shall be transmitted by registered mail to the Director, and each employee and former employee shall be individually notified in writing of this transfer.

(n) *Observation of monitoring.* (1) *Employee observation.* The employer shall give employees or their representatives an opportunity to observe any measuring or monitoring of their exposure to coke oven emissions conducted pursuant to this section.

(2) *Observation procedures.* (i) When observation of the measuring or monitoring of employee exposure to coke oven emissions requires entry into an area where the use of personal protective devices is required, the observer shall be provided with and required to use such equipment and shall comply with all other applicable safety and health procedures.

(ii) Without interfering with the measurement, observers shall be entitled to:

(*a*) Receive an explanation of the measurement procedures;

(*b*) Observe all steps related to the measurement of coke oven emissions performed at the place of exposure; and

(*c*) Record the results obtained.

(o) *Effective date.* This standard shall become effective 30 days following publication of the final standard in the FEDERAL REGISTER.

(p) *Startup dates.* (1) *Exposure measurement.* Measurements prescribed in paragraph (e) of this section shall be instituted within 2 months of the promulgation of the final standard, except that for new production areas or operations such determinations and measurements shall be instituted within 30 days of startup of operation.

(2) *Medical surveillance.* Medical surveillance prescribed in paragraph (j) of this section shall be instituted within 3 months of the promulgation of the final standard.

(3) *Compliance program.* The written program required by paragraph (f)(4) shall be available for inspection within 2 months after the completion of the initial monitoring required by paragraph (e)(1).

(q) *Appendixes.* The information contained in the appendixes to this section is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

APPENDIX A

COKE OVEN EMISSIONS
SUBSTANCE INFORMATION SHEET

I. Substance identification.

A. *Substance:* Coke oven emissions.

B. *Definition:* Respirable particulate matter present in the work environment during the process of destructive distillation of coal for the production of coke.

C. *Permissible exposure limit:* 0.3 milligrams per cubic meter of air as determined on an 8-hour time-weighted average for a 40-hour week.

D. *Regulated areas:* Only employees authorized by your employer should enter a regulated area. The employer is required to designate the following areas as regulated areas: the coke oven battery, including topside and its machinery, pushside and its machinery, coke side and its machinery, and the wharf; the beehive ovens and machinery; and any other work areas where exposure to coke oven emissions is above the permissible limit.

II. Health hazard data.

Exposure to coke oven emissions is believed to be a cause of lung cancer, and possibly kidney cancer, in humans. Although it has not been shown to produce skin cancer in humans, repeated skin contact with coke oven emissions should be avoided.

III. Protective clothing and equipment.

A. *Respirators:* You can only be required to wear a respirator for routine use if your employer is in the process of installing engineering controls or where engineering and work practice controls are not feasible or are insufficient. You must wear respirators for non-routine activities or in emergency situations where you are likely to be exposed to levels of coke oven emissions in excess of the permissible exposure limit. The respirators you wear must have a label of approval from the National Institute for Occupational Safety and Health. If you experience difficulty in breathing while wearing a respirator, tell your employer.

B. *Protective clothing:* Your employer is required to provide, and you must wear, appropriate, clean, protective clothing and equipment to protect your body from repeated skin contact with coke oven emissions and from the heat generated during the coking process. This clothing should include such items as water-proof and flame and heat resistant full body coverings; face shields or vented goggles appropriate for protecting your eyes and face against heat and direct viewing of glowing coke; fire resistant gloves; heat insulated safety shoes; and protective helmets.

IV. Hygiene facilities and practices.

You must not eat, drink, smoke, chew gum or tobacco, or apply cosmetics in the regulated area. Your employer is required to provide lunchrooms and other areas for these purposes.

Your employer is required to provide showers, washing facilities, and change rooms. If you work in a regulated area, you must wash your face, hands and forearms before eating, drinking, smoking or applying cosmetics. You must shower at the end of your work shift. Do not take used protective clothing or equipment out of the change rooms without your employer's permission. Your employer is required to provide for laundering or cleaning of your protective clothing and equipment.

V. Signs and labels.

Your employer is required to post warning signs and labels for your protection. Labels are to be applied to containers of used protective clothing and equipment which are contaminated with coke oven emissions. These labels warn against skin contact and against removing dust from the clothing by blowing or shaking. Signs must be posted at the entrances to regulated areas. The signs should warn that a cancer hazard is present, that only authorized employees may enter the area, and that no smoking is allowed. In regulated areas where coke oven emissions are above the permissible exposure limit, the signs should also warn that respirators must be worn.

VI. Medical examinations.

If you work in a regulated area at least 30 days per year, your employer is required to provide you with a medical examination every year. The medical examination must include a chest x-ray; pulmonary function tests; weight comparison; skin examination; and a urinalysis. In addition, a urinary cytology examination must be made if you have worked in coke oven area for 5 or more years or if you are 40 or more years old. These examinations plus a sputum cytology examination must be made semi-annually if you have worked in the coke oven for 10 or more years, or are 45 years of age or older.

VII. Observation of monitoring.

Your employer is required to monitor your exposure to coke oven emissions and you are entitled to observe the monitoring procedure. You are entitled to receive an explanation of the measurement procedure, observe the steps taken in the measurement procedure, and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn, you must also be provided with and must wear the protective clothing and equipment.

VIII. Access to records.

You or your representative are entitled to see the records of measurements of your exposure to coke oven emissions upon request to your employer. Your medical examination records can be furnished to your physician upon request to your employer.

APPENDIX B

COKE OVEN EMISSIONS, ENGINEERING AND WORK PRACTICE

Control Guidelines

I. *Engineering controls.*

The following are some of the engineering controls available to control coke oven emissions:

A. *Charging emission controls.*

1. Stage or sequential charging or a closed charging system.

2. Double collector mains, or a jumper pipe system either fixed or movable, linking the oven to be charged to an adjacent oven.

3. Steam jets of sufficient diameter and pressure to move the gases evolved during charging into the collector main or mains.

4. Air seals around the leveler bar on pusher machines.

5. Charging hole frames properly aligned to match the drop sleeves on the larry car.

6. Individually operated larry car drop sleeves.

7. Mechanized gooseneck and standpipe cleaners.

8. Decarbonizing air compressor system and a carbon cutter on the pushing rams.

9. Mechanical lid lifters.

10. Mechanical volumetric controls on each larry car hopper to properly predetermine the amount of coal charged through each charging hole.

B. *Coking emission controls.*

1. Gas collector main pressure control on each battery.

2. Door repair shops capable of prompt and efficient repair and/or replacement of coke oven doors and seals.

3. A gasket on each chuck door or oven door which has leaked until or unless such chuck door or oven door is replaced with a new or repaired chuck door or oven door.

4. High pressure water systems or other appropriate equipment for use in cleaning oven doors and jambs.

5. Heat shields on pusher and coke side door machines.

6. Hoppers on pusher and coke side door machines.

7. Automatic door and jamb cleaning equipment.

8. Goosenecks that utilize automatic cleaning equipment.

9. Remote controlled dampering-off systems.

C. *Additional engineering equipment.*

Coke battery machinery cabs equipped with temperature controlled filtered air, and standby pulpits for topside and other areas with the same type of air control.

D. *Applicability of engineering controls.*

In some cases, the engineering controls in this Appendix may only be applicable to new coke oven batteries or to rehabilitated batteries that are essentially rebuilt. These batteries should contain the best available equipment and control devices which should not be less than those applicable to existing batteries.

II. Work practice controls.

The following are some work practice controls available to control coke oven emissions. The applicability may vary depending on the nature of the charging system i.e. open or closed.

A. *Maintenance and repair.*

1. Inspect goosenecks, standpipes, and charging hole lids for cracks, warpage, misalignment, and other defects and make the necessary repairs.

2. Remove tar and carbon buildup from goosenecks and standpipes to at least the minimum necessary diameter.

3. Remove roof carbon buildup to provide an adequate gas channel at the top of the oven.

4. Clean and inspect liquor sprays to assure adequate flushing liquor at all times.

5. Inspect aspiration system to assure optimum pressure.

6. Clean steam nozzles regularly.

7. Apply luting material to seal standpipes where necessary.

8. Fill larry car hoppers with to a predetermined level established for each hopper by mechanical volumetric controls.

9. Align the larry car so that the drop sleeves fit tightly over the charging holes.

10. Repair any cracks or defects in the brickwork and collector main.

B. *Procedures during charging.*

1. Carry out charging in accordance with a specific written procedure to minimize coke oven emissions.

2. Turn off the aspiration system only after the charging hole lids have been replaced and sealed.

C. *Proper heating practices.*

1. Heat the coal charge uniformly for a sufficient period to insure proper coking.

2. Repair or replace defective heating equipment.

3. Establish procedures for checking the oven back pressure controls to maintain uniform pressure conditions in the collecting main.

D. *Pushing of coke.*

1. Establish procedures for dampering off the ovens at the end of the coking cycle and removal of the charging lids.

2. Coke should not be pushed unless it is thoroughly "coked out."

3. Coke and coal spillage on benches should not be shoveled into a heated oven.

E. *Coke oven doors.*

1. Non-luted oven doors, door jambs and chuck doors should be designed, maintained and cleaned so as to provide a continuous metal-to-metal fit of the sealing edges to the jambs, or the sealing edges of doors and chuck doors shall be covered with gasket material to accomplish such continuous metal-to-metal fit.

2. All coke oven doors, chuck doors and jambs should be cleaned thoroughly before or after every push.

3. Oven doors which continue to leak should be replaced with spare oven doors which are new or have been properly repaired.

4. An adequate number of new or repaired doors should be available.

5. Doors which have been luted should be reluted to stop leakage and replaced where necessary.

6. When a replacement door is to be placed on an oven, it should be heated in such a way as to conform to the thermal warpage of the door jambs before being placed on the oven; it should then be adjusted both immediately before and after the first charge.

F. *Coke battery maintenance.*

Written maintenance procedures and schedules should be developed to:

1. Preserve alignments of charging hole castings and larry car drop sleeves;

2. Preserve alignments of off-take equipment;

3. Prevent miscellaneous fugitive topside emissions;

4. Provide an effective oven patching program;

5. Maintain and repair coke oven doors, door jambs, and seals;

6. Maintain battery machinery in good working order.

(Secs. 6, 8, 84 Stat. 1593, 1599, (29 U.S.C. 655, 657, and 29 CFR Part 1911))

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PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

■

LIMITATIONS ON PAYMENT OR REIMBURSEMENT FOR DRUGS

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

PART 19—LIMITATIONS ON PAYMENT OR REIMBURSEMENT FOR DRUGS

On November 15, 1974, there was published in the FEDERAL REGISTER (39 FR 40302) a proposed amendment to Subtitle A of Title 45 of the Code of Federal Regulations. The proposed amendment adding a new Part 19 to Subtitle A of Title 45 would limit: (a) Reimbursement for prescribed drugs to providers and health maintenance organizations under the Medicare program; (b) reimbursement for prescribed drugs to States under State administered health, welfare, and social service programs; (c) the amount which may be charged to Public Health Service projects funds for prescribed drugs; and (d) the amount of payment for drugs purchased directly by the Department.

Interested persons were invited to submit comments on the proposal within 60 days of its publication. The comment period was extended an additional 30 days by notice in the FEDERAL REGISTER (40 FR 2707). More than 2,600 comments were received covering virtually every aspect of the proposal. These comments are from individuals, consumer groups, medical associations and organizations, State health agencies and associations, pharmaceutical manufacturers and wholesalers, pharmaceutical associations and organizations, and agencies of the Federal Government.

Many comments applaud the Secretary's effort to curtail Federal expenditures for prescribed drugs consistent with a high standard of care but criticize substantive provisions of the proposal and recommend that numerous changes be made. Many other comments oppose the Secretary's proposal, asserting that the proposal as well as its policy is unwarranted and unacceptable. A few comments favor the proposal as published in the FEDERAL REGISTER. The comments and recommendations, and the Secretary's conclusion in light of them, are set out below.

GENERAL POLICY AND ORGANIZATION OF THE FINAL REGULATION

1. The Maximum Allowable Cost, or MAC, regulation establishes a mechanism to limit reimbursement or payment for prescribed drugs furnished under Federally subsidized health care programs, and for prescribed drugs purchased directly by the Department, as a matter of Departmental policy. It does not fix the actual amount of reimbursement or payment; rather, it is general in nature, establishing, in its final form, three parameters limiting recognizable amounts of reimbursement or payment for such drugs. These parameters are (1) the maximum allowable cost (MAC) of the drug, if any, plus a reasonable dispensing fee, (2) the acquisition cost of the drug plus a reasonable dispensing fee, and (3) the provider's usual and customary charge to the general public for the drug.

2. Separate and more detailed implementing regulations are being published by the Social and Rehabilitation Service, the Social Security Administration, and the Public Health Service. These regulations reflect individual program requirements consistent with program authorizing legislation. Should such authorizing legislation or the program's implementing regulations (or reimbursement or payment policies) provide for a lower rate of reimbursement or payment than the MAC regulation, the lower program rate controls any actual payment.

3. As noted in the preamble of the proposed MAC regulation, the Department plans to develop a simple and convenient format for communicating comparative drug price information to prescribers and providers. This intention is reiterated. It is believed that disseminating such information will promote cost-consciousness and economy in prescribing, and in turn will result in additional cost savings.

4. Under the proposed MAC regulation the amount to be recognized for reimbursement or payment for prescribed drugs furnished in Federally funded health care programs is limited to the cost of the drug plus a reasonable dispensing fee. Cost, as determined in accordance with section 19.3(b) of the proposed regulation, is "actual acquisition cost" or for each multiple-source drug for which a maximum allowable cost (MAC) has been established, the lower of (1) the MAC or (2) the actual acquisition cost plus, if the drug is provided on an outpatient basis, 25 percent of the amount by which the MAC exceeds the acquisition cost. Reimbursement or payment is not based on the MAC limit under the proposed regulation, however, if a particular brand of a multiple-source drug is prescribed for a patient, and the prescriber has certified in writing that the prescribed brand is the only brand of that drug which will be effective for, or can be tolerated by, the patient.

Maximum allowable cost determinations are made by the Pharmaceutical Reimbursement Board in accordance with the procedures outlined in section 19.5 of the proposed regulation. The Board is established in the Office of the Assistant Secretary for Health and consists of five full time Department employees representing the principal program areas involved in developing and implementing cost determinations. As proposed, the Board's main functions are to: (1) Identify those multiple-source drugs for which significant amounts of Federal dollars are being expended and for which formulators or labelers charge significantly different prices; (2) determine the lowest unit price at which those drugs are available on a national and, when appropriate, local basis; (3) publish all proposed MAC determinations in the FEDERAL REGISTER and invite interested persons and organizations to submit comments on each proposal; (4) consider those comments received and, if an informal hearing is held in accordance with section 19.5(g) as proposed, the hearing record; (5) determine whether a MAC should be established for each drug for which a notice of a proposed MAC is published; (6) publish a notice of final MAC determinations in the FEDERAL REGISTER; and (7) regularly review all MAC-listed drugs to assure that continued application of each MAC is justified.

Food and Drug Administration advice is sought by the Board prior to making any MAC determinations for its assurance that present Food and Drug Administration regulatory control will assure the safety, effectiveness, and quality of all MAC-listed drugs. As proposed, section 19.5(b) requires the Food and Drug Administration to submit a written statement to the Board advising the Board of any pending or anticipated regulatory activity that would warrant delay in establishing a MAC for any drug which the Board identified as a potential MAC candidate. In the absence of a statement from the Food and Drug Administration advising delay, the Board may proceed to establish a MAC for the drug.

The Pharmaceutical Reimbursement Board is also advised by the Pharmaceutical Reimbursement Advisory Committee in accordance with section 19.5(d) of the proposed regulation. The Committee, established under section 19.4 as proposed, consists of nine members who are not full time employees of the U.S. Government, representing the areas of pharmacy, pharmacology, medicine, pharmaceutical marketing, public health, and consumer affairs. Its function is to advice the Board on the appropriateness of all proposed MAC determinations, and upon request, to advise the Board and the Secretary on matters relating to general Departmental policies and procedures in reimbursing for or paying the cost of drugs used in Departmentally funded programs.

The Secretary notes that a brief synopsis of the proposed regulation's provisions is additionally included in the first paragraph of each section by section analysis of the comments received on the proposal. Paragraphs 75 and 77 also include a brief explanation of the 25 percent incentive provision and the physician certification requirement in section 19.3(b) of the proposed regulation to introduce the comments received on those aspects of the proposal.

GENERAL COMMENTS

5. Many comments suggest that the Secretary's MAC initiative is premature and unjustified because the Food and Drug Administration is unable to assure the relative quality, bioequivalence, and thereapeutic interchangeability of chemically equivalent drug products. As support for this proposition, several comments cite the conclusion of the 1974 Report of the Office of Technology Assessment that: "current standards and regulatory practices do not assure bioequivalence for drug products * * *. (and) present compendial standards and

guidelines for current Good Manufacturing Practices do not assure quality and uniform bioavailability for drug products."

Other comments assert that the proposed regulation violates sections 1902(a)(19), 1902(a)(22)(D), and 1902(a)(30) of the Social Security Act, 42 U.S.C. 1396a(a)(19), 1396a(22)(D), and 1396a(a)(30), and section 402(a)(1)(A) of the Social Security Amendments of 1967, 42 U.S.C. 1395b-1(a)(1)(A). Proponents of this view suggest that these sections (basically requiring efficiency and economy consistent with quality care under certain Federally subsidized health care programs) are violated because of alleged differences in bioavailability among chemically equivalent drug products, and because Food and Drug Administration regulatory procedures allegedly do not provide assurances of quality or equivalency for drug products regardless of source.

Still other comments question whether the Secretary's decision to issue a MAC regulation has a rational basis and is not arbitrary or capricious in light of the state of scientific knowledge concerning the quality and bioavailability of chemically equivalent drug products.

The Secretary concludes that the Food and Drug Administration's regulatory control activities will assure the quality, bioequivalence, safety, and effectiveness of MAC-listed drugs. Accordingly, the Secretary concludes that the decision to issue a MAC regulation has a rational basis in light of existing evidence of quality and bioavailability among chemically equivalent drug products, and that the MAC regulation is consistent with sections 1902(a)(19), 1902(a)(22)(D), and 1902(a)(30) of the Social Security Act, and section 402(a)(1)(A) of the Social Security Amendments of 1967.

The Secretary further concludes that the findings and recommendations of the Drug Bioequivalence Study Panel of the Office of Technology Assessment do not justify delay in issuing the MAC regulation. The Department has studied the Panel's report and has commented on each Panel conclusion in testimony presented before the Subcommittee on Health of the U.S. Senate Committee on Labor and Public Welfare. (A copy of the hearing record is on display in the Office of the Hearing Clerk, FDA, Room 4-65, 5600 Fishers Lane, Rockville, Maryland 20852).

Since 1907, the Food and Drug Administration and its predecessor agencies have been concerned with assuring the quality of the drug supply in this country. From time to time issues about drug effectiveness and drug quality have arisen and have been resolved and appropriate regulatory action. Regulatory control of drugs is an ongoing process which is never completed and can never be regarded as perfect. The Secretary is unaware of any evidence that any drug on the market today is of perfect quality, which cannot be improved.

To assure that the Nation's drug supply is of high quality, existing Food and Drug Administration regulations require that all drugs be manufactured in compliance with current Good Manufacturing Practice, as spelled out in 21 CFR 210 and 211. Those regulations specify the basic standards which drug manufacturers must adhere to in order to control their production operations. The regulations are now in the process of being amended and improved, a process that will continue for the foreseeable future.

Among the regulations' principal changes will be the requirements that: manufacturing control operations be described in written procedures; appropriate statistical sampling techniques be followed in quality control testing; a quality control unit be established whose director reports to management independent from those responsible for production; and, that all drug product labels carry an expiration date. A new sanitation section also will be added, and a provision will be included to prohibit penicillin contamination of nonpenicillin products. Specific Good Manufacturing Practice regulations also are being developed for specific types of drug products (e.g., parenterals, radio pharmaceuticals and medical gases) and for manufacturers of bulk drugs and for repackers and relabelers.

Other Food and Drug Administration regulatory procedures provide further assurances of drug quality. Drug firms are inspected by the Food and Drug Administration, including review of the firm's quality control records, as required by the Federal Food, Drug, and Cosmetic Act, to determine whether the firm is operating in compliance with Good Manufacturing Practice regulations. The Food and Drug Administration's Drug Product Surveillance Program is designed to determine whether marketed drugs conform to compendial standards or standards established in new drug applications. Where surveillance activities disclose problems affecting an entire class or type of drug, specific intensive programs of inspection and surveillance are established. A product Defect Reporting System established by the Food and Drug Administration in 1970 relies on practicing pharmacists in hospitals and in community pharmacies to report defects such as deformed tablets, leaky vials, and cloudy solutions to the United States Pharmacopeia and to the Food and Drug Administration.

It is in light of these regulations and regulatory procedures, and on the basis of the Food and Drug Administration's experience in monitoring the quality of the Nation's drug supply, that the Secretary concludes that there is adequate evidence that the vast majority of drugs marketed in this country are of an acceptable quality for patient care. Only a small fraction of brand name and generic name drugs have been subject to regulatory action, contrasted with the vast majority that have been marketed without any evidence of a lack of acceptable quality. Moreover, there is no credible evidence that generic name drugs have been subject to more frequent regulatory action or are generally of a lower quality than brand name drugs. The Secretary has filed with the Hearing Clerk information compiled by the Food and Drug Administration with respect to recalls and seizures of drug products during fiscal year 1973 and 1974. These actions demonstrate a relatively insignificant problem, considering the large number of drugs marketed in this country, and fail to show that generic name drugs account for a larger proportion of drug quality problems than brand name drugs. Thus, it is reasonable to conclude that by far the majority of the drugs on the market today do meet all legal requirements for quality, and that of those which do not, there is an equal chance that it may be a brand name or a generic name drug product.

Data establishing bioequivalence among pharamaceutical equivalents or alternatives are required whenever there is a good reason to believe that such bioequivalence is lacking. For those drugs for which any bioequivalence or special manufacturing problem is known or suspected, pre-market approval of a full or abbreviated new drug application is required which includes full review of manufacturing controls and procedures as well as adequate proof of drug effectiveness. The Food and Drug Administration's proposed bioavailability regulations published in the FEDERAL REGISTER of June 20, 1975 (40 FR 26157) contain methods and procedures for determining a drug product's bioavailability, including requiring specific bioavailability data in an original new drug application for a drug product containing a new chemical entity as an active ingredient, and in supplements to approved new drug applications, if the supplement concerns a significant change in product formulation and such data are necessary to determine safety and effectivenesss of the reformulated product. The Commissioner of Food and Drugs has also proposed procedures, as a separate regulation published in the FEDERAL REGISTER of June 30, 1975 (40 FR 26164), to identify specific products for which a bioequivalence requirement should be established and Food and Drug Administration procedures to establish a bioequivalence requirement for specific drug products or class of drug products.

Accordingly, the Secretary disagrees with assertions that the MAC initiative is premature and unjustified, that the decision to issue the MAC regulation lacks a rational basis, and that the MAC regulation violates sections 1902(a)(19), 1902(a)(22)(D), and 1902(a)(30) of the Social Security Act, or section 402(a)(1)(A) of the Social Security Amendments of 1967. Present and projected Food and Drug Administration regulatory control procedures assure that all MAC-listed drugs will be both safe and effective.

6. One comment states that, by issuing the MAC regulation, the Secretary is ignoring the General Accounting Office's (GAO) 1973 report criticizing the Food and Drug Administration for failing to inspect drug firms according to statutorily prescribed time schedules, and for its failure to follow-up on "critical"

violations of its Good Manufacturing Practice regulations.

The Secretary advises that all of the 1973 GAO report recommendations have been implemented. Since the General Accounting Office issued this report, the Food and Drug Administration has taken steps to assure that drug firm inspections are scheduled and undertaken according to the requirements of the Federal Food, Drug, and Cosmetic Act. Additionally, as disclosed by a GAO follow-up audit, the Food and Drug Administration has consistently acted to correct problems when "critical" violations of its Good Manufacturing Practice regulations occur.

7. One comment requests that final publication of the MAC regulation be deferred until all manufacturers are subject to the same manufacturing standards and until uniform standards of bioequivalence are established and potentially bioinequivalent drugs are identified.

The Secretary does not agree that all manufacturers are not presently subject to identical standards of drug quality under the Federal Food, Drug, and Cosmetic Act and the Food and Drug Administration's implementing regulations. As noted in paragraph 5, all manufacturers are subject to Food and Drug Administration regulatory procedures to assure that the Nation's drug supply is of high quality, safe, and effective. Moreover, as also noted in paragraph 5, current Food and Drug Administration regulatory procedures require premarket approval of a full or abbreviated new drug application for all drugs for which a bioquivalence problem is known or suspected.

8. One comment suggests that the MAC regulation encourages "substitution" or use of lower cost foreign drugs not subject to U.S. quality controls.

The Secretary advises that Food and Drug Administration regulations preclude importation of new drugs or certifiable antibiotics for use in the United States unless the Food and Drug Administration has inspected its foreign manufacturers. All imported drugs, including finished dosage forms (of which there are few), are subject to examination by the Food and Drug Administration. Additionally, the Food and Drug Administration is currently considering a proposal which will require foreign firms, desiring to market finished dosage form drugs in the United States, to request inspection of its manufacturing facilities by the Food and Drug Administration; or, in those countries having inspectional agreements with the Food and Drug Administration, to request inspection on behalf of the Food and Drug Administration.

9. Several comments suggest that the Secretary's initiative to establish reimbursement or payment limits on the cost of prescribed drugs is unwarranted because Medicare and Medicaid program expenditures for prescribed drugs are insignificant in comparison to the program's expenditures for other health care services and because prescribed drug prices have been relatively stable.

The Secretary disagrees that expenditures for drugs under Federally funded health care programs are an insignificant portion of overall health care expenditures. In fiscal year 1975 drug expenditures under Medicaid and Medicare are estimated at 2.7 billion dollars, or 10 percent of total costs of these programs. These figures represent an increase of more than 333 percent over the past eight years, and steady increases in Federal financing for pharmaceutical services suggest that this figure will continue to rise. At the same time, despite wide variations in prices for chemically equivalent drugs, and their increasing availability, most drugs being dispensed are the more costly of those available. And although prescription drug prices have been relatively stable as the comment suggests, there has been a similar stability in the differences in prices at which chemically equivalent drugs are sold. In light of these facts, the Secretary believes that programs designed to take advantage of multiple-source drug price differences; and, to maximize potential savings on Departmental expenditures for prescribed drugs consistent with quality care, are not only warranted but are necessary to the efficient and effective administration of Departmental responsibilities.

10. Many comments question the economic feasibility of the MAC initiative. A number of comments suggest that the MAC program will not yield projected Departmental savings. Of these comments, many suggest that implementation of the MAC program will involve administrative costs approaching or exceeding any realized savings. Others suggest that because similar State programs are experiencing minimal savings, a nation-wide MAC program will not achieve its projected economic objectives. A few comments allege that the proposed regulation violates sections 1902(a)(19) and 1902(a)(30) of the Social Security Act, 42 U.S.C. 1396a(a)(19) and 1396a(a)(30) and section 402(a)(1)(A) of the Social Security Amendments of 1967, 42 U.S.C. 1395b-1(a)(1)(A). These comments assert that these sections are violated because the Department has not shown by experiment or demonstration project that the MAC program will have the effect of increasing efficiency and economy in the provision of health services without compromising the quality of such services, and because the MAC program allegedly will be costly to administer and will therefore negate any potential Departmental savings.

The Secretary concludes that the MAC reimbursement program will realize significant savings although it is unlikely that the program will yield the savings initially projected by the Department. In November 1974 when the proposed MAC regulation was published for comment, the Department expected to realize maximum allowable cost savings for multiple-source drugs of 48.4 million dollars. This savings estimate is based upon 1972 and 1973 drug price data. Since that time, 1974 drug price data have become available and have been analyzed by the Department. Based upon analysis of these data, the Department estimates that a total of 37.2 million dollars could have been saved if the MAC provision of the regulation had been in effect during all fiscal year 1975.

As noted and more fully explained in paragraph 67, the final MAC regulation is amended to limit reimbursement or payment for certain prescribed drugs to the "acquisition cost" of the drug plus a reasonable dispensing fee. "Acquisition cost" as defined in the final regulation means "the price generally and currently paid by providers for a drug marketed or sold by a particular formulator or labeler in the package site of drug most frequently purchased by providers." "Acquisition cost" estimates are made by each program agency for each drug for which it reimburses or pays a provider in accordance with section 19.3(b) of the final regulation.

The Secretary concludes that additional savings will be realized from reimbursement or payment for prescribed drugs based upon "acquisition cost" plus dispensing fee. The amount of savings is difficult, however, to forecast because this amount is dependent upon the methods program agencies use to estimate this cost. The Department estimates that a nine to fifteen percent savings, or between 23.1 million and 38.4 million dollars, can and should be realized on total payments for drug products. As also noted in paragraph 67, the Department will make available drug price information to program agencies to assist agencies in making acquisition cost estimates.

The Secretary concludes that administration of the MAC and acquisition cost provisions of this regulation will not require massive new Federal or State expenditures. Because the administration of these provisions will be added to existing health programs activities, Federal and State administrative expenditures will reflect only incremental costs. It is expected that approximately 4.9 million dollars will be spent during the first year of program operation. During the second, and subsequent, years of program operation, this figure is expected to decrease to 1.7 million dollars. Included in this estimate are the new and additional auditing expenditures which may be required by States and by fiscal intermediaries for the Medicare program. These expenditures should be minimal, however, because the administration of the MAC and acquisition cost provisions will not require a full audit of all hospitals and pharmacies on an annual basis to assure effectiveness.

While the Secretary recognizes that the wisdom of the MAC initiative may be questioned if, as alleged, its intended economic objectives are not fully realized, the Secretary disagrees that the MAC regulation would, under these circumstances, violate sections 1902(a)(19) and 1902(a)(30) of the Social Security Act. Furthermore, the Secretary concludes that section 402(a)(1)(A) of the 1967 Social Security Amendments authorizes,

but does not require, the Department to engage in experiment and demonstration projects for the purpose of determining whether existing or projected Departmental health care programs will be efficient and economical without adversely affecting the provision of health care services. Accordingly, the Secretary concludes that the MAC regulation does not violate section 402(a)(1)(A) of the Social Security Amendments of 1967.

11. Many comments also question the MAC initiative's economic impact. Many comments argue that the MAC regulation will reduce the income of drug firms and thus reduce Federal tax revenues. Other comments argue that this alleged reduction in income will discourage drug research and development because drug firms will curtail expenditures for such activities in reaction to the MAC reimbursement program. Some comments state that the MAC regulation will cause pharmacy inventory costs to increase as pharmacists broaden their sources of drug supply to assure that a significant variety of multiple-source drugs are on hand to guarantee full reimbursement for pharmaceutical services. These increased costs, according to this view, will ultimately be passed on to consumers.

The Secretary advises that the Department has prepared a statement which addresses the issues raised in these comments. The Secretary has concluded that the MAC regulation does not have an inflationary impact, and as noted in paragraph 10 above will cause significant savings to be realized.

12. Comments suggest that programs designed to reduce excessive and unnecessary prescribing, to establish a national formulary limited to preparations less expensive than drugs having equivalent therapeutic effects, to institute a peer review system to monitor prescribing and dispensing practices, and to disseminate comparative price information to physicians would save more money than would the MAC reimbursement program. For this reason, these comments suggest that programs designed to achieve these objectives should be established in lieu of the MAC program.

The Secretary agrees that savings, as well as improved health care, can be achieved under a number of those suggested programs. The Secretary does not agree, however, that any of them should be established in lieu of the MAC program. The MAC program is but one cost saving method, and its implementation by no means precludes the implementation of other cost saving programs. Departmental efforts should be directed toward developing many such programs, consistent with quality care and Department authority, and should not be directed toward the development of one or two programs at the exclusion of others.

13. A comment suggests that the Department should conduct a pilot project embodying the provisions of the proposed regulation prior to publishing the final MAC regulation in order to determine the workability of a MAC reimbursement program.

The Secretary notes that several States have adopted policies incorporating one or more of the major provisions of the MAC regulation and advises that these State programs were carefully studied by the Department in developing the MAC regulation. Two States, Colorado and California, have presented the results of their programs to a Congressional committee. Comments on the Department's proposed regulation from these States, and from others having similar programs, affirm that their experience in setting cost limits on reimbursement for prescribed drugs has been satisfactory. The Secretary believes that the experience of these States demonstrates the feasibility of a MAC program on a national basis.

14. A comment suggests that the price information program described in the preamble of the proposed regulation should be deferred until studies of the program's cost-effectiveness have been completed. Reference to cost-effectiveness studies is made in Part V of the proposed regulation's preamble, which additionally contains a description of the price information program.

The Secretary advises that cost-effectiveness studies will not be limited to the price information program. Cost-effectiveness studies will periodically be undertaken by the Department, during and after full implementation of the MAC regulation, to assure that both the price information program and the MAC and acquisition cost programs are achieving intended objectives.

15. A comment suggests that the proposed regulation be withdrawn and that conferences be held with drug suppliers, health professionals, State governments, and consumers before further action is taken to implement the MAC program. Other comments request a public hearing on the proposed regulation.

The Secretary advises that since December 1973, when the Department first announced its intention of proposing a MAC regulation, numerous meetings have been held with representatives of the pharmaceutical industry, professional medical and pharmaceutical associations, consumers, state health agencies and organizations, Congressional staffs, and with other agencies of the Federal government. Moreover, the proposed MAC regulation has been presented and discussed at several Congressional hearings, and has received wide press coverage. Public response to the proposal has been unusually large, the Department receiving (as noted earlier) more than 2,600 comments addressing every aspect of the proposed regulation. As also previously noted, to accommodate the public's interest in the proposal, the comment period on the proposed MAC regulation was extended. The Secretary, therefore, believes that little would be gained by withdrawing the proposed regulation for further conferences or by holding a public hearing prior to issuing final regulation.

16. Comments question the proposed MAC regulation in light of state "anti-substitution laws" which require pharmacists to dispense the specific brand of drug ordered by the prescriber. Many comments ask whether the MAC regulation will supersede or contravene such laws. Others ask whether pharmacists will be reimbursed for otherwise non-reimbursable costs where a brand-name prescription is honored as required by State law, and the attending physician has not, or will not, certify the brand's medical necessity.

The Secretary concludes that the MAC regulation neither supersedes nor contravenes State "anti-substitution laws." The regulation does not authorize or require pharmacists to dispense drugs in violation of State law. Where required by State law, prescriptions must be filled as written by the prescribers, the MAC regulation notwithstanding.

Should a brand-name prescription be honored in light of State "anti-substitution laws" and in the absence of a doctor's certification, reimbursement is limited to a maximum allowable cost as determined in accordance with the MAC regulation. Prior to filling an uncertified brand-name prescription, a pharmacist may ask the prescribing physician either to authorize substitution or to certify the brand's medical necessity to assure that reimbursement or payment for dispensing the brand-name product will not be based on the MAC limit.

17. One comment suggests that the proposed MAC regulation places an undue financial burden on small community hospitals because these hospitals, unlike larger teaching hospitals, have little influence on the prescribing judgments of staff physicians. Proponents of this view believe that these hospitals would be unfairly penalized by limiting reimbursement for the cost of drugs if a hospital were required to dispense a higher priced brand name drug product because a staff physician refused or failed to authorize substitution or to provide the appropriate certification. For this reason, the comment urges that the proposed regulation be revised in its final form either to: (1) preempt State anti-substitution laws and authorize providers to fill brand-name prescriptions with generic equivalents unless the physician affirmatively signifies that such substitution is not authorized, or (2) allow providers to be reimbursed for the cost of the prescribed brand-name drugs they dispense, recouping any difference between the cost of the brand and its generic equivalent from the physician who writes a non-certified brand-name prescription.

The Secretary concludes that there is nothing in the MAC regulation's authorizing legislation, or its legislative history, which would allow the Department to preempt State anti-substitution laws by regulation in the manner suggested. Similarly, there is nothing in the MAC regulation's authorizing legislation which would enable the Department to recoup any difference between the cost of a brand-name drug and its generic equivalent from physicians who write prescriptions for brand-name drugs and do not

certify the medical necessity of the prescribed brand. Accordingly, the Secretary advises that these suggestions have not been adopted in the final regulation.

As noted in paragraph 78, the physician certification requirement in section 19.3(b) of the proposed regulation is clarified in section 19.3(a) of the final regulation. Much criticism of the proposed certification requirement comes from practicing physicians who feel they would need to clinically test all available brands of multiple-source drug products to certify, in good faith, that a prescribed brand is the only brand of drug product which will be effective for, or tolerated by, a patient. The Secretary believes that the concern expressed in the comment, that physicians will be deterred from exercising their medical judgment to make the appropriate certification, is dealt with in section 19.3(a)'s clarifying amendment as explained in paragraph 78.

18. Several comments question the Secretary's statutory authority to issue the MAC regulation. One comment specifically asserts that section 1861 (v)(1)(A) of the Social Security Act, 42 U.S.C. 1395x(v)(1)(A), amended by P.L. 92-603, section 223; and P.L. 92-603, section 224, amending section 1901(i)(1) of the Social Security Act, 42 U.S.C. 1396 (i)(1), do not give the Secretary the authority to establish drug controls under the Medicare and Medicaid programs.

The Secretary advises at the outset that the citation of authority for the proposed MAC regulation has been amended in the final regulation.

The proposed regulation lists each of the Public Health Service grant program statutes individually as authority. Each statute cited authorizes the Secretary to issue regulations to implement a particular Public Health Service program. Section 215 of the Public Health Service Act, 42 U.S.C. 216, authorizes the Secretary to promulgate all "* * * regulations necessary to the administration of the Service." In light of section 215's broad applicability, the Secretary concludes that it is unnecessary to cite Public Health Service grant program statutes individually. The citation of authority for the final regulation is therefore amended accordingly.

In addition, the citation of authority for the proposed regulation omits section 1902(a)(30), 42 U.S.C. 1396a(a)(30). This section is added to the citation of authority in the final regulation as a basis for establishing reimbursement limits on the cost of prescribed drugs under the Medicaid program.

The Secretary also advises that a number of comments questioning the MAC regulation's statutory authority are based on erroneous factual assumptions. The reference to "drug controls" in the above-mentioned comment is misleading and inaccurate: the regulation does not, nor is it intended to, control drugs. Moreover, the Secretary is not, as one comment suggests, determining that the use of certain drugs is not necessary to the efficient delivery of health care.

What the Secretary is determining by issuing the MAC regulation is that portions of the costs of certain drugs are unnecessary to the efficient delivery of quality health care. This determination is based upon a recognition of the fact that a number of drugs containing the same active ingredients in the same dosage forms and strengths are available from different formulators and labelers at significantly different prices. In light of this fact, and in the interest of the efficient administration of the duties with which the Secretary is charged, consistent with quality care, the MAC regulation is issued to take advantage of these varying multiple-source drug prices.

Having considered the statutory authority to issue the MAC regulation, and particularly those authorities specifically questioned, the Secretary concludes that the regulation has a sound statutory basis. The Secretary is authorized to determine those portions of drug costs necessary to the efficient delivery of quality health care; and, in so doing, establish cost ceilings, limiting reimbursement or Departmental expenditures for prescribed drugs to those costs determined necessary, or reasonable.

19. Several comments state that the MAC regulation will restrict patient freedom of choice as guaranteed by sections 1802 and 1902(a)(23) of the Social Security Act, 42 U.S.C. 1395a and 1396a(a)(23), respectively.

The Secretary disagrees, and concludes that patient freedom of choice is not restricted under the MAC regulation in violation of these sections. The MAC regulation simply establishes "upper limits" on the amount which the Department will recognize for reimbursement or payment for prescribed drugs furnished under Federally funded health care programs. The regulation does not require Medicare beneficiaries and Medicaid recipients to use providers which are not of their own choosing.

Moreover, it is noted that section 1802 only requires that eligible individuals not be restrained in their choice among facilities participating in the Medicare program and offering needed health services. Similarly, section 1902(a)(23) only requires that State Medicaid plans assure that eligible recipients are not restricted in their choice among providers participating in the Medicaid program. Accordingly, the Secretary concludes that the MAC regulation cannot be characterized as restricting a patient's free choice. All providers participating in these two programs are subject to the MAC regulation, and beneficiaries and recipients are free to choose among participating providers, the MAC regulation notwithstanding.

20. Many comments contend that the proposed MAC regulation, by inhibiting the discretion of physicians to prescribe the drugs they wish their patients to receive, unlawfully interferes with the practice of medicine in a manner that conflicts with the intent of Congress and the express terms of section 1801 of the Social Security Act, 42 U.S.C. 1395.

The Secretary concludes that the MAC regulation does not violate section 1801 which prohibits Federal officers or employees from interfering in the practice of medicine or the manner in which medical services are provided. Nor does the regulation frustrate the intent of Congress that: "the responsibility for, and the control of, the care of beneficiaries rest with * * * beneficiaries' physicians"; and that, "it is the physician who is to * * * order * * * drugs and treatments." (See H.R. Rep. No. 213, 89th Cong., 1st Sess. 22, 39 (1965); see also S. Rep. No. 404, 89th Cong., 1st Sess. 24 (1965).

As noted above the MAC regulation simply establishes "upper limits" on the amount which the Department will recognize on reimbursement or payment for prescribed drugs furnished under Federally funded health care programs.

Physicians are not precluded from prescribing drugs of their choice or employing any manner of drug treatment they think necessary and appropriate. Moreover, should a physician, in exercising professional judgment, believe that a particular brand of drug is medically necessary for the treatment of a patient, the regulation does not limit reimbursement for the cost of that drug to the MAC if the physician certifies medical necessity of the brand in accordance with section 19.3(a) of the final regulation.

21. Another comment suggests that the physician certification exception in the proposed regulation (section 19.3(b)) does not preserve appropriate professional discretion as required by section 1801 of the Social Security Act, 42 U.S.C. 1395. This comment asserts that the MAC regulation, in effect, pressures physicians to prescribe drugs to conform to federal guidelines and therefore restricts physicians' freedom to treat patients with drugs of their choice, proposed section 19.3(b) notwithstanding. Because in most cases, physicians will be unable to certify that only a specific brand of a drug is effective for, or can be tolerated by, a patient, any alleged non-interference by reason of proposed section 19.3(b) is more apparent than real.

Again the Secretary advises that, as noted in paragraph 17 above, the physician certification requirement in section 19.3(b) of the proposed regulation is clarified in section 19.3(a) of the final regulation. The Secretary believes that this clarifying amendment, as explained in paragraph 78, addresses the concern raised in this comment.

22. A number of comments assert that the proposed MAC regulation interferes with the States' power to regulate the practice of medicine and pharmacy.

The Secretary disagrees. The regulation relates only to reimbursement or payment for prescribed drugs furnished under Federally funded health care programs which is a Federal matter. As has been previously noted, "upper limits" are established on reimbursable costs for prescribed drugs furnished by providers and health maintenance organizations under Medicare and by providers under State administered health, welfare and

social service programs, and on the amount which may be charged to Public Health Service project funds for prescribed drugs. By so doing, the regulation does not affect, nor interfere with, State regulatory laws.

23. A few comments suggest that the proposed MAC regulation interferes with the States' Medicaid authority, violating sections 1902(a)(9), 1902(a)(22), and 1902(a)(30) of the Social Security Act, 42 U.S.C. 1396a(a)(9), 1396a(a)(22), and 1396a(a)(30), respectively.

The Secretary concludes that the MAC regulation does not interfere with the States' Medicaid authority in violation of these sections. Section 1902(a)(9) basically requires State plans for medical assistance to provide that "State health agencies, or other appropriate State medical agencies * * *, shall be responsible for establishing and maintaining health standards for private or public institutions in which recipients of medical assistance under the plan may receive care or service." Sections 1902(a)(22) and 1902(a)(30) requires States to include in their plans for medical assistance: (1) "* * * descriptions of the standards and methods they will use to assure that medical or remedial care and services provided to the recipients of medical assistance are of high quality;" and (2) "* * * an assurance that payments (including payments for any drugs provided under the plan) are not in excess of reasonable charges consistent with efficiency, economy, and quality of care." These sections do not limit the Department's obligation under the law, but rather describe the continuing obligation of the States in administering State plan requirements, consistent with Federal regulations. The MAC regulation does not assume the responsibility for compliance with these statutory State plan requirements.

24. Some comments contend that the MAC regulation will promote the perpetuation of a "blatantly discriminatory" double standard of health care that assures high quality health care for the affluent and inferior health care for the poor and elderly by subjecting Medicare beneficiaries and Medicaid recipients to drug therapy which is the "cheapest" rather than the best.

The Secretary cannot agree with this contention. As noted in paragraph 5 above, Food and Drug Administration regulatory procedures, and the Food and Drug Administration's experience in monitoring the Nation's drug supply, assure that all MAC-listed drugs will be of an acceptable quality for patient care. Prior to making any MAC determinations, Food and Drug Administration advice is solicited by the Pharmaceutical Reimbursement Board for the Food and Drug Administration's assurance that all MAC-listed drugs, in light of its present regulatory control, are both safe and effective. As noted in paragraph 89, a drug will not be proposed for MAC listing if in the judgment of the Food and Drug Administration any regulatory action, either pending or under consideration, bearing upon the marketability of, or to establish a bioequivalence requirement for, the drug is a reason for delaying or withholding the establishment of a MAC for the drug. Accordingly, the Secretary concludes that the MAC regulation does not subject Medicare beneficiaries or Medicaid recipients to inferior drug therapy.

25. A comment also contends that the Secretary, by issuing the MAC regulation, is ignoring Congress' directive not to engage in the "price-fixing of drugs" (see U.S. Code Cong. & Ad. News, 90th Cong., 1st Sess. (1967), p. 3213).

The Secretary concludes that the MAC regulation neither fixes nor authorizes fixing drug prices. The "upper limits" on recognizable costs for prescribed drugs determined in accordance with the MAC regulation are applied toward whatever prices exist within the marketplace.

26. Many comments allege that the MAC regulation will interfere with free enterprise.

The Secretary disagrees. The regulation does not control marketplace activity, but rather takes advantage of the varying drug prices which are established by, and exist within, the marketplace. As noted above, the MAC regulation's "upper limits" on recognizable costs for prescribed drugs are applied to drug prices which have been, and will continue to be, determined by marketplace activities.

27. A comment suggests that the MAC regulation will interfere with pharmacist and formulary committee selection of drug products.

The Secretary concludes that the MAC regulation does not interfere with the selection of drugs for inclusion in institutional or other types of formularies. It does, however, establish "upper limits" on the amount of reimbursement or payment for certain multiple-source drugs. Thus, while the regulation would not influence the choice of drug (or the type of drug chosen from a particular class of drugs), it may influence the choice of the *source* or *brand* of a drug product.

28. Some comments state that if the MAC regulation is adopted it will encourage interference with the role of peer review organizations by authorizing Departmental employees to substitute their judgments for those of practicing physicians.

The Secretary advises that the Department's role under the MAC regulation is to implement procedures for determining maximum limits on Federal reimbursement or payment for drugs furnished under Federally funded health care programs. Department employees determine only the "upper limits" on such reimbursement or payment. The regulation does not authorize Department employees to review the professional activities of health care providers participating in Federally subsidized programs. Accordingly, the regulation does not encourage or authorize interference with the functions of peer review organizations.

29. The Secretary is asked who will have financial responsibility for any cost differential between the MAC and actual cost, assuming a drug is dispensed and its cost exceeds the MAC. The comment specifically asks whether P.L. 92-603, section 213, will be invoked to assess this cost against the hospital or doctor, or whether section 1866(a)(2)(B)(ii) will be invoked as a correlative action, after the Secretary determines that certain drugs are not needed in the efficient delivery of health care, to permit a charge to the Medicare beneficiary for payment of any excess cost.

The Secretary concludes that P.L. 92-603, section 213, adding section 1879 to the Social Security Act, 42 U.S.C. 1395pp; and, section 1866(a)(2)(B)(ii), 42 U.S.C. 1395cc(a)(B)(ii), added by section 223(e) of P.L. 92-603, are not applicable in the MAC context. As such, neither section will be invoked to assess cost against a hospital or doctor or to permit a charge to the beneficiary, should a drug be dispensed and its cost exceed the MAC.

As a condition precedent to applicability, both sections 1879 and 1866(a)(2)(B)(ii) require a finding that the items or services provided are unnecessary to the efficient delivery of health care. Section 1879 limits the liability of beneficiaries where: (1) Medicare claims are disallowed because items or services provided are excluded from the Social Security Act's coverage, having been found unnecessary to the efficient delivery of health care; and, (2) the "excluded" items or services are provided without knowledge of this exclusion on the part of providers and beneficiaries. Section 1866(a)(2)(B)(ii) authorizes a charge to the beneficiary when a provider of services knowingly and customarily furnishes to beneficiaries excluded items, or services determined to be unnecessary to the efficient delivery of health care, and the beneficiary is given prior notice of the exclusion and charge.

Under the MAC regulation, the Secretary is determining only that portions of the cost of certain drugs are unnecessary to the efficient delivery of needed health services. Cost limits are established representing those estimates of drug costs which are necessary. Necessary costs are recognized as reasonable costs and are fully reimbursable.

In establishing the MAC the Secretary does not determine that the item or service, *i.e.*, a drug, is unnecessary. Because the Secretary is not making this determination, sections 1879 and 1866(a)(2)(B)(ii), which require that such determinations be made, are not applicable and will not be invoked.

Where a drug is dispensed and its cost exceeds the MAC, reimbursement or payment will not be based on a MAC limit, if the prescriber certifies the medical necessity of brand prescribed in accordance with section 19.3(a) of the regulation. Should a drug subject to a MAC limit be dispensed in the absence of a certification, reimbursement or payment to the provider is limited to the MAC.

30. A few comments ask how patent infringers will be treated under the MAC regulation if a multiple-source drug is covered by a valid United States patent and formulators or labelers are infring-

ing that patent in the marketing of the same drug.

The Secretary advises that the MAC regulation is not intended to encourage or reward the infringement of valid United States patents. In making lowest-unit price determinations in accordance with section 19.5(c) of the final regulation, the Pharmaceutical Reimbursement Board will not knowingly consider the price of any drug manufactured by a formulator or labeler in such a manner as to infringe a valid United States patent.

31. A comment suggests that the final regulation include a required co-payment charge for each prescription provided to recipients of Federal medical assistance.

The Secretary advises that determinations of whether co-payment charges for drugs provided under State plans for medical assistance should be required are discretionary with the States. Section 1902(a)(14)(ii) of the Social Security Act, 42 U.S.C. 1396a(a)(14)(ii), authorizes States to include co-payment charges for drugs provided under State plans for medical assistance provided the co-payment charge is nominal as determined in accordance with standards approved by the Secretary. Department implementing regulations, 45 CFR 249.90(a)(3), limit the amount of co-payment chargeable to recipients. Accordingly, the suggestion is not adopted in the final regulation.

32. Some comments note that posible tort liability considerations have been ignored in the regulation. The question is asked for example, "who is liable when a physician prescribes a specific product and the MAC limit forces the substitution of the product and a therapeutic failure results."

The simple answer to such questions is that the cost limitations of the regulation do not require physicians to prescribe particular products nor do they, as is suggested, force pharmacists to substitute products other than those prescribed. Accordingly, implementation of the regulation should have no bearing upon any tort liability that might otherwise arise from the misprescribing of drugs or the erroneous filling of prescriptions. The definition of negligence and the measure of liability for negligence is, of course, a matter of State law in each jurisdiction and could not, in any event, be affected by the Secretary through these regulations.

Although the Department cannot speak to State law in the various jurisdictions, it is apparent that the substitution of a brand of drug different than the brand prescribed is accepted under the law in some States. Indeed, prescription by generic name, which is certainly an accepted practice, permits the pharmacist to choose. Absent some specific State rule on this subject, it is unlikely that substitution per se could be inconsistent with a State standard of reasonable care.

33. A few comments suggest that the Department indemnify providers and/or physicians against any losses resulting from the substitution of generic for brand name drugs in absence of a physician certification.

The Secretary concludes that there is no statutory basis for indemnifying physicians or pharmacists in the manner suggested.

34. A comment asks whether Food and Drug Administration regulations could be amended to provide that manufacturing specifications and pharmaceutical formulation data become public property when patents expire.

The Secretary concludes that such information is explicitly prohibited from public disclosure pursuant to the provisions of 21 U.S.C. 331(j) and 18 U.S.C. 1905, as recently interpreted and applied in the Food and Drug Administration's public information regulations published in the FEDERAL REGISTER of December 24, 1974 (39 FR 44602). Paragraph 273 of the preamble to the notice (39 FR 44638) states that neither the Freedom of Information Act nor the Federal Food, Drug, and Cosmetic Act provides any special status for patented products, and that the patent status of a product cannot be relied upon by the Food and Drug Administration as determining or indicating whether information concerning that product should be released to the public. The Secretary concludes that the Food and Drug Administration's public information regulations will determine when information in the agency's files relating to drugs is and is not available for public disclosure.

35. One comment asks how the MAC regulation will affect other Federal laws concerning adulteration and misbranding of drugs.

The Secretary advises that the MAC regulation has no effect on the Federal Food, Drug, and Cosmetic Act, and section 351 of the Public Health Service Act, which govern the adulteration and misbranding of drugs. Those laws require the Food and Drug Administration to approve the safety and effectiveness of all new drugs and biologicals prior to marketing, and to conduct a continuous monitoring and surveillance of all drugs and biologicals to assure that they are not adulterated and misbranded.

The Secretary emphasizes that it would be impermissible to have two standards of quality for drugs marketed in the United States. All drugs must meet the standards established by law with respect to adulteration and misbranding. The Food and Drug Administration regularly seeks to improve the standards of drug quality; for example it began several years ago to adopt requirements to assure bioavailability and bioequivalence, wholly apart from the MAC initiative. Those efforts would continue even if a MAC regulation were not adopted. Accordingly, the new MAC regulation promulgated in this notice has no effect upon the ongoing efforts of the Food and Drug Administration to assure that all drugs marketed in this country are of an acceptable high quality.

36. A few comments assert that the proposed MAC regulation does not acknowledge differences in pharmaceutical elegance, flavor or color among chemically equivalent multiple-source drug products.

The Secretary disagrees. The physician certification requirement in section 19.3(b) of the proposed regulation, as clarified in section 19.3(a) of the final regulation and explained in paragraph 78, provides that if a physician certifies in his own handwriting the medical necessity of a particular brand of a multiple-source drug product prescribed for a patient, reimbursement or payment for dispensing that particular brand of drug to that patient will not be based on the established MAC limit for the drug. Accordingly, pharmaceutical elegance, flavor, and color is implicitly acknowledged in the physician certification requirement in section 19.3(a) of the final MAC regulation.

37. A comment recommends that the Title of Part 19 be amended to read: "LIMITATIONS ON PAYMENT OR REIMBURSEMENT FOR DRUGS *AND PROFESSIONAL SERVICES OF PROVIDERS*" (new language italicized), to reflect the statement in the preamble of the proposed regulation that the cost of drugs involves two elements, the cost of the drug to the provider and the provider's charge for dispensing the drug.

The Secretary concludes that the suggested language is not fully descriptive of the dispensing portion of drug charges. In addition to the cost of professional services, reimbursement for dispensing charges includes several other elements such as rent, utilities, and accounting costs. Accordingly, the suggestion is not adopted in the final regulation. The title of Part 19 in the final regulation reads: "LIMITATIONS ON PAYMENT OR REIMBURSEMENT FOR DRUGS," to indicate (as it does in the proposed MAC regulation) the overall subject matter of the regulation.

38. One comment recommends that the final MAC regulation be divided into two sections: one applying to institutions; and, the other to retail pharmacies.

The Secretary concludes that it is unnecessary and inappropriate to divide the MAC regulation in the manner suggested. The MAC regulation in its final form establishes, as noted in paragraphs 1 and 70, three parameters limiting recognizable amounts on reimbursement or payment for prescribed drugs furnished under Federally funded health care programs. These parameters; (1) the maximum allowable cost (MAC) of the drug, if any, plus a reasonable dispensing fee, (2) the acquisition cost of the drug plus a reasonable dispensing fee, and (3) the provider's usual and customary charge to the general public for the drug, will be applicable to drugs furnished in both institutional and non-institutional settings. It would be unnecessary therefore to divide the final MAC regulation into a section applying to institutions and a section applying to retail pharmacies and repeat these parameters in each section.

39. A comment notes that the proposed MAC regulation fails to acknowledge container, breakage, and spillage costs in establishing a MAC limit.

The Secretary concludes that container, breakage, and spillage costs are a part of a provider's normal operating expenses and are implicitly recognized, in most cases, in the dispensing fee. In other cases, such costs are included as a part of a comprehensive cost for the provision of health care services. As noted in paragraph 73, most in-patient service costs for which Departmental funds are expended represent a comprehensive cost and include costs for drug dispensing. Also recognized in this comprehensive cost are container, breakage, and spillage costs.

40. Several comments also state that the proposed regulation does not recognize price differences in package sizes, and by so doing fails to specify the package size on which reimbursement or payment limits will be based.

As noted in paragraphs 67 and 101, the final regulation is amended to base reimbursement or payment limitations on the package size of drug most frequently purchased by providers.

41. A comment criticizes the proposed MAC regulation for failing to address the problems pharmacists face in obtaining timely reimbursement for the pharmaceutical services they provide.

The Secretary concludes that such matters are more appropriately left to the States for consideration and inclusion in State plans for medical assistance, and are therefore inappropriate for consideration in the MAC regulation. At the same time, however, the Secretary recognizes that delayed reimbursement can represent a significant problem for some pharmacists. Departmental assistance in implementing the MAC policy will be available to the States; and, where problems arise, including problems regarding timely reimbursement, such assistance will be available to help the States arrive at a solution.

42. One comment questions whether the Department's proposed MAC regulation may be interpreted as requiring the same dispensing fee for both prescribed non-legend drugs and legend drugs (which by Federal law can only be obtained upon prescription of a physician) in view of the fact that the regulation makes no distinction between these categories of drug product.

The Secretary advises that the Department's MAC regulation should not be interpreted as requiring the same dispensing fee for both prescribed legend and non-legend drugs notwithstanding the fact that the final regulation makes no distinction between these categories of drug products with regard to dispensing fees.

As noted in paragraph 71, dispensing fees are related to reimbursement or payment for prescribed drugs under the Medicaid and Public Health Service programs. Accordingly, the Secretary concludes that any distinction between legend and non-legend drugs as it pertains to dispensing fees will be made, if appropriate, in the Social and Rehabilitation Service's and the Public Health Service's MAC implementing regulations in view of their individual program activities. These regulations should be consulted for direction in this regard.

As noted in paragraph 43, however, the Department's final MAC regulation is amended to clarify the regulation's general applicability to both legend and non-legend drugs.

43. A comment suggests that MAC limits apply to both prescribed and non-legend and legend drugs in the final regulation.

Although the proposed regulation did not explicitly distinguish between legend and non-legend drugs, the Secretary advises that it is intended that MAC limits be established for both prescribed non-legend and legend drugs where significant price differences exist among chemically equivalent products. The final regulation is clarified to reflect this intention by defining the term "drug" to include those drug products which may be dispensed without a prescription because of the apparent confusion over the MAC regulation's applicability to prescribed non-legend drugs.

44. A comment recommends that a universal third-party claim form be developed in connection with MAC regulation. Such a form would be submitted to reimbursing agencies or programs by all health care providers participating in Federally subsidized programs for the purpose of obtaining payment for services rendered.

The Secretary agrees and has authorized a Departmental study for this purpose. The Secretary disagrees, however, that the development of such a form is required for implementation of the MAC regulation.

45. One comment suggests that the final MAC regulation not apply to hospitals participating in group purchasing programs because these hospitals are already involved in cost control activities.

The Secretary believes that it would be inconsistent with the MAC policy to exempt providers participating in such arrangements from the regulation.

46. A comment suggests that the actual manufacturer of a drug be identified on the label of the drug.

The Secretary advises that matters pertaining to drug labeling are properly dealt with by the Food and Drug Administration, and are not appropriate for inclusion in the MAC regulation.

47. A comment recommends that the final regulation be amended to require States establishing MAC limits which are lower than established Federal MAC limits to justify lower limits to the Pharmaceutical Reimbursement Board and Advisory Committee established under Part 19.

The Secretary advises that under the MAC regulation, MAC limitations are only established by the Pharmaceutical Reimbursement Board in accordance with the procedures outlined in section 19.5. Accordingly, State program agencies are not authorized to establish separate MAC limits. MAC limits established by the Board, whether applicable on a national or regional basis, are the "upper limits" on reimburseable costs for prescribed multiple-source drugs furnished to Medicaid recipients under State plans for medical assistance.

48. One comment urges that dissolution tests be required for each drug considered for MAC listing.

The Secretary advises that determinations of whether such testing should be undertaken are properly made by the Food and Drug Administration in accordance with its regulatory procedures.

49. One comment recommends that MAC limits be set on single as well as multiple-source drugs in the final regulation.

Again, as noted in paragraphs 1 and 70, the final MAC regulation limits reimbursement for any prescribed drug furnished under Federally funded health care programs to the lowest of: (1) the acquisition cost of the drug plus a reasonable dispensing fee, (2) the provider's usual and customary charge to the general public for the drug, or (3) the maximum allowable cost (MAC) of the drug, if any, established in accordance with section 19.5. In effect, a maximum allowable cost on reimbursement or payment for single-source drugs is established: reimbursement for single-source drugs being limited to the lower of (1) the acquisition cost of the drug plus a reasonable dispensing fee, or (2) the provider's usual and customary charge to the general public for the drug.

50. Comments recommend that the final regulation be amended to specify time limits for each step in the MAC determination process.

The Secretary concludes that it is not feasible to establish time limits for every step in the MAC determination process. Where time limits are not specified, the procedure outlined in section 19.5 of the final regulation should be carried out as promptly as possible in a given situation. The Secretary is hopeful that this flexibility will be fully utilized to avoid unwarranted and unnecessary delay in establishing MAC limits.

51. A comment expresses the opinion that a drug should not be considered for MAC listing if it is not the subject of an effective New Drug Application.

The Secretary concludes that such determinations are appropriately made by the Food and Drug Administration in accordance with its regulatory procedures and practices when rendering its advice to the Pharmaceutical Reimbursement Board in accordance with the procedures outlined in section 19.5 of the final MAC regulation. As noted in paragraph 93, it is sufficient that the Board is assured by the Food and Drug Administration that its present regulatory control will assure the safety, effectiveness, and quality of all MAC-listed drugs. Because the Board does not possess the expertise to make independent determinations of this nature, the Secretary believes that matters pertaining to New Drug Applications are not appropriate for inclusion in the MAC regulation.

52. A comment recommends that formula specifications be mandated for every drug for which a MAC is established.

The Secretary concludes that questions of whether formula specifications provide

assurances of uniform safety, effectiveness and quality are appropriate for consideration by the Food and Drug Administration in accordance with its regulatory activities. Accordingly, this comment has been transmitted to the Hearing Clerk of the Food and Drug Administration to be considered among those comments received on the Food and Drug Administration's proposed bioavailability and bioequivalence regulations, published in the FEDERAL REGISTER of June 20, 1975 (40 FR 26157, 40 FR 26164) and rereferred to in paragraph 5 above.

53. A comment suggests that pharmacists should have the prerogative of determining, on the basis of their professional judgment, what brand of a drug product should be dispensed to a patient if that drug product is subject to a MAC limit.

The Secretary concludes that the MAC regulation does not preclude a pharmacist from exercising professional judgment to decide what brand of a drug product should be dispensed to a patient if that drug is subject to a MAC limit and if the prescriber has not prescribed a particular brand of that drug for the patient. Reimbursement or payment for dispensing the drug product would, in this case, be based on the MAC limit, if any, established for the drug product. Where, however, a physician prescribes a particular brand of a multiple-source drug for a patient, State law may prohibit a pharmacist from dispensing other than the prescribed brand. As noted in paragraph 16, the MAC regulation does not authorize or require pharmacists to dispense drugs in violation of State law.

54. Comments ask how the MAC regulation will apply in situations where a provider has a stock of drugs on hand at the time a MAC limit becomes effective (or is changed), and the cost of these drugs is greater than applicable MAC limits. A number of these comments suggest that the final regulation be amended to make final MAC determinations effective only when a provider has exhausted supplies of drugs already in stock.

As noted in paragraph 118, the Pharmaceutical Reimbursement Board will publish the effective dates of all final MAC determinations published in the FEDERAL REGISTER, as required in section 19.5(i) of the final regulation. As also noted in paragraph 118, MAC limits published in accordance with section 19.5(i) will not be effective until 30 days after a final MAC determination is noticed in the FEDERAL REGISTER. Accordingly, the Secretary concludes that the concern expressed in this comment is dealt with inasmuch as a MAC limitation will not take effect until 30 days after notice of the limitation.

55. A comment notes that the proposed regulation lacks a provision to revoke a MAC limit if the Food and Drug Administration takes regulatory action against a drug after a MAC limit for that drug has been established.

The Secretary notes that section 19.6 of the final MAC regulation requires the Pharmaceutical Reimbursement Board to maintain a list of all MAC determinations and to regularly view the list to assure that continued application of each MAC is justified. Such review includes the monitoring of Food and Drug Administration regulatory activities. Should the Food and Drug Administration advise the Board that in its judgment an established MAC limit should be revoked because regulatory action is being taken, or is being considered, against a drug subject to an established MAC limit, the Board will immediately proceed to revoke the MAC limit for that drug.

56. A comment asserts that the MAC regulation discriminates in favor of institutional providers in that the MAC provision applies only to non-institutional providers.

The Secretary advises that the MAC limitation in section 19.3(a) of the regulation is the "upper limit" on reimbursable costs for prescribed drugs furnished by both institutional and non-institutional providers participating in Federally funded health care programs. Moreover, the Social Security Administration's conforming MAC regulation which will be subsequently published in the FEDERAL REGISTER applies solely to institutional providers, and includes a MAC limitation on which Federal reimbursement or payment will be based for prescribed drugs furnished by institutional providers.

PURPOSE

57. As provided in section 19.1 of the proposed MAC regulation, procedures are established for determining drug costs and, where applicable, dispensing charges which the Department would use for the purpose of reimbursement or payment for prescribed drugs furnished under Federally funded health care programs. Specifically, these procedures would be used for the purpose of determining:

(a) Reimbursement to providers and health maintenance organizations under the Medicare programs.

(b) Reimbursement to States under State administered health, welfare, and social services programs.

(c) Allowable costs under direct project grants.

(d) Departmental purchase of drugs.

58. One comment asks whether the final MAC regulation should apply to procurement of drugs by the Department for its own hospitals, clinics, and laboratories as provided in section 19.1(d) of the proposed regulation or if a separate regulation or separate section of Part 19 would be better suited for that purpose.

The Secretary concludes that direct purchases of drugs by the Department should be governed by the policies set forth in the final MAC regulation, but concludes, as is suggested in this comment, that policies and procedures for direct purchases of drugs by the Department should be included in HEW Procurement Regulations, Title 41, Chapter 3, Code of Federal Regulations. Accordingly, section 19.1 in the final regulation is amended to reflect this conclusion as well as to indicate the MAC regulation's general applicability to drug purchasing by the Department.

The Secretary also notes that section 19.1 in the final regulation is amended to clarify the MAC regulation's general applicability where a Public Health Service program (*i.e.*, Indian Health Service) arranges with a provider, by contract, to furnish drugs to a Public Health Service program beneficiary. Specific policies and procedures will also be included in HEW Procurement Regulations to be used in this circumstance.

59. One comment asks whether the Department should join forces with the Defense Department, the Veterans Administration, or the General Services Administration for the purposes of procuring drugs for its own use rather than subject itself to a regulation designed primarily for third-party payor purposes.

As indicated in paragraph 58 above, the Secretary has concluded that the Department should publish policies and procedures embodying the MAC policy in HEW Procurement Regulations to be used for the purposes of procuring drugs for the Department's own hospitals, clinics, and laboratories.

60. Another comment asks how the dispensing fee provision in section 19.3 (b) of the proposed regulation will be applied to manufacturers or wholesalers selling drugs directly to the Department.

The Secretary believes that issues pertaining to dispensing fees in this context are appropriate for consideration in publishing the policies and procedures, embodying the MAC policy, for drug purchasing by the Department to be included in HEW Procurement Regulations.

DEFINITIONS

61. Section 19.2 of the proposed MAC regulation includes the following definitions:

"Drug" means a drug product containing one or more active ingredients in a specified dosage form and strength. Each dosage form and strength of a drug is a separate drug.

"Multiple-source drug" means a drug marketed or sold by two or more formulators or labelers.

"Provider" means one who furnishes medical services or supplies for which he is entitled to reimbursement under any of the programs referred to in section 19.1.

"Actual Acquisition Cost" means the cost of a product to the provider, including such reasonable warehousing and other distributional costs as are incurred by a provider that maintains a warehouse separate from its retail place of business.

62. A comment suggests that the definition of the term "drug" in section 19.2 (a) of the proposed regulation be amended in the final regulation to include "type of package."

The Secretary concludes that if reimbursement or payment for prescribed drugs were based on various types of drug packages, a proliferation of different costs for the same drugs could result, and thus frustrate the intent of the MAC regulation. Accordingly, this suggestion is not adopted.

63. Another comment suggests that the final regulation be amended to substitute the term "drug product" for the term "drug" in section 19.2(a) and elsewhere in the regulation to avoid confusion with the different and more expansive meaning of the term "drug" as defined in the Federal, Food, Drug, and Cosmetic Act.

The Secretary concludes that little would be gained by substituting the term "drug product" for the term "drug" in the final regulation. The definition of "drug" in the MAC regulation incorporates by reference the term "drug product". By so doing, items which would not normally be prescribed by physicians (e.g., antiperspirants, fluoride toothpastes, etc.) but which would be included under the definition of the term "drug" under the Federal Food, Drug, and Cosmetic Act are excluded from the MAC regulation's definition of "drug".

64. One comment recommends that the definition of "multiple-source drug" in section 19.2(b) of the proposed regulation be amended in the final regulation to provide that it means a drug marketed or sold by two or more formulators or labelers, chemically equivalent, and demonstrated to be bioequivalent.

The Secretary concludes that it would be inappropriate and unnecessary to amend section 19.2(b) of the proposed regulation in the manner suggested. As noted in paragraph 89, Food and Drug Administration advice is solicited by the Pharmaceutical Reimbursement Board, prior to making any lowest-unit price determinations in accordance with section 19.5(c), for the Food and Drug Administration's assurance that all drugs to be proposed for MAC listing are both safe and effective. It is sufficient that the Board is assured by the Food and Drug Administration in accordance with section 19.5(b), as amended in the final regulation, that present Food and Drug Administration regulatory control, including its procedures for establishment of a bioequivalence requirement, assures the safety, effectiveness and quality of MAC listed drugs.

65. One comment suggests that the proposed definition of "multiple-source drug" in section 19.2(b) be amended in the final regulation to include the situation where a manufacturer markets its own drug product under both a brand name and a generic name.

The Secretary concurs. The suggested language defining a "multiple-source drug" as: "a drug marketed or sold by two or more formulators or labelers, or a drug marketed or sold by the same formulator or labeler under two or more different proprietary names or both under a proprietary name and without such a name" is added in the definition of the term "multiple-source drug" in section 19.2(d) of the final regulation.

66. A comment suggests that the definition of "provider" in section 19.2(c) of the proposed regulation be amended to read: "one who furnishes medical *or pharmaceutical* services or supplies * * *" (new language italicized). The suggestion is made to clarify that reimbursement or payment under the MAC regulation is for pharmaceutical services and supplies.

The Secretary agrees and the final regulation is so amended.

67. Many comments criticize the proposed MAC regulation as it relates to reimbursement on the basis of "actual acquisition cost", as defined in section 19.2(d) of the proposed regulation, and urge that an "actual acquisition cost" limitation not be adopted in the final regulation. Numerous reasons for this view are cited.

Comments suggest that "actual acquisition cost" is difficult, if not impossible, to determine because of deferred and cumulative discounts to providers and frequently changing sources of supply. Other comments assert that pharmacists would be required to develop extensive and complex record-keeping and invoicing procedures to accommodate a reimbursement program of this kind. These procedures, according to proponents of this view, would be more comprehensive than those ordinarily needed to conduct a professional pharmaceutical practice. Several comments suggest that a reimbursement program based on "actual acquisition cost" would necessitate additional and more frequent auditing by reimbursement programs, and therefore cause administrative costs to increase. Other comments suggest that incentives to purchase efficiently would be reduced if reimbursement were based on "actual acquisition cost" because all savings would be passed through to medical assistance programs. Several comments note that reimbursement systems based on "actual acquisition cost" have been attempted and abandoned by some State Medicaid programs because of these difficulties.

Still other comments suggest that an "actual acquisition cost" limitation be adopted in the final regulation but recommend that its definition in section 19.2(d) as proposed be modified. A number of modifications are suggested.

One comment suggests that "actual acquisition cost" be based solely on the invoice price of the drug product dispensed. Many comments recommend that "actual acquisition cost" be defined as the average wholesale price (AWP) published in specified nationally distributed drug price catalogs. Others recommend defining such cost as average wholesale price less a fixed or variable percentage related to the volume of product dispensed under a particular program. One comment suggests that "actual acquisition cost" be based on wholesale prices supplied to the Federal government by manufacturers, and another comment suggests that this cost be based on a manufacturer's price to a wholesaler plus a fixed wholesaling allowance.

Still other comments suggest replacing "actual acquisition cost" in the final regulation with some other type of reimbursement mechanism. Several comments suggest that providers ought to be reimbursed under a schedule of estimated costs. Reimbursement would be based on this schedule of costs notwithstanding a provider's actual cost. A number of these comments suggest that the schedule apply to only some specific number of the most frequently (e.g., top 500) dispensed drugs. One of these comments suggests that cost estimates to be included in the schedule be determined on a regional basis, and another comment suggests that reimbursement be based on the greater of "actual acquisition cost" and scheduled estimated cost. One comment urges that "actual acquisition cost" be replaced in the final regulation by a reimbursement system under which a drug's cost would be billed directly to the reimbursing program at the same prices charged to direct government purchasers and supplied to providers without charge.

A number of comments also suggest that an "actual acquisition cost" limitation (as defined in section 19.2(d) of the proposed regulation) should be adopted in the final regulation but only if equitable dispensing fees are mandated.

After considering these comments, the Secretary concludes that the "actual acquisition cost" limitation in the proposed regulation should be amended. The Secretary agrees that "actual acquisition cost" limitations have been difficult to administer at the State level, and that an "actual acquisition cost" limitation would therefore be difficult to adopt on a nation-wide basis at this time. The Secretary disagrees, however, that average wholesale price should be used as the basis for "actual acquisition cost" determinations. Average wholesale price is not currently determined by surveying drug marketing transactions (*i.e.*, by determining the actual price a pharmacist pays to a manufacturer or wholesaler for a particular drug product), and thus published wholesale prices often are not closely related to the drug prices actually charged to, and paid by, providers.

The Secretary believes, however, that the objectives of an "actual acquisition cost" policy (*i.e.*, increased savings on reimbursement or payment for prescribed drugs dispensed under Federally subsidized programs) can be achieved efficiently by using acquisition cost estimates. Accordingly, the Secretary advises that the "actual acquisition cost" limitation is amended in the final regulation to base reimbursement or payment for prescribed drugs furnished under Federally subsidized health care programs, where appropriate, on "aquisition cost" plus a reasonable dispensing fee.

"Acquisition cost", as defined in section 19.2(f) of the final regulation, "means the price generally and currently paid by providers for a drug marketed or sold by a particular formulator or labeler in the package size of drug most frequently purchased by providers."

Under section 19.3(b) of the final regulation estimates of acquisition costs are to be made by each program agency. To assist program agencies in making acquisition cost estimates, the Department will make available drug price information which will cover the most frequently purchased drugs, will reflect the drug prices generally and currently paid by

providers, classified by providers' total dollar volume drug sales, and will be issued with sufficient frequency to be current with drug prices existing in the marketplace.

The exact method for determining acquisition cost estimates is left to the discretion of program agencies. Program agencies are expected to use all available drug price information, including the drug price information furnished to them by the Department, in making these estimates. As also provided in section 19.3 (b), estimates of acquisition costs should be consistent with any drug price information furnished to the program agency by the Department. Accordingly, the Department expects that program agencies will make their estimates of acquisition cost with as much precision as possible, consistent with drug price information furnished to them by the Department.

68. A number of comments object to the warehousing and distributional cost allowance in section 19.2(d) of the proposed regulation. Of these comments, many assert that the allowance arbitrarily discriminates among and between those providers who maintain a warehouse separate from their retail place of business and purchase drugs in bulk quantities, and those who do not.

The Secretary concludes that the proposed warehousing and distributional cost allowance should be deleted in the final regulation in light of the new "acquisition cost" limitation noted in paragraph 67 above. As "acquisition cost" is defined in section 19.2(f) of the final regulation, warehousing and distributional cost alowances may be reflected in the program agencies' estimates of the drug price generally and currently paid by providers. The Secretary therefore believes that it would be inappropriate to recognize any additional allowance for drug warehousing and distribution.

COST LIMITATION

69. As originally proposed section 19.3 (a) of the MAC regulation would limit amounts to be recognized for reimbursement or payment for prescribed drugs furnished under Federally subsidized health care programs, and for prescribed drugs purchased directly by the Department, to the cost of the drug plus a reasonable dispensing fee. Cost, as determined in accordance with section 19.3 (b) of the proposed regulation, is "actual acquisition cost" or, for each multiple-source drug for which a maximum allowable cost (MAC) has been established, the lower of (1) the MAC or (2) the actual acquisition cost.

70. A number of comments recommend that the "cost plus fee" method of reimbursement for pharmaceutical services outlined in section 19.3(a) of the proposed regulation be abandoned in the final regulation and be replaced by some other type of reimbursement mechanism for these services. Some comments suggest that reimbursement be based on a percentage of acquisition cost. Others recommend that the final regulation be amended to provide that reimbursement for pharmaceutical services shall not be greater than the "usual and customary charge" to the general public. One comment urges that reimbursement should be limited to a 50 cents claims processing cost, plus the lower of cost plus a dispensing fee, and the "usual and customary charge" to the general public.

The Secretary concludes that the "cost plus fee" method of reimbursement should not be abandoned in the final regulation because it assures that reimbursement or payment for pharmaceutical services will be based on the services actually provided by implicitly recognizing that the costs of pharmaceutical services involves two principal elements—the cost of the drug to the provider, and the provider's charge for dispensing the drug. At the same time, however, the Secretary agrees that the amount of reimbursement or payment for pharmaceutical services provided under Federally subsidized health care programs should not be greater than the amount the provider usually and customarily charges to the general public for these services.

Accordingly, the Secretary advises that section 19.3(a) is amended in the final regulation to limit the amount of reimbursement or payment to be recognized for any prescribed drug furnished under Federally subsidized health care programs to the lowest of: (1) the MAC established for the drug, if any, established in accordance with section 19.5 plus a reasonable dispensing fee; (2) the acquisition cost of the drug plus a reasonable dispensing fee; or (3) the provider's usual and customary charge to the general public for the drug. The Secretary additionally notes that, as in the proposed regulation, the new section 19.3 (a) provides that where compensation for drug dispensing is included in some other amount payable to the provider by the reimbursing or paying program agency, a separate dispensing fee will not be recognized.

71. Many comments assert that the dispensing fee provision in section 19.3(a) of the proposed regulation does not provide adequate guidelines to assure equitable reimbursement for dispensing services. Some of these comments suggest that the section be amended in the final regulation to require States periodically to review and re-evaluate dispensing fees for equity, and to be required to increase or decrease the fee should such review reveal increases or decreases in the cost of dispensing a prescription.

Other comments suggest that the Department establish minimum fees in the final regulation. One of these comments recommends that the minimum fee be set at the 90th percentile of prevailing fees in each State.

Still other comments suggest that a variable fee approach be taken in section 19.3(a) of the final regulation. One comment recommends that the fee vary on the basis of operating data submitted by providers to reimbursing programs. Another comment suggests that the final regulation mandate a variable fee based on a provider's operating costs, allowing providers to retain 50 percent of any reduction in operating costs as a part of the dispensing fee and as an incentive to reduce their costs. A few comments urge that the fee vary in the final regulation according to the level of professional services provided, such as, hours of service, free delivery, continuing postgraduate education of practitioners, maintenance of patient records, and participation in drug utilization review.

Several comments recommend that the final regulation authorize separate and additional fees for special services, and some comments recommend adjusting fees according to the cost of living index.

The Secretary concludes that because dispensing fees relate primarily to the Medicaid and Public Health Service programs, procedures pertaining to dispensing fees are appropriately included in the conforming MAC regulations of the Social and Rehabilitation Service and the Public Health Service, and not in the Department's MAC regulation. Accordingly, comments and regulatory procedures relating to dispensing fees are more fully addressed in these regulations.

The Secretary notes, with respect to comments suggesting Federally mandated minimum fees, that under existing legislation the Department may only establish upper limits on Federal reimbursement or payment for pharmacy services. The Department may not therefore mandate minimum dispensing fees.

The Secretary recognizes, however, that pharmacists may be receiving inadequate compensation for their professional services in dispensing drug products. Accordingly, the Secretary advises that the Social and Rehabilitation Service's final MAC conforming regulation is amended to require State agencies to conduct periodic surveys of the costs of dispensing drug products. In determining fees, States should review data obtained through these surveys as well as other available information to assure that established fees are equitable.

The Secretary additionally notes that Departmental assistance will be available to the reimbursing or paying program agencies for the purpose of establishing equitable dispensing fees.

72. One comment suggests that the phrase "reasonable dispensing fee" in section 19.3(a) of the proposed regulation be amended in the final regulation to read: "reasonable fee for professional services." The reasons given for the suggested language are that it is more consistent with the terminology used to describe other professional practitioner services and that it is broad enough to encompass the time when pharmacists will be compensated for professional services other than the dispensing of drug products (*i.e.*, rendering advice concerning non-use of a drug product).

The Secretary concludes that issues relating to compensation or reimbursement for professional services in cases where a drug product is not dispensed requires consideration beyond the scope of the MAC regulation. The Secretary further concludes that the term "dispensing fee" is appropriately descriptive for the purposes of reimbursement or payment of total drug costs.

73. Several comments additionally recommend that section 19.3(a) be amended

in the final regulation to recognize dispensing fees for in-patient prescriptions.

The Secretary concludes that it would be inappropriate to amend section 19.3 (a) in the manner suggested. As noted in paragraph 70, section 19.3(a) of the final regulation provides that dispensing fees will not be recognized where compensation for drug dispensing is included as a part of some other amount payable by the reimbursing or paying program agency. Most in-patient hospital service costs for which Departmental funds are expended represent a comprehensive cost and include costs for drug dispensing. To recognize dispensing fees under this arrangement would frustrate the intent of section 19.3(a) by allowing duplicate compensation for the provided service.

74. A comment expresses the opinion that dispensing fees should not be allowed in addition to fees for services in cases where physicians dispense drugs as a part of providing a medical service.

The Secretary concludes that whether dispensing fees should be recognized in this circumstance is discretionary with State program agencies and, as such, is not appropriate for inclusion in the MAC regulation. Existing Medicaid guidelines recommend, however, that State agencies limit the amount of payment for drugs dispensed by physicians under State plans for medical assistance to the cost of the drug.

75. To encourage the purchasing of multiple-source drugs below the MAC limit and to prevent the MAC ceiling from also becoming a floor, section 19.3 (b) of the proposed regulation allows providers to retain up to 25 percent of the difference between the actual acquisition cost of a multiple-source drug dispensed on an outpatient basis and the drug's MAC limit.

76. Many comments recommended that this provision be deleted in the final regulation. Of these comments, many, particularly from State agencies, assert that the provision is too complex to administer. Other comments suggest that the provision will reduce the utilization and viability of wholesale operations by encouraging providers to purchase multiple-source drugs directly from manufacturers. Several comments suggest that the provision encourages the purchasing of low quality products, and those marketed in intrastate commerce not subject to Federal regulatory controls by placing undue emphasis on cost.

Still other comments urge retention of the provision. Many suggest that the 25 percent incentive be increased in the final regulation. Specific figures mentioned are 50, 75, and 100 percent. One comment recommends a "sliding incentive", allowing providers to retain 100 percent of a 25 cents differential, and 25 percent of any differential in excess of 25 cents. Other comments suggest that the incentive apply to single-source drugs, allowing providers to retain a percentage of the difference between actual acquisition cost and average wholesale price.

The Secretary advises that the 25 per cent incentive provision in section 19.3 (b) of the proposed regulation is deleted in the final regulation. After consideration of the comments, the Secretary concludes that the complexities of this provision, particularly in light of the amended definition of "acquisition cost" noted in paragraph 67, outweigh any of its potential benefits.

77. Section 19.3(b) of the proposed regulation also provides that, for each multiple-source drug for which a MAC has been established, cost (for the purposes of section 19.3(a)) shall be "actual acquisition cost" if a particular brand of multiple-source drug is prescribed for a patient, and the prescriber has certified in writing that the brand is the only brand of that drug which will be effective for, or can be tolerated by, the patient.

78. Numerous comments suggest that this provision be modified in the final regulation. Of these comments, many criticize the provision asserting that prescribers would be required to clinically evaluate all available forms of the particular drug product to be prescribed for a patient to make the proposed certification in good faith. Proponents of this view further assert that such testing would not only place an undue burden on practicing physicians but would be ethically questionable as well.

One comment suggests that prescription forms for drugs provided under Federally subsidized health care programs have a check-off box next to a preprinted statement certifying medical necessity. Reimbursement would not be based on the MAC limit if a physician indicated the necessity of a prescribed brand by checking the box.

Some comments suggest that section 19.3(b) be amended in the final regulation to require prescribers only to certify the reason for ordering a specific brand of drug product. One comment urges that the form of certification should be discretionary with the reimbursing program, and another comment recommends that section 19.3(b) be amended to provide that the certification must be in the prescriber's handwriting, giving the reasons why the particular brand is desired, personally signed, and transmitted in duplicate to the pharmacist.

Other comments recommend deleting the certification requirement in the final regulation, asserting that any such requirement is an interference in the practice of medicine.

As has been indicated in paragraphs 17 and 21 the proposed certification requirement is clarified in section 19.3(a) of the final MAC regulation. Having considered the comments, the Secretary concludes that the objectives of a certification requirement can be achieved if prescribers certify a brand's medical necessity should they, on the basis of a comparative medical judgment, determine that a particular brand of a multiple-source drug is better suited than the same drug from other sources for a patient's medical needs. This does not mean that a prescriber has to certify that a prescribed brand is the only brand of a drug product that will be effective for, or tolerated by, a patient, or as suggested in a number of comments, that the prescriber has clinically evaluated all available brands of multiple-source drug products to make the certification in good faith. It does mean that in his judgment there is a genuine medical necessity for the brand prescribed.

The Secretary does not agree that a certification requirement is an interference in the practice of medicine. Its sole purpose is to assure that prescribers recognize that particular brands of multiple-source drug products, or other chemically equivalent drug products, may be priced above applicable MAC limits. It is intended that on the basis of a comparative medical judgment, prescribers will prescribe a particular brand of a multiple-source drug only when that brand of drug is better suited than the same drug from other sources to meet a patient's medical needs. A certification requirement does not restrict or hamper their prescribing judgments, nor does it preclude the prescribing of particular brands of multiple-source drug products. On the contrary, such a requirement implicitly recognizes that a certain brand of a drug product may be better suited than the same drug from other sources for the treatment of a patient in the prescribing physician's judgment.

Accordingly, section 19.3(a) is clarified to provide that "the MAC established for any drug shall not apply to a brand of that drug prescribed for a patient which the prescriber has certified in his own handwriting is medically necessary for that patient."

79. Several comments criticize the certification provision in section 19.3(b) of the proposed regulation for failing to outline the exact form of certification, and for failing to specify to whom the certification should be made and by whom it will be reviewed.

The Secretary advises that section 19.3(a) of the final regulation is intended to be general in nature, outlining the basic requirements of the certification procedure. Procedures are outlined in the conforming MAC regulations of the Social and Rehabilitation Service, the Social Security Administration, and the Public Health Service which will be subsequently published in the FEDERAL REGISTER with respect to the form of certification.

80. A comment asks whether the certification procedure outlined in section 19.3(b) of the proposed regulation may be used as a "blanket" waiver of MAC limits for more than one drug and/or patient.

Section 19.3(b) of the proposed regulation and section 19.3(a) of the final regulation clearly indicate that each certification applies to a specific drug and a specific patient. A "blanket" waiver of MAC limits is not authorized.

81. One comment also asks how the physician certification procedure outlined in section 19.3(b) of the proposed regulation will be applied should a prescription be telephoned to a pharmacist.

The Secretary concludes that reimbursement or payment will not be based

on an established MAC if a drug is dispensed in response to a telephoned prescription, if the physician prescribes a particular brand of a multiple-source drug for a patient, and if the physician subsequently certifies the brand's medical necessity in accordance with section 19.3(a), as amended in the final regulation.

ESTABLISHMENT OF PHARMACEUTICAL REIMBURSEMENT BOARD AND ADVISORY COMMITTEE

82. Under section 19.4 of the proposed regulation, a Pharmaceutical Reimbursement Board and a Pharmaceutical Reimbursement Advisory Committee are established in the Office of the Assistant Secretary for Health. The Board, consisting of five full-time Department employees representing the principal program areas involved in developing and implementing cost determinations, is chaired by the Assistant Secretary for Health. As proposed, the Committee consists of nine members, who are not full-time employees of the United States, representing the areas of pharmacy, pharmacology, medicine, pharmaceutical marketing, public health, and consumer affairs. It is the Committee's function to advise the Board on the appropriateness of all proposed MAC determinations; and, upon request, to advise the Secretary and the Board on general Departmental policies and procedures in reimbursing or paying the cost of drugs used in health programs funded by the Department.

83. A number of comments suggest that it is unnecessary to establish a Pharmaceutical Reimbursement Board and a Pharmaceutical Advisory Committee. One of these comments recommends that section 19.4 be amended in the final regulation to establish one board made up of government and non-government members. Another comment recommends that the Department rely on outside consultants to advise the Board on the appropriateness of a proposed MAC rather than establish an Advisory Committee.

One comment suggests that section 19.4's provisions creates a cumbersome committee structure which will encourage obfuscation by special interests.

The Secretary believes that the Pharmaceutical Reimbursement Advisory Committee will serve as a useful means of furnishing diverse opinions, ideas, and expert advice on the appropriateness of proposed MACs as well as on matters relating to overall Departmental reimbursement and payment policies for prescribed drugs furnished under Federally funded health care programs. Its members will render advice to the Board on the basis of the knowledge and experience they have gained by working in their related fields of competence.

Although it is permissible to consolidate the proposed Reimbursement Board and Pharmaceutical Reimbursement Advisory Committee so that the Board is composed of both full-time Government employees and with intermittently employed special Government employees acting as experts, the Secretary believes that such an arrangement is inadvisable. As proposed, the Board and Advisory Committee perform two separate and distinct functions. The Board's functions are solely operational, while the Committee acts only in an advisory capacity. If the Board and Committee were consolidated, these functions would of necessity become commingled. The result would be a lessening of the value of the input of those outside members, necessitated by their acting in two capacities, as advice givers and as decision makers.

The Secretary further advises that the Department is relying on outside consultants to advise the Board on the appropriateness of proposed MACs. Persons who are not full-time Federal employees in fact serve as consultants if they are enlisted by the Federal government to render advice and make recommendations as members of Federal advisory committees.

84. A number of comments also criticize the proposed make-up of the Pharmaceutical Reimbursement Advisory Committee. One comment recommends that section 19.4 be amended in the final regulation to specify those areas from which Committee members will ultimately be selected. Another comment suggests that section 19.4 be amended so that the Committee will include experts in biopharmaceutics and clinical pharmacology to assure that the Committee will be capable of dealing with scientific as well as economic issues. Other comments suggest that the Committee needs more medical input, and one comment recommends that section 19.4 be amended so that the Committee will include experts in hospital pharmacy and purchasing. Comments additionally recommend that experts in pharmaceutical wholesaling be included among the list of Committee members.

The Secretary advises that the MAC regulation does not preclude the selection of Committee members from those areas specifically mentioned in these comments. Committee members will be chosen to provide the broadest possible range of knowledge, experience, and judgment in the general areas outlined in section 19.4 of the final regulation. Experts in the areas of hospital pharmacy and pharmaceutical wholesaling as well as in the areas of biopharmaceutics, clinical pharmacology, and medicine could be among those persons selected for Committee membership.

In addition to the requirement that Committee members possess the necessary expertise to make informed judgments on the appropriateness of proposed MACs, the only condition for Committee membership is that a member not have a financial or similar interest in a particular matter under the Committee's consideration. Members having such interests are required to refrain from participating in that matter in any way while it is being considered.

The Secretary also advises that section 19.4 is amended in the final regulation to expand the Committee from nine to fifteen members to assure adequate representation of professional, commercial, and consumer interests.

DETERMINATION OF MAXIMUM ALLOWABLE COST IDENTIFICATION OF DRUGS

85. In accordance with section 19.5(a) of the proposed regulation, the Pharmaceutical Reimbursement Board begins the MAC determination process by identifying those multiple-source drugs for which there are or may be significantly different prices charged by various product formulators and labelers, and for which significant amounts of Federal funds are or may be expended under the programs and for the activities described in section 19.1 of the proposed regulation.

86. A number of comments suggest that section 19.5(a) be amended in the final regulation to define the limits of the Pharmaceutical Reimbursement Board's discretion in finding that "significant amounts" of Federal funds are or "may be" expended for the drug and that "significantly different" prices are or "may be" charged by different suppliers. One comment suggests that section 19.5(a) be amended to add two new subsections; 19.5(a)(i) and 19.5(a)(ii). Section 19.5(a)(i) would define "significant" as: "the actual payment on an annual basis of two (2%) percent of the total reimbursement for drugs under programs and for the activities described in 19.1." Section 19.5(a)(ii) would define "significant" as: "at least a ten (10%) percent difference in published prices for therapeutically equivalent products as set out in the manufacturers published catalog, which prices have been actually used for billing purposes by such manufacturers for a period of time not less than three previous calendar months."

The Secretary concludes that the Board's discretion under section 19.5(a) is appropriately limited. The Board must have some degree of flexibility in determining what constitutes "significant" and must exercise its judgment on a case-by-case basis. No useful purpose would be served by assigning percentage figures to the term "significant", in the absence of justification for taking such action.

Board decisions must have a rational basis and cannot be arbitrary, capricious, or otherwise not in accordance with the law. Final Board decisions are subject to judicial review in accordance with the Administrative Procedure Act, 5 U.S.C. 701 et seq., and should the Board improperly exercise its discretion in determining that constitutes "significant", its decision may be overturned. Accordingly, the suggested definition of the term "significant" is not adopted in the final regulation.

87. One comment suggests that section 19.5(a) be amended in the final regulation to enable interested persons to initiate the MAC determination process if they believe that significant amounts of Federal dollars are being spent for multiple-source drugs used in Federally subsidized health care programs and that

significant price variations exist among those particular drug products.

The Secretary concludes that it is inappropriate for persons outside the Department to formally petition that a MAC determination be made under the procedures outlined in section 19.5 of the MAC regulation in the manner suggested. The initial determination to establish a MAC limit is a Departmental function, relating solely to the administration of Departmental responsibilities. Accordingly, this suggestion is not adopted in the final regulation.

At the same time, however, it is not intended that interested members of the public not correspond to the Board to make informal requests or suggestions pertaining to the establishment of MAC limits. Informal requests and suggestions will be handled in the same manner as other correspondence submitted to the Department. Indeed, persons and organizations are encouraged to present their views and suggestions to the Board.

REVIEW BY THE FOOD AND DRUG ADMINISTRATION

88. Under section 19.5(b) as proposed, the Food and Drug Administration is to advise the Pharmaceutical Reimbursement Board in writing of any pending or anticipated regulatory activity, including the establishment of a bioavailability requirement, which would warrant delay in establishing MAC limits for particular multiple-source drugs. Food and Drug Administration advice is solicited by the Board for each multiple-source drug the Board identifies in accordance with section 19.5(a), as noted in paragraph 85 above. In the absence of a statement from the Food and Drug Administration advising delay, the Board may proceed to establish a MAC limit for any identified drug.

89. Of those comments received pertaining to review by the Food and Drug Administration, many suggest that section 19.5(b) as proposed lacks sufficient standards and does not go far enough in spelling out Food and Drug Administration responsibilities in the MAC determination process.

The Secretary agrees that section 19.5(b) should be amended in the final regulation to define more clearly the Food and Drug Administration's role in the MAC determination process. Under the MAC regulation, the Food and Drug Administration's main responsibility is to advise the Pharmaceutical Reimbursement Board whether there is any regulatory action, either pending or under consideration, bearing upon the marketability of, or to establish a bioequivalence requirement for, each drug identified by the Board in accordance with section 19.5 (a) of the regulation which, in the judgment of the Food and Drug Administration, is a reason for delaying or withholding the establishment of a MAC for the drug. As proposed, section 19.5(b) did not explicitly require the Food and Drug Administration to make a judgment as to whether any such action is a reason for delaying or withholding the establishment of a MAC. Accordingly, section 19.5(b) is amended in the final regulation to provide that the Board shall notify the Food and Drug Administration in writing of each drug identified in accordance with section 19.5(a); and, that, in response to each such notification, the Food and Drug Administration "shall advise the Board in writing whether there is any regulatory action, either pending or under consideration, bearing upon the marketability of, or to establish a bioequivalence requirement for, the drug and shall further advise the Board whether, in the judgment of the Food and Drug Administration, any such action is a reason for delaying or withholding the establishment of a MAC for the drug." Section 19.5(c) is also amended in the final regulation to provide that the Board shall proceed to establish a MAC for a particular drug only if the Food and Drug Administration has not advised delaying or withholding the establishment of a MAC for that drug.

90. One comment recommends amending section 19.5(b) in the final regulation to require the Food and Drug Administration to demonstrate that there is substantial evidence that a multiple-source drug is bioequivalent, and can be freely substituted for another with minimum risk to the patient.

The Secretary concludes that the related issues of drug effectiveness, drug quality, bioequivalence, and general regulatory control, by the Food and Drug Administration are properly dealt with in Food and Drug Administration regulations and not in the MAC regulation. As noted in paragraph 5, under Food and Drug Administration requirements, data establishing bioequivalence among pharmaceutical equivalents or alternatives are required whenever there is a good reason to believe that such bioequivalence is lacking. To erect a wholly unnecessary trade barrier, by requiring such evidence where there is no rational scientific basis for it, would serve no useful public purpose.

91. Several comments suggest that section 19.5(b) be amended to require the Food and Drug Administration to certify the safety, effectiveness, and therapeutic equivalence of each drug product for which delay in establishing a MAC is not advised.

As indicated in paragraphs 5 and 6, the experience of the Food and Drug Administration demonstrates that it is unnecessary for the Food and Drug Administration to certify the safety, effectiveness, and therapeutic equivalence of all MAC listed drugs to assure their safety and effectiveness. Whatever defects exist in current marketed products are found randomly throughout the drug supply by the Food and Drug Administration in accordance with its regulatory control activities. It is sufficient that the Food and Drug Administration assure the Pharmaceutical Reimbursement Board that present Food and Drug Administration regulatory control will assure safety, effectiveness, and quality of all MAC listed drugs in accordance with the procedures outlined in section 19.5(b) of the MAC regulation as noted and explained in paragraph 89.

92. A comment urges amendment of section 19.5(b) in the final regulation to require the Food and Drug Administration to identify MAC candidates in a FEDERAL REGISTER publication, and to make a request for data pertaining to bioequivalence and quality from all interested parties so that such determinations can be made on a broad base.

The Secretary concurs with the intent of this suggestion. As noted in paragraph 5, the Food and Drug Administration has recently proposed regulations (40 FR 26157, 40 FR 26164) that will identify those drugs for which there are known or suspected bioavailability or other special manufacturing problems. These regulations permit interested persons to comment on the drugs so identified, and to petition for addition of other drugs to the list. Accordingly, all interested persons will have an opportunity to participate in this process.

93. A comment urges that section 19.5 (b) be amended in the final regulation to provide that the Pharmaceutical Reimbursement Board require the Food and Drug Administration to submit a written statement for each drug product identified in accordance with section 19.5 (a), setting out in detail: (1) manufacturing standards for the drug, (2) testing standards for the drug, (3) packaging standards for the drug, and (4) tests required to establish the therapeutic equivalence of the drug.

The Secretary again concludes that these matters are issues relating to the regulatory control of all drugs by the Food and Drug Administration, and thus are not matters for independent consideration under the MAC regulation. It is sufficient that the Pharmaceutical Reimbursement Board is assured by the Food and Drug Administration that present regulatory control will assure the safety, effectiveness, and quality of all MAC listed drugs. The Board is not independently qualified to determine the adequacy of regulatory controls, and thus any detailed requirements of this type would be inappropriate in the MAC regulation.

94. Another comment suggests that section 19.5(b) be amended to provide that the Board shall establish a MAC unless it determines that it would be "inappropriate for that drug" for the reasons stated in the proposal, "or by reason of any other relevant factor bearing on pharmaceutical interchangeability of that drug, when marketed or sold by any other formulator thereof, with that drug when marketed or sold by any formulator." The change is recommended to give the Board more flexibility in establishing a MAC limit so that if, for instance, the Food and Drug Administration were not planning any regulatory activity with respect to a particular multiple-source drug product but were conducting or considering a study of that particular drug, the Board could in its discretion determine whether delay in establishing a MAC is warranted.

The Secretary concludes that such justification for delaying a MAC is too speculative and too far removed to require

that such determinations be made. Also, as noted in paragraph 93 above, the Pharmaceutical Reimbursement Board is not independently qualified to comment. Accordingly, this suggestion is not adopted in the final MAC regulation.

95. A comment states that section 19.5 (b) be amended to provide that the required written statement from the Food and Drug Administration, including data upon which the agency has based its conclusion that it is necessary to establish a bioavailability requirement, including bioavailability data of specific formulators or labelers, shall be made part of the public record assembled in determining a MAC.

The Secretary concludes that it would be inappropriate and unnecessary to repeat, in the record supporting a MAC determination, all of the bioavailability data that will be considered by the Food and Drug Administration in making its determinations of drug quality. Such data and information are properly placed on public file in connection with the establishment of specific bioavailability and other regulatory requirements by the Food and Drug Administration. Accordingly, this suggestion is not adopted.

PROPOSED MAC DETERMINATION

96. For the purpose of establishing a proposed MAC and in accordance with section 19.5(c) of the proposed regulation, the Board determines the lowest unit price at which a multiple-source drug is widely and consistently available to providers throughout the Nation. That lowest unit price is the proposed MAC for that drug. Separate MAC determinations are made if the Board determines that a drug is in fact unavailable to providers in one or more localities at that lowest unit price but is widely and consistently available to providers elsewhere at that price. In making MAC determinations, the Board may consider any relevant information including published and unpublished data regarding the marketing and sales price of specific dosage forms and strengths of drugs.

97. Numerous comments question this provision as proposed. One comment asks whether the "lowest unit price" is to be determined on the basis of large, medium, or small quantity purchases of drugs by providers, and what sources or criteria the Board will consider in determining this price. Another comment asks whether different MAC determinations will be made for different classes of providers. And still other comments ask how "lowest unit price" at which the drug is "widely and consistently available" will be applied or related to MAC prices for different localities. One comment recommends that section 19.5(c) be revised in the final regulation to provide for the establishment of a series of MAC levels, one for hospitals, another for pharmaceutical chains, and a group developed to reflect the costs experienced by large and small volume independent pharmacies segregated as to urban and rural locations.

The Secretary advises that the MAC, or the lowest unit price at which the drug is widely and consistently available, will reflect the lowest national price (or local price, should separate MAC determination be made for particular localities) at which providers can obtain a consistently available supply of a drug product. As noted in paragraph 101, section 19.5(c) is amended in the final regulation to provide that this determination will be based on the package size of drug most frequently purchased by providers. Lowest unit price determinations will be made on the basis of available published and unpublished drug price and marketing information.

The Secretary advises that the Board will not make separate MAC determinations for different classes of providers.

It is important to note in this regard that reimbursement or payment for multiple-source drugs furnished under Federally subsidized health care programs may not necessarily be based on the established MAC limit. The MAC limit is the "upper limit" on which reimbursement or payment for these drugs will be based. Where a provider obtains a multiple-source drug at a price lower than the established MAC limit, reimbursement or payment is limited, as noted in paragraph 70, to the lower of (1) the acquisition cost of the drug plus a reasonable dispensing fee, or (2) the provider's usual and customary charge to the general public for the drug.

98. One comment recommends that section 19.5(c) be amended in the final regulation to require the Food and Drug Administration to review Board determinations that multiple-source drugs to be proposed for MAC listing are "widely and consistently available."

The Secretary concludes that such review is unnecessary and inappropriate. Board determinations under this paragraph are based solely on economic considerations, or on issues relating to drug price and drug supply. Issues properly considered pertain to the availability of drug products to providers at various prices throughout the nation or in particular localities. The Board has the expertise to make independent determinations in this regard.

99. A comment also recommends that section 19.5(c) be amended to provide that the Board shall make a formal finding that the drug product to be proposed for MAC listing does not present any bioequivalence or other regulatory problems.

The Secretary again concludes that it is unnecessary and inappropriate for the Board to make such a finding. As noted in paragraph 93 the Pharmaceutical Reimbursement Board is not qualified to determine independently whether drug products under consideration for MAC listing present bioequivalence or other regulatory problems. Such determinations are properly left to the Food and Drug Administration. Moreover, as noted in paragraph 89, the Food and Drug Administration is required to advise the Board whether there is any regulatory action, either pending or under consideration, bearing upon the marketability of, or to establish a bioequivalence requirement for, each drug the Board identifies as a potential MAC candidate which, in the judgment of the Food and Drug Administration is a reason for delaying or withholding the establishment of a MAC for the drug. Food and Drug Administration advice and determinations in this regard, is, in effect, a finding that the drug to be proposed for MAC listing either does or does not present any bioequivalence or other regulatory problems.

100. A comment recommends that section 19.5(c) be amended in the final regulation to provide that a separate MAC determination for a particular locality shall not be lower than the MAC to be used as a basis for reimbursement or payment for the same drug in other areas or nationally.

The Secretary advises that under section 19.5(c) of the proposed regulation, separate MAC determinations were to be made by the Pharmaceutical Reimbursement Board if providers in a particular locality could not obtain a consistently available supply of a drug product at the same lowest unit price at which providers could obtain the drug in other areas or nationally. Section 19.5(c) of the final regulation also includes this provision. Accordingly, section 19.5(c) of the proposed regulation and section 19.5(c) of the final regulation reflect the view expressed in the comment.

101. One comment suggests that section 19.5(c) be amended in the final regulation to require the Pharmaceutical Reimbursement Board to make its lowest unit price determinations on the basis of the most frequently purchased package size of drug by providers.

The Secretary concurs with this suggestion and advises that section 19.5(c) has been so amended in the final regulation. The Secretary agrees, as is suggested in this comment, that such a provision will help assure that MAC limits are set at levels which realistically represent costs to providers.

102. Another comment suggests that section 19.5(c) be amended in the final regulation to provide that the Pharmaceutical Reimbursement Board shall make its MAC determinations on the basis of sales price information required from manufacturers.

The Secretary concludes that there is nothing in the MAC regulation's authorizing legislation which would permit the Department to require drug manufacturers to submit sales price information to the Board for the purpose of establishing MAC limits. Accordingly, this suggestion is not adopted in the final regulation.

103. A comment suggests that section 19.5(c) be amended in the final regulation to require the Pharmaceutical Reimbursement Board to propose separate MAC limits for particular localities if it anticipates that a drug will not be available in a locality at the lowest unit price at which the drug is widely and consistently available to providers throughout the nation at the time that the lowest unit price, or MAC, is proposed or established.

The Secretary agrees and advises that section 19.5(c) is amended accordingly.

Such an amendment will provide the Board with sufficient flexibility to take into account the fact that, although a drug is available at the same lowest unit price in a particular locality at which it is available elsewhere at the time a MAC limit for the drug is being considered, a marketing trend indicates that the drug will not be so available in the near future. This amendment will also preclude the Board from having to continuously propose separate MAC determinations for particular localities soon after a MAC determination's final adoption because of the occurrence of events which the Board had expected to occur at the time that it was making its lowest unit price determinations, or MAC determinations, for the drug.

104. A comment recommends that MAC limits reflect the lowest unit price at which a drug is nationally available from a "major" pharmaceutical manufacturer who does pharmaceutical research.

The Secretary concludes that the "lowest unit" price, or MAC, should reflect the "lowest unit" price at which a drug is widely and consistently available to providers throughout the nation, or in particular localities. That price may or may not reflect the price at which a drug is nationally available from a "major" pharmaceutical manufacturer doing pharmaceutical research.

105. A few comments criticize section 19.5(c) as proposed, asserting that its provisions are impermissibly vague and ambiguous, and that it fails to provide adequate standards to guide the Board in determining the lowest unit price at which a drug is widely and consistently available on either a national or local basis.

The Secretary disagrees. As noted in paragraph 97 above, the Board will determine the lowest unit price at which any provider throughout the nation can obtain a consistently available supply of a drug product in the package size in which the drug is most frequently purchased by providers by reviewing drug price and marketing information. Should such review reveal that providers cannot obtain a consistently available supply of a particular drug product at that price in a locality, or geographical area, as can providers elsewhere, a separate MAC determination will be made by the Board for that locality. That MAC will reflect the lowest unit price at which providers in that geographical area can obtain a consistently available supply of the drug in the package size most frequently purchased by providers in that geographical area.

Pharmaceutical Reimbursement Advisory Committee Review

106. In accordance with section 19.5 (d) as proposed, the Board submits its proposed MAC for a drug, together with any data or information it relied upon in making its determination, to the Pharmaceutical Reimbursement Advisory Committee for its advice and recommendations. All Advisory Committee meetings are open to the public. After considering the Committee's advice and recommendations, the Board determines whether a MAC, or a modification of a MAC, should be proposed for adoption in accordance with section 19.5(e) of the proposed regulation.

107. A few comments suggest that section 19.5(d) be amended in the final regulation to define more clearly the Committee's responsibilities in rendering its advice and recommendations to the Pharmaceutical Reimbursement Board. Other comments suggest that section 19.5(d) as proposed places too little authority in the Advisory Committee.

One comment recommends amending section 19.5(d) in the final regulation to require the Advisory Committee to report directly to the Secretary on all proposed MAC determinations submitted to the Committee by the Board for its advice and recommendations.

The Secretary concludes that it is unnecessary and inappropriate to fully outline the Committee's responsibilities in section 19.5(d) of the MAC regulation. Section 9(c) of the Federal Advisory Committee Act provides that no advisory committee shall meet or take any action until its charter, containing a full description of the duties for which it is responsible, is prepared and filed. Copies of all committee charters are maintained at the Library of Congress and also are furnished to the appropriate standing committees of the Senate and House of Representatives. Accordingly, all Pharmaceutical Reimbursement Advisory Committee functions will be properly detailed and reported.

Under the MAC regulation, the Pharmaceutical Reimbursement Board is charged with the responsibility of establishing a MAC for each multiple-source drug which is available from different formulators or labelers at significantly different prices, and for which significant amounts of Federal funds are being expended. The Secretary believes that because the Board is charged with this responsibility, it should have the benefit of an independent source of advice. As noted in paragraph 83, the Committee will include members with a diversity of professional experience and, on the basis of its expertise, will provide the Board with a balanced and knowledgeable view on the appropriateness of a proposed MAC.

Accordingly, the Secretary additionally concludes that the Committee should report directly to the Board on the appropriateness of all proposed MAC determinations.

108. A comment recommends that section 19.5(d) be amended in the final regulation to require Pharmaceutical Reimbursement Advisory Committee meetings to be noticed in the Federal Register.

The Secretary advises that notice of Advisory Committee meetings will be published in the Federal Register in accordance with section 10 of the Federal Advisory Committee Act.

Notice, Comment, and Hearing

109. Under section 19.5(e) of the proposed regulation, all proposed MAC determinations are required to be published as a notice in the Federal Register. Interested persons and organizations are invited to submit written comments on each proposal. In accordance with section 19.5(f) as proposed, interested persons or organizations may also request an informal hearing on whether a different, or any, MAC should be established for any drug described in the notice. The Board may grant a request for a hearing if it believes that its deliberations or determinations in establishing a MAC will be aided. As provided in section 19.5(g) of the proposed regulation, hearings may be held before the full Board, a panel of three or more Board members, or an administrative law judge. Persons or organizations wishing to appear at the hearing must submit written statements to the Board identifying the evidence and arguments they wish to present. Hearing participants are selected by the hearing official or officials on the basis of these written submittals. All hearings are open to the public, and a written record is to be kept of the proceedings.

110. One comment asserts that section 19.5(e) as proposed fails to provide sufficient time for the submission of comments and hearing requests to the Pharmaceutical Reimbursement Board, and recommends that the 30 day limit be extended in the final regulation. Another comment suggests that section 19.5(f) be amended in the final regulation to require the Board to publish a notice in the Federal Register at the end of the comment period inviting hearing requests on proposed MACs at that time.

The Secretary concludes that 30 days is ample time for interested persons and organizations to submit comments and hearing requests on proposed MAC determinations to the Pharmaceutical Reimbursement Board under ordinary circumstances. To extend the comment and hearing request period beyond the proposed 30 days without justification for doing so would unduly prolong the MAC determination process. Although extensions of time will not routinely be granted, the Board may in its discretion extend the 30 day comment and hearing period on a proposed MAC for good cause in particular cases.

111. A number of comments criticize the notice, comment, and hearing provisions outlined in section 19.5 of the proposed regulation, asserting that more opportunity for public participation in the MAC determination process is required. One comment suggests that the setting of MAC limits is sufficiently analogous to rate regulation to warrant the provision of a formal type hearing prior to final agency action. Another comment suggests that a full evidentiary hearing with an opportunity for cross-examination on a proposed MAC is warranted at a minimum with respect to issues of quality, bioavailability, and therapeutic equivalence for all drugs proposed for MAC listing.

The Secretary concludes that formal trial type hearings are generally required under the Administrative Procedure Act,

5 U.S.C. 553 et seq., only when the substance of administrative action involves review of individual conduct or when Congress has by legislation provided that administrative hearings be held "on the record." Trial type hearings are not required during rulemaking involving broad policy considerations. It is sufficient, in most cases, that interested persons be given the opportunity to participate in the rulemaking through the submission of written data, views, or arguments with or without opportunity for oral presentation.

The Secretary recognizes, however, that courts are moving away from these rigid standards, and are indicating that when the substance of an agency's rulemaking involves complex or controversial issues, fairness may require greater opportunity for public participation. At the same time, courts have avoided imposing strict standards for agency hearing procedures, when Congress has not specified a hearing requirement, to give agencies wide latitude in choosing which procedures are best suited for resolving issues in particular circumstances.

Accordingly, section 19.5 of the proposed regulation includes a provision for an informal hearing. Such a hearing would permit interested persons or organizations to orally present their views and arguments on proposed MAC determinations, without undue elongation of the proceedings, should the Board determine that such a proceeding would aid in its MAC deliberations and determinations.

The Secretary does not believe that more opportunity for public participation in the MAC determination process is required. There is nothing in the MAC regulation's enabling legislation which indicates that Congress intends that a formal hearing be held at any stage during this process. Furthermore, the Secretary concludes that the setting of a MAC is not sufficiently analogous to rate regulation to warrant a formal type hearing. The Pharmaceutical Reimbursement Board is not fixing the amount of dollars manufacturers or suppliers may charge for prescribed drugs furnished under Federally funded health care programs. Rather, the Board is only determining "upper limits" on Federal reimbursement or payment for certain of those prescribed drugs.

Moreover, the Secretary does not believe that the setting of a MAC will involve issues which may warrant more public participation. As has been previously noted, the Pharmaceutical Reimbursement Board's two principal responsibilities in proposing a MAC determination are to: (1) identify those multiple-source drugs for which significant amounts of Federal dollars are being expended and for which formulators or labelers charge significantly different prices, and (2) determine the lowest unit price at which those drugs are widely and consistently available to providers on a national, and when appropriate, local basis. These determinations typically involve economic considerations, of issues relating to drug price and drug supply, or the availability of drug products to providers throughout the nation or in particular localities at various prices. The Board does not make independent determinations, at any stage during the MAC determination process relating to issues of drug quality, safety, bioavailability, or other matters pertaining to Food and Drug Administration regulatory control. As noted in paragraph 89, the Board solicits the advice of the Food and Drug Administration, prior to making any lowest unit price determinations, as to whether there is any regulatory action, either pending or under consideration, bearing upon the marketability of, or to establish a bioequivalence requirement for, each drug identified by the Board in accordance with section 19.5(a). If, in the judgment of the Food and Drug Administration, any such activity is a reason for delaying or withholding the establishment of a MAC for a drug, a MAC determination is not made or proposed for adoption by the Board for that drug.

For this reason, it is intended that the Board will seek the advice of the Food and Drug Administration when considering comments, data or hearing requests, submitted on a proposed MAC determination in accordance with sections 19.5(f) and (g) of the regulation, addressing issues relating to drug quality, safety, effectiveness, bioavailability (or other issues concerning Food and Drug Administration regulatory control) of a drug proposed for MAC listing. As has been previously noted, the Pharmaceutical Reimbursement Board does not possess the expertise to independently deal with such issues. Should the Food and Drug Administration advise the Board that in its judgment there is a reason for withholding or delaying the establishment of a MAC for a drug based on the issues raised in comments or hearing requests submitted on a proposed MAC determination, the Board will suspend further action on the proposal. Action to establish a MAC for that drug will not be taken by the Board until such time as it is advised by the Food and Drug Administration that there is no longer a reason for delaying or withholding the establishment of a MAC for the drug.

112. A few comments criticize section 19.5 as proposed asserting that the purported opportunity for a hearing may turn out to be illusory because the hearing official(s) has too much discretion in the matter of granting a hearing. One comment recommends that section 19.5 (f) be amended in the final regulation to require the hearing body to grant a hearing request if that request is accompanied by credible evidence questioning or relating to the safety, identity, quality, or purity of a drug proposed for MAC listing. Another comment suggests that section 19.5(f) be amended to make hearings mandatory whenever any substantial issue is presented in a hearing request.

The Secretary concludes that the hearing official or officials must have flexibility in determining whether an informal hearing is the best means for resolving issues in particular circumstances on the basis of the evidence and arguments presented in a hearing request. In some instances, an informal hearing may be the better approach; in others, a review of the submittals on a proposed MAC, including the evidence and arguments presented in hearing requests may be the appropriate means for resolving issues with respect to that particular MAC. To make hearings mandatory in any circumstance would therefore serve no useful public purpose.

113. Comments contend that section 19.5 (f) and (g) lack sufficient standards to give full and adequate notice of the evidence and arguments that will be considered at a hearing.

The Secretary advises that a provision is added in section 19.5(h) of the final regulation to provide that all persons or organizations, who request to appear at a hearing and who submit a written statement identifying the evidence and arguments they wish to present, shall receive written notice prior to the hearing of: (1) whether they may appear at the hearing, (2) the time that will be allotted for their appearance, and (3) the issues to be considered at the hearing. All hearing participants will thus receive adequate notice of the issues to be considered at the hearing.

114. A comment recommends that section 19.5(e) of the proposed regulation be amended in the final regulation to require the Pharmaceutical Reimbursement Board to include its reasoning for each proposed MAC determination in all proposed MAC determination notices published in the FEDERAL REGISTER in accordance with that section.

The Secretary agrees with the intent of this recommendation and advises that section 19.5(f) is amended in the final regulation to require the Board to include a brief statement containing its rationale for proposing the MAC in each proposed MAC determination notice published in the FEDERAL REGISTER. Such a requirement will encourage a more meaningful dialogue between MAC decision makers and interested members of the public during the MAC determination process by affording interested persons and organizations the opportunity to consider the Board's reasoning for proposing the MAC.

115. One comment recommends that section 19.5(g) be amended in the final regulation to require the hearing body to accept and consider any written statements a person or organization wishes to submit if that person or organization is not given the opportunity to orally present evidence or arguments during a hearing on a proposed MAC.

The Secretary concludes that there is ample opportunity for interested persons and organizations to submit their views and arguments on a proposed MAC determination during the comment and hearing period, and as support for a hearing request after the comment and hearing request period has ended and the Board has decided to hold an informal

hearing. Accordingly, the Secretary concludes that it is unnecessary to amend the final regulation in the manner suggested.

116. One comment recommends that section 19.5(g) be amended to require all hearings on a proposed MAC determination to be held before an administrative law judge.

The Secretary concludes that the Administrative Procedure Act, 5 U.S.C. 553 et seq., does not require that administrative law judges preside over formal or informal agency hearings, but rather permits agencies to determine who would be best suited to hear evidence and arguments at agency hearings in varying circumstances. Accordingly, informal hearings on proposed MAC limits will be held before an administrative law judge only when it is determined that circumstances so require.

FINAL DETERMINATIONS

117. As proposed, section 19.5(h) requires the Pharmaceutical Reimbursement Board to decide whether a MAC should be established for each drug for which a notice of a proposed MAC is published. Final MAC determinations are made by the Board after considering the comments submitted on a MAC proposal and any presentations made at a public hearing, including the recommendations of the administrative law judge or hearing panel, if the hearing is not held before the full Board. Each final MAC determination is published as a notice in the FEDERAL REGISTER, also in accordance with section 19.5(h) as proposed.

118. A comment recommends that section 19.5(h) be amended in the final regulation to require the Pharmaceutical Reimbursement Board to include MAC limit effective dates in all final MAC determination notices published in the FEDERAL REGISTER.

The Secretary advises that the effective date of a final MAC determination will be published by the Board in the FEDERAL REGISTER as a part of the notice of final determination, required to be published as provided in section 19.5(i) of the final MAC regulation. The Secretary also concludes that a MAC limit will not be effective until 30 days after notice of a final MAC determination is published in the FEDERAL REGISTER. Accordingly, all providers will be aware of an established MAC limit, or the "upper limit" on which reimbursement or payment will be based for prescribed drugs furnished under Federally funded health care programs, prior to the actual effective date of the limitation.

119. One comment recommends that section 19.5 be amended in the final regulation to authorize individual programs to establish separate MAC limits if, due to unforeseen circumstances, a multiple-source drug is not available at or below the MAC limit established by the Pharmaceutical Reimbursement Board.

The Secretary agrees with the intent of this recommendation, but concludes that it would be inappropriate, and inconsistent with the MAC policy, to permit program agencies to establish separate MAC limits if a multiple-source drug is not available in a locality at or below the MAC limit established by the Pharmaceutical Reimbursement Board. Under the MAC regulation, the Board is properly charged with the responsibility of establishing MAC limits. As noted in paragraph 103, section 19.5(c) is amended in the final regulation to enable the Board to propose and establish separate MAC limits for particular localities if it anticipates that, although a drug is available at the same lowest unit price in a locality at which it is available elsewhere at the time the limit is being considered, the drug will not be so available in a locality in the near future. Accordingly, the Board may consider foreseeable circumstances in making its MAC determinations.

REVIEW AND REVISION OF MAC DETERMINATIONS

120. Under section 19.6 of the proposed regulation, the Pharmaceutical Reimbursement Board maintains a list of all MAC determinations. The Board regularly reviews this list to assure that continued application of each MAC is justified. At any time, an individual or organization may request revision or withdrawal of a MAC determination in accordance with section 19.6 as proposed. Review of a MAC determination is instituted under the procedures outlined in section 19.5 of the proposed regulation when ever it appears to the Board that there are substantial grounds for such review.

121. One comment asks whether section 19.6 as proposed enables interested persons or organizations to petition that a MAC determination be made in the first instance, or whether section 19.6 limits such petitioning to requests that MAC determinations previously made by the Board be revised or withdrawn.

The Secretary advises that section 19.6 does not enable persons or organizations to petition that MAC determinations be made in the first instance. As noted in paragraph 87 above, the Secretary believes that the establishment of MAC limits relates only to a Departmental responsibility and that it is therefore inappropriate to permit persons outside the Department to begin the MAC determination process. Once a MAC limit is established, however, section 19.6 enables persons to petition for its modification or withdrawal.

122. A number of comments urge amendment of section 19.6 in the final regulation to give the Pharmaceutical Reimbursement Board the authority to increase or decrease established MACs without publication of the increase or decrease for comment when this would be in the best interest of patients and when it would guarantee the continuity of pharmaceutical service.

The Secretary believes that in the absence of compelling circumstances, the Pharmaceutical Reimbursement Board should be required to publish proposed increases or decreases in, or proposed revocations of, established MAC determinations in the FEDERAL REGISTER and invite comments on the proposal from interested persons and organizations. In most instances, the Administrative Procedure Act, 5 U.S.C. 553(b), requires agencies to publish a general notice of proposed rulemaking containing either the terms or substance of the proposed rule or a description of the subjects and issues involved. In these circumstances, agencies are required to afford interested persons the opportunity to participate in the rulemaking through submission of written data, views, or arguments.

The Secretary notes, however, that in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), agencies may dispense with the requirements of notice and comment, except when notice or hearing is required by statute, if it is determined that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. Under this authority the Board could therefore publish an increased or decreased MAC limit as a final regulation without time for comment for good cause.

As a matter of policy, the Secretary has concluded, however, that the Board should not publish increases or decreases in, or revoke, established MAC limits, unless compelling circumstances so require, without first publishing the increase, decrease or revocation as a proposal and inviting public comment. Accordingly, section 19.6 is not amended in the manner suggested.

123. One comment criticizes section 19.6 as proposed, asserting that the Pharmaceutical Reimbursement Board has too much discretion in deciding whether a request for review of a MAC determination shall be granted. This comment recommends that section 19.6 be amended in the final regulation to spell out what grounds for review shall be considered "substantial."

The Secretary disagrees, and again concludes that the Pharmaceutical Reimbursement Board must have flexibility in determining whether a request for review of a MAC determination should be granted.

124. A comment suggests that section 19.6 be amended to require the Pharmaceutical Reimbursement Board to notify all persons or organizations, requesting that MAC determinations be revised or withdrawn, of a denial of such request by notice in the FEDERAL REGISTER. Such notice, according to this view, should also include the Board's reasons for denying a request.

The Secretary agrees with the intent of this suggestion. Accordingly, section 19.6 is amended in the final regulation to provide that should there be no substantial grounds for reviewing a MAC determination, the Board shall notify any person or organization requesting review in accordance with section 19.6 of its denial in writing. As provided in section 19.6 as amended, such notice shall also include a statement of the Board's reasons for denying the request.

125. One comment suggests that section 19.6 be amended in the final regulation to specify a time in which decision must be reached by the Pharmaceutical Reimbursement Board with respect to a request for review of a MAC limit. It is suggested that such time should be 60 days from the date of the request.

The Secretary concludes that it is inappropriate and unnecessary to amend section 19.6 in the manner suggested in the final regulation. The Board will respond to a request for review of a MAC limit as quickly as is possible in a given circumstance to assure that an established MAC limit for a drug is consistent with drug price increases or decreases in the marketplace.

126. A comment suggests that section 19.6 be amended to require the Pharmaceutical Reimbursement Board to update the list of drugs subject to MAC limits on a monthly basis. This suggestion is made to prevent providers from experiencing economic losses if drug prices increase quickly in the marketplace.

The Secretary advises that the Pharmaceutical Reimbursement Board will review the list of drugs subject to MAC limits with sufficient frequency to assure that such limits are consistent with drug prices existing in the marketplace.

CONCLUSION

127. The Secretary advises that, in addition to those changes in the final regulation mentioned above, numerous technical changes are made in various sections of the final regulation. These changes do not affect the substance of the regulation, but rather are added for clarification purposes.

The Secretary also advises that the effective date of section 19.3(a) is delayed. Reimbursement or payment for prescribed drugs furnished under Federally funded health care programs will not be based on the limitations established by this Part until 270 days from the date of this notice have elapsed. All other sections will take effect immediately on July 31, 1975.

In consideration of the foregoing and with the changes and additions noted above, the proposed amendment adding a new Part 19 to Subtitle A of Title 45 is adopted as set forth below.

Sec.

19.1 Purpose.
19.2 Definitions.
19.3 Cost limitation.
19.4 Establishment of Pharmaceutical Reimbursement Board and Advisory Committee.
19.5 Determination of maximum allowable cost.
19.6 Review and revision of maximum allowable cost determinations.

AUTHORITY: Sec. 205(c), Pub. L. 81-152, 63 Stat. 390 (40 U.S.C. 486(c)); Sec. 224(c), Pub. L. 92-603, 86 Stat. 1395 (42 U.S.C. 1396(b)(1)(1)); Sec. 223 (a), (b), (c), (d), Pub. L. 92-603, 86 Stat. 1393, 1394 (42 U.S.C. 1395x(v)(1)(A)); Sec. 237(b), Pub. L. 90-248, 81 Stat. 911, as amended (42 U.S.C. 1396a(a)(30), as amended); Sec. 223(a), Pub. L. 92-603, 86 Stat. 1411 (42 U.S.C. 1395f(b)); Sec. 215, Pub. L. 78-410, 58 Stat. 690, as amended (42 U.S.C. 216, as amended).

§ 19.1 Purpose.

(a) This Part establishes Department of Health, Education, and Welfare procedures for determining drug costs and, where applicable, dispensing fees which the Department will use for the purpose of determining:

(1) Reimbursement to providers and health maintenance organizations under the Medicare program.

(2) Reimbursement to States under State administered health, welfare, and social service programs.

(3) Allowable costs under projects for health services.

(b) Policies and procedures, which will be consistent with the policies and procedures set forth in this Part, will be published in the HEW Procurement Regulations, Title 41, Chapter 3, Code of Federal Regulations, governing the direct purchase of drugs by the Department and the purchase or supply of drugs by contractors of the Department.

(c) This Part does not establish procedures for fixing the actual amount of reimbursement to which providers will be entitled for dispensing drugs. Rather, it establishes procedures for setting a limit on what the individual program regulations and policies might otherwise provide. If the authorizing legislation for a particular program, or the program regulation or policies adopted or issued under that legislation, provides for a lower rate of reimbursement than this regulation permits, then the program reimbursement rate, being lower, will necessarily control the actual payment.

§ 19.2 Definitions.

For the purposes of this Part:

(a) "Board" means the Pharmaceutical Reimbursement Board established by § 19.4 of this Part.

(b) "Drug" means a drug product, including one that may be dispensed without a prescription, containing one or more active ingredients in a specified dosage form and strength. Each dosage form and strength of a drug is a separate drug.

(c) "Program Agency" means the Federal agency, state agency, local governmental unit, contractor or other institution or organization which reimburses or pays providers under any of the programs or activities described in § 19.1.

(d) "Multiple-source drug" means a drug marketed or sold by two or more formulators or labelers or a drug marketed or sold by the same formulator or labeler under two or more different proprietary names or both under a proprietary name and without such a name.

(e) "Provider" means one who furnishes medical or pharmaceutical services or supplies for which he is entitled to reimbursement or payment under any of the programs or activities described in § 19.1.

(f) "Acquisition cost" means the price generally and currently paid by providers for a drug marketed or sold by a particular formulator or labeler in the package size of drug most frequently purchased by providers.

§ 19.3 Cost limitation.

(a) The amount which the Department will recognize for reimbursement or payment purposes for any drug used in the programs or activities described in § 19.1 shall not exceed the lowest of:

(1) The maximum allowable cost (MAC) of the drug, if any, established in accordance with § 19.5 plus a reasonable dispensing fee;

(2) The acquisition cost of the drug plus a reasonable dispensing fee; or

(3) The provider's usual and customary charge to the public for the drug;

provided, That:

(i) The MAC established for any drug shall not apply to a brand of that drug prescribed for a patient which the prescriber has certified in his own handwriting is medically necessary for that patient; and *provided further*, That:

(ii) Where compensation for drug dispensing is included in some other amount payable to the provider by the reimbursing or paying program agency, a separate dispensing fee will not be recognized.

(b) Each program agency shall estimate the acquisition cost of each drug for which it reimburses or pays a provider. Such estimate should be consistent with any drug price information furnished the program agency by the Department.

§ 19.4 Establishment of Pharmaceutical Reimbursement and Board Advisory Committee.

(a) *Pharmaceutical Reimbursement Board.* There is established in the Office of the Assistant Secretary for Health a Pharmaceutical Reimbursement Board consisting of five full time employees of the Department, representing the principal program areas involved in developing and implementing the cost determination. The Assistant Secretary for Health shall be a member and shall serve as Chairman of the Board.

(b) *Pharmaceutical Reimbursement Advisory Committee.* There is established in the Office of the Assistant Secretary for Health a Pharmaceutical Reimbursement Advisory Committee consisting of fifteen members not in the full time employment of the United States. The members shall be selected for terms of two years, except that seven of the initial members shall serve for one year. The Secretary will select the members to provide as full a range as possible of knowledge, experience and judgment in the areas of pharmacy, pharmacology, medicine, pharmaceutical marketing, public health and consumer affairs. The Secretary shall designate one of the members as Chairman. The Committee will:

(1) Advise the Board on the appropriateness of proposed MAC determinations submitted by the Board to the Committee; and

(2) Upon request, advise the Secretary and the Board concerning general policies and procedures of the Department in reimbursing or paying the cost

of drugs used in Departmentally funded programs.

§ 19.5 Determination of maximum allowable cost.

(a) *Identification of drugs to which a MAC may be applied.* The Board shall identify those multiple-source drugs for which significant amounts of Federal funds are or may be expended under the programs and for the activities described in § 19.1 and for which there are or may be significantly different prices.

(b) *Review by the Food and Drug Administration.* The Board shall notify the Food and Drug Administration in writing of each drug identified in accordance with paragraph (a) of this section. The Food and Drug Administration, in response to each such notification, shall advise the Board in writing whether there is any regulatory action, either pending or under consideration, bearing upon the marketability of, or to establish a bioequivalence requirement for, the drug and shall further advise the Board whether, in the judgment of the Food and Drug Administration, any such action is a reason for delaying or withholding the establishment of a MAC for the drug.

(c) *Determination of lowest unit price.* For each drug identified in accordance with paragraph (a) of this section and for which the Food and Drug Administration has not advised delaying or withholding the establishment of a MAC, the Board shall determine the lowest unit price at which the drug is widely and consistently available from any formulator or labeler. This determination will be based on the package size of drug most frequently purchased by providers. If it appears to the Board that a drug is or will be unavailable to providers in one or more localities at the same lowest unit price at which it is available elsewhere, the Board shall make a separate determination for each such locality.

(d) *Review by Pharmaceutical Reimbursement Advisory Committee.* The Board shall submit each of its determinations of lowest unit price, together with such information as the Board relied upon or considered in making its determination to the Pharmaceutical Reimbursement Advisory Committee. The Committee shall review each determination and shall in writing provide the Board its advice concerning the Board's determinations of lowest unit price and the appropriateness of proposing a maximum allowable cost pursuant to paragraph (e) of this section. Meetings of the Committee shall be open to the public.

(e) *Proposed MAC.* The Board shall, after considering the advice and recommendations of the Committee, determine whether the lowest unit price should be proposed as the maximum allowable cost (MAC) for the drug.

(f) *Notice and comment.* The Board shall publish as a notice in the FEDERAL REGISTER each proposed MAC, together with the Committee's report of its advice and a summary of the Board's reasons for its proposal. The notice shall invite interested persons and organizations to submit in writing comments on the proposed MAC within 30 days of publication of the notice. All comments received will be maintained for public inspection at the Office of the Board.

(g) *Public hearing.* Any person or organization may, within 30 days of publication of notice of a proposed MAC, request in writing, an informal hearing before the Board on whether a different, or any, MAC should be established for the drug described in the notice. Each request for hearing shall state the reasons for the request and shall summarize any evidence or argument intended to be presented at the hearing and shall give the source of any published data to be relied upon. If it appears to the Board from the request that it will be aided in its deliberations or determinations by an informal hearing, it may grant such hearing. Notice of the hearing shall be published in the FEDERAL REGISTER at least 30 days prior to the hearing. Should the Board determine that an informal hearing will not aid in its deliberations and determinations, the Board shall notify the requesting party or parties of its denial in writing, stating its reasons for the denial.

(h) *Conduct of hearing.* The informal hearing may be before an administrative law judge, the full Board, or a panel of three or more members of the Board. The hearing shall be open to the public and a transcript shall be made of the proceedings. Persons or organizations wishing to appear at the hearing, including those who requested the hearing, shall each, no later than 15 days prior to the hearing, submit in writing to the Board a statement of the general nature of the evidence on arguments they wish to present, the names and addresses of proposed participants, and references to any published data to be relied upon. On the basis of the submittals, the hearing official or officials shall determine which persons and organizations shall be heard, the time that should be allotted to each, and the issues on which they will be heard. Those requesting to appear at the meeting in accordance with this paragraph will be notified in writing whether they may appear, the time they will be allotted, and the issues on which they will be heard. If the hearing is not before the full Board, the panel or administrative law judge conducting the hearing shall submit its recommendations, and the reasons for making such recommendations, in writing to the Board. Such recommendations shall be available for public inspection at the Office of the Board.

(i) *Final determinations.* After considering the written comments, the presentations made at any public hearing and any other evidence included as a part of the hearing record, and, if the hearing was not before the full Board, the recommendations of the panel or administrative law judge, the Board shall decide whether a MAC should be established for each drug for which a notice of proposed MAC was published and, if so, shall determine the MAC for each drug. Notice of such determination shall be published in the FEDERAL REGISTER together with a statement of the Board's reasons for its determination.

§ 19.6 Review and revision of maximum allowable cost determinations.

The Board will maintain and make publicly available a list of MAC determinations and will regularly review the list to assure that continued application of each MAC is justified. Any individual or organization may at any time request in writing that a MAC determination be revised or withdrawn. The request shall set forth the specific change requested, the justification for the change, and available data in support of the request. Whenever it appears to the Board that there are substantial grounds for reviewing a MAC determination, it shall institute such review in accordance with the procedures set forth in § 19.5. Should there be no substantial grounds for reviewing a MAC determination, the Board shall notify any person or organization requesting review in accordance with this section of its denial in writing. Such notice shall also include a statement of the Board's reasons for denying the request.

Effective date. This regulation becomes effective upon July 31, 1975, except for § 19.3 which becomes effective April 26, 1976.

It is hereby certified that we have evaluated the inflationary impact of the MAC Regulations in accordance with the requirements of Executive Order 11821 and OMB Circular A-107. We find that the regulations do not have inflationary impact. Therefore, an inflation impact statement is not required.

Date: July 25, 1975.

CASPAR W. WEINBERGER,
Secretary.

[FR Doc.75-19863 Filed 7-28-75;11:19 am]

Just Released

CODE OF FEDERAL REGULATIONS

(Revised as of April 1, 1975)

Title 17—Commodity and Securities Exchanges $6.30

Title 18—Conservation of Power and Water Resources (Parts 1–149) 4.65

Title 21—Food and Drugs (Parts 1–9) 2.10

Title 24—Housing and Urban Development (Part 500–End) 5.45

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