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federal register

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

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PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

Revision, Reorganization and Republication

Correction

In FR Doc. 76–861 appearing at page 1743 in the issue of Monday, January 12, 1976, the headings should read as set forth above.

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 75–WA–22]

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

Alteration of Federal Airway

On December 9, 1975, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (40 FR 57369) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would realign the south alternate of V–4 between Seattle, Wash., and Yakima, Wash.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 25, 1976, as hereinafter set forth.

Section 71.123 (41 FR 307) is amended as follows:

In V–4 "Olympia, Wash., 084° radials and INT Olympia 084°" is deleted and "McChord, Wash., 099° radials and INT McChord 099°" is substituted therefor.

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

Issued in Washington, D.C., on January 20, 1976.

WILLIAM E. BROADWATER,
Chief, Air Space and Air Traffic Rules Division.

[FR Doc.76–2166 Filed 1–23–76;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. SAB–2]

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS

Subpart B—Staff Accounting Bulletins

PUBLICATION OF STAFF ACCOUNTING BULLETIN NO. 2

The Division of Corporation Finance and the Office of Chief Accountant today announced the publication of Staff Accounting Bulletin No. 2. The statements in the Bulletin are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Division and the Chief Accountant in administering the disclosure requirements of the federal securities laws.

Staff Accounting Bulletin No. 2 provides interpretations of Accounting Series Release No. 175. At the time the two indices to the Staff Accounting Bulletins are next updated, these interpretations will be incorporated into Topic 6, "Interpretation of Accounting Series Releases," and designated as Section F thereof.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 9, 1976.

TOPIC 6— INTERPRETATIONS OF ACCOUNTING SERIES RELEASES

F. ACCOUNTING SERIES RELEASE NO. 175—RULE 4–02(e) RELATING TO CONSOLIDATED FINANCIAL STATEMENTS (ADOPTED JULY 10, 1975)

General facts. Rule 4–02(e) of Regulation S–X provides, in general, that separate financial statements shall be presented for consolidated subsidiaries (or group of subsidiaries) engaged in specified financial-type businesses if the subsidiaries are significant subsidiaries. Combined separate financial statements shall also be presented for nonsignificant consolidated subsidiaries in these businesses when registrant's investment in and advances to all such subsidiaries exceed 10 percent of total assets on registrant's balance sheet. Notwithstanding these requirements, separate statements may be omitted under certain conditions specified in the rule.

1. Definitions

a. Engaged in the business

Facts. A consolidated subsidiary has operations in one of the businesses specified in Rule 4–02(e) and in another business not specified in the Rule.

Question. Would such subsidiary be regarded as engaged in one of the businesses specified in the Rule?

Interpretive response. A consolidated subsidiary should be regarded as engaged in one of the specified financial-type businesses if its primary activity is in that business. For example, if more than 50 percent of the revenues of a leasing subsidiary are derived from finance leases, it would be considered as engaged in the "finance" business.

Facts. A significant consolidated subsidiary is engaged in a "finance" business not identified in the rule, as for example in the credit card business.

Question. Would Rule 4–02(e) apply to such subsidiary?

Interpretive response. Yes. The Rule applies to consolidated subsidiaries which are, in substance, engaged in the "finance" business. A credit card company is engaged in the "finance" business.

b. All nonsignificant consolidated subsidiaries not otherwise included

Facts. The Rule specifies a test to determine whether separate financial statements are required for "all nonsignificant consolidated subsidiaries not otherwise included in groups above.'

Question. Does this phrase encompass subsidiaries engaged in manufacturing?

Interpretive response. No. This phrase is directed to all nonsignificant consolidated subsidiaries engaged in one or more of the financial-type businesses such as life insurance, fire and casualty insurance, securities broker-dealer, finance (which group includes similar activities such as factoring, mortgage banking and leasing, exclusive of subsidiaries with only nonfinancing leases), savings and loan or banking (including all subsidiaries of banks) for which financial statements are not otherwise presented separately or in group financial statements. Nonetheless, there may be instances that in order to adequately present the financial condition of the consolidated entity separate financial statements of consolidated manufacturing subsidiaries should be presented; in such instances the Commission may, by informal written notice, require the inclusion of the separate statements of the manufacturing subsidiaries.

c. Registrant's investment

Facts. The Rule refers to "registrant's investment (including current and noncurrent advances)."

Question. Do guarantees of a subsidiary's indebtedness by a registrant affect its investment?

Interpretive response. Yes. Where the registrant has guaranteed indebtedness of a nonsignificant consolidated subsidiary engaged in a business described in Rule 4–02(e), the amount of guaranteed indebtedness is to be considered an advance in determining the amount of the registrant's investment in and advances to such subsidiary. The amount of guaranteed indebtedness should also be added to the parent company's total assets since, for the purpose of this test, the funds may be considered in substance a borrowing by the parent company with the related proceeds advanced to the subsidiary.

d. Registrant's total assets

Facts. Rule 4–02(e) requires separate financial statements (combined if appropriate) of certain nonsignificant consolidated subsidiaries "when registrant's investment (including current and noncurrent advances) in all such subsidiaries exceeds 10 percent of total assets on registrant's balance sheet."

Question 1. Does "registrant's" balance sheet mean the "parent company only" balance sheet?

Interpretive response. Yes.

Question 2. Where the parent company only balance sheet reflects investments in subsidiaries at cost, should such investments be adjusted to the equity method for the purpose of making the test under this Rule?

Interpretive response. Yes.

e. Income (or loss) before income taxes and extraordinary items

Facts. In testing whether financial statements may be omitted under Rule 4–02(e)(1), reference is made to "income (or loss) before income taxes and extraordinary items."

Question. Does such income include discontinued operations and exclude the cumulative effect of an accounting change?

Interpretive response. Yes.

f. Proportionate share

Facts. The only asset of a holding company is an 89 percent equity interest in a subsidiary engaged in one of the financial-type businesses specified in the Rule. Rule 4–02(e)(1) allows omission of separate financial statements "if the registrant's and registrant's other subsidiaries' proportionate share (based on their equity interests) of (i) total assets * * *, (ii) total sales and revenues * * *, and (iii) income * * * exceeds 90 percent of the corresponding amounts on the consolidated financial statements."

Question. Would separate financial statements of the 89 percent owned subsidiary be required?

Interpretive response. No. Interpreted literally, the exemption from filing separate financial statements would never be available unless the registrant and registrant's other subsidiaries own more than 90 percent of the equity interests of a consolidated subsidiary, regardless of the percentage of the consolidated financial statement amounts attributable to such subsidiary. This literal interpretation, however, does not reflect the intention of the exemption. The tests under subparagraph (1) should be made by comparing total assets (after intercompany eliminations), total sales and revenues (after intercompany eliminations), and income (or loss) before income taxes and extraordinary items of the consolidated subsidiary (or group of subsidiaries) being tested to the related consolidated amounts in order to determine if each exceeds 90 percent of the consolidated totals.

g. Average income

Facts. In testing whether the income (or loss) before income taxes and extraordinary items of a subsidiary or group of subsidiaries exceeds 90 percent of the consolidated amount, the average consolidated income or average consolidated loss for the last five fiscal years may be used in the computation.

Question. Is special treatment of loss years in computing average consolidated income or income years in computing average consolidated loss permitted or required?

Interpretive response. Rule 4–02(e)(1) neither permits nor requires any special treatment of loss years in computing average consolidated income or income years in computing average consolidated loss. Consequently, a simple arithmetic average of consolidated income or loss for the last five years is to be used. (Note that the averaging provisions in the Rule only apply to the consolidated statements and not to those of the consolidated subsidiary or group of subsidiaries being tested.) Additionally, the average consolidated income (or loss) may be substituted for the most recent year's consolidated income (or loss) only when the average and the most recent year's amounts are both income or both loss.

h. Sales and revenues derived from registrant

Facts. A subsidiary in the finance business purchases installment contracts arising from sales made by its parent and by the parent's other subsidiaries.

Question. Are the revenues (interest income) which are earned on the installment contracts considered as being "derived from" the parent and its other subsidiaries as contemplated by Rule 4–02(e)(2)?

Interpretive response. Yes. For the purpose of Rule 4–02(e)(2) the sales and revenues of a subsidiary shall be deemed to be derived from the registrant and the registrant's other subsidiaries if they are dependent on the operations of these entities.

2. Tests Under Rule 4–02(e)

a. Financial statements used

Facts. The Rule provides for certain percentage tests, in addition to those provided by Rule 1–02 of Regulation S–X, to determine whether separate financial statements of consolidated subsidiaries are required to be presented. Rule 1–02 specifies that the most recent annual financial statements are to be used to determine a "significant subsidiary."

Question. What financial statements should be used in making the tests described in Rule 4–02(e)?

Interpretive response. In general, the most recent annual financial statements should be used for all tests in applying the Rule. However, if the composition of the consolidated financial-type subsidiaries has significantly changed since the most recent annual period, additional separate financial statements may be required (or certain separate financial statements may be omitted) based on the application of the tests to the most recent financial statements in a filing, as indicated in the following item.

b. Additional statements/omission of statements

Facts. The Commission has the general authority (e.g., instruction 13 as to financial statements of Form S–1) to require, by informal written notice, the filing of other financial statements in addition to, or in substitution for, the financial statements technically required by the form being filed or by Regulation S–X, or to permit, by informal written request, the omission of certain financial statements that would otherwise be required to be filed.

Question. Under what circumstances might additional financial statements be required or might financial statements otherwise required be permitted to be omitted?

Interpretive response. Where a financial-type subsidiary is acquired subsequent to the most recent annual period, and additional separate financial statements are indicated by applying the tests under Rule 4–02(e) to the most recent financial statements included in the filing, such additional financial statements are usually required to be presented. Conversely, where a financial-type subsidiary is disposed of subsequent to the most recent annual period, separate financial statements with respect to such subsidiary are usually permitted to be omitted.

Separate financial statements of a subsidiary (or group of subsidiaries) engaged in the same business as the registrant and constituting all of its significant subsidiaries would not provide meaningful information in addition to that disclosed in the consolidated statements, and such separate statements may not be required.

Where parent-only and consolidated financial statements are presented, and all of the consolidated subsidiaries are engaged in only one of the financial-type businesses cited in the rule, separate statements for the consolidated subsidiaries may not be required.

c. Tests apply to subsidiary as a whole

Facts. The primary activity of a subsidiary is in one of the financial-type businesses cited in the Rule, but the subsidiary also has activity in a nonfinancial-type business.

Question. How would the tests under Rule 4–02(e) be applied to the subsidiary's financial statements?

Interpretive response. If the primary activity of a consolidated subsidiary is determined to be of a financial-type business described in the rule, the tests to determine the financial statement requirements shall be applied to the financial statements of that subsidiary as a whole, including all of the activities of that subsidiary.

d. Application of tests

Facts:	*Millions*
Parent company assets	$60.0
Consolidated assets	100.0
Assets of consolidated subsidiaries:	
Life insurance:	
Subsidiary No. 1	14.0
Subsidiary No. 2	4.0
Total	18.0
Fire and casualty insurance:	
Subsidiary No. 3	4.0
Subsidiary No. 4	4.0
Subsidiary No. 5	3.0
Total	11.0
Finance: Subsidiary No. 6	2.0
Bank: Subsidiary No. 7	6.0
Savings and loan: Subsidiary No. 8	8.0
Parent company's investment including current and noncurrent advances:	
Subsidiary No. 6	1.5
Subsidiary No. 7	4.0
Subsidiary No. 8	4.0
Total	9.5

The parent's and its other subsidiaries proportionate share of sales and revenues and equity in income before income taxes and extraordinary items of Subsidiaries 2, 3, 4, and 5, 6, 7, and 8 are less than 10 percent of the consolidated totals.

Question. With respect to the facts presented above for which subsidiaries must separate financial statements be filed?

Interpretive response. Since Life Insurance Subsidiary No. 1 is a significant subsidiary, separate or combined financial statements are required to be presented for both life insurance subsidiaries. Also, since the three fire and casualty insurance subsidiaries in the aggregate meet the tests of a significant subsidiary, separate or combined financial statements are required to be presented for those subsidiaries. In addition, combined financial statements of the remaining subsidiaries, Nos. 6, 7, and 8, are required.

If it is demonstrated to the satisfaction of the staff that it is impracticable to furnish

combined financial statements of all of the remaining subsidiaries (Nos. 6, 7 and 8), the staff generally will permit the combined statements to exclude the financial statements of any subsidiaries in which the parent's aggregate investment (including current and noncurrent advances) in such omitted subsidiaries does not exceed 10 percent of the assets on the parent company's balance sheet: *Provided, however,* That the notes to the combined financial statements explain the nature of the businesses for which financial statements have been omitted and the reason it is deemed impracticable to include the financial statements of the omitted subsidiaries. Thus, in this instance, assuming the staff agrees that furnishing the combined financial statements of the remaining subsidiaries is impracticable, financial statements of either Subsidiary 7 or 8, at a minimum, would be required. (In general, financial statements for the larger or otherwise more important nonsignificant subsidiaries would be expected to be presented.)

3. Financial Stattments to be Presented

a. Subsidiaries

Facts. The parent company and one of its significant consolidated subsidiaries are both engaged in the "finance" business.

Question. Should the operations of the parent company which relate to the finance business be combined with those of the subsidiary in presenting separate statements under Rule 4–02(e)?

Interpretive response. No. The business activities for which financial statements may be required pursuant to Rule 4–02(e) are limited to those conducted by subsidiary companies. If both the registrant and certain of its subsidiaries are engaged in the same financial-type business, the tests to determine if financial statements pursuant to the provisions of Rule 4–02(e) are required, and the separate financial statements presented, apply only to the subsidiaries.

b. Subsidiaries of subsidiaries

Facts. The following elements comprise registrant's consolidated financial statements:

Registrant—holding company.

Significant Subsidiary Life Insurance Company (significant both with and without the assets and operations of its wholly-owned casualty insurance subsidiary).

Significant Subsidiary Casualty Insurance Company (a subsidiary of the life insurance company) (significant both to the registrant consolidated and to the consolidated statements of its life insurance parent).

Question. What financial statements are required?

Interpretive response. In addition to the consolidated financial statements of the registrant (and possibly the unconsolidated financial statements of the registrant), financial statements of the life insurance company and financial statements of the casualty insurance company are required.

Rule 4–02(e) is not intended to require the inclusion of separate or combined financial statements of second tier subsidiaries (the casualty insurance company in this case) when such subsidiaries are significant to the first tier subsidiary but not significant to the consolidated registrant. However, if the second tier subsidiary is engaged in a financial-type business different from that of the first tier subsidiary and the second tier subsidiary is significant to the consolidated registrant, then financial statements of the second tier subsidiary are required.

Facts. The following elements comprise registrant's consolidated financial statements:

Registrant—holding company.

Significant Subsidiary Bank and its subsidiary, Credit Life No. 1.

Significant Subsidiary Finance and its subsidiary, Credit Life No. 2.

Significant Subsidiary, Credit Life No. 3.

Question. Does Rule 4–02(e) require separate financial statements for the group of subsidiaries in the credit life insurance business?

Interpretive response. Generally credit life insurance subsidiaries of banks and finance companies are an integral part of the operations of their parents and substantially all of their business activities are closely related to the business activities of the parent. If this is the case in this situation then separate financial statements should be presented for (a) Subsidiary Bank, consolidated with its subsidiary, Credit Life No. 1; (b) Subsidiary Finance Co., consolidated with its subsidiary Credit Life No. 2; and (c) Subsidiary Credit Life No. 3.

c. Number of financial statements

Facts. ASR No. 175 states that "under unusual circumstances as many as four separate sets of statements may be needed."

Question. Is this statement intended to identify the maximum number of sets of financial statements which might be required pursuant to Rule 4–02(e)?

Interpretive response. No.

4. Presentation of financial statements

a. Significant subsidiaries

Facts. Rule 4–02(e) requires presentation of separate statements for "each significant consolidated subsidiary or each group of consolidated subsidiaries which in the aggregate meets the tests of a significant subsidiary engaged in the business of * * *."

Question. Are group financial statements required and, if presented, should the group financial statements include subsidiaries in more than one of the businesses cited in the Rule?

Interpretive response. Financial statements of significant consolidated subsidiaries required under the tests of Rule 4–02(e) may be presented separately or combined in groups. Group financial statements of such subsidiaries, if presented, should be confined to subsidiaries primarily engaged in the same business.

b. Nonsignificant subsidiaries

Facts. Rule 4–02(e) requires separate "combined" financial statements for certain nonsignificant consolidated subsidiaries.

Question. May separate financial statements be presented individually for subsidiaries in this group?

Interpretive response. Yes.

c. General form and content

Question. To what extent does Regulation S–X govern the form and content of the separate and combined financial statements presented pursuant to the Rule?

Interpretive response. Separate financial statements combined and financial statements of subsidiaries in the same financial-type business shall be presented in accordance with the applicable Article in Regulation S–X including all appropriate disclosures (i.e., disclosures required under generally accepted accounting principles as well as those required by Regulation S–X) except supporting schedules need not be furnished. If disclosures necessary for the separate financial statements and combined financial statements of subsidiaries in the same financial-type business are included in notes to the consolidated or other financial statements included in the filing, such disclosures need not be repeated if appropriate cross-reference to the disclosures is made.

In applying Regulation S–X to the financial statements of a particular group of nonsignificant consolidated subsidiaries, consideration should be given to the following presentation:

1. Combined financial statements prepared in accordance with the Article in Regulation S–X applicable to the financial-type business activity that dominates the combined financial statements.

2. Combined financial statements segmented to reflect groups of separate accounts of the various financial-type business activities included in the statement. When this type of presentation is made, the appropriate Article in Regulation S–X should be considered for each group of separate accounts.

5. Miscellaneous

a. Separate financial statements in form 10–Q

Facts. The requirements for financial information in Form 10–Q were recently revised in Securities Act Release No. 5611. In general, the financial statement information must follow the general form of presentation set forth in Regulation S–X, with certain enumerated exceptions.

Question. Is Rule 4–02(e) required to be followed in financial statements in Form 10–Q?

Interpretive response. Although not enumerated as an exception, Rule 4–02(e) is not required to be followed.

b. Retroactive application

Facts. ASR No. 175 specifies that the amendments to Rule 4–02(e) are effective with respect to financial statements filed with the Commission subsequent to September 30, 1975.

Question. Are audited financial statements required for fiscal periods ending before September 30, 1975?

Interpretive response. Where the application of Rule 4–02(e) after the effective date would necessitate the presentation of audited financial statements for fiscal periods ending before its effective date, audited financial statements are encouraged but are not required if they are otherwise not reasonably available. However, where audited financial statements for such prior periods are not presented the financial statements for such prior periods should be presented on an unaudited basis and so identified. Further, the registrant should submit a letter to the staff explaining the reason why audited statements are not furnished.

c. Annual report to shareholders

Facts. ASR No. 175 indicates that the information required by Rule 4–02(e) "is necessary to provide the investor with sufficient information on which to base investment decisions."

Question. Are the separate financial statements required by the Rule required in annual reports to shareholders?

Interpretive response. It is recognized that the separate financial statements may be of primary interest to those users of financial statements who wish to undertake detailed analyses of corporate activities. Consequently, financial statements required in filings with the Commission pursuant to the provisions of this Rule are not necessarily required in financial disclosures oriented to the needs of the average investor as, for example, annual reports to shareholders. The annual report to shareholders at least should include summarized financial information with respect to the consolidated subsidiaries for separate financial statements which financial statements are included in filings with the Commission in order to meet the proxy requirement and to be acceptable for incorporation by reference in a Form S–8.

[FR Doc.76–2153 Filed 1–23–76;8:45 am]

[Release No. SAB–3]

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS

Subpart B—Staff Accounting Bulletins

PUBLICATION OF STAFF ACCOUNTING BULLETIN NO. 3

The Division of Corporation Finance and the Office of Chief Accountant today announced the publication of Staff Accounting Bulletin No. 3. The statements in the Bulletin are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Division and the Chief Accountant in administering the disclosure requirements of the federal securities laws.

Staff Accounting Bulletin No. 3 provides responses to questions which have been raised with respect to Accounting Series Release No. 159, "Management's Discussion and Analysis of the Summary of Earnings or Operations." At the time the two indices to the Staff Accounting Bulletins are next updated, these interpretations will be incorporated into Topic 6, "Interpretation of Accounting Series Releases."

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 16, 1976.

TOPIC 6—INTERPRETATIONS OF ACCOUNTING SERIES RELEASES

F. ACCOUNTING SERIES RELEASES NO. 159—MANAGEMENT'S DISCUSSION AND ANALYSIS OF THE SUMMARY OF EARNINGS OR OPERATIONS (ADOPTED AUGUST 14, 1974)

General facts. ASR No. 159 adopts amended Guide 22 under the Securities Act and Guide 1 under the Exchange Act (the "Guides") which require a narrative explanation or discussion of the following:

(1) Material changes from period to period in the amounts of the items of revenues and expenses set forth in the summary or substituted income statement or disclosed pursuant to Rule 12–16 of Regulation S–X.

(2) Changes in accounting principles or practices or in the method of their application that have a material effect on net income as reported.

(3) Material facts which may make historical operations or earnings as reported in the summary not indicative of current or future operations.

1. Quantitative Tests

Facts. The Guides state that a discussion of a change generally is required when the change is greater than (1) 10 percent of the comparable amount in the prior period and (2) 2 percent of the average net income or loss for the most recent three years.

Question. Must each item which meets the test be discussed separately?

Interpretive response. No. As pointed out in the Guides it is not necessary under all circumstances to discuss each item separately. The tests set forth in the Guides were intended to provide registrants with assistance in complying with the purposes of the "management analysis." Some changes which do not meet the tests may require comment under particular circumstances. For example, some aggregate figures in the summary may not have changed significantly but the components may be substantially different from one year to the next. Similarly, major changes in the financial position of the business may have a highly significant effect on operations and, hence, should be discussed. On the other hand, other changes which do meet the tests may be judged by management not to be important to investors in understanding the operations of the period.

In most instances the staff believes that changes which meet the tests warrant an explanation, but the tests were not meant to be applied mechanistically. The staff emphasizes that disclosure in accordance with the Guides should provide meaningful information to investors. In this context it is not useful to simply subtract two numbers and to identify the dollar amount of the difference. Registrants are advised to focus on the causes of material changes in accounting and business activities and to regard the tests as tools to be used to identify items which should usually be included in the discussion.

2. Causes of Material Changes

Facts. The Guides require a discussion of the causes of material changes in the items of the summary and disclosure of the dollar amount of each such change and the effect of each such change on the reported results for the applicable periods.

Question. Must dollar amounts always be included in the discussion of causes of material changes?

Interpretive response. No. It may not always be practicable to identify dollar amounts with each cause of change; however, the staff believes that quantification of items discussed is very important. For example, if a material increase in sales were attributable both to increases in unit sales and to price increases, the disclosure of the dollar amount of each in conjunction with a discussion of the causes would be fundamental to investor comprehension. Similarly, discussions of changes in product sales mix, profitability of particular products, new product lines, and other matters are more meaningful when quantified. Thus, the guide states that dollar amounts should be included in the discussion of material changes whenever it is possible to do so.

3. Ratio Analysis

Facts. The Guides require a discussion of changes in the amounts of the "items of revenues and expenses."

Question. Does this requirement contemplate only an analysis of changes in individual items from period to period or should changes in interrelationships between items also be discussed?

Interpretive response. The quantitative tests in paragraph (f) of ASR 159 do not relate to interrelationships between items, such as Cost of Goods Sold as a percentage of Net Sales. However, many issuers include analysis of such interrelationships in order to give investors a clearer understanding of the financial statements. In addition, in some cases a discussion of interrelationships may be the most helpful way of describing the reasons for changes in several individual items. For example, certain costs may be directly related to sales or some other variable, so that a simple discussion of the reasons for a change in that variable may also serve to explain the changes in the related items. A repetition of the same explanation is neither required nor useful.

4. Annual Reports to Security Holders

Facts. Note 2 to Rules 14a–3(b)(4) and 14c–3(a)(4) under the Exchange Act indicates that Guide 1 applies to the summary of operations required to be included in the annual report to security holders.

Question 1. Must management's discussion and analysis in the annual report to security holders be identical to that which would be required in a filing with the Commission?

Interpretive response. No. Rules 14a–3(b)(10) and 14c–3(a)(10) indicate that information regarding the summary of operations may be "set forth in any form deemed suitable by management. The staff believes that in accordance with this clause, management's discussion and analysis need not be set forth in a separate, captioned section in the annual report or positioned immediately following the summary. However, the staff is of the opinion that no modification or segregation of any portion of management's discussion and analysis should result in the elimination of information required in a filing with the Commission. Management may position the discussion and analysis in appropriate sections of the annual report, but necessary information may not be omitted. For example, information regarding material changes in maintenance, repairs and advertising should be included.

Question 2. May management's discussion and analysis in the annual report to security holders be incorporated by reference in a filing on Form S–8?

Interpretive response. Management's discussion and analysis in the annual report may be incorporated by reference in Form S–8 provided that the following conditions are met:

(1) The financial statements are also incorporated by reference.

(2) Specific reference is made to the section or sections in the report, including page numbers, which contain the relevant information.

5. Capsule Income Information

Facts. The Guides require a discussion of periodic changes during the latest three fiscal years and the latest interim period presented.

Question. Does the requirement related to interim periods apply to capsule income information provided for any period ended subsequent to the date of the most recent balance sheet filed?

Interpretive response. Although the Guides are concerned specifically with the interim period between the end of the most recent fiscal year and the date of the most recent balance sheet filed, the staff is of the view that an explanation of subsequent material changes should be included with the capsule income information and that the explanation and capsule data should be referenced in the section containing management's discussion and analysis. The staff believes that the general principles set out in the Guides are relevant to an analysis of the capsule data even though the quantitative tests are not applicable and the detailed changes in items in the summary, income statement; or Schedule XVI are not available.

[FR Doc.76–2154 Filed 1–23–76;8:45 am]

Title 21—Food and Drugs

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

[Docket No. 75N–0147]

PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

Facsimile Transmission Service for Antibiotic Certificates

Correction

In FR Doc. 76–1374 appearing on page 2384 in the issue for Friday, January 16, 1976, the effective date in the middle column which presently reads "January 16, 1976" should read "February 17, 1976".

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT

PART 3300—OUTER CONTINENTAL SHELF LEASING: GENERAL

Qualified Joint Bidders

Section 105(a) of the Energy Policy and Conservation Act (Pub. L. 94–163; 89 Stat. 871) provides that "The Secretary of the Interior shall, not later than 30 days after the date of enactment of this Act, prescribe and make effective a rule which prohibits the bidding for any right to develop crude oil, natural gas, and natural gas liquids on any lands located on the Outer Continental Shelf by any person if more than one major oil company, more than one affiliate of a major oil company, or a major oil company, and any affiliate of a major oil company, has or have a significant ownership interest in such person. Such rule shall define affiliate relationships and significant ownership interests." In accordance with that directive I hereby declare that the regulations, published in the FEDERAL REGISTER on October 1, 1975 (40 FR 45171–45174), as amended on November 13, 1975 (40 FR 52847), amending 43 CFR 3300.1, 3302.1, 3302.3, 3302.4, 3302.5, 3305.1, and 3305.2, meet the requirements of section 105(a) and, as so published, shall continue to be effective.

Section 105(c) of the Energy Policy and Conservation Act provides "The Secretary may, by amendment to the rule, exempt bidding for leases for lands located in frontier or other areas determined by the Secretary to be extremely high risk lands or to present unusually high cost exploration, or development, problems." Pursuant to that authority I hereby amend 43 CFR 3302.3–2 by the addition of the following new paragraph (d); this amendment is issued as final rulemaking and will be effective immediately:

§ 3302.3–2 Joint bidding requirements.

* * * * *

(d) Whenever leases are offered for lands in a frontier area or any other high risk area or any other area which presents unusually high cost exploration or development costs, the "notice of lease offer" for those leases published pursuant to 43 CFR 3301.5 may provide that the provisions of 43 CFR 3302.3–2(a), 3302.3–4, and 3302.4(c), and the second sentence of 3305.1 with respect to prelease agreements will not be applicable to such leases.

Dated: January 21, 1976.

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

[FR Doc.76–2142 Filed 1–23–76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19964]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations; Table of Assignments

Correction

In FR Doc. 75–34830, appearing at page 59597 in the issue for December 29, 1975, make the following change:

In the table of channel numbers on page 59598, the entry for Lawton, Oklahoma should read, "7+, *36—, 16—', 45".

Title 41—Public Contracts and Property Management

CHAPTER I—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 162]

PART 1–1—GENERAL

PART 1–16—PROCUREMENT FORMS

Small Business Size Standards

This amendment of the Federal Procurement Regulations changes Subpart 1–1.7, Small Business Concerns, to provide revised definitions of small business for special trade contractors (construction) for the purpose of bidding on Government procurement. The changes reflect similar revisions by the Small Business Administration of its regulations in 13 CFR Part 121 and clarifies the size differentials for concerns doing business in Alaska. The amendment also deletes three provisions from Standard Form 19, Invitation, Bid, and Award (Construction, Alteration, and Repair).

The table of contents for Part 1–1 is amended by adding the following new entry.

1–1.701–11 Alaska differential.

Subpart 1–1.7—Small Business Concerns

Section 1–1.701–1 is amended to change paragraphs (b)(1), (b)(2), (f), and (g)(3), as follows:

§ 1–1.701–1 Small business concern (for Government procurement).

* * * * *

(b) * * *

(1) *General.* As small if its average annual receipts for its preceding 3 fiscal years do not exceed $12 million: *Provided, however,* That if 75 percent or more (by value) of the work called for by the contract is classified in one of the industries, subindustries, or class of products set forth in this paragraph, it is small if it does not exceed the size standard established therein for that industry. (Notwithstanding the above proviso, for a period of 1 year from September 4, 1975, any concern which from March 18, 1973, to March 18, 1974, was primarily engaged in performing small business set-aside contracts, is small for the purpose of any contract covered by the proviso if its average annual receipts for its preceding 3 fiscal years did not exceed $7.5 million. For the purpose of this rule, a concern was primarily engaged in performing small business set-aside contracts if 50 percent or more of its receipts, including receipts of its affiliates, were attributable to such contracts.) Where a concern which has 50 percent or more of its annual sales or receipts attributable to business activities within Alaska, then, whenever the term "annual sales or annual receipts" is used in any size definition contained in this section, the dollar limitation is increased by 25 percent of the amount set forth therein:

Annual receipts size standards for purpose of bidding on procurements for construction—special trade contractors

Census classification code	Industry, subindustry, or class of products	Average (3 yr) annual receipts size standard (maximum in millions)
	Major group 17-construction-special trade contractors:	
1711	Plumbing, heating (except electric), and air-conditioning	$5
1721	Painting, paperhanging, and decorating	5
1731	Electrical work	5
1741	Masonry, stone setting, and other stonework	5
1742	Plastering, drywall, acoustical, and insulation work	5
1743	Terrazzo, tile, marble, and mosaic work	5
1751	Carpentering and flooring	5
1752	Floor laying and other floorwork, not elsewhere classified	5
1761	Roofing and sheet metal work	5
1771	Concrete work	5
1781	Water well drilling	5
1791	Structural steel erection	5
1793	Glass and glazing work	5
1794	Excavating and foundation work	5
1795	Wrecking and demolition work	5
1796	Installation or erection of building equipment, not elsewhere classified	5
1799	Special trade contractors, not elsewhere classified	5

(2) *Dredging.* As small if it is bidding on a contract for dredging and (i) its average annual receipts for its preceding 3 fiscal years do not exceed $9.5 million ($11,875,000 if the Alaska differential applies (see § 1–1.701–11)), and (ii) it performs the dredging of at least 40 percent of the yardage advertised in the plans and specifications with dredging equipment owned by the bidder or obtained from another small business dredging concern.

* * * * *

(f) *Services.* Any concern bidding on a contract for services is classified:

(1) *General.* As small if it is bidding on a contract for services (including but not limited to services set forth in Division I, Services, of the Standard Industrial Classification Manual) not elsewhere defined in this section and its average annual receipts for its preceding 3 fiscal years do not exceed $2 million ($2,500,000 if the Alaska differential applies (see § 1–1.701–11)).

(2) *Engineering.* As small if it is bidding on a contract for engineering services other than marine engineering service and its average annual receipts for its preceding 3 fiscal years do not exceed $7.5 million ($9,375,000 if the Alaska differential applies (see § 1–1.701–11)).

(3) *Motion pictures.* As small if it is bidding on a contract for motion picture production or motion picture services and its average annual receipts for its preceding 3 fiscal years do not exceed $8 million ($10,000,000 if the Alaska differential applies (see § 1–1.701–11)).

(4) *Janitorial and custodial.* As small if it is bidding on a contract for janitorial and custodial services and its average annual receipts for its preceding 3 fiscal years do not exceed $4.5 million ($5,625,000 if the Alaska differential applies (see § 1–1.701–11)).

(5) *Base maintenance.* As small if it is bidding on a contract for base maintenance and its average annual receipts for its preceding 3 fiscal years do not exceed $7.5 million ($9,375,000 if the Alaska differential applies (see § 1–1.701–11)).

(6) *Marine cargo handling.* As small if it is bidding on a contract for marine cargo handling services and its average annual receipts for its preceding 3 fiscal years do not exceed $7.5 million ($9,375,000 if the Alaska differential applies (see § 1–1.701–11)).

(7) *Naval architectural and marine engineering.* As small if it is bidding on a contract for naval architectural and marine engineering services and its average annual receipts for its preceding 3 fiscal years do not exceed $9 million $11,250,000 if the Alaska differential applies (see § 1–1.701–11)).

(8) *Food services.* As small if it is bidding on a contract for food services and its average annual receipts for its preceding 3 fiscal years do not exceed $5.5 million ($6,875,000 if the Alaska differential applies (see § 1–1.701–11)).

(9) (i) *Laundry.* As small if it is bidding on a contract for laundry services including linen supply, diaper services, and industrial laundering and its average annual receipts for its preceding 3 fiscal years do not exceed $4 million ($5,000,000 if the Alaska differential applies (see § 1–1.701–11)).

(ii) *Cleaning and dyeing.* As small if it is bidding on a contract for cleaning and dyeing (including rug cleaning) services and its average annual receipts for its preceding 3 fiscal years do not exceed $1.15 million ($1,875,000 if the Alaska differential applies (see § 1–1.701–11)).

(10) *Computer programing.* As small if it is bidding on a contract for computer programing services and its average annual receipts for its preceding 3 fiscal years do not exceed $4 million ($5,000,000 if the Alaska differential applies (see § 1–1.701–11)).

(11) *Flight training.* As small if it is bidding on a contract for flight training services and its average annual receipts for its preceding 3 fiscal years do not exceed $7 million ($8,750,000 if the Alaska differential applies (see § 1–1.701–11)).

(12) *Motorcar and truck rental and leasing.* As small if it is bidding on a contract for motorcar rental and leasing services or truck rental and leasing services and its average annual receipts for its preceding 3 fiscal years do not exceed $7 million ($8,750,000 if the Alaska differential applies (see § 1–1.701–11)).

(13) *Tire recapping.* As small if it is bidding on a contract for tire recapping services and its average annual receipts for its preceding 3 fiscal years do not exceed $4 million ($5,000,000 if the Alaska differential applies (see § 1–1.701–11)). This paragraph applies only to procurements requiring the services of tire retreading and repair shops (Standard Industrial Classification Industry No. 7534, Tire Retreading and Repair Shops) and not to procurements for the repairing and/or retreading of pneumatic aircraft tires which, by reason of the extent and nature of the equipment and operations required, are considered for size standards purposes to be manufactured within the meaning of Standard Industrial Classification Industry No. 3011, Tires and Inner Tubes (see § 1–1.701–1(h)).

(14) *Data processing.* As small if it is bidding on a contract for data processing services and its average annual receipts for its preceding 3 fiscal years do not exceed $4 million ($5,000,000 if the Alaska differential applies (see § 1–1.701–11)).

(15) *Computer maintenance.* As small if it is bidding on a contract for computer maintenance services and its average annual receipts for its preceding 3 fiscal years do not exceed $7 million ($8,750,000 if the Alaska differential applies (see § 1–1.701–11)).

(16) *Helicopters or fixed-wing aircraft.* As small if it is bidding on a contract for services requiring the use of one or more helicopters or fixed-wing aircraft and its average annual receipts for its preceding 3 fiscal years do not exceed $3.5 million ($4,375,000 if the Alaska differential applies (see § 1–1.701–11)).

(g) * * *

(3) *Trucking.* As small if it is bidding on a contract for trucking (local and/or long distance), warehousing, packing and crating, and/or freight forwarding, and its annual receipts do not exceed $7 million ($8,750,000 if the Alaska differential applies (see § 1–1.701–11)).

* * * * *

Section 1–1.701–11 is added, as follows:

§ 1–1.701–11 Alaska differential.

Where a concern which has 50 percent or more of its annual sales or receipts attributable to business activity within Alaska, then whenever the term "annual sales or annual receipts" is used in any size definition contained in this subpart, the dollar limitation is increased by 25 percent of the amount set forth therein

Subpart 1–16.4—Forms for Advertised Construction Contracts

Section 1–16.401(a) is amended, as follows:

§ 1–16.401 Forms prescribed.

* * * * *

(a) Invitation, Bid and Award (Construction, Alteration, or Repair) (Standard Form 19, July 1973 edition). Pending the publication of a new edition of the form, the Examination of Records by Comptroller General clause, the Utilization of Small Business Concerns clause and the Utilization of Minority Business Enterprises shall be deleted in their entirety; the Convict Labor clause prescribed by § 1–12.204 shall be substituted for the Convict Labor clause in Article 10; the Employment of the Handicapped clause in § 1–12.1304.1 shall be added as an additional article of the General Provisions, and the following clause shall be substituted for the Payments to Contractor clause in Article 6:

* * * * *

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c))

Effective date. This amendment is effective for invitations for bids and requests for proposals issued on or after December 3, 1975.

Dated: January 16, 1976.

NOTE: It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order 11821.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76-2148 Filed 1-23-76;8:45 am]

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER B—ARCHIVES AND RECORDS

[FPMR Amdt. B-29]

PART 101–11—RECORDS MANAGEMENT

Miscellaneous Changes

This amendment provides for (1) new reporting procedures that require Federal agencies to certify the status of their records control schedules and to submit separate reports for bureaus or comparable organizational units to ensure that all records control schedules are kept up to date for proper retention and disposal of records; (2) updating the authority statement for the Vital Records Program to reflect an organization change; and

(3) updating the Vital Records Program reporting forms to reflect their change from GSA forms to standard forms.

Subpart 101–11.1—Federal Records; General

Section 101–11.102 is amended by revising § 101–11.102–7 as follows:

§ 101–11.102–7 Annual summary of records holdings.

Each Federal agency shall submit to the National Archives and Records Service within 30 days after the close of each fiscal year a summary of its records holdings on Standard For 136, Annual Summary of Records Holdings. (See § 101–11.4901.) Agencies are required to certify on SF 136 the status of their records control schedules. Instructions for preparing the report are on the form. Separate reports shall be submitted for each bureau or comparable organizational unit.

Subpart 101–11.7—Vital Records: Records During an Emergency

Section 101–11.701 is amended by revising § 101–11.701–2, 101–11.701–4, and 101–11.701–10.

§ 101–11.701–2 Authority.

Executive Order 11490 of October 28, 1969, (34 FR 17567; 3 CFR, 1966–1970 Comp., p. 820) assigns certain emergency preparedness functions to the Administrator of General Services, including provision for instructions on the appraisal, selection, preservation, arrangement, reference, storage, and salvage of essential records. The Federal Preparedness Agency, in accordance with that agency's responsibilities prescribed in Executive Orders 11051 of September 27, 1962, (27 FR 9683; 3 CFR, 1959–1963 Comp., p. 635) and 11490, has reviewed and approved the requirements set forth in this Subpart 101–11.7.

§ 101–11.701–4 Forms.

The report is in two parts. Part I will be prepared on Standard Form 212, Vital Records Protection Status Report (Part I—Emergency Operating Records), and Part II will be prepared on Standard Form 213, Vital Records Protection Status Report (Part II—Rights and Interests Records). (See § 101–11.4917 and 101–11.4918.)

§ 101–11.701–10 Availability of forms.

Supplies of new Standard Form 212, Vital Records Protection Status Report (Part I—Emergency Operation Records), new Standard Form 213, Vital Records Protection Status Report (Part II—Rights and Interests Records), and revised Standard Form 136, April 1975, Annual Summary of Records Holdings, may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

Subpart 101–49—Forms and Reports

Sections 101–11.4901, 101–11.4917, and 101–11.4918 are revised to illustrate the April 1975 edition of Standard Form 136 and the new Standard Forms 212 and 213, as follows:

§ 101–11.4901 Standard Form 136, Annual Summary of Records Holdings.

§ 101–11.4917 Standard Form 212, Vital Records Protection Status Report (Part I—Emergency Operating Records).

§ 101–11.4918 Standard Form 213, Vital Records Protection Status Report (Part II—Rights and Interests Records).

NOTE: The forms in §§ 101–11.4901, 101–11.4917, and 101–11.4918 are filed as part of the original document and do not appear in the FEDERAL REGISTER.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is January 26, 1976.

Dated: January 14, 1976.

T. M. CHAMBERS,
Acting Administrator of General Services.

[FR Doc.76–2147 Filed 1–23–76;8:45 am]

proposed rules

DEPARTMENT OF DEFENSE

Corps of Engineers

[33 CFR Part 208]

MARSHALL FORD DAM AND RESERVOIR, COLORADO RIVER, TEXAS

Proposed Revision of Regulations for Use of Flood Control Storage

Notice is hereby given that the Secretary of the Army (acting through the Chief of Engineers) is proposing interim regulations prescribing the use of flood control storage in the Marshall Ford Reservoir on the Colorado River, Texas, and the operation of the Marshall Ford Dam for flood control purposes.

Pursuant to the provisions of section 7 of the Act of Congress approved December 22, 1944 (58 Stat. 890; 33 U.S.C. 709), regulations were published in the FEDERAL REGISTER (Title 33, Part 208, § 208.19, Page 4543, dated May 16, 1951) to "govern the use of flood-control storage in the Marshall Ford Reservoir on the Colorado River, and the operation of the Marshall Ford Dam for flood-control purposes."

The original regulation required that controlled outflows be coordinated with downstream conditions with specific control cited at only one downstream gaging station, located 150 miles down river, near Columbus, Texas. Increased flood hazards to property and human life, associated with intensive development of the flood plain in the Austin metropolitan and closer reaches, dictate the need for better means to assess river conditions. To that end, stage reporting and coordination are required from the existing Austin and Bastrop gaging stations, also.

The increased importance of energy conservation requires a review of the plan of regulation with the objectives of obtaining more hydroelectric power benefits, while maintaining the present level of protection from flood hazards. Evacuation of the lower zone of flood water storage pool can be done in a manner advantageous to hydropower generation without seriously compromising the present level of capability to reduce downstream inundation from moderate to large floods which originate from up river storms.

Specific subparagraphs of the existing regulation are modified as follows:

(a) The Austin and Bastrop gaging stations have been added to the now referenced Columbus control station, to be more responsive to potential damages (which could approach $1 million in Austin from a flow rate of 50,000 cfs) along the entire river. The regulating stage at Columbus has been raised to 25 feet for 50,000 cfs flow in accord with the latest USGS information.

(b) (1) The requirement to maintain a minimum release rate of 5,000 cubic feet per second (cfs) when the reservoir is above elevation 681 is modified to allow a minimum rate of 3,000 cfs, while the lake level is between elevations 681 and 683. The 3,000 cfs rate is to coordinate with turbine capacity of the Tom Miller Dam for maximizing the hydropower production from Mansfield Dam and Tom Miller Dam acting as a system.

(2) The requirement for "release of water stored between elevations 681 and 691 within 30 days" has been deleted. Application of this 30-day drawdown rule has presented difficulties in real-time operation as the beginning of counting cannot be precisely established and is dependent upon the accuracy of the inflow estimates. Studies of past events indicate that compliance with the proposed minimum release criteria would result in substantially the same project effectiveness in responding to subsequent storm inflows as did the original schedule.

(c) The inflow forecast has been strengthened by the requirement to recognize measured flows at gaging points far enough upriver to provide several hours of response time at Mansfield Dam. This knowledge will aid in attempting to prevent the lake level from rising above 691 regardless of the beginning stage, while reducing the risk of making wasteful or damaging spills on the basis of expected rainfall and runoff conditions which may not materialize.

(d) The maximum releases are coordinated with downstream channel conditions as defined at the gaging stations inserted in the revised paragraph (a).

(e) No changes.

(f) The content, reporting, and timeliness of data transmission have been redefined to reflect current requirements and modernization of acquisition procedures and equipment.

(g) There are hazards to property and to human life associated with flows approaching 30,000 cfs at Austin. Rapid river rises, typical of the Balcones geographic area, require some lead time, to coordinate and adjust gate settings at Mansfield Dam to avoid adding excessive releases to natural flows resulting from downstream rains. To provide the necessary lead time, the river stage at which reporting begins has been set at 16.0 feet, equivalent to 20,000 cfs at Austin.

(h) No change.

(i) This paragraph is added to grant the Authority discretion to respond to emergency or extraordinary conditions not specifically addressed to the regulation. The Authority will be required to report their action and justification for the record.

The following revised regulation is hereby prescribed to be effective immediately, continuing until superseded by updating. Further detailed studies are being made of the effect of increasing releases beyond 30,000 cfs as the lake elevation approaches elevation 714. It is anticipated this will be accomplished on or before 1 June 1977, at which time a new water control manual will be published.

Prior to promulgation of final regulations in the FEDERAL REGISTER, consideration will be given to any comments submitted to the Chief of Engineers. Such comments should be sent to the Chief of Engineers, ATTN: DAEN-CWE-Y, Department of the Army, Washington, D.C. 20314, on or before February 15, 1976.

Dated: January 1976.

ERNEST GRAVES,
Major General, USA,
Director of Civil Works.

It is proposed to amend Part 208, § 208.19, of Title 33 by revising paragraphs (a) through (h), and by adding a new paragraph (i).

§ 208.19 Mansfield (Marshall Ford) Dam and (Reservoir) Lake Travis, Colorado River, Texas.

The Secretary of the Interior, through his agent, the Lower Colorado River Authority (referred to in this section as the Authority) shall operate the Mansfield Dam and Lake Travis (referred to in this section as the Project) in the interest of flood control as follows:

(a) At all times, Project releases shall be coordinated such that the Colorado River, Texas, will be controlled when possible, to remain below flood stages at downstream official U.S. Geological Survey (USGS) gaging stations; except that no curtailment of normal hydroelectric turbine releases shall result thereby at any time. Those USGS river stations and their control stages are as follows:

Station	Control stage (feet)	Equivalent cubic feet per second (ft^3/s)
Austin (08158000)	20	30,000
Bastrop (08159200)	25	45,000
Columbus (08161000)	25	50,000

(b) During periods when the Project lake level is between elevation 681 and 691, the minimum total release from the Project shall be at the rates specified below, unless otherwise constrained by downstream conditions prescribed in paragraph (a) of this section.

Lake elevation (feet m.s.l.):	*Release rate (cfs)*
681–683	3,000
683–691	5,000

(c) Regardless of Project lake levels, if upstream inflows would otherwise result in that level rising above elevation 691, total release shall be increased, as necessary to delay as long as possible the lake level from exceeding elevation 691, such maximum releases to be constrained by downstream conditions, as specified in paragraph (a) of this section. Releases shall be controlled so that the lake level will not be drawn below

681 at the close of flood control operations, unless for the purpose of hydropower generation. The above stated upstream inflows will consider as a minimum those flows measured at upstream USGS gaging stations including:

Pedernales River near Johnson City (08153500).
Llano River at Llano (08151500).
Colorado River near San Saba (08147000).

(d) If excessive inflow results in the lake level rising above elevation 691, the combined controlled and uncontrolled releases from the Project shall be made at the maximum rate possible, subject to downstream conditions, as specified in paragraph (a) of this section, until the lake level falls to elevation 691, except that no curtailment of normal power releases shall result thereby.

(e) Releases made in accordance with the regulations of this section are subject to the condition that releases shall not be made at rates or in a manner that would be inconsistent with requirements for protecting the Project from major damage. Should the lake level exceed elevation 722 due to excessive rates of inflow, the Authority may utilize the capacity of the flood-control outlets in increasing the rate of discharge to the extent considered necessary for protecting the dam and appurtenances from major damage.

(f) The Authority shall furnish the District Engineer, Fort Worth District, U.S. Army Corps of Engineers, by 0800 hours daily, with the following:

(1) Project information.

(i) Lake elevations at midnight and 0800 hours.

(ii) Uncontrolled spillway, flood-control conduits, and turbine releases: Cubic feet per second at 0800 hours, and day-second-feet average for the previous 24 hours, ending at midnight.

(iii) Computed average inflow, in day-second-feet for the previous 24 hours, ending at midnight.

(iv) Total precipitation in inches for the previous 24 hours at the dam, ending at 0800 hours.

(v) Summary of streamflow and channel conditions at gages named in paragraphs (a) and (c) of this section.

(2) Lake Buchanan pool elevation at 0800 hours.

(g) Whenever flood conditions are imminent, or stages of 16 feet (20,000 cfs) or more at the Austin gage have been reached, the Authority shall report at once to the District Engineer by the fastest means of communications available. Data listed in paragraph (f) of this section shall be reported to, and at intervals prescribed by the District Engineer for the duration of flood surveillance and control operations.

(h) The regulations of this section for the operation of the flood-control facilities at the Project are subject to temporary modification in time of flood by the District Engineer if found desirable on a basis of conditions at the time.

(i) The Authority may temporarily deviate from the regulation of this section in the event an immediate short term departure is deemed necessary for emergency reasons to protect the safety of the dam, or to avoid other serious hazards. Such action shall be immediately reported by the fastest means of communication available and confirmed in writing the same day to the Fort Worth District Engineer, including justification for the action. Continuation of the deviation will require the express approval of the District Engineer.

(Sec. 7, Pub. L. 78-534, 58 Stat. 890 (33 U.S.C. 709))

For the Chief of Engineers.

RUSSELL J. LAMP,
Colonel, Corps of Engineers Executives.

[FR Doc.76-2204 Filed 1-23-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

FROZEN FIELD PEAS AND FROZEN BLACK-EYE PEAS

Standards for Grades [1]

Notice is hereby given that the United States Department of Agriculture is considering a revision of the United States Standards for Grades of Frozen Field Peas and Frozen Black-eye Peas. These grade standards are issued under the authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624) which provides for the issuance of official U.S. grades to designate different marketing levels of quality for the voluntary use by producers, buyers, and consumers. Official grading services are also provided under this act upon request and upon payment of a fee to cover cost of such services.

All persons who desire to submit written views, data, or arguments for consideration in connection with the proposed revision should file the same in duplicate, not later than February 25, 1976, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submissions made under this notice will be available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

STATEMENT OF CONSIDERATION LEADING TO THE PROPOSED REVISION

The American Frozen Food Institute (AFFI) has requested the USDA to revise the U.S. Standards for Grades of Frozen Field Peas and Frozen Black-eye Peas. AFFI requested that the revision include the concept of statistical procedures in the standards and that sufficient data be collected to substantiate defect tolerances. A large volume of field peas and black-eye peas is harvested with mechanical field shellers. Peas are actually shelled at the harvesting site. Removing peas from the pods and exposing them to air causes loss of green color in immature peas between harvesting site and processing site. Often peas are transported many miles and complete loss of green color occurs.

Mechanical field harvesters cut and windrow an entire field of peas in one operation. Next, mobile shellers lift vines and pods from the windrow and remove the peas from the pods. Shelled peas are held in a large bin on the harvester until a transfer is made to a truck. Delivery is made to the processing plant by truck. Shellers inadvertently include pieces of vine, stem, and pod material (harmless extraneous vegetable material) with the peas. The more immature the peas, the greater the expected frequency of occurrence of harmless extraneous vegetable material (HEVM). Cleaning equipment is used at the processing site to remove the HEVM. Yet, the greater the occurrence of HEVM the greater the chance of having it included, accidentally, in the frozen peas.

Prior to recent innovations for the harvesting of peas, pods were shelled at the processing plant. After shelling, peas were cleaned, sorted, washed, blanched, and frozen. Peas handled in this manner usually contained a high percentage of green, immature units. Thus, the requirements of the currently effective U.S. standards were usually attained.

In 1974, Department technical and supervisory inspection personnel conducted a field trip to observe the actual harvesting of field peas. The peas were observed during harvesting, transporting, and processing. This investigation indicated that portions of the U.S. standards were out-of-line with modern production systems. The Department agreed to draft a proposed revision of the standards and to test the revision under actual production conditions.

In 1975, four processing sites located in four different areas were selected with mutual consent of the processors involved for a comparison study of the proposed revision. One USDA inspector was assigned to each processing site for an intermittent period to collect data. Data represented actual production conditions.

USDA statisticians examined the 1975 data. All comparisons were made by sample unit between the proposed revision and the currently effective U.S. standards. More than 80 percent of the sample units received the same final grade under the two standards. Too, the proposal tended to grade the sample units higher.

Color requirements were lowered for the study. About 25 percent more of the sample units received a Grade A in the proposal. Color was one major reason for a different final grade between the two standards. Only two defects occurred which affected the final grade—blemished peas and harmless extraneous vegetable material. Analysis of the data shows no need to change the predetermined acceptable quality levels for defects in the proposed revision. But data indicated a need for changing the standard sample unit size for "White Acre"

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

variety of cream peas. The count for this variety was about double the count of other varieties for each 10 ounce sample unit.

Data from the 1975 study was computer coded to remove processor identification and processor location. This data is available for public inspection at the following office:

Chief, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, DC 20250.

After reviewing the 1975 data, carefully considering relevant comments from USDA inspection personnel and members of the southern frozen vegetable industry, and consulting with Department statisticians, the Department is proposing revision of the U.S. Standards for Grades of Frozen Field Peas and Frozen Black-eye Peas.

This proposed revision would adopt the concept of statistical procedures commonly called "attributes standards" by the processed fruit and vegetable industry. The American Frozen Food Institute (AFFI), which represents a large portion of the frozen fruit and vegetable industry, has encouraged the Department to utilize statistically valid standards, where practicable, as the current U.S. standards for these products are revised. The concept of "attributes standards" is a numerical classification and tabulation of significant information about a processed food product. It is a step by step procedure for accepting or rejecting the processed food based upon specific pre-set requirements. "Attributes standards" fit into current industry quality control systems. Also, the standards are valid for the evaluation of the quality of processed fruits and vegetables stored in public and private warehouses.

In the proposed standards for frozen field peas and black-eye peas, each pea which fails to meet requirements is classified as one defect. Each defect is further classified as to its severity (esthetic value) and expected frequency of occurrence (chance of happening) as either "minor", "major", "severe", or "critical". The defects are then tabulated according to class. An "absolute limit" prevents any individual sample unit from exceeding a specified number of defects for each class.

Conventional U.S. standards use numerical score points, ranging from 0 to 100, to evaluate the quality of processed fruit and vegetables. In some situations score points are misleading. For example, "U.S. Grade B, Average score: 92 points", implies that the score points are acceptable for Grade A, yet the quality is actually Grade B due to a "limiting rule" for one or more quality factors.

Conventional U.S. standards place emphasis for defect tolerances on the individual sample unit, not the entire sample. Some of these standards also require sample average values in addition to individual sample unit requirements. Thus, in the case of borderline quality, often, an otherwise passing sample may fail requirements at the end of a production period because of sample average values.

Conventional U.S. standards permit "deviants" (lower quality sample units) to occur in the sample. Only after considering the occurrence of "deviants", the grade of each individual sample unit, the average numerical score points, and sample average values, if required, can the grade classification be designated.

The proposed revision would delete the use of alternative grade level designations, such as "U.S. Fancy" and "U.S. Extra Standard. Consumer representatives deem alternative grades as confusing to consumers. Another change would require peas to be "green" in color rather than "tinge of green". In many instances only a trained eye can discern "tinge of green" color. Eliminating this subjective requirement is a step toward more object U.S. standards.

Other changes in the proposal would permit more green, tender, harmless extraneous vegetable material (mostly pieces of pea pods). Less coarse, fibrous, material is allowed. Current U.S. standards allow all of the harmless extraneous vegetable material, in the absence of tender, green, material, to be coarse and fibrous. Thus, processors must maintain control under the proposed revision to reduce incidence of these fibrous units, or the sample will fail requirements.

The proposed revision would continue defect levels which were permitted in the comparison study. With the exception of non-green peas and harmless extraneous vegetable material, defect levels permitted in the proposal were calculated from the defect tolerances in the current standards. The requirements for non-green peas, broken peas, and the standard sample unit size were adjusted from the requirements of the comparison study. These adjustments were necessary to allow for the much higher count of "White Acre" variety of cream peas in each 10 ounce sample unit; recognize that the industry is capable of maintaining a higher percentage of "green" peas than originally estimated; and sponsor time conserving measures of determining the extent of broken peas in a sample unit.

"Attributes standards" are a relatively new innovation in the U.S. standards for grades of processed fruits and vegetables. The Department has developed supporting documents to aid in the application of "attributes standards". Also, alternative sampling plans are available for frozen field peas and frozen black-eye peas. Information about these supporting documents and alternative sampling plans may be obtained from:

Chief, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, DC 20250.

The proposed revision is as follows:

Subpart—United States Standards for Grades of Frozen Field Peas and Frozen Black-Eye Peas

Sec.

AUTHORITY: Agricultural Marketing Act of 1946, Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624.

Subpart—United States Standards for Grades of Frozen Field Peas and Frozen Blackeyed Peas

§ 52.1661 Product description.

"Frozen field peas" and "frozen Black-eye peas", called "frozen peas" in these standards, means the frozen product prepared from clean, sound, fresh, seed of proper maturity of the field pea plant (Vigna sinensis), by shelling, sorting, washing, blanching, and properly draining. The product is frozen and maintained at temperatures necessary for preservation. "Frozen peas" may contain succulent, unshelled pods (snaps) of the field pea plant as an optional ingredient used as a garnish.

§ 52.1662 Styles.

(a) "Frozen peas."
(b) "Frozen peas with snaps."

§ 52.1663 Types.

(a) *Single type.* Frozen peas that have distinct similarities of color and shape for the type are not considered "mixed". Single types include, but are not limited to, the following:

(1) "Black-eye peas" or other similar varietal types, such as "Purple-hull peas", that have a light-colored skin, a definite eye (contrasting color around the hilum), and are bean shaped;

(2) "Crowder peas" of various groups, such as "Brown Crowder", that are nearly round in shape and have blunt or square ends;

(3) "Cream peas" of various groups, including "White Acre", that have a solid cream-colored skin and are generally bean shaped; and

(4) "Field peas" means any varietal group or type of the field pea plant that has similar color and shape characteristics and includes "Black-eye peas", "Crowder peas", and "Cream peas".

(b) *Mixed type.* Frozen peas that are a mixture of two or more distinct single varieal groups or are not distinguishable as a single varietal group shall be considered "mixed" type.

§ 52.1664 Definitions of terms.

(a) *Absolute limit (AL).* The maximum number of defects; or the minimum number of "color attributes" permitted in a sample unit.

(b) *Acceptable quality level (AQL).* The maximum percent defective, or the maximum number of defects per hundred units; or the minimum percent "color attributes", or the minimum number of "color attributes" per hundred units, that, for purposes of acceptance sampling inspection, can be considered satis-

factory as a process average.

(c) *Blemished.* "Blemished" means discolored, spotted, or damaged by any means to the extent that the appearance or eating quality is materially affected.

(d) *Broken.* "Broken" means the skin or portions of the skin, the cotyledon or portions of the cotyledon, have become separated from the unit. "Broken" is not applicable to "snaps" in the style of "frozen peas with snaps".

(e) *Character.* "Character" refers to the maturity and tenderness of the frozen peas, including snaps. Character is determined after cooking the product by the "cooking procedure" described in § 52.1670.

(1) "Good character". The units are tender and in a reasonably young stage of maturity and are practically uniform in texture and tenderness.

(2) "Reasonably good character." The units are reasonably tender and in a fairly young stage of maturity and may be variable in texture and tenderness; and the cotyledons may be mealy or firm but are not hard.

(f) *Defect.* Any nonconformance with a specified requirement. Defects are classified as "minor", "major", "severe", or "critical".

(g) *Deviant.* As applied to these standards, "deviant" means a sample unit that fails the requirements for the prerequisite factors of overall appearance, flavor and odor, freedom from grit, character, and freedom from broken peas; *Provided:* That such sample unit is not more than one grade below the intended or indicated grade.

(h) *Dissimilar varieties.* In single types only, peas that are of markedly different varietal colors and/or shapes. "Dissimilar varieties" is not applicable to snaps in the style of "frozen peas with snaps."

(i) *Harmless extraneous vegetable material.*

(1) In the style of "frozen peas":

(i) *Class 1*—Hulls or pieces of unshelled pods (snaps), leaves, small tender stems, or other similar vegetable material; and

(ii) *Class 2*—Coarse, fibrous units of vegetable material which are harmless.

(2) In the style of "frozen peas with snaps":

(i) *Class 1*—Leaves, small tender stems, or other similar vegetable material, except "snaps"; and

(ii) *Class 2*—Coarse, fibrous units of vegetable material which are harmless.

(j) *Flavor and odor.*

(1) "Good flavor and odor." The product, after cooking, has a good, characteristic normal flavor and odor and is free from objectionable flavors and objectionable odors of any kind.

(2) "Reasonably good flavor and odor." The product, after cooking, may be lacking in good flavor but is free from objectionable flavors and objectionable odors of any kind.

(k) *Grit.* Sand, silt, or other earthy materials.

(l) *Sample.* The number of sample units to be used for inspection of a lot.

(m) *Sample unit.* The amount of product specified to be used for inspection. It may be:

(1) The entire contents of a container; or

(2) A portion of the contents of a container; or

(3) A combination of the contents of two or more containers; or

(4) A portion of unpacked product.

(n) *Shriveled.* A unit that is seriously wrinkled in appearance, excluding "snaps".

(o) *Snap.* A succulent, unshelled pod of the field pea or Black-eye pea plant.

(p) *Unit.* Any individual frozen pea; or any individual succulent, unshelled pod.

§ 52.1665 Sample unit size.

Compliance with requirements for all factors of quality is based on the following sample unit sizes:

(a) "White Acre"—5 ounces (141.75 grams).

(b) "All other types"—10 ounces (283.5 grams).

§ 52.1666 Grades.

(a) "U.S. Grade A" is the quality of frozen peas that:

(1) Meets the following prerequisites (with deviants as specified in § 52.1673 (a));

(i) Has a bright overall appearance;

(ii) Has a good flavor and odor;

(iii) Is practically free from grit;

(iv) Has a good character;

(v) Weight of broken peas does not exceed 0.25 ounce (7.1 grams) for "White Acre" peas and does not exceed 0.5 ounce (14.2 grams) for all other types; and

(2) Is within the limits for defects as classified in Table I and specified in Tables II and III.

(b) "U.S. Grade B" is the quality of frozen peas that:

(1) Meets the following prerequisites (with deviants as specified in § 52.1673 (a));

(i) Has an overall appearance that may be dull but is not off-color;

(ii) Has a reasonably good flavor and odor;

(iii) Is practically free from grit;

(iv) Has a reasonably good character;

(v) Weight of broken peas does not exceed 0.5 ounce (14.2 grams) for "White Acre" peas and 1 ounce (28.35 grams) for all other types; and

(2) Is within the limits for defects as classified in Table I and specified in Tables II and III.

(c) "Substandard" is the quality of frozen peas that fail to meet the requirements for U.S. Grade B.

§ 52.1667 Factors of quality.

(a) The grade of a sample of frozen peas is based on compliance with the prerequisites specified in § 52.1666 and with limits for the following quality factors:

(1) Dissimilar varieties;

(2) Harmless extraneous vegetable material;

(3) Blemished units;

(4) Shriveled units; and

(5) Color attributes.

§ 52.1668 Classification of defects and grade compliance.

(a) Defects are classified as "minor", "major", "severe", or "critical". Each "X" mark in Table I represents "one defect".

(b) Classification of defects:

TABLE I

Quality factors	Defects	Classification			
		Minor	Major	Severe	Critical
Dissimilar varieties	Each unit [1]	X			
Harmless extraneous vegetable material.	Class 1 (each unit) [2]			X	
	Class 2 (each unit)				X
Blemished	Each unit		X		
Shriveled	do	X			

[1] Not applicable to "mixed" types.
[2] Not applicable to "snaps" in the style of "frozen peas with snaps."

(c) Grade compliance:

TABLE II

	Maximum defects permitted							
Absolute limit (AL)	67	32	5	2	100	49	9	4
Number of Sample units	Total [1]	Major	Severe	Critical	Total [1]	Major	Severe	Critical
	In the total sample							
1	60	26	3	0	91	42	6	2
2	114	48	6	1	174	77	11	3
3	167	69	8	2	256	113	15	5
4	219	90	10	2	337	147	19	6
5	271	110	11	3	417	182	22	7
6	322	131	13	3	497	216	26	8
7	373	151	15	4	577	250	30	9
8	425	171	17	4	657	284	33	10
9	476	192	19	4	736	318	37	11
10	526	212	20	5	816	352	41	11
11	577	232	22	5	895	385	44	12
12	628	252	24	5	974	419	48	13
13	679	272	25	6	1,053	452	51	14
14	729	291	27	6	1,132	486	55	15
15	780	311	29	6	1,211	519	58	16
16	830	331	30	7	1,290	553	62	17
17	881	351	32	7	1,369	586	65	18
18	931	371	33	7	1,447	619	69	19
19	981	390	35	7	1,526	653	72	19
20	1,032	410	37	8	1,605	686	76	20
21	1,082	430	38	8	1,683	719	79	21
Acceptable quality level (AQL) [2]	7.00	2.70	.20	.03	11.00	4.60	.45	.10

[1] Total=Minor+major+severe+critical.
[2] Based on an average count of 1,400 units for "white acre" peas and 700 units for all other types per 10-oz package.

§ 52.1669 Classification of color and grade compliance.

(a) *General.* The requirement for "color attributes" is applicable for Grade A classification only. "Color attributes" does not apply to units of "snaps" in the style of "frozen peas with snaps."

(b) *Color attributes.* "Color attributes" are defined as follows:

(1) "Black-eye peas" and other similar varietal types—Each unit that has an obvious green color.

(2) "Crowder peas"—Each unit that is characteristic of very young peas.

(3) "Cream peas"—Each unit that has an obvious green color.

(4) "Field peas" and "mixed types"—Each unit that is characteristic of very young peas.

(c) *Compliance.* For the purposes of determining compliance with the requirements for Grade A color, the applicable varietal type shall meet the acceptance numbers for color attributes in Table III.

TABLE III

Number of sample units	Minimum number permitted: Black-eye peas, cream peas, field peas, and mixed types (color attributes)	Minimum number permitted: Crowder peas (color attributes)
Absolute limit (AL)	73	119
	In the total sample	
1	84	133
2	175	276
3	268	421
4	362	566
5	456	712
6	551	859
7	646	1,006
8	741	1,153
9	837	1,301
10	932	1,448
11	1,028	1,596
12	1,124	1,744
13	1,220	1,892
14	1,315	2,040
15	1,411	2,188
16	1,508	2,336
17	1,604	2,485
18	1,700	2,633
19	1,796	2,782
20	1,892	2,930
21	1,989	3,079
Acceptable quality level (AQL)[1]	14.00	21.50

[1] Based on an average count of 1,400 units for "white acre" peas and 700 units for all other types per 10-oz package.

§ 52.1670 Determining flavor, odor, presence of grit, maturity, tenderness, and texture.

(a) *General.* The cooking procedure is used to determine compliance with the requirements for flavor, odor, presence of grit, maturity, tenderness, and texture.

(b) *Cooking procedure.* Place 10 ounces (283.5 grams) of thawed product in a 2 quart (1.9 liter) sauce pan containing 400 milliliters of tap water (without the addition of salt) that has been brought to a boil. Continue to heat rapidly until the water begins to boil again. Cover the pan and boil for 40 minutes, reducing the heat to maintain a constant boil. Immediately after cooking, pour the product on to a flat receptacle and spread out to cool. The product should be evaluated for flavor, odor, presence of grit, maturity, tenderness, and texture while warm.

§ 52.1671 Lot acceptance for style.

In the style of "frozen peas with snaps", the number of sample units that contain less than 3 snaps or more than 10 percent, by weight, of snaps shall not exceed the acceptance number specified in the sampling plans in the "Regulations Governing Inspection of Processed Fruits and Vegetables and Related Products" (§ 52.38).

§ 52.1672 Sample size.

(a) *General.* The sample size to determine compliance with requirements for prerequisites specified in § 52.1666 and other quality factors, shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection of Processed Fruits and Vegetables and Related Products" (§ 52.38) for Lot Inspection or on-line Inspection, as applicable.

(b) *Deviants.* The acceptance numbers for deviants specified in the sampling plans cited in paragraph (a) of this section apply only to the prerequisite factors specified for the grade in § 52.1666. They do not apply to the quality factors covered by the sampling plans in § 52.1668 and § 52.1669.

§ 52.1673 Lot acceptance for quality.

A lot of frozen peas is considered as meeting the requirements for quality if:

(a) The number of deviants for the prerequisites specified for the applicable grade in § 52.1666 does not exceed the acceptance number specified in the sampling plans in the "Regulations Governing Inspection of Processed Fruits and Vegetables and Related Products" (§ 52.38).

(b) The values permitted and the AL values for the applicable defect classifications specified in Tables II and III are not exceeded.

§ 52.1674 Defect tally.

Defect tally for frozen field peas and frozen black-eye peas

Number, size, and kind of container
Label
Container mark
Net weight
Sample unit No.
Prerequisite grade
Reason downgraded

Defect	Minor	Major	Severe	Critical
Dissimilar varieties				
Blemished				
Shriveled				
Harmless extraneous vegetable material				
Total (each class)				
Cumulative total (each class)				
Total (all classes)				
Cumulative total (all classes)				
Color				
Total (sample unit)				
Cumulative total (sample)				

Dated: January 19, 1976.

IRVING W. THOMAS,
Acting Administrator, AMS.

[FR Doc.76-2058 Filed 1-23-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[7 CFR Part 20]

EXPORT SALES REPORTING REGULATIONS

Withdrawal of Proposed Rulemaking

On December 27, 1974, a document was published in the FEDERAL REGISTER (39 FR 44764) proposing several amendments to the Export Sales Reporting Regulations which require exporters to report certain information with respect to contracts for export sales of specified agricultural commodities. One proposal was to amend § 20.4 (h) and (m) to limit reportable transactions to export sales containing fixed prices. Basis price contracts would have been eliminated from both the daily and weekly reporting systems, on optional origin as well as U.S. origin sales.

A total of 39 comments was received in response to the proposal. All 39 comments opposed adoption of the proposed amendment to limit reportable transactions to sales containing fixed prices.

On March 11, 1975, a document was published in the FEDERAL REGISTER (40 FR 11345) which deferred a decision on this proposal pending additional review and evaluation.

A comprehensive survey involving supplemental reporting by all U.S. exporters of corn and soybean cake and meal was used to obtain data for evaluating the proposal. The analysis of this survey considered the effect of excluding from reported export sales basis price contracts for these commodities entered into during the period April 13, 1975,

through August 31, 1975. In the case of corn, sales covering 6 percent of the quantity, or 588,000 metric tons, would never have been reported since this quantity was exported before a fixed price was established. For soybean cake and meal, affixed price was established prior to export in the case of each contract which had originally provided for basis pricing. Under the proposed amendment there would have been a delay in the reporting of nearly 50 percent of total sales of corn and soybean cake and meal for an undetermined period prior to export.

The study showed that the use of basis pricing was concentrated in contracts having the European Community and Japan as ultimate destinations. Sales of corn and soybean meal and cake pursuant to basis price contracts to all countries of destinations were about one-half as likely to result in export shipment as were fixed price contracts. For example, corn reported as sold under basis type contracts exceeded later exports under such contracts by nearly 5 million metric tons. Slightly more than one-half of all sales made pursuant to basis price contracts were terminated by contract cancellations or offset by purchases from foreign sellers. In the case of sales made pursuant to fixed price contracts, sales for about 1.5 million metric tons (or less than one-fourth of the quantity covered by this type of contract) were terminated by contract cancellations or offset by purchases from foreign sellers.

The study revealed that basis price contracts contributed much more than fixed price contracts to the overstatement of anticipated exports predicated on reported sales. However this disadvantaged is far outweighed by the fact that exclusion of basic price contracts from the sales data released each week by the Department of Agriculture would render the sales data less comprehensive and useful.

The proposal to amend § 20.4 (h) and (m) to limit reportable transactions to export sales containing only fixed prices is hereby withdrawn.

Dated: January 20, 1976.

RICHARD A. SMITH,
Acting Administrator,
Foreign Agricultural Service.

[FR Doc.76-2155 Filed 1-23-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 338, 339, 340]

[Docket No. 75-N-0244]

OVER-THE-COUNTER DRUGS

Proposal to Establish Monographs for OTC Nighttime Sleep-Aid, Daytime Sedative, and Stimulant Products

Correction

In FR Doc. 75-32774, appearing on page 59477, in the issue of Monday, December 8, 1975, and corrected at 41 FR 1498, the following changes should be made:

1. On page 57307, in the second column, the name at the end of the first line of the sixth paragraph should read "Pallin".

2. On page 57327, in the third column, the second word in the sixteenth line should read "on".

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Parts 1910, 1926]

[Docket No. S-102]

GROUND FAULT CIRCUIT PROTECTION

Extension of Post-Hearing Comment Period

On December 9, 1975, pursuant to authority in section 6(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655), section 107 of the Contract Work Hours and Safety Standards Act (83 Stat. 96, 40 U.S.C. 333), 29 CFR Part 1911, and notice of hearing published in the FEDERAL REGISTER on September 2, 1975 (40 FR 40170), an informal public hearing was held concerning the proposal to amend title 29 Code of Federal Regulations, §§ 1910.309 and 1926.400 by revoking the requirement for ground-fault circuit protection for personnel on construction sites.

At the conclusion of the hearing the Administrative Law Judge directed that the record of the hearing be kept open until January 20, 1976, to receive supplemental information. On the basis of a request for additional time to submit written comments, and because of a delay in transmitting copies of the record to interested parties, the Administrative Law Judge has issued an order extending the period for public comment from interested parties until February 17, 1976.

Written comments may be submitted to Jay Arnoldus, OHSA Committee Management Office, Third Street and Constitution Avenue, NW, Room N-3635 Washington, D.C. 20210.

Signed at Washington, D.C., this 21st day of January, 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-2224 Filed 1-23-76;8:45 am]

DEPARMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 75 244]

MISSOURI RIVER, IOWA

Proposed Drawbridge Operation

At the request of the Iowa Department of Transportation, the Coast Guard is considering revising the regulations for the Sioux City highway and railroad bridge across the Missouri River, mile 732.3, to allow the draw to remain closed to the passage of vessels.

The States of Iowa and Nebraska are planning to construct a new high-level fixed highway bridge across the Missouri River between Sioux City, Iowa, and South Sioux City, Nebraska. Constraints on both sides of the river dictate the need to locate the new bridge about 190 feet (center to center) upstream of this drawbridge. The swing span will be immobilized while the new bridge is under construction. Present scheduling indicates that construction of the substructure will commence in April of 1977, and will be completed by April of 1978. The superstructure construction is expected to commence in July of 1978, and be completed by September of 1979. Viewing this scheduling in light of other bridge construction experience, the swing span should be immobilized from April of 1977 until its removal subsequent to opening the new bridge, probably about January of 1980.

The swing span provides two draw openings with 215 feet horizontal clearance in each span. There is 32.7 feet vertical clearance above zero on the Sioux City Weather Bureau gauge beneath the drawspan. This is adequate clearance for the recreational craft that use this reach of the river. The swing span has not been opened for more than two years and has been opened infrequently for more than a decade. These infrequent openings have been for passage of construction equipment engaged in river improvement work or for Corps of Engineers inspections.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (obr), Second Coast Guard District, Federal Building, 1520 Market Street, St. Louis, Missouri 63103. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Second Coast Guard District.

The Commander, Second Coast Guard District, will forward any comments received before March 12, 1976, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising § 117.560(g)(8) to read as follows:

§ 117.560 Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(g) * * *

(8) Missouri River, highway bridge between Sioux City, Iowa and South Sioux City, Nebraska, mile 732.3. The draw need not open for the passage of vessels and paragraphs (b) through (e) of this section shall not apply to this bridge.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4)).

Dated: January 15, 1976.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76-2205 Filed 1-23-76;8:45 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 75-CE-20]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Orange City, Iowa.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before February 25, 1976, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views or arguments presented during such conference must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

The City of Orange City, Iowa, is installing a non-directional beacon on the Orange City Municipal Airport and a public-use instrument approach procedure is being established based thereon. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new procedure by designating a 700-foot floor transition area at Orange City, Iowa.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (41 FR 440), the following transition area is added:

ORANGE CITY, IOWA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Orange City Municipal Airport (latitude 42°59'25" N., longitude 96°03'45" W.); and within 3 miles each side of the 172° bearing from the Orange City Municipal Airport, extending from the 5-mile radius area to 8½ miles south of the airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Missouri, on December 31, 1975.

GEORGE R. LACAILLE,
Acting Director, Central Region.

[FR Doc.76-2167 Filed 1-23-76;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 35]

[Docket No. E-9393]

PARTIAL-RECOVERY FUEL ADJUSTMENT CLAUSES IN WHOLESALE RATE SCHEDULE

Order Denying Motion for Amendments of Regulations

JANUARY 19, 1976.

On March 27, 1975, the ElectriCities of North Carolina and the Cities of Anaheim, Riverside, Banning, Colton, and Azusa, California (Municipal Systems) [1] filed with the Power Commission a motion seeking to institute a proceeding and to amend § 35.14 of the Commission's regulations under the Federal Power Act (See 18 CFR 35.14) by adding a new subparagraph (11) to § 35.14(a) as follows:

(11) When the Fuel Adjustment Factor developed according to this procedure results in a negative factor per kwh of sales, such factor shall be applied as the Applicable Fuel Adjustment Factor. When the Fuel Adjustment Factor developed according to this procedure results in a positive factor per kwh of sales, such factor shall be multiplied by 0.75 to determine the Applicable Fuel Adjustment Factor.

Municipal Systems advocated the acceptance of such an amendment basing its position on two principal grounds:

(1) That a full-recovery fuel clause removes incentives for efficiency and economy of operations and for utilities to bargain intensively for low cost fuel and (2) that regulation of fuel clauses is not sufficiently tight, and cannot be sufficiently tight without significant additional staffing by the FPC, to warrant full-recovery clauses.

Notice of the filing of this motion was issued on April 29, 1975, with comments due on or before May 22, 1975. On that date a notice was issued extending the deadline for filing comments until July 21, 1975.

There were twenty-four (24) responses to the Notice.[2] Only the state municipal groups [3] are in favor of the proposed amendment on the grounds that the arguments advanced for amendment, namely, the full-recovery fuel clause removes incentives for efficiency and economy of operations, and for utilities to bargain intensively for low cost fuel, and the insufficiently tight regulation of fuel costs by those agencies charged with regulatory responsibility are well documented and constitute of themselves sufficient reason to review the presently applicable fuel clause regulations.

There were basically six general areas of objection.

The Edison Electric Institute and several utilities [4] objected to the amendment on the basis that the question of partial recovery fuel clauses was settled by the Commission Order No. 517 issued on November 13, 1974, in Docket No. R-479, wherein the Commission made the following observation:

Other comments suggest that utilities be permitted to recover only a portion of increased fuel costs in order to provide an incentive to bargain for lower cost fuel. It should be noted that to the extent that only a portion of changes in fuel costs are permitted to be reflected in rates, the purpose of the fuel clause (namely to pass on to customers the increases or decreases in the fuel costs actually incurred by the utility) is to that extent defeated. When fuel costs are rising, the utility is disadvantaged by not being able to collect the full amount of the increase; when fuel costs are falling, the customers are disadvantaged because the full amount of the reductions are not passed along, but are partly retained by the utility. In addition, the lag in collections for fuel expenses inherent in a typical fuel cost adjustment clause provides some incentive for companies to bargain for favorable prices during periods of rising fuel costs.

The Edison Electric Institute and several of the utilities [5] stated that Order No. 517 precludes merely partial recovery in fuel adjustment clauses. Other utilities [6] stated that in view of the direct consideration of partial recovery fuel clauses in Docket No. R-479, it would not be in the public interest to expend valuable Commission time and expertise on a reconsideration of this issue unless significant changes have occurred, not considered in such prior hearing. In the opinion of those utilities, no such changes have occurred. Another utility [7] further states that the purpose of fuel adjustment clauses as stated in Order No. 517 is "to

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[1] Municipal Systems states that ElectriCities of North Carolina is an unincorporated association whose members are representatives of all municipalities in North Carolina and certain municipalities in Virginia (the Towns of Blackstone, Culpeper, Iron Gate, Manassas, and Wakefield, the City of Franklin and the Harrisonburg Electric Commission).

[2] See Appendix A.

[3] The Georgia Municipal Association—Power Section, State of Georgia municipal organization repesenting 49 cities, the Ohio Municipal Electric Association representing 75 members, and a 23 member Oho municipal group filed a joint response.

[4] Alabama Power Company (Alabama), Consumers Power Company (Consumers), Duke Power Company (Duke), Florida Power & Light Company (Florida), Georgia Power Company (Georgia), Gulf Power Company (Gulf), Louisiana Power Company (Louisiana), Middle South Services, Inc. (MSS), Mississippi Power & Light Company (Mississippi), Northern States Power Company (Northern States), Pacfic Gas and Electric Company (PG&E), Philadelphia Electric Company (Philadelphia), Public Service Company of Indiana (Indiana), Southern California Edison Compny (So Cal Ed), and The Toledo Edison Company (Toledo).

[5] Alabama, Consumers, Duke, Florida, Georgia, Gulf, Northern States, and Toledo.

[6] Georgia, Mississippi, Indiana, and Toledo.

[7] Middle South Services, Inc. (MSS).

make utilities whole for increased costs associated with changes in fuel costs."

Several utilities [8] contend that full recovery fuel clauses do not remove any incentives for efficiency and economy of operations and for utilities to bargain extensively for low cost fuel, as alleged by the Municipal Systems, and note that this allegation is totally unsupported by any evidence as to inefficiently—or uneconomically—run utilities. PG&E has in fact stated that the proposed amendment would result in a disincentive to bargain for lower fuel prices at any time since any subsequent offsetting increases in fuel costs would again be discounted by 25% in the fuel clause.

A third objection was noted in the comments filed by Arkansas, Carolina, Duke, and Mississippi, who claim that the proposed amendment, if approved, would be totally inconsistent with the Commission's well established principle of cost based ratemaking. Quoting a recent opinion of the Public Service Commission of Missouri on this issue, Duke noted that:

> [I]n the Commission's opinion, the most impressive argument in favor of fuel adjustment is that the charge for the service begins to approach the cost of rendering the service * * *. No other utility cost is so precisely measurable from the standpoint of creation of the expense. In the Commission's opinion the nonmeasurable costs should be borne equally by all those responsible for the cost.

Many utilities [9] further state that implementation of a partial recovery fuel adjustment clause would further restrict the company's earnings and its ability to generate revenue for construction programs and reduce its ability to attract capital investment.[10]

The Edison Electric Institute and seven utilities [11] warn against the increased number of filings requesting rate relief from the Commission which the proposed amendment could generate, thus defeating the primary purpose of the fuel adjustment clause, namely, the recovery of fuel costs without rate hearings.[12] Consumers, Southwestern, and Toledo predict that the regulatory lag caused by these increased filings will be so detrimental to the utilities' financial condition as to result in decreased reliability of service.

While the Municipal Systems allege that the Federal Power Commission presently lacks the staffing necessary to regulate fuel adjustment clauses adequately, several intervenors [13] note that no evidence was presented by Municipal Systems in support of this argument. Gulf in fact notes that the proposed amendment would not alleviate any staffing problems, if any such problems existed, but would rather exacerbate any such problems.

The sixth objection to this proposed amendment is that it in effect imposes a penalty upon stockholders and nonjurisdictional customers.[14] Louisiana contends that the proposed amendment is discriminatory and cites the Florida Public Service Commission Order No. 6357 in Docket No. 74680–CI, which states:

> It has also been suggested that the utilities be permitted to recover only a portion of their increased fuel costs inasmuch as there is little incentive under the present formula to conserve the use of fuel. Initially, we note that this proposal defeats the very purpose of the clause, that is, to allow the companies to recover their fossil fuel costs. Moreover, it can ultimately work to the detriment of the ratepayer when fuel costs are falling and the utility is not required to pass on the full amount of the reductions, but instead would be allowed to retain a portion of the reductions. We also prefer to view such a proposal as a penalty rather than an incentive and we have serious doubts as to our legal authority to arbitrarily preclude a public utility from recovering a legitimate operating expense through the ratemaking process.

Having reviewed the proposed amendment and the responses to it, we are of the opinion that the Regulations should not be amended as proposed. In view of our position with respect to full recovery of fuel adjustment clauses and the direct consideration given to partial recovery fuel adjustment clauses in Docket No. R–479, a reopening of the question, with no apparent change in conditions to warrant such action would not appear appropriate.

The Commission finds. (1) Good cause has not been shown to institute a proceeding and to amend § 35.14 of the Commission's regulations under the Federal Power Act to provide for the partial recovery of changes in fuel cost.

(2) Municipal Systems' motion for amendment of § 35.14 of the regulations should be denied.

The Commission orders. (A) Municipal Systems' motion for amendment of § 35.14 of the regulations is hereby denied.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY KIDD PEAK,
Acting Secretary.

APPENDIX A

Alabama Power Company
Arkansas Power and Light Company
Carolina Power and Light Company
Consumers Power Company
Detroit Edison Company
Duke Power Company
Florida Power and Light Company
Georgia Power Company
Gulf Power Company
Louisiana Power and Light Company
Middle South Services, Inc.
Mississippi Power and Light Company
Northern States Power Company
Pacific Gas and Electric Company
Philadelphia Electric Company
Potomac Electric Power Company
Public Service Company of Indiana
Public Service Company of Oklahoma
Southern California Edison Company
Southwestern Electric Power Company
The Toledo Edison Company
Virginia Electric and Power Company
Edison Electric Institute
Georgia Municipal Association—Power Section, et al.

[FR Doc.76-2194 Filed 1-23-76;8:45 am]

[8] Arkansas Power and Light Company (Arkansas), Carolina Power and Light Company (Carolina), Consumers, Detroit Edison Company (Detroit Edison), Public Service Company of Oklahoma (Oklahoma), PG&E, Potomac Electric Power Company (Potomac), and Toledo.

[9] Alabama, Duke, Gulf, Mississippi, Philadelphia, Potomac, Southwestern Electric Power Company (Southwestern), and Toledo.

[10] The Virginia Electric and Power Company notes that full recovery on fuel adjustment clauses is essential to ratemaking especially in light of the current energy shortages, so as to allow a fair rate of return.

[11] Alabama, Arkansas, Consumers, Detroit Edison, Duke, Potomac, and Toledo.

[12] Arkansas especially points this out.

[13] Arkansas, Consumers, Georgia, Gulf, Louisiana, and Indiana.

[14] Arkansas, Detroit Edison, Louisiana, Philadelphia, Indiana, and Southwestern.

FEDERAL TRADE COMMISSION

[16 CFR Part 423]

CARE LABELING OF TEXTILE PRODUCTS AND LEATHER WEARING APPAREL

Proposed Revised Trade Regulation Rule

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., the provisions of Part I, Subpart B of the Commission's procedures and rules of practice, 16 CFR 1.11 et seq., and section 553 of Subchapter II, Chapter 5, Title 5, U.S. Code (Administrative Procedure) has initiated a proceeding for the promulgation of a revised trade regulation rule relating to the care labeling of textile products and leather wearing apparel.

Accordingly, the Commision proposes to amend Subchapter D, Trade Regulation Rules, of 16 CFR Ch. I by substituting a new Part 423 as follows:

PART 423—CARE LABELING OF TEXTILE PRODUCTS AND LEATHER WEARING APPAREL

Sec.
423.1 Wearing apparel; household furnishings.
423.2 Piece goods; yarn.
423.3 Carpets and rugs.
423.4 Intermediate components.
423.5 Nature of care instructions.
423.6 Definitions.
423.7 Glossary.
423.8 Exemptions.
423.9 Waivers.
423.10 Conflict with flammability standards.

AUTHORITY: 38 Stat. 717, as amended; (15 U.S.C. 41, et seq.)

§ 423.1 Wearing apparel; Household furnishings.

It is an unfair or deceptive act or practice to sell, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, any textile, suede or leather product in the form of a finished article of wearing apparel or any textile product in the form of a finished household furnishing, which does not have a label permanently affixed or attached thereto by the manufacturer or importer of the finished item, which clearly discloses instructions for the care and maintenance of such item.

§ 423.2 Piece goods; yarn.

In connection with the sale of any textile product in the form of piece goods or yarn made for the purpose of immediate conversion by the ultimate consumer into a finished item otherwise covered by § 423.1, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice for the manufacturer or importer of such goods or yarn to fail to provide to the retailer of such products, labels which:

(a) Clearly disclose instructions for the care and maintenance of such products, and

(b) Can by normal household methods be permanently affixed to the finished item by the ultimate consumer.

§ 423.3 Carpets and rugs.

In connection with the sale of any textile product in the form of a carpet or rug, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice for the manufacturer or importer of such carpet or rug to fail to provide to the retailer of such products, clearly stated instructions for the care and maintenance of such carpet or rug in a form which can easily be transmitted to the ultimate consumer at the time of retail purchase.

§ 423.4 Intermediate components.

In connection with the sale of any textile product intended to be used as an intermediate component of a finished product covered by § 423.1 or § 423.3 of the rule, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice for the manufacturer or importer of such component to fail to provide to the manufacturer or importer of such finished product clearly stated instructions for the care and maintenance of such component. Such instructions may be provided separately by invoice or other means reasonably calculated to communicate the information.

§ 423.5 Nature of care instructions.

Instructions for the care and maintenance of any item within the scope of §§ 423.1, 423.2, 423.3 or 423.4 shall conform to the following:

(a) General rule: fully and completely inform the purchaser of such regular care and maintenance procedures necessary to the ordinary use and enjoyment of the item. In order to constitute full and complete information, such instructions shall comply with, but need not necessarily be limited to, the provisions set forth below:

(1) *Washing.* In any washing instruction each of the following topics must be clearly disclosed:

(i) Method of washing and adjectival description of water temperature, e.g., hot, warm, cold;

(ii) Method of drying and, if by machine, adjectival description of temperature, e.g., high, medium, low;

(iii) Use and type of bleach when not all commercially available bleaches can be used; and

(iv) Use of iron and adjectival description of ironing temperature, e.g., hot, warm, cool, when necessary.

(2) *Drycleaning.* In a drycleaning instruction the type of solvent to be used must be clearly specified, when not all commercially available solvents can be used.

(3) *Symbols.* In any instruction symbols may be used in addition to words, so long as the words fulfill the requirements of this section.

(4) *Alternative care.* In all instructions, where outerwear (coats, suits, jackets, pants, robes, skirts, dresses or sweaters) and finished household furnishings may be either washed or drycleaned without damage or substantial impairment, both methods must be disclosed in the manner set forth in this section.

(b) Warnings: warn the purchaser as to any regular care and maintenance procedure which, under all reasonably forseeable circumstances, would damage or substantially impair the item to which the care instructions apply or impair other articles being cleaned with that item.

(c) Legibility: remain legible for the useful life of the item.

(d) Accessibility and placement: except as hereinafter provided, are visible or easily and readily accessible to the purchaser without unreasonable effort at the point of retail sale: *Provided however,* That:

(1) Where items are packaged, displayed or folded in such a manner that the care instructions on the permanent label are not readily accessible as required, the same instructions must be imprinted on the exterior of the package or on a hang tag securely attached to the item.

(2) Where the permanent label is coarse or abrasive in character, placement of the label on wearing apparel may be relocated to minimize irritation to the skin, so long as the requirements of paragraph (d)(1) of this section are met.

§ 423.6 Definitions.

For the purposes of this part, the following definitions shall apply:

(a) "Textile product" is any commodity spun, woven, knit or otherwise made primarily of fibers, yarn or fabric which is intended for sale or resale and which requires care and maintenance in order that ordinary use and enjoyment of the commodity may be obtained by the purchaser.

(b) "Finished article of wearing apparel" is any costume, garment or article of clothing whose manufacture is complete and which is customarily used to cover or protect any part of the body, including hosiery, but excepting all other footwear and such articles that are used exclusively to cover or protect the head or the hands.

(c) "Piece goods" are textile products sold on a piece by piece basis from bolts, pieces or rolls excepting "trim" five (5) inches or less in width and those pieces, termed "remnants" and conspicuously identified as such when offered for retail sale, which are ten (10) yards or less in length and cut from larger bolts, pieces or rolls only at the manufacturing level.

(d) "Finished household furnishing" is any window covering, drapery, curtain, item or upholstered furniture, slipcover, or linen whose manufacture is complete and which is customarily used as an interior appointment, but excepting household cleaning cloths, mattresses, carpets and rugs.

(e) "Leather product" is any commodity made primarily of animal skins or hides tanned or otherwise dressed for use, which is intended for sale or resale and which requires care and maintenance in order that ordinary use and enjoyment of the commodity may be obtained by the purchaser.

(f) "Suede product" is any commodity made primarily of animal skins or hides tanned or otherwise dressed for use, reversed and buffed to a soft nap, which is intended for sale or resale and which requires care and maintenance in order that ordinary use and enjoyment of the commodity may be obtained by the purchaser.

(g) "Intermediate component" is any piece goods, trim, thread, and/or such other item intended to be sold to a finished product manufacturer for use as a part of a finished product.

(h) "A label permanently affixed or attached thereto" is a label attached or affixed in such a manner that it will not become separated from the item during its useful life.

(i) "Manufacturer" is any person or organization that directs or controls the manufacture of an item.

(j) "Retailer" is any person or organization that sells an item directly to the ultimate consumer.

(k) "Ultimate consumer" is any person or organization that obtains any item by purchase or exchange with no intent to sell it, exchange it, incorporate or otherwise use it as a component of another product intended for sale or resale.

§ 423.7 Glossary.

The Commission adopts the terms and definitions set forth in Part 4 (Definitions of Terms) of the American Society for Testing and Materials' "Standard Definitions of Terms Relating to Care of Consumer Textile Products and Recommended Practice for Use of These Terms on Permanently Attached Labels" (ASTM D3136–72), as presumptively acceptable standards for the terminology to be employed in compliance with this Rule. The Commission will not challenge the accurate use of such terminology, and subsequent revisions, without accurate advance notice provided the other requirements of this Rule are met. Accordingly, for the purposes of compliance with this part:

(a) The terms as defined in ASTM D3136–72 should be used to the extent applicable.

(b) Where applicable terms are not defined in ASTM D3136–72, other terms may be used so long as such terms accurately describe the care procedure and otherwise fulfill the disclosure requirements of this part.

§ 423.8 Exemptions.

(a) *Utility or appearance.* The Commission shall consider, upon written petition to be placed on the public record, addressed to the Secretary of the Commission, any request for exemption of any specific product or product 'line" from the coverage of § 423.1. In making this determination, the Commission shall consider the physical characteristics of the product or product "line" and whether its utility or appearance would be substantially impaired by a permanently attached label. Such a request must be accompanied by a labeled representative sample of the product or product "line" for which exemption is requested and a comprehensive statement containing reasons why the petitioner believes the exemption should be granted. If the requested exemption is granted, the information required by § 423.1 must accompany such product or product "line" whenever it is sold in commerce, as "commerce" is defined in the Federal Trade Commission Act, but it need not be furnished in the form of a label permanently affixed or attached thereto.

(b) *Price and care traits.* The Commission shall also consider under the procedure described herein any request for exemption from this part of any specific product or product "line" intended to be sold at retail for $3.00 or less (per unit) and which can be machine washed with hot water and machine dried at a high setting without damage or substantial impairment to the product itself or to other items with which it is washed and dried. Such a request must be accompanied by a statement of the intended retail price(s) (per unit) of the product or product "line" for which exemption is requested and a documented test report from an independent laboratory stating that the product or product "line" for which an exemption is requested can be machine washed with hot water and machine dried at a high setting without damage or substantial impairment to the product itself or to other items with which the product is washed and dried.

(c) *Previous exemptions.* All exemptions previously granted under § 423.1 (c)(1) and/or (2) of the Care Labeling Rule promulgated in December, 1971, (16 CFR Part 423) will remain in effect: *Provided,* That the items in question still meet the standards upon which the exemptions were based; no action is necessary to maintain these exemptions. If the items in question no longer meet such standards, the exemptions shall be considered automatically revoked.

§ 423.9 Waivers.

(a) *Rental service companies:* Items sold by manufacturers to rental service companies for their own use and not for resale are excluded from the coverage of this part: *Provided,* That such companies waive their right to have such items labeled under this part: *And provided further,* That the manufacturers of such items, upon obtaining such waivers from their customers, file such with the Federal Trade Commission's Division of Special Statutes. Waivers should be signed by both the seller (manufacturer) and the buyer (rental company) of such items.

(b) *Hospitals, nursing homes and similar institutional uses.* Finished articles of wearing apparel and linens sold by manufacturers to hospitals and nursing homes for their own use and not for resale are excluded from the coverage of this part: *Provided,* That such hospitals and nursing homes waive their right to have such items labeled under this part: *And provided further,* That the manufacturers of such items, upon obtaining such waivers from their customers, file such with the Federal Trade Commissions' Division of Special Statutes. Waivers should be signed by both the seller (manufacturer) and the buyer (hospital or nursing home) of such items.

§ 423.10 Conflict with flammability standards.

The requirements of this part shall be applicable in all instances except where a direct conflict exists between this part and the regulations issued under the Flammable Fabrics Act. In such instances, compliance with the regulations issued under the Flammable Fabrics Act will be considered compliance with this part.

STATEMENT OF REASONS FOR PROPOSED REVISED RULE

It is the Commission's purpose, in issuing this this statement, to set forth its reasons for proposing this revised rule with sufficient particularity to allow informed comment. The precise format of such statements may vary from rule to rule depending on the complexity of the issues involved. In this proceeding, it has been determined that meaningful comment by the public will be best facilitated by presenting (1) a statement describing the basic factual and legal premises upon which the Commission has determined to propose the revised rule, and (2) an analysis and series of questions designed to draw to the public's attention matters which the Commission presently deems particularly pertinent and on which comment is especially solicited.

The Commission emphasizes that neither the statement of factual and legal premises nor the questions should be interpreted as designating disputed issues of fact. Such designations shall be made by the Commission or its duly authorizing Presiding Officer pursuant to the Commission's procedures and rules of practice.

STATEMENT

The Commission, pursuant to the authority recited above, promulgated a Trade Regulation Rule Relating to the Care Labeling of Textile Wearing Apparel on December 9, 1971, (as amended November 22, 1972, 16 CFR Part 423). The Rule became effective on July 3, 1972.

The present rule is based on the Commission's authority to require affirmative disclosure of care information where non-disclosure would be either deceptive or unfair.[1] Specifically, affirmative disclosures may be required where the public assumes from silence that a certain state of facts exist which, in fact, do not. Thus, sellers have been required to disclose the true properties of their products where the appearance of those products, absent disclosure, would mislead.[2] By the same token it is deceptive not to reveal care instructions when silence on the subject can either mislead the purchaser into employing a care procedure which will substantially impair the item or frustrate a valid assumption on the part of the purchaser—that no costly special care will be required and that he or she will be able knowledgeably to distinguish between the whole range of care procedures and that which is both most effective and most economical.

Disclosure of care instructions may also be required because it is unduly oppressive and unfair to consumers to withhold information which has been shown to be essential to the ordinary use and enjoyment of a product. The Commission's broad authority to prohibit practices as unfair, where the record proof shows substantial economic injury to a significant number of consumers, has been recognized by the courts.[3]

In the Rule's Statement of Basis and Purpose, the Commission emphasized that, although the Rule was to be limited with respect to product coverage, the Commission reserved the right to con-

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[1] Since the Commission's authority to require care labeling was settled in the proceeding in which the present rule was promulgated, that authority is not at issue in this proceeding to amend the existing rule.

[2] Haskelite Manufacturing Corporation' v. FTC, 127 F. 2d 765 (7th Cir. 1942); Mary Muffet, Inc. v. FTC, 194 F. 2d 504 (2nd Cir. 1952); Mohawk Refining Corp. v. FTC, 263 F. 2d 818 (3rd Cir. 1959), cert. denied 361 U.S. 814 (1959).

[3] Federal Trade Commission v. R. F. Keppel & Bro., Inc., 291 U.S. 304; Goldberg v. Federal Trade Commission, 283 F. 2d 299 (C.A. 7), Lichtenstein v. Federal Trade Commission, 194 F. 2d 607 (C.A. 9); National Trade Publications Service, Inc. v. Federal Trade Commission, 300 F. 2d 790 (C.A. 8); Norman Co., 40 F.T.C. 296; Federal Trade Commission v. Consumer Home Equipment Co., 164 F. 2d 972 (C.A. 6); Dorfman v. Federal Trade Commission, 144 F. 2d 737, 739–740 (C.A. 8); Federal Trade Commission v. Holland Furnace Co., 295 F. 2d 302 (C.A. 7); Federal Trade Commission v. Grand Rapids Varnish Co., 41 F. 2d 996 (C.A. 6); Bernard Lowe Enterprises, Inc., 59 F.T.C. 1485; Independent Directory Corporation v. Federal Trade Commission, 188 F. 2d 468 (C.A. 2); Hastings Mfg. Co., v. Federal Trade Commission, 153 F. 2d 253 (C.A. 6); see also Zlotnick the Furrier, Inc., 48 F.T.C. 1068, and Interstate Home Equipment Co., 40 F.T.C. 260.

sider the addition of other products at a later date.

Additionally, in Chapter VI.A., sixth paragraph of the Statement, the Commission noted:

> * * * The Commission has decided to proceed in stages in the care labeling field. This apparel rule is only a first stage; others may be forthcoming. This decision is based upon an assessment of the inevitable administrative problems which will arise in enforcing even a first stage rule and the limited resources available to the Commission for dealing with these problems.

Since the rule's promulgation, numerous issues not well defined in 1971 have become apparent. Most concern various aspects of compliance with the Rule as well as questions involving its interpretation or enforcement. Others involve possible expansion of the rule's coverage, uniform criteria for the terms used in care instructions and/or other changes proposed to make the rule more specific and thus more responsive to consumers' needs. Therefore, on April 2, 1974, the Commission commenced a review of the current rule and published in the FEDERAL REGISTER (39 FR 12036) a Notice of Opportunity to Submit Written Comment and Data Regarding Specific Questions Related to the Trade Regulation Rule (Request for Comment) for the purpose of reviewing and re-evaluating pertinent provisions of the rule. The deadline for receipt of comment to be placed in the public record, originally July 2, 1974, was extended to September 23, 1974. Over 9000 comments were received, comprising in excess of 12,000 pages of public record. Generally, those commenting addressed select questions from the Request for Comment. A few individuals expressed an opinion on all questions asked. The responses to the Request for Comment have been analyzed and are summarized as follows:

Of those commenting, 90 percent indicate that permanent care labels are attached to finished articles of wearing apparel as required by the Rule. However, 75 percent indicate that labels are not being furnished to them with piece goods purchases at the retail level.

With regard to whether the information on labels is clear, accurate and/or complete, 85 percent of those responding note that the information on labels is clear; however, 56 percent indicate that the care information is often inaccurate and 79 percent find the care information on labels incomplete (e.g., washing instructions given without drying instructions, etc.).

Extensive comments were received claiming that care labels are often impermanent in nature and care instructions often illegible. Fading of print and fraying of the actual label were common complaints.

With respect to the coverage of the Rule, 85 percent of those who commented desire the Rule extended to cover household furnishings (including carpets and rugs as defined), 94 percent favor extension of the Rule to cover leather and suede apparel, 91 percent favor the inclusion of piece goods used to make any textile article, 76 percent favor the inclusion of yarn, and 70 percent favor increasing coverage to include intermediate components. Although more than half of those who commented also favor the inclusion of handwear, headwear and footwear, the total number of comments received in each of these categories was so small as to prevent any meaningful conclusions regarding the labeling of those products. Likewise, although more than half of those who commented on decorative items favored their inclusion, few were concerned with such items sold "over-the-counter". Most favored their inclusion as intermediate components of a finished product.

Of those addressing the question of standardized terminology, 79 percent feel that the rule should provide specific definitions and standard terms for care labeling; however, few feel that testing should be required assuming that completely standardized testing techniques have not been developed.

With respect to the question of alternative care, 93 percent of those addressing the question favor the inclusion of alternative care instructions on care labels where appropriate.

Sixty-four percent of those commenting prefer that care instructions be expressed in words.

Irritating and abrasive labels are cited as a problem by 81 percent of those commenting.

Finally, "low labeling" (the use of extraordinarily cautious instructions when they are not needed to avoid providing more realistic care instructions), is noted as a difficulty by 54 percent of those responding.

As a result of the extensive number of comments received and based on the content of these comments, the Commission is proposing revisions to the current rule. To aid interested parties in determining the nature of the revisions, they are discussed under the Section where they appear in the Analysis and Statement of Questions.

ANALYSIS AND STATEMENT OF QUESTIONS

Wearing apparel; Household furnishings (§ 423.1). This section is analogous to paragraph (a) of the present Rule and functions generally to extend the coverage of the Rule, with respect to the requirement of a permanently affixed care label, to include suede or leather wearing apparel and finished household furnishings made of textile products. The words "or importer" have been added to clarify the fact, already true under the present Rule, that the importer of a particular item is responsible for complying with this paragraph when such item is manufactured outside the U.S., but imported to be sold inside this country.

QUESTIONS

1. Do leather and suede wearing apparel and/or finished household furnishings need regular care instructions in order to avoid damage or substantial impairment due to improper care? If so, why? If not, why not?

2. If such items need care instructions, should such instructions be expressed on a permanently affixed label as opposed to a temporary label or tag? If so, why? If not, what type of a label should be used?

See proposed § 423.6 for definitions of the terms "textile product", "leather product", "suede product", "finished article of wearing apparel", "finished household furnishings", "manufacturer" and "permanently affixed".

Piece goods; Yarn (§ 423.2). This section, although analogous to paragraph (b) of the present Rule, has been rewritten for two reasons:

(1) To extend its coverage to include yarn within its scope;

(2) To clarify its meaning:

It should be noted that, under this section, the manufacturer is specifically required to provide the retailer with labels. Retailers, as before, have no responsibility with regard to their distribution to the ultimate consumer.

Additionally, the words "or importer" have been added, as in the previous section, for purposes of clarification only.

QUESTIONS

1. Is yarn often used to make items of wearing apparel and household furnishings in the same manner as are piece goods? If so, should yarn be included within the coverage of the section? Does yarn need regular care instructions in order to avoid damage or substantial impairment to finished items made from such yarn due to improper care? If so, why? If not, why not?

2. With respect to both piece goods and yarn covered by this section, what is the best and most reliable method for the dissemination of care information to the ultimate consumer?

(a) (1) Should the retailer of piece goods and/or yarn be required to distribute care instructions on labels to the ultimate consumer; (2) should the retailer be required only to make labels available to the ultimate consumer at the retail level and disclose their availability at the point of purchase; or (3) should the retailer have any responsibility in this regard?

(b) If retailers should be required to distribute care labels to consumers, should they also be required to maintain records demonstrating the system used to distribute the correct label for each individual fabric and the number of labels distributed under that system? If so, why? If not, why not?

(c) Is there a method, which is technologically feasible, for the manufacturer's incorporating care instructions into the yard goods themselves, such as printing such instructions on the selvage of the goods or by other means? If so, what additional costs would be incurred through the use of such method? If employed, would such a method be sufficient to ensure the availability of care instructions to the consumer both at the point of sale and at the point of care?

(d) Is the method currently being used for incorporating care instructions, via

a coding system or otherwise, on the ends of bolts or rolls containing the piece goods, effective to ensure the availability of care instructions to the consumer both at the point of sale and at the point of care?

(e) In the case of yarn only, is it sufficient for the manufacturer to transmit care instructions to the ultimate consumer on the package or wrapper containing the yarn? Or, should care instructions be transmitted on a label as presently required for piece goods? Give reasons for your choice.

See proposed § 423.6 for definitions of the terms "textile product", "piece goods", "manufacturer", "permanently affixed", "retailer", and "ultimate consumer".

Carpets and rugs (§ 423.3).

This section is new. It functions to bring carpets and rugs within the scope of the rule but requires only that care instructions (not labels) be provided to the retailer of such carpets or rugs. The method of dissemination of such instructions is the same as that utilized in § 423.2, i.e., manufacturers are required to supply care instructions only to retailers of such products.

QUESTIONS

1. Do carpets and rugs need regular care instructions in order to avoid damage or substantial impairment due to improper care? If so, why? If not, why not?

2. (1) Should the retailer of carpets and rugs be required to distribute care instructions to the ultimate consumer; (2) should the retailer be required only to make instructions available to the ultimate consumer at the retail level and disclose their availability at the point of purchase; or (3) should the retailer have any responsibility in this regard?

3. If retailers should be required to distribute care instructions to consumers, should they also be required to maintain records demonstrating the system used to distribute the correct instructions with each individual carpet or rug and the number of individual sets of instructions distributed under that system? If so, why? If not, why not?

4. If carpets and rugs need care instructions, should such instructions be expressed on a permanently affixed label as opposed to a temporary tag or other means designed to facilitate their transmittal, as proposed? Or would it be feasible to require permanent labels only on rugs or carpets which are too small to be used in a "wall-to-wall" fashion? If so, what would be the maximum dimensions of such a carpet or rug?

See proposed § 423.6 for the definitions of terms "textile product", "manufacturer", "retailer" and "ultimate consumer".

Intermediate components (§ 423.4). This section is new. It functions to cover those fabrics and/or other items which are made for use by a finished product manufacturer in manufacturing finished products covered by §§ 423.1 and 423.3 of the proposed rule and which are not for direct sale to the ultimate consumer. The principal purpose of this requirement is to aid the finished product manufacturer in formualting care instructions for the whole finished product which may be comprised of two or more "intermediate components". It should be noted that such instructions may be provided in any manner "reasonably calculated to communicate the information" to the finished product manufacturer.

QUESTION

1. Whether manufacturers of finished products covered by applicable portions of the proposed rule need care information for the components of such products in order to devise accurate and clear care instructions for such products? If so, why? If not, why not? If so, do manufacturers have difficulty obtaining such information presently?

See proposed § 423.6 for definitions of the terms, "textile product," "intermediate component", and "manufacturer".

Nature of care instructions (§ 423.5). Although analogous to the Note in the present rule, the requirements in this section are far more specific in almost every instance than those in the present rule. The emphasis lies in a full and complete disclosure of care instructions necessary to the ordinary use and enjoyment of an item. Thus, § 423.5(a) tracks to some extent paragraph 1 of the Note to the present rule; however, the words "and completely" have been added as well as four other sub-paragraphs describing in detail what the "general rule" means. The significance of subparagraphs (1) and (2) is to specify what minimal information should be included in a washing and/or drycleaning instruction. Subparagraph (3) merely clarifies what the present rule already requires in regard to the use of symbols in care instructions. Subparagraph (4) is an entirely new concept and is based on the premise that the consumer should be made aware of the availability of a choice of care where such a choice will most affect the quality and cost of refurbishing and in order to facilitate comparison shopping.

Section 423.5(b) tracks to some degree paragraph 2 of the Note to the present rule except that it now also applies to other articles being treated with the labeled item. The requirement in § 423.5 (c) is the same as that in paragraph 3 of the Note to the present rule. § 423.5 (d) (paragraph 4 of the Note to the present rule) is the present rule's accessibility requirement but more specifically stated and modified to provide for situations (1) where, for justifiable reasons, the permanent label is not accessible to the purchaser at the point of sale and (2) where, with respect to wearing apparel, placement of a coarse or abrasive label in an accessible location is likely to cause discomfort to the wearer (in the form of irritation to the skin).

QUESTIONS

1. Given the basic premise that care instructions should be clear, accurate, and complete, is § 423.5(a) and (b) of the proposed revised rule sufficient to accomplish that goal? If not, what alternatives are available?

2. Should bleaching and ironing instructions be required in all cases where washing is prescribed? If so, why? If not, why not?

3. Should specification of solvent be required in all cases where drycleaning is prescribed? If so, why? If not, why not? Are there any other variables in the drycleaning process for which instructions should be given? If so, what are they and why should they be included?

4. Is the alternative care requirement needed in this rule? If not, why not? If so, will it be effective in providing consumers with a realistic choice when it is most needed? Will it prevent "low labeling"? If not, how can the requirement be changed to accomplish these goals?

5. Given the conflict between placement of a permanent label on wearing apparel to ensure accessibility and placement to ensure the least discomfort to the wearer, how should the problem of label abrasiveness be resolved? Should the rule require labels of a certain nonabrasive quality; or should the accessibility requirement be relaxed? Of nonabrasive labels and accessibility of instructions, which is more important? Why?

Definitions (§ 423.6). § 423.6 (a), (b) and (h) is essentially the same as the corresponding paragraphs in the present rule except that the definition of the word "textile product" has been changed to include commodities "* * * made primarily of fibers, yarn of fabric * * *". § 423.6(c) has been modified from the corresponding paragraph in the present rule through the addition of two exceptions: (1) Trim 5 inches or less in width and (2) "remnants" as defined. § 423.6(d) is new and is intended to include all interior household items for which care instructions are needed. It should be noted that § 423.1 limits the coverage of the rule to finished household furnishings which are textile products, as defined. § 423.6 (e) and (f) is new and is intended to include all products made primarily of genuine leather or suede. § 423.6(g) is new and is intended to include all components which are normally used by a finished product manufacturer in manufacturing a finished product. § 423.4 covers only those components which are textile products as defined, and which are intended to be used to make finished products covered by §§ 423.1 or 423.3 of the rule. § 423.6 (i), (j) and (k) is self-explanatory.

QUESTIONS

1. With regard to § 423.6(d), (e), (f) and (g), do such definitions cover what they are intended to cover, as stated above? If not, how should they be changed to effect the coverage intended? Additionally, are such definitions sufficiently clear and precise so a sto leave little doubt as to what is included and what is not? If not, please suggest substitute language.

2. If a glossary is necessary, should "remnants" and trim, as defined, be excluded from the coverage of the Rule as proposed? If so, why? If not, why not? Further, is the definition of "remnants" accurate and relaistic? If not, please suggest substitute language.

Glossary (§ 423.7). This section is self-explanatory. See Appendix.

QUESTIONS

1. Is a glossary necessary in a Rule such as this; or, is there general agreement among consumers and the industry alike as to appropriate terminology to be used in care instructions and as to the meaning of such terminology? If so, are both consumers and industry aware of such terminology and its meaning; or, is there general uncertainty as to what terms to use and what meanings to assign to such terms? Please cite evidence to support your conclusions.

2. If a glossary is necessary, should the glossary be ASTM D3136–72, as proposed; or, should another glossary be adopted or designed for use in this Rule? If so, what? Additionally, why is ASTM D3136–72 unsatisfactory?

3. To the extent that they are applicable, do the terms and definitions in ASTM D3136–72 represent what is now generally accepted usage in the eyes of industry and the general consuming public? If not, please explain in detail.

Exemptions (§ 423.8). § 423.8 (a) and (b) are analogous to paragraph (c) (1) and (2) of the present Rule. Although the basic concepts involved in these paragraphs are the same, the standards required for the initiation of a petition for exemption have been clarified and strengthened. As § 423.8(a) relates only to exemption from the requirement of affixing a permanent label, it applies only to products covered by § 423.1 of the Rule. § 423.8(b), however, applies to any product or product "line" covered by the Rule so long as it meets the standards outlined therein. § 423.8(c) is a so-called "grandfather clause" which revalidates all exemptions granted under the present Rule (without further action) so long as exempted products still meet the standards upon which the exemptions were based.

QUESTIONS

1. Generally speaking, should the Rule provide for exemption of products on an industry-wide basis; or should it provide only for exemption of products manufactured by the party or organization requesting the exemption, as proposed? Comments should take into account (1) the standard of proof proposed and (2) the varying care traits of identical items having identical fiber content. If products should be exempted on an industry-wide basis, what standards should be used and how should they be enforced?

2. With regard to hosiery, which was the subject of the only industry-wide exemption under the present Rule:

(a) should exemption of this product continue to be on an industry-wide basis? Or, should the exemption be reconsidered for each individual manufacturer? If so, why?;

(b) in any event, and without regard to (a), how could care instructions for hosiery be transmitted to the consumer? What technologically feasible methods are available for (1) attaching permanent labels to items of hosiery; (2) stamping care instructions on such items in a permanent manner; or (3) incorporating such instructions into such items at the time they are produced? How and to what extent would the utilization of any of these methods affect the retail price of such items?

3. With regard to § 423.8(b), should the retail price stated therein (1) be raised, (2) be lowered, or (3) remain the same as that proposed? Why?

4. Are there other classes of products proposed to be covered by this Rule which should be made the subject of exemption provisions comparable to those now proposed? If so, what classes of products and how and why should they be subject to exemptions from this Rule? Further, what standards for exemptions of such products should be imposed?

Waivers (§ 423.9). This Section is new and is intended to cover those situations where care instructions would be of no affirmative benefit to the intended user of the product labeled. The Commission has reason to believe that such users typically employ specialized care techniques which are far more sophisticated than those which would appear in care instructions required under this Rule. It should be noted that such waivers apply only to products sold to the organizations designated, for their own use and not for resale.

QUESTION

1. Given the underlying rationale noted above, should any parties or organizations (buyers), other than those designated, be given the opportunity to waive the requirements of this Rule in the manner described? If so, what parties or organizations and why?

Conflict with flammability standards (§ 423.10). This section is new and is intended to resolve in advance those situations where a direct conflict exists between the Care Labeling Rule and the regulations issued under the Flammable Fabrics Act. It should be noted that this Section applies only where a direct conflict exists; it is not intended that this section cover those situations where regulations issued under the Flammable Fabrics Act merely supplements or are in addition to requirements of this Rule.

QUESTION

1. Does this Section pose problems insofar as compliance with the Rule and the Flammable Fabrics Act is concerned? If so, please explain why in detail.

With respect to the entire proposed revised rule, answers to the following questions are elicited:

1. What is the economic effect of the revised rule on small business?

2. What is the economic effect of the revised rule on consumers?

3. The Commission requests comment on both the prevalence of the challenged practices set forth in the Statement and the manner and context in which such acts or practices may or may not be unfair or deceptive.

INVITATION TO PROPOSE ISSUES OF FACT FOR CONSIDERATION IN PUBLIC HEARINGS

All interested persons are hereby given notice of opportunity to propose any disputed issues of fact, which are material and necessary to resolve. The Commission, or its duly authorized Presiding Officer, shall, after reviewing submissions hereunder, identify any such issues in a notice which will be published in the FEDERAL REGISTER. Such issues shall be considered in accordance with section 18 (c) of the Federal Trade Commission Act as amended by Public Law 93–637, and rules promulgated thereunder. Proposals shall be accepted until April 26, 1976 by the Special Assistant Director for Rulemaking, Federal Trade Commission, Washington, D.C. 20580. A proposal should be identified as a "Proposal Identifying Issues of Fact—Care Labeling" and furnished, when feasible and not burdensome, in five copies. The times and places of public hearings will be set forth in a later Notice which will be published in the FEDERAL REGISTER.

INVITATION TO COMMENT ON THE PROPOSED REVISED RULE

All interested persons are hereby notified that they may also submit to the Special Assistant Director for Rulemaking, Federal Trade Commission, Washington, D.C. 20580, data, views, or arguments on any issue of fact, law or policy which may have some bearing upon the proposed revised rule. Written comments, other than proposals identifying issues of fact, will be accepted until 45 days before commencement of public hearings, but at least until April 26, 1976. To assure prompt consideration of a comment, it should be identified as a "Care Labeling Comment", and furnished, when feasible and not burdensome, in five copies.

APPENDIX

DEFINITIONS OF TERMS EXCERPTED FROM ASTM DESIGNATION D3136–72

Washing, Machine Methods.

Machine wash—a process in which products or specimens can be washed, bleached, dried, and pressed by any customary commercial or home method, including a sour rinse commonly used in commercial laundering.

Hot—initial water temperature directly from hot water tap from 130 to 150 F (54 to 66 C).

Warm—initial water temperature setting 90 to 110 F (32 to 43 C) (hand comfortable).

Cold—initial water temperature setting same as cold water tap up to 85 F (29 C).

Home launder—same as machine wash, but excludes commercial laundering.

Small load—smaller than normal washing load.

Delicate or gentle cycle—slow agitation and reduced time.

Durable press (also permanent press) cycle—cool-down rinse or cold rinse before reduced spinning.

Separately—wash alone or with like colors.

Wash inside out—turn product inside out to protect face of fabric.

No bleach—excludes all bleaches.

No chlorine bleach—permits use of bleaches other than chlorine.

Warm rinse—initial water temperature setting 90 to 110 F (32 to 43 C).

Cold rinse—initial water temperature setting same as cold water tap up to 85 F (29 C).

Rinse thoroughly—rinse several times to remove detergent or soap.

No spin—remove material start of final spin cycle.

No wring—do not use roller wringer, nor wring by hand.

Washing, Hand Methods.

Hand wash—products must be laundered by hand with gentle squeezing action and can be bleached, dried, and pressed by any customary method.

Warm—initial water temperature 90 to 110 F (32 to 43 C) (hand comfortable).

Cold—initial water temperature same as cold water tap up to 85 F (29 C).

Separately—hand wash alone or with like colors.

No bleach—excludes all bleaches.

No chlorine bleach—permits use of other bleaches.

No wring or twist—handle to avoid wrinkles and distortion.

Rinse thoroughly—rinse several times to remove detergent, soap, and bleach.

Damp wipe only—surface clean with damp cloth or sponge.

Drying, All Methods.

Tumble dry—use machine dryer.

High—set dryer at high heat.

Medium—set dryer at medium heat.

Low—set dryer at low heat.

Durable (or permanent) press—set dryer at permanent press setting.

No heat—set dryer to operate without heat.

Remove promptly—when items are dry, remove immediately to prevent wrinkling.

Drip dry—hang dripping wet with or without hand shaping and smoothing.

Line dry—hang damp from line or bar in or out of doors.

Line dry in shade—dry away from sun.

Line dry away from heat—dry away from heat.

Dry flat—lay out horizontally for drying.

Block to dry—reshape to original dimensions while drying.

Smooth by hand—by hand, while wet, remove wrinkles, straighten seams and facings.

Ironing and Pressing.

Hot iron—highest temperature setting.

Warm iron—medium temperature setting.

Cool iron—lowest temperature setting.

Do not iron—item not to be smoothed or finished with an iron.

Iron wrong side only—article turned inside out for ironing or pressing.

No steam—steam in any form not to be used.

Steam only—steaming without contact pressure.

Steam press or steam iron—use iron at steam setting.

Iron damp—articles to be ironed should feel moist.

Use press cloth—use a dry or a damp cloth between iron and fabric.

Drycleaning, All Procedures.

Dryclean or dryclean only—products can be drycleaned commercially or in self-service stores in a machine with any commonly used organic solvent (Stoddard solvent, perchlorethylene, fluorocarbon), including hot tumble drying up to 160 F (71 C) and restoration by steam press or steam-air finishing.

Professionally dryclean only or commercially dryclean only—excludes use of self-service facilities.

Dryclean; no steam—restricts use of steam, normally essential to pressing where shrinkage or damage may occur.

Dryclean; tumble cold—excludes self-service drycleaning or drying in hot tumbler; tumble dry at room temperature without steam.

Dryclean; no tumble—excludes self-service drycleaning; item must not be tumble dried.

Dryclean or clean; pile fabric method; no tumble—professionally dryclean only, but do not tumble dry and use short running cycle and minimum extraction.

Dryclean or clean; pile fabric method; tumble cold—professionally dry clean only, but tumble dry at room temperature only and use short running cycle and minimum extraction.

Fur and Leather Cleaning.

Leather clean—special leather care methods are required on suede, leather, and plastic garments.

Fur clean—nonliquid cleaning or drum with dry particle compound, and fur glazing or fur ironing.

Miscellaneous Instructions.

Remove trim—assumes trim details can be removed.

Remove buttons—assumes buttons can be removed.

Remove lining—not defined.

Close zippers—to protect zippers from damage.

Issued: January 26, 1976.

By the Commission.

CHARELS A. TOBIN,
Secretary.

[FR Doc.76-2202 Filed 1-23-76;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 THE TREASURY

Customs Service

VITAMIN K FROM SPAIN

Receipt of Countervailing Duty Petition and Initiation of Investigation

A petition in satisfactory form was received on November 10, 1975, alleging that payments or bestowals conferred by the Government of Spain upon the manufacture, production, or exportation of Vitamin K constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (herein referred to as the Countervailing Duty Law).

Pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Department of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of the Countervailing Duty Law within 6 months of the receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final decision must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than May 10, 1976, as to whether the alleged payments or bestowals conferred by the Government of Spain upon the manufacture, production, or exportation of Vitamin K constitute the payment or bestowal of a bounty or grant within the meaning of the Countervailing Duty Law. A final determination will be issued no later than November 10, 1976.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and section 159.47(c) of the Customs Regulations (19 CFR 159.47(c)).

Approved: January 19, 1976.

VERNON D. ACREE,
Commissioner of Customs.

[FR Doc.76-2351 Filed 1-23-76;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TACTICAL PANEL

Advisory Committee Meeting

The Tactical Panel of the Defense Science Board will meet in closed session on February 19, 1976 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Board's Tactical Panel has been scheduled for February 19, 1976 to discuss interim findings and tentative recommendations resulting from on-going Task Force activities associated with Tactical issues. The Task Forces whose activities will be discussed are: Surface Naval Warfare, Identification Friend, Foe or Neutral and Theater Nuclear Forces R&D Requirements. The Panel's deliberations will culminate in specific recommendations being presented to the full Defense Science Board for its consideration with regards to the work of these Task Forces.

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

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

JANUARY 21, 1976.

[FR Doc.76-2219 Filed 1-23-76;8:45 am]

DEFENSE SCIENCE BOARD

Advisory Committee Meeting

The Defense Science Board will meet in closed session on February 26-27, 1976 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Board has been scheduled for February 26 and 27, 1976 to discuss interim findings and tentative recommendations resulting from ongoing Task Force activities associated with Strategic, Tactical, Intelligence/Command, Control and Communication, and Technology issues. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

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

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

JANUARY 21, 1976.

[FR Doc.76-2220 Filed 1-23-76;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES V. CROCKER NATIONAL CORP., ET AL.

Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)—(h), that a proposed consent judgment and a competitive impact statement have been filed with the United States District Court for the Northern District of California. Civil Action No. C75-2108 RFP, United States v. Crocker National Corp., et al. The defendants named in the complaint are Crocker National Corp., Crocker National Bank, Metropolitan Life Insurance Company, The Equitable Life Assurance Society of The United States, the Mutual Life Insurance Company of New York, Otto N. Miller, Emmett G. Solomon and Thomas R. Wilcox. The complaint charges that the concurrent service of Otto N. Miller, Emmett G. Solomon and Thomas R. Wilcox on the boards of directors of Crocker National Corp., its wholly-owned subsidiary Crocker National Bank and the defendant insurance companies, violates section 8 of the Clayton Act. The complaint alleges that the aforementioned interlocking directorships violate section 8 inasmuch as the corporate defendants compete in the extension of various forms of credit, including real estate mortgage loans and consumer loans.

The proposed judgment involves only defendant, Otto N. Miller. The judgment requires Mr. Miller to resign from either the boards of directors of Crocker National Corp. and Crocker National Bank or the board of directors of The Equitable Life Assurance Society of the United States within sixty days of the entry of the judgment. The prosecution of the case against the other defendants is continuing.

Public comments are invited on or before March 26, 1976. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Dwight B. Moore, Antitrust Division,

Department of Justice, 1444 United States Court House, 312 North Spring Street, Los Angeles, California 90012.

Dated: January 20, 1976.

THOMAS E. KAUPER,
Assistant Attorney General
Antitrust Division.

ANTHONY E. DESMOND,
JILL NICKERSON,
CROSSAN R. ANDERSEN,
Antitrust Division, Department of Justice, 450 Golden Gate Avenue, San Francisco, California 94102, Telephone: 415-556-6300. Attorneys for Plaintiff.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. Crocker National Corporation; Crocker National Bank; Metropolitan Life Insurance Company; The Equitable Life Assurance Society of the United States; The Mutual Life Insurance Company of New York; Otto N. Miller; Emmett G. Solomon; and Thomas R. Wilcox, Defendants. Civil Action No. C75-2108 RFP. Filed: January 19, 1976.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A final judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed final judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to the plaintiff and defendant in this and any other proceeding.

For the Plaintiff: Thomas E. Kauper, Assistant *Attorney General;* Baddia J. Rashid, Charles F. B. McAleer, Dwight B. Moore, Jill Nickerson, Crossan R. Andersen, Polly L. Frenkel, *Attorneys, Dept. of Justice.*

For the Defendant: Pillsbury, Madison & Sutro, Turner H. McBaine, *Attorney, Otto N. Miller.*

ANTHONY E. DESMOND, JILL NICKERSON, CROSSAN R. ANDERSON, *Antitrust Division, Department of Justice, 450 Golden Gate Avenue, San Francisco, California 94102, Telephone: 415-556-6300. Attorneys for Plaintiff.*

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. Crocker National Corporation; Crocker National Bank; Metropolitan Life Insurance Company; The Equitable Life Assurance Society of the United States; The Mutual Life Insurance Company of New York; Otto N. Miller; Emmett G. Solomon; and Thomas R. Wilcox, Defendants. Civil Action No. C75-2108 RFP. Filed: January 19, 1976. Entered: January 19, 1976.

Final Judgment

Plaintiff, United States of America, having filed its complaint herein on October 6, 1975 and defendant, Otto N. Miller, having appeared by his attorneys, and plaintiff and the defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of law or fact herein and without this Final Judgment constituting evidence or admission by any party with respect to any issue of law or fact herein;

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby, ORDERED, ADJUDGED, AND DECREED:

I. This Court has jurisdiction over the subject matter and the parties consenting hereto. The complaint states a claim upon which relief may be granted under Section 8 of the Act of Congres of October 15, 1914 (15 U.S.C. § 19), as amended, commonly known as the Clayton Act.

II. (A) Defendant, Otto N. Miller, is ordered and directed to resign his directorship in the defendants, Crocker National Corp. and Crocker National Bank, or the defendant, The Equitable Life Assurance Society of the United States, within sixty (60) days of entry of this Final Judgment.

(B) Defendant, Otto N. Miller, is enjoined and restrained from serving as a director of Crocker National Corp. and Crocker National Bank or any subsidiary thereof, while serving as a director of The Equitable Life Assurance Society of the United States or any of its subsidiaries.

III. Upon sixty (60) days written notice to the Attorney General, the defendant may file a petition in this Court for the abatement or modification of this Judgment if, after the date of the entry of this Judgment, an act of Congress or decision of the Supreme Court of the United States provides that director interlocks between banks and non-banks are exempt from the provisions of 15 U.S.C. 19, reading as follows: "* * * No person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than $1,000,000 engaged in whole or in part in commerce, other than banks, banking associations, trust companies, and common carriers subject to the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws * * *"

IV. Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof. This Final Judgment shall be in full force and effect for a period of twenty (20) years from the date of entry of this Final Judgment and thereafter will have no further force and effect.

V. Entry of this Final Judgment is in the public interest.

Dated:

UNITED STATES DISTRICT JUDGE.

ANTHONY E. DESMOND,
JILL NICKERSON,
CROSSAN R. ANDERSEN,
POLLY L. FRENKEL,
Antitrust Division, Department of Justice, 450 Golden Gate Avenue, San Francisco, California 94102, Telephone: 415-556-6300. Attorneys for the Plaintiff.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. Crocker National Corporation; Crocker National Bank; Metropolitan Life Insurance Company; The Equitable Life Assurance Society of the United States; The Mutual Life Insurance Company of New York; Otto N. Miller; Emmett G. Solomon; and Thomas R. Wilcox, Defendants. Civil Action No. C75-2108 RFP. Filed: January 19, 1976.

Competitive Impact Statement

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)-(h), the United States of America hereby files this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On October 6, 1975, the Department of Justice filed a civil antitrust suit alleging that three directors of Crocker National Corporation ("Crocker") and its wholly-owned subsidiary Crocker National Bank ("Crocker Bank") were serving concurrently on the boards of directors of three insurance companies in violation of section 8 of the Clayton Act. Crocker Bank, Metropolitan Life Insurance Company ("Metropolitan"), The Equitable Life Assurance Society of the United States ("Equitable"), Mutual Life Insurance Company of New York ("MONY") and Otto N. Miller, Emmett G. Solomon and Thomas R. Wilcox were named as defendants in the complaint.

Section 8 of the Clayton Act prohibits an individual from serving at the same time as a director of two or more corporations, one of which has capital holdings of more than one million dollars and is engaged in interstate commerce, if such corporations are "competitors". The term "competitors" is defined in the Act as corporations so situated that the elimination of competition by agreement between them would constitute a violation of any of the antitrust laws. The complaint alleges that Crocker and Crocker Bank compete with each of the insurance company defendants in offering various forms of credit. Therefore, Mr. Miller's service as a director of Crocker, Crocker Bank and Equitable, Mr. Solomon's service as a director of Crocker, Crocker Bank and Metropolitan and Mr. Wilcox's service as a director of Crocker, Crocker Bank and MONY violates section 8.

Prior to filing the complaint, the Department of Justice notified the defendants of its intention to file and there followed a series of negotiations by counsel for the United States and the defendants over the terms of the proposed consent judgment. Only Otto N. Miller reached agreement with the Department of Justice. Prosecution of the case against Crocker, Crocker Bank, Metropolitan, Equitable, MONY, Emmett G. Solomon and Thomas R. Wilcox is continuing.

II. EVENTS GIVING RISE TO THE ALLEGED VIOLATIONS

The Government contends that activities of commercial banks and life insurance companies make them competitors within the meaning of section 8 of the Clayton Act. Both make real estate motgage loans which finance the purchase of land and the construction of commercial and industrial buildings, factories, farms, and multiple and single family housing and both make consumer loans.

The complaint alleges that Crocker Bank, and its parent, Crocker, and Equitable have competed in making real estate mortgage loans, particularly in the State of California. In 1974 Crocker Bank held real estate mortgage loans of approximately $1.5 billion, a

substantial portion of which were held on California real estate. Equitable, for the same period held real estate mortgage loans in excess of $6.8 billion, of which $17.5 million was held on California real estate. Otto N. Miller is a director of both of these corporations.

III. PROPOSED CONSENT JUDGMENT

The proposed consent judgment requires Otto N. Miller to resign his directorate(s) in either Crocker and Crocker Bank or Equitable within 60 days of the entry of this proposed consent judgment.

VI. ANTICIPATED EFFECTS ON COMPETITION

The evidence in this case did not encompass known restraints of trade but did encompass the probability that such restraints might result from the interlocking directorates involved. Thus, the impact on competition of the proposed consent judgment cannot be measured in terms of specific effects which might release identifiable competitive forces. The sole anticipated effect upon competition is the removal of the danger that anticompetitive effects will result from the interlocking directorates.

V. REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

Any potential private plaintiffs who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal and equitable remedies which they may have had, were the proposed consent judgment not entered. However, this judgment may not be used as *prima facie* evidence in private litigation pursuant to section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a).

VI. PROCEDURES AVAILABLE FOR MODIFICATION OF CONSENT JUDGMENT

By its terms, the proposed consent judgment provides for retention of jurisdiction of this action in order, among other things, to permit either Otto N. Miller or the United States to apply to the Court for such orders as may be necessary or appropriate for its modification.

As provided by the Antitrust Procedures and Penalties Act, any persons believing that the proposed consent judgment should be modified may submit written comments to Dwight B. Moore, United States Department of Justice, Antitrust Division, 1444 United States Court House, Los Angeles, California 90012. Such comments, together with responses thereto, will be filed with the Court and published in the FEDERAL REGISTER.

VII. ALTERNATIVES TO PROPOSAL ACTUALLY CONSIDERED BY UNITED STATES

The principal alternative relief against defendant Miller considered by the Department of Justice is the relief requested in the complaint. The complaint asks the Court to order Otto N. Miller to resign from the Board of Directors of Crocker and Crocker Bank or Equitable, and to withdraw from participating in the business of the company or companies from which he resigns. The complaint also seeks to enjoin perpetually each individual defendant from serving simultaneously as a director of any two or more competing corporations, anyone of which has assets of over $1 million.

The relief provided in the proposed consent judgment achieves one principal objective of the complaint, the elimination of the interlocks between Crocker, Crocker Bank and Equitable. Since the case will be litigated against all of the other defendants, the Department, if it prevails, expects that the Court will grant relief against the corporate defendants which will prevent defendant Miller from continuing to participate in the business of the corporation from which he resigns. An injunctive provision prohibiting defendant Miller from again violating section 8 was considered unnecessary because the Department expects that the filing of the complaint and the successful litigation of the action against the other defendants will cause individual directors and corporations to voluntarily terminate directorates which violate section 8 of the Clayton Act. Moreover, the Department has the continuing ability to file other suits to attack such violations.

There were no materials and documents which the government considered determinative in formulating this proposed consent judgment. Therefore, none is being filed along with this Competitive Impact Statement.

Dated: January 19, 1976.

CROSSAN R. ANDERSON,
POLLY L. FRENKEL,
Attorneys, Department of Justice.

[FR Doc.76-2198 Filed 1-23-76;8:45 am]

UNITED STATES V. R&G SLOANE MANUFACTURING COMPANY, INC., ET AL.

Proposed Consent Judgment and Competitive Impact Statement Thereon

Notice is hereby given that a proposed Final Judgment and Competitive Impact Statement have been filed in "United States v. R&G Sloane Manufacturing Company, Inc., et al"., Civil Action No. 71-1522-ALS, Central District of California. Copies of the proposed Final Judgment and Competitive Impact Statement are available upon request from the Legal Procedure Unit, Antitrust Division, Room 3305, Department of Justice, Washington, D.C. 20530.

The complaint in this action alleged that the defendants were engaged in a continuing agreement and conspiracy to fix, maintain and stabilize prices and discounts in connection with the sale of drainage, waste or vent (DWV) plastic pipe fittings, the effect of which was to deprive customers of the defendants of the opportunity to purchase such fittings at competitive prices.

The proposed Final Judgment enjoins the defendants from: entering into any contract or agreement with any manufacturer of DWV plastic pipe fittings to fix or stabilize the prices or other terms or conditions for the sale of DWV plastic fittings to any person; or to exclude any person from competing in the production or sale of DWV plastic pipe fittings; or to refuse to sell such fittings to any other manufacturer thereof. The final judgment further prohibits the exchanging of information on prices, discounts or other terms of sale except for limited purposes set out in the judgment.

Written comments on the proposed judgment from the public are invited on or before March 26, 1976. Such comments and response thereto will be published in the Federal Register and filed with the Court. Comments should be directed to Raymond P. Hernacki, Assistant Chief, Los Angeles Office, Antitrust Division, Department of Justice, 1444 United States Court House, 312 North Spring Street, Los Angeles, California 90012.

Dated: January 20, 1976.

THOMAS E. KAUPER,
Assistant Attorney General
Antitrust Division.

RAYMOND P. HERNACKI,
DRAPER W. PHILLIPS,
DENNIS R. BUNKER,
LEON W. WEIDMAN,
RONALD M. GRIFFITH,
Antitrust Division, Department of Justice, 1444 United States Court House, 312 North Spring Street, Los Angeles, California 90012, Telephone: 213-688-2504.
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. R & G Sloane Manufacturing Company, Inc.; The Susquehanna Corporation; Celanese Corporation; Borg-Warner Corporation; and Plastiline, Incorporated, Defendants. Civil No. 71-1522-ALS. Filed: January 19, 1976.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A final judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, Pub. L. 93-528, and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and defendants in this and any other proceeding.

3. In the event plaintiff withdraws its consent hereto, neither this proceeding nor the making of this Stipulation nor the filing of the proposed Final Judgment attached hereto shall in any manner prejudice any consenting party in any subsequent proceedings.

Dated: January 19, 1976. Thomas E. Kauper, *Assistant Attorney General, Antitrust Division*, Baddia J. Rashid, Charles F. B. McAleer, Robert J. Ludwig, Raymond P. Hernacki, Draper W. Phillips, Dennis R. Bunker, Leon W. Weidman, Ronald M. Griffith, *Attorneys, Department of Justice.*

For the Defendants: Lawler, Felix & Hall, Reed A. Stout, Marcus A. Mattson, R & G Sloane Manufacturing Company, Inc. and The Susquehanna Corporation. O'Melveny & Myers, Homer I. Mitchell, Patrick Lynch, Celanese Corporation. Gibson, Dunn & Crutcher, Julian O. von Kalinowski, Paul G. Bower, Bruce W. Owens, Borg-Warner Corporation. William O. Rockwood, Rodi, Pettker, Galbraith, Bond, Fishback & Phillips, Karl B. Rodi, Thomas R. Phillips, Plastiline, Inc. (hereinabove incorrectly referred to as Plastiline Incorporated).

RAYMOND P. HERNACKI,
DRAPER W. PHILLIPS,
DENNIS R. BUNKER,
LEON W. WEIDMAN,
RONALD M. GRIFFITH,
Antitrust Division, Department of Justice, 1444 United States Court House, 312 North Spring Street, Los Angeles, California 90012, Telephone: 213-688-2504.
Attorneys for Plaintiff.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. R & G Sloane Manufacturing Company, Inc.; The Susquehanna Corporation; Borg-Warner Corporation; Celanese Corporation; Plastiline, Incorporated, Defendants. Civil No. 71-1522-ALS.

Final Judgment

Plaintiff, United States of America, having filed its Complaint on June 29, 1971; the defendants, having appeared herein and filed their answers to such Complaint denying the substantive allegations thereof; and plaintiff and defendants R & G Sloane Manufacturing Company, Inc., The Susquehanna Corporation, Celanese Corporation, Borg-Warner Corporation, and Plastiline, Inc. (hereinabove incorrectly referred to as Plastiline, Incorporated), by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting evidence or admission by any party with respect to any such issue;

NOW, THEREFORE, before any testimony has been taken herein and without trial or adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I. This Court has jurisdiction of the subject matter hereof and of the parties hereto. The Complaint states a claim upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act To Protect Trade and Commerce Against Unlawful Restaints and Monopolies", commonly known as the Sherman Act (15 U.S.C. § 1, as amended).

II. As used in this Final Judgment:

(a) "Defendants" means R & G Sloane Manufacturing Company, Inc., The Susquehanna Corporation, Celanese Corporation, Borg-Warner Corporation, and Plastiline, Inc.;

(b) "Person" means any individual, partnership, firm, corporation, association or other business or legal entity;

(c) "DWV plastic pipe fittings" means fittings used in drainage, waste or vent (DWV) systems in fixed residential, modular and mobile homes and other structures, made from either varying proportions of acrylonitrile, butadiene and styrene monomers (ABS) or from polyvinyl chloride (PVC).

III. The provisions of this Final Judgment applicable to any defendant shall also apply to each of its subsidiaries, successors, assigns, officers, agents, servants, and employees and to all other persons in active concert or participation with such defendant who receive actual notice of this Final Judgment by personal service or otherwise, but shall not apply to activities between a defendant, its officers, agents, servants or employees, and (a) its parent or subsidiary companies, or (b) affiliated corporations in which 50 percent or more of the voting stock is owned by a defendant, its parent or subsidiary company, or which is in fact controlled by any defendant, or such defendant's parent or subsidiary companies. Specifically, said provisions shall not apply to activities between defendant R & G Sloane Manufacturing Company, Inc. and defendant The Susquehanna Corporation for so long as 50% or more of the voting stock of said R & G Sloane Manufacturing Company, Inc. is owned by said The Susquehanna Corporation.

IV. A. The defendants are jointly and severally enjoined and restrained from directly or indirectly entering into adhering to, maintaining or claiming any rights under any implied or expressed contract, agreement, or understanding with any manufacturer of DWV plastic pipe fittings, to:

(1) Fix, determine, establish, maintain, suggest or stabilize the prices, discounts or other terms or conditions for the sale of DWV plastic pipe fittings to any person, subject to the provisions of Section D hereof;

(2) Exclude or eliminate any person from competing in the production, marketing or sale of DWV plastic pipe fittings;

(3) Refuse to sell DWV plastic pipe fittings to any other manufacturer thereof.

B. The defendants and each of them are enjoined and restrained from directly or indirectly requesting from, or providing, verifying or communicating to, any other manufacturer of DWV plastic pipe fittings information concerning prices, discounts, or other terms or conditions for the sale of DWV plastic pipe fittings except (1) as provided in Section D hereof, (2) solely to verify past prices, discounts, or other terms or conditions of sale for use in litigation, and (3) defendants may include their existing and prospective customers of DWV plastic pipe fittings on their general mailings to the trade.

C. The provisions of this Final Judgment are applicable to defendant Borg-Warner Corporation and its subsidiaries and affiliates, only in the event that Borg-Warner enters into the manufacture of DWV plastic pipe fittings.

D. Nothing in this Final Judgment shall preclude:

(1) Bona fide and arm's length purchases, sales and negotiations for purchases or sales of DWV plastic pipe fittings between any defendants or between any defendant and any other manufacturer of DWV plastic pipe fittings, including the expression of the price as a discount or chain of discounts applied to list prices;

(2) Bona fide and arm's length negotiations between any defendants or between any defendant and any other manufacturer for the purchase or sale of all of the major part of the capital assets used or employed in the manufacture or sale of DWV plastic pipe fittings or all or a major part of the capital stock of a company engaged in the manufacture or sale of such fittings, including the contracts resulting therefrom, provided that no implication respecting the legality of such acquisition is to be implied from the foregoing;

(3) Any defendant from publishing or distributing to the trade price lists and/or discount sheets, including the expression of the price as a discount or chain of discounts from the published list price for the sale of DWV plastic pipe fittings, provided that any such list or discount sheet shall include a statement indicating that the customer is free to resell such DWV plastic pipe fittings at any price he may choose.

V. Each defendant is ordered and directed for a period of five years from the date of entry of this Final Judgment:

To certify by affidavit by an official with pricing responsibility for DWV plastic pipe fittings, at the time of every newly published price list and/or discount schedule or other terms and conditions relating to the sale of DWV plastic pipe fittings, that said published price list and/or discount schedule or other terms relating to the sale of DWV plastic pipe fittings were independently arrived at by said defendant and were not the result of an agreement or understanding with any competitor; and further that each consenting defendant retain in its files the aforesaid certifications which shall be made available to plaintiff for inspection upon reasonable written demand.

VI. For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege, access during the office hours of said defendant to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of said defendant, who may have counsel present, relating to any matters contained in this Final Judgment, and subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview officers, agents or employees of said defendant, who may have counsel present, regarding any such matters. Said defendant, upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and subject to any legaly recognized privilege, shall submit such reports in writing to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested. No information obtained by the means provided in this section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff, except in the course of legal proceedings in which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VII. Within thirty (30) days after the date of entry of this Final Judgment, each defendant is ordered and directed to serve (a) upon its directors and officers, and (b) upon its regional managers, plant managers and sales managers, regional and local, whose product responsibility includes DWV plastic pipe fittings, a copy of this Final Judgment. Within 60 days after the date of entry of this Final Judgment, each defendant shall file an Affidavit of Compliance with the Court, copy to plaintiff's counsel, reciting the steps taken to comply with the provisions of this paragraph.

VIII. Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate in relation to the construction of or carrying out of this Final Judgment, for the modification of any of the provisions thereof, and for the purpose of the enforcement of compliance therewith and the punishment of violations thereof. Entry of the Final Judgment is in the public interest.

Dated: _____

UNITED STATES DISTRICT JUDGE.

RAYMOND P. HERNACKI,
DRAPER W. PHILLIPS,
DENNIS R. BUNKER,
LEON W. WEIDMAN,
RONALD M. GRIFFITH,

Antitrust Division, Department of Justice, 1444 United States Court House, 312 North Spring Street, Los Angeles, California 90012, Telephone: 213-688-2504.

Attorneys for Plaintiff.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. R&G Sloane Manufacturing Company, Inc.; The

Susquehanna Corporation; Celanese Corporation; Borg-Warner Corporation; and Plastiline, Incorporated, Defendants. Civil Action No. 71-1522-ALS. Proposed Consent Judgment:

COMPETITIVE IMPACT STATEMENT

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)-(h)), the United States of America hereby files this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

NATURE OF CASE

On June 29, 1971, the Department of Justice filed a civil antitrust suit alleging that R&G Sloane Manufacturing Company, Inc., The Susquehanna Corporation, Celanese Corporation, Borg-Warner Corporation, and Plastiline, Inc. had combined and conspired to fix, maintain and stabilize discounts and prices in connection with the sale of drainage, waste or vent (DWV) plastic pipe fittings in violation of Section 1 of the Sherman Act. It is estimated that during the year preceding the filing of the suit the total dollar volume of sales of DWV plastic pipe fittings in the United States was approximately $32,000,000, of which the defendants accounted for a combined share of approximately 54 percent.

THE INDUSTRY

In the United States, DWV plastic pipe fittings are generally made from one of two types of thermoplastics, varying proportions of acrylonitrile, butadiene and styrene monomers (ABS) and from polyvinyl chloride (PVC). DWV plastic pipe fittings are used as a means of providing turns, connections, branches, traps, splits and the like in drainage, waste or vent systems in fixed residential, modular and mobile homes and other structures. The principal types of these fittings include adapters, bushings, flanges, couplings, elbows, plugs, bends, tees, traps and Y's. In recent years plastic pipe fittings have, to a substantial degree, replaced fittings made of cast iron, steel, copper and other materials. This may be attributed to the savings in product cost and in labor due to the lightness of plastic as compared with metal. Such fittings are sold to wholesalers for resale to plumbing contractors and other end users. The DWV plastic pipe fitting industry is comprised of two types of manufacturers, "full line" and "short line". A "full line" manufacturer makes most of the 500 to 600 types of fittings currently sold in the United States. The defendants have been the leading domestic full line manufacturers, with R&G Sloane making the greatest number of different types of fittings. Various other full line manufacturers traditionally purchased fittings from Sloane or from each other to round out their lines. "Short line" manufacturers produce only a limited selection of fitting types, generally those which have the greatest sales volume. The defendant Borg-Warner Corporation discontinued the manufacture and sale of DWV plastic pipe fittings in March of 1971.

RESTRICTIVE PRACTICES ALLEGED

It was alleged that since as early as January 1966, the defendants engaged in a combination and conspiracy in restraint of interstate trade and commerce in DWV plastic pipe fittings. As a result of this alleged combination and conspiracy, prices and discounts on DWV plastic pipe fittings sold by defendants were maintained and stabilized, and price competition among the defendants in the sale of such fittings was suppressed.

It was alleged in the complaint that the full-line defendant companies have attempted to reduce the extent and degree of discounting, and have attempted to discourage efforts to match short-line prices by other full-line manufacturers. Thus customers of the defendants were deprived of the opportunity to purchase DWV plastic fittings at competitive prices and terms of sale.

PROPOSED JUDGMENT

The proposed consent judgment provides a combination of measures to dispel the anticompetitive effects alleged in the complaint. The defendants are enjoined from entering into any form of agreement or understanding, whether expressed or implied, with any manufacturer of DWV plastic pipe fittings to fix, suggest or stabilize prices, discounts or other terms for the sale of such fittings to any person, or to exclude or eliminate any person from competing in the production, marketing or sale of DWV plastic fittings, or to refuse to sell DWV plastic pipe fittings to any other manufacturer thereof.

The Judgment also enjoins defendants from verifying or communicating to any other manufacturer of DWV plastic pipe fittings, information concerning prices, discounts, or terms of sale for such fittings, except when done solely to verify past prices, discounts, or other terms or conditions of sale when needed for use in litigation. Defendants may also include their existing and prospective customers on their general mailings to the trade.

Defendants are not precluded from good faith and arms length purchase and sale transactions or negotiations with other manufacturers of DWV plastic pipe fittings, including an expression of the price as a discount or chain of discounts applied to list prices. Defendants may also engage in good faith and arms length negotiations with other manufacturers of DWV pipe fittings for the purchase or sale of the capital stock of a DWV fittings manufacturer or of capital assets used or employed in the manufacture or sale of such fittings; however, no implication of legality of such acquisition is to be implied from this provision. Defendants may publish and distribute to the trade price lists and discount sheets: *Provided*, That any such lists or sheets shall include a statement indicating that the customer is free to resell at any price he may choose.

The Judgment further provides that for a period of five years, each defendant at the time it publishes new price lists or discount sheets relating to the sale of DWV plastic pipe fittings, shall certify by affidavit that such prices and discounts were independently arrived at by said defendant, and were not the result of any agreement or understanding with any competitor.

The Judgment contains provision for access by the Antitrust Division to records and documents of any defendant, and to interview officers and employees of any defendant relating to any matters covered by the Judgment. The Court has retained jurisdiction so as to enable any of the parties to the Judgment to apply to the Court for such further orders and directions as may be necessary for the construction or carrying out of the Judgment or for the modification of any provisions therefo. The relief in the proposed Judgment is similar to that contained in other judgments involving price-fixing.

ALTERNATIVE RELIEF

The Complaint in this case sought basic injunctive relief to prevent the defendants from continuing to carry out, directly or indirectly, the combination and conspiracy to fix and maintain prices for the sale of DWV plastic pipe fittings to others. The Complaint further asked that the Court order each defendant to withdraw is effecive price lists and discount terms for DWV plastic pipe fittings, and to issue new prices and discounts on the basis of its own independent cost and profit figures. The proposed Judgment does not contain such a requirement. It is believed that this aim is adequately accomplished by the requirement of affidavits attesting to the independent determination of prices and terms of sale, as set out in section V of the Final Judgment. This is not a substantial variance from the relief requested in the Complaint. This requirement and the other provisions of the proposed consent Judgment, are sufficient to dissipate and prevent a recurrence of the restraints charged.

PRIVATE REMEDIES

Entry of the proposed consent Judgment will not affect the right of any potential private plaintiff who might have been damaged by the alleged violations to sue for monetary damages and any other legal and equitable remedies. However this Judgment may not be used as *prima facie* evidence in private litigation pursuant to section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a).

Since the filing of the Complaint in this case, more than 2500 class action claimants have filed in the Federal District Court in Los Angeles for damages sustained as a result of the defendants' alleged violations of the antitrust laws. These claims have now been settled.

MODIFICATION OF JUDGMENT

The proposed Final Judgment is subject to a stipulation by and between the United States and the Defendants, which provides that the United States may withdraw its consent to the proposed Final Judgment at any time until the Court has found that entry of the proposed Judgment is in the public interest. By its terms, the proposed Judgment also provides for retention of jurisdiction of this action in order, among other things, to permit any of the parties thereto to apply to the Court for such orders as may be necessary or appropriate for its modification.

COMMENTS

As provided by the "Antitrust Procedures and Penalties Act," any persons wishing to comment on the proposed Judgment may, for a 60-day period, submit written comments to Raymond P. Hernacki, Esquire, United States Department of Justice, Antitrust Division, 1444 United States Court House, Los Angeles, California 90012. The Antitrust Division will file with the Court and publish in the FEDERAL REGISTER such comments and its responses thereto. The Department of Justice will thereafter evaluate any and all such comments and determine whether there is any reason for withdrawal of its consent to the proposed Final Judgment.

There are no materials or documents which were determinative in formulating the proposal or consent Judgment; consequently, none are being filed by the Plaintiff pursuant to section 2(b) of the "Antitrust Procedures and Penalties Act" (15 U.S.C. 16(b)).

Dated: January 19, 1976.

RAYMOND P. HERNACKI,
Attorney, Department of Justice.

[FR Doc.76-2199 Filed 1-23-76;8:45 am]

UNITED STATES V. MORGAN DRIVE AWAY, ET AL.

Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act,

15 U.S.C. section 16(b) through (h), that a proposed consent judgment agreed to by the United States and all the defendants, and a competitive impact statement have been filed with the United States District Court for the District of Columbia (Civil No. 74–1781). The complaint alleges that three corporations, Morgan Drive Away, Inc., Elkhart, Indiana: National Trailer Convoy, Inc., Tulsa, Oklahoma; and Transit Homes, Inc., Greenville, South Carolina; violated sections 1 and 2 of the Sherman Act (15 U.S.C. sections 1 and 2), as amended, by conspiring to restrain trade, by conspiring to monopolize and by actually monopolizing the for-hire transportation of mobile homes throughout the United States.

The judgment enjoins the defendants from engaging in said conspiracy and from specific types of conduct which the complaint alleged as methods of carrying out the alleged violations. The judgment also attempts the competitive restructing of the monopolized industry by prohibiting any of the defendants from filing certain protests before the Interstate Commerce Commission against new applications for mobile home operating rights by actual and potential competitors. The details and duration of the protest moratorium are set forth in the proposed judgment and competitive impact statement.

Public comment is invited on or before March 26, 1976. Such comments and response thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to the United States Department of Justice, Attention Joseph J. Saunders, Chief, Public Counsel and Legislative Section, Antitrust Division, Washington, D.C. 20530.

Dated: January 21, 1976.

THOMAS E. KAUPER,
Assistant Attorney General
Antitrust Division.

JOSEPH J. SAUNDERS, DONALD L. FLEXNER AND CARL A. CIRA, JR., *Attorneys for Plaintiff, Antitrust Div., U.S. Dept. of Justice, Washington, D.C. Tel. 739–2515 or 3253.*

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, Plaintiff, v. Morgan Drive Away, Inc.; National Trailer Convoy, Inc.; Transit Homes, Inc., Defendants. Civil No. 74–1781. Filed: January 21, 1976.

STIPULATION

It is stipulated by and between the undersigned parties by their respective attorneys, that:

1. A final judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to either party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and defendant in this and any other proceeding.

Dated: January 15, 1976.

For Plaintiff: Thomas E. Kauper, *Assistant Attorney General;* Baddia J. Rashid, Charles F. B. McAleer, Joseph J. Saunders, Stanley M. Gorinson, Donald L. Flexner, Carl A. Cira, Jr., James H. Phillips, Robert M. Silverman, Elliott Seiden.

For Defendants: Morgan Drive Away, Inc., by: John C. Christie, Jr., Bell, Boyd, Lloyd, Haddad & Burns. National Trailer Convoy, Inc., by Richard T. Colman, Howry & Simon. Transit Homes, Inc., by: David R. Melincoff, O'Connor & Hannan.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, v. Morgan Drive Away, Inc.; National Trailer Convoy, Inc.; Transit Homes, Inc., Defendants. Civil No. 74–1781.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on December 5, 1974, and the parties hereto, by their respective attorneys, having consented to the making and entry of this Final Judgment, prior to the taking of any testimony, without trial or adjudication of any issue of fact or law, and without admission by either party in respect to any issue:

NOW, THEREFORE, prior to the taking of any testimony, before any adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED and DECREED, as follows:

I. This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states claims for relief against the defendants under sections 1 and 2 of the Act of Congress of July 2, 1890, C. 647, 26 Stat. 209, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II. *Definitions.* As used in this Final Judgment:

(a) "Mobile home" means a transportable structure built on a chassis or wheeled undercarriage and designed to be used as a dwelling, with or without a permanent foundation. The term includes what are known as "single-wides" and "double-wides."

(b) "For-hire transportation of mobile homes" means the pick-up, transportation and delivery of mobile homes for compensation (1) by motor carriers authorized by federal or state agencies to serve the general public on a common carrier basis, or (2) by motor carriers authorized by federal or state agencies to serve particular shippers on a contract carrier basis.

(c) "Person" means any individual, firm, partnership, association, corporation, or any other business or legal entity.

(d) "Mobile home authority" means authority to engage in for-hire transportation of mobile homes according to certificates of public convenience and necessity or similar operating permits, licenses or rights issued by the Interstate Commerce Commission or various state agencies under applicable law.

(e) "Motor carrier" means any person holding or operating under mobile home authority.

(f) "Continental United States" means the 48 contiguous United States, the District of Columbia and Alaska.

(g) "MHCC" means the Mobile Housing Carriers Conference, Inc., Agent, a rate-making organization approved by the Interstate Commerce Commission under section 5a of the Interstate Commerce Act (49 U.S.C. 5b) whose members include carriers authorized to engage in for-hire transportation of mobile homes.

(h) "Owner-operators" means independent contractors who own or lease their own trucks and who lease or sublease their trucks to motor carriers, and who are paid a commission based on a fixed percentage of the gross tariff according to the mileage of the haul.

(i) "Organizational personnel" means all persons in the employ of motor carriers, except owner-operators.

(j) "Protest" or "protesting" means taking any action, regardless of the form of such action, before any federal or state agency or court or any duly authorized officer or representative thereof, to prevent any person from acquiring, holding, maintaining or operating under any kind of mobile home authority.

(k) "ICC" means the Interstate Commerce Commission.

(l) "Initial moves" means moves of mobile homes from the manufacturer. "Secondary moves" means all other moves.

(m) "State action" means action by a state as a sovereign which has the effect of placing conduct by a person beyond the coverage of the federal antitrust laws within the meaning and limits of the decision of the United States Supreme Court in "Parker v. Brown," 317 U.S. 341 (1943) and subsequent federal court decisions interpreting that decision.

III. The provisions of this Final Judgment shall apply to the defendants and to each of their respective subsidiaries, successors, assigns, officers, directors, employees, and agents (except owner-operators) and to all persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV. Each defendant is ordered and directed to satisfy the claim of the United States for damages by making payment to it of the following amounts within sixty (60) days of the entry of this Final Judgment: $102,319.00 by Morgan Drive Away, Inc.; $94,385.00 by National Trailer Convoy, Inc.; and $12,684.00 by Transit Homes, Inc.

V. Each defendant is enjoined and restrained from entering into, adhering to, participating in, maintaining, enforcing, or claiming any right under any agreement, contract, understanding, or combination with any other person to:

(a) Exclude any person from, or limit or restrict any person in, for-hire transportation of mobile homes: *Provided, however,* This prohibition shall not apply to actions not otherwise prohibited by this Final Judgment which occur before any state or federal court or regulatory body;

(b) Require or coerce any person engaged in for-hire transportation of mobile homes to join the MHCC or any other rate conference or association;

(c) Require or coerce any person engaged in for-hire transportation of mobile homes to charge or refrain from charging any interstate rate for said transportation;

(d) Require or coerce any person who is a member of the MHCC or any other rate conference or association to relinquish the statutory right of independent action under section 5a(6) of the Interstate Commerce Act (49 U.S.C. 5b(6)) to charge interstate rates different than those agreed to by the defendants or by any other motor carriers;

(e) Fix or stabilize the rates to be charged by any defendant or any other motor carrier for the for-hire transportation of mobile homes within individual states of the continental United States: *Provided however,*

Any defendant may engage in such conduct in a particular state where, with respect to such state, the defendant is acting in compliance with state action which requires such conduct;

(f) Induce, require or coerce any person engaged in for-hire transportation of mobile homes to charge or refrain from charging any intrastate rate: *Provided however,* Any defendant may engage in inducement in a particular state where, with respect to such state, the defendant is acting in compliance with state action which requires such conduct or the making of rate agreements to which such conduct relates.

VI. Each defendant is enjoined and restrained from:

(a) Entering into any agreement with any motor carrier to protest any application for mobile home authority;

(b) Soliciting or inducing any motor carrier to protest any application for mobile home authority;

(c) Notifying any motor carrier of the pendency of any application for mobile home authority: *Provided however,* Any defendant may publish or provide notice of the pendency of its own application for mobile home authority;

(d) For a period of five (5) years from the entry of this Final Judgment, offering to pay or paying, directly or indirectly, any amount of the costs to be incurred or actually incurred by any other motor carrier in connection with a protest of an application for mobile home authority during any stage of such proceeding except appeal stages after the rendering of the initial decision;

(e) For a period of five (5) years from the entry of this Final Judgment, soliciting the use of, or actually using common or joint counsel (1) with any motor carrier in connection with a protest of an application for interstate mobile home authority or (2) with any defendant in connection with a protest of an application for intrastate mobile home authority, during any stage of such interstate or intrastate proceeding except appeal stages after the rendering of the initial decision;

(f) For a period of five (5) years from the entry of this Final Judgment, offering to provide or to share, or providing or sharing the services of any officer, employee, agent or independent consultant to assist any motor carrier in connection with a protest of an application for mobile home authority during any stage of such proceeding except appeal stages after the rendering of the initial decision;

(g) Offering employment to any person who, as known to the defendant, has a pending application for mobile home authority: *Provided however,* This provision shall not prohibit such an offer where the employment inquiry is initiated by the other person;

(h) Informing actual or potential applicants for mobile home authority that their applications will be protested, unless such information has been requested by the actual or potential applicant;

(i) Contacting or communicating with any shipper of mobile homes to request or coerce such shipper to withdraw its filed certificate of support of the application of any person for mobile home authority, or to coerce such shipper to withhold its certificate of support from an applicant for mobile home authority;

(j) Initiating or prosecuting any protest which the defendant knows or has reason to know is not meritorious;

(k) Initiating a protest of any application for mobile home authority which the defendant knows or has reason to know is or will be based in whole or in part on the adequacy of defendant's existing service without first making and reducing to writing a good faith investigation to determine the adequacy of its service in the area(s) for which mobile home authority is sought: *Provided however,* If defendant is unable to complete said investigation notwithstanding a good faith effort to do so, it may nonetheless initiate such a protest if defendant has reason to believe in good faith that the completed investigation will confirm its present and future ability to provide adequate service within the geographic area(s) affected by the application subject to protest: *Provided further,* That: (1) Said protest shall be immediately withdrawn if the investigation is not completed within thirty (30) days of the filing of such protest or if the protest is not justified by the investigation as completed; (2) the grant of the application to which the protest was directed shall not be solely determinative of whether the protest was justified by a good faith investigation; (3) the requirement that the investigation be reduced to writing shall expire five (5) years from the entry of this Final Judgment;

(l) Initiating or prosecuting any action which the defendant knows or has reason to know is not meritorious to suspend or have declared unawful any rate being charged or intended to be charged by another motor carrier;

(m) Initiating any action to suspend or have declared unlawful any rate being charged or intended to be charged by another motor carrier which the defendant knows or has reason to know is or will be based in whole or in part on the rate's being unreasonably low without first making and reducing to writing a good faith investigation to determine whether such rate was or would be compensatory to the carrier for whom the rate was or would become effective; if the cost data necessary for such investigation is not available on the public record, a defendant may consider its own costs for purposes of deciding whether to initiate an action to suspend or have declared unlawful any rate: *Provided however,* If defendant is unable to complete said investigation notwithstanding a good faith effort to do so, it may nonetheless initiate such a rate action if it has reason to believe in good faith that the completed investigation will confirm that the rate claimed to be unlawful is not or would not be compensatory to the carrier for whom the rate was or would become effective: *Provided further,* That: (1) Said rate action shall be immediately withdrawn if the investigation is not completed within thirty (30) days of the filing of such rate action or if the rate action is not justified by the investigation as completed; (2) the approval of the rate against which the action was directed shall not be solely determinative of whether the action was justified by a good faith investigation; (3) the requirement that the investigation be reduced to writing shall expire five (5) years from the entry of this Final Judgment.

VII. Each defendant is enjoined and restrained from entering in t o, strained from entering into, adhering to, participating in, maintaining, enforcing or claiming any right under any agreement, contract, understanding, or combination with any other motor carrier:

(a) To restrain or prevent the defendant or such carrier from protesting any application for mobile home authority: *Provided, however,* Where the defendant is applying for mobile home authority or is protesting an application for mobile home authority it may enter into an agreement with any opposing party in the proceeding to withdraw or modify any protest filed in the proceeding provided such agreement, prior to its implementation, is in its entirety reduced to writing and disclosed to the official presiding over the proceeding;

(b) To restrain or prevent any of the organizational personnel or owner-operators of any motor carrier from seeking, obtaining or holding employment with any other motor carrier engaged in for-hire transportation of mobile homes;

(c) To fix or stabilize the level of compensation of organizational personnel or owner-operators;

(d) To fix or stabilize rates to be charged pursuant to section 22 of the Interstate Commerce Act (49 U.S.C. 22): *Provided however,* If the ICC, under Section 5a of the Interstate Commerce Act (49 U.S.C. 5b), approves any rate-making agreement, or amendment thereto, which specifically provides for the joint consideration, adoption and publication of section 22 rates under ICC-approved procedures, a defendant who is a party to such an ICC-approved section 5a agreement or amendment may consider, adopt and publish joint section 22 rates with any other motor carrier who is a party to the same agreement or amendment. Upon ICC approval of any agreement or amendment specifically providing for joint action on section 22 rates, a defendant party thereto shall promptly provide written notice of such approval to the plaintiff.

VIII. Each defendant is enjoined and restrained from:

(a) Threatening to charge any rate for the purpose of coercing any motor carrier to do or refrain from doing any act;

(b) Communicating with any motor carrier about charging or threatening to charge any rate for the purpose of coercing any other motor carrier to do or to refrain from doing any act;

(c) Threatening to put any motor carrier out of business;

(d) Communicating with any motor carrier about making threats to put any other motor carrier out of business.

IX. Each defendant is enjoined and restrained from:

(a) Engaging in discussions or communications with any other motor carrier regarding the formulation, implementation or maintenance of interstate rates: *Provided however,* Each defendant may engage in such discussions or communications which occur during duly called meetings of any rate-making conference or association of which the defendant is a member and which has been approved by the ICC under section 5a of the Interstate Commerce Act (49 U.S.C. 5b): *Provided further,* That prior to such meetings each defendant may publish or receive agenda or other notices which list or propose the topics to be discussed or considered at scheduled meetings of the defendant's ICC-approved rate-making conference;

(b) Engaging in discussions or communications with any other motor carrier regarding the formulation, implementation or maintenance of intrastate rates: *Provided however,* Any defendant may engage in such discussions or communications regarding intrastate rates to be charged in a particular state where, with respect to such state, the defendant is acting in compliance with state action which requires such conduct or the making of rate agreements to which such conduct relates;

(c) Engaging in discussions or communications with any other motor carrier regarding the employment of any person: *Provided however,* Each defendant may engage in such discussions or communications where the subject is limited to such person's fitness for employment.

X. Each defendant is ordered and directed to refrain from protesting:

(a) Any application for secondary interstate mobile home authority which is filed within twelve (12) months from the entry of this Final Judgment and which seeks authority to originate for-hire transportation of mobile homes from any of the following states:

Alabama	Louisiana
California	Mississippi
Florida	North Carolina
Georgia	Oregon
Kansas	South Carolina
Indiana	Texas

(b) Any application for initial interstate mobile home authority which is filed within thirty (30) months from the entry of this Final Judgment and which seeks authority to originate for-hire transportation of mobile homes from any of the following states:

Alabama	Nebraska
Arizona	New Hampshire
Arkansas	New Mexico
California	New York
Colorado	North Carolina
Florida	Ohio
Georgia	Oklahoma
Indiana	Oregon
Kansas	Pennsylvania
Louisiana	South Carolina
Maryland	Tennessee
Michigan	Texas
Minnesota	Virginia
Mississippi	Wisconsin

XI. Each defendant is ordered and directed to withdraw from, and is enjoined and restrained from joining, contributing anything of value to, or from participating in, any organization, conference or association which the defendant knows or has reason to know engages in or enforces any act which the defendant is prohibited by this Final Judgment from doing or which is contrary to any provision of this Final Judgment.

XII. Each defendant is ordered and directed:

(a) To mail or otherwise furnish within sixty (60) days after the entry of this Final Judgment a copy thereof to each of (1) its officers and directors, (2) its agents and employees with supervisory or management responsibility, and (3) the officers and directors of its parent and subsidiary corporations and within seventy (70) days from the aforesaid date of entry to file with the Clerk of this Court and the plaintiff an affidavit setting forth the fact and manner of compliance with this paragraph; and

(b) To take action to apprise (1) its officers and directors, and (2) its agents and employees with supervisory or management responsibility, once each year for five (5) additional years, of their and the defendant's obligations and duties under this Final Judgment.

XIII. For the purpose of determining or securing each defendant's compliance with this Final Judgment and subject to any legally recognized privilege:

(a) Duly authorized representatives of the Department of Justice shall, upon written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted (1) access, during the office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda, records and documents in the possession or in the control of the defendant relating to any of the matters covered by this Final Judgment, and (2) subject to the reasonable convenience of such defendant and without restraint or interference from the defendant, to interview officers, agents or employees of the defendant, each of whom may have counsel present, regarding any such matters;

(b) Each defendant, upon written request of the Assistant Attorney General in charge of the Antitrust Division, shall submit reports in writing to the Department of Justice with respect to matters covered by this Final Judgment, as may from time to time be requested;

(c) No information obtained by the means described in this paragraph shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff except in the course of legal proceedings to which the United States of America is party for the purpose of determining or securing compliance with this Final Judgment or as otherwise required by law: *Provided however*, Any representative of the Department of Justice may divulge to the Bureau of Enforcement of the ICC the existence of any practice which is discovered by the means described in this paragraph and which is believed to violate any of the provisions of the Interstate Commerce Act.

XIV. Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the amendment or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

XV. This Court finds that the entry of this Final Judgment is in the public interest.

Dated:

UNITED STATES DISTRICT JUDGE.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America v. Morgan Drive Away, Inc.; National Trailer Convoy, Inc.; Transit Homes, Inc., Defendants. Civil No. 74-1781.

COMPETITIVE IMPACT STATEMENT

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16 (b)), the United States hereby files this Competitive Impact Statement relating to the proposed Consent Judgment submitted for entry in this civil antitrust proceeding.

I. *Nature and purpose of the proceeding.* On December 5, 1974, the United States filed a complaint charging Morgan Drive Away, Inc. (hereinafter "Morgan"), National Trailer Convoy, Inc. (hereinafter "National"), and Transit Homes, Inc. (hereinafter "Transit") with three separate violations of the Sherman Act.

A. The complaint charges as a first violation that beginning in the early 1950's and continuing up to and including the filing of the complaint the defendants entered into a combination and conspiracy to restrain trade in for-hire transportation of mobile homes in that they agreed:

(a) To exclude other persons from for-hire transportation of mobile homes;

(b) To limit and restrict the growth of other persons engaged in for-hire transportation of mobile homes;

(c) To coerce other persons engaged in for-hire transportation of mobile homes to join the Mobile Housing Carriers Conference, Inc. (MHCC) and to raise their rates to the level of rates charged by Morgan, National and Transit;

(d) To coerce other members of the MHCC to relinquish their right of independent action to charge rates for the transportation of mobile homes lower than the rates charged by Morgan, National, and Transit;

(e) To fix and stabilize the rates to be charged by Morgan, National, and Transit for the transportation of mobile homes wholly within individual states of the continental United States, without authorization of state law;

(f) To induce and coerce other motor carriers engaged in for-hire transportation of mobile homes to charge the same rates as Morgan, National, and Transit for the transportation of mobile homes wholly within individual states of the continental United States, without authorization of state law; and

(g) To eliminate competition between Morgan, National and Transit for the services of their drivers and field organization personnel.

B. As a second violation, the complaint alleges that during the same period of time defendants also combined and conspired to monopolize for-hire transportation of mobile homes. The alleged conspiracy to monopolize consisted of an agreement to acquire, maintain and to exercise the power to control entry into and the prices charged in for-hire transportation of mobile homes.

C. The complaint alleges as a third violation that the defendants during this same time period monopolized the for-hire transportation of mobile homes by jointly maintaining and exercising the power to control the entry into and the prices charged in said industry.

The instant action was brought to achieve the following purposes: first, to terminate the unlawful combination and conspiracy and to prevent its recurrence; second, to prevent the perpetuation of its effects; and third, to obtain compensation for damages incurred by the United States in its capacity as a purchaser of for-hire transportation services from the defendants.

A prior criminal case (Criminal Number 697-73), was also instituted against the defendants by grand jury indictment on August 2, 1973. That case was terminated on September 27, 1974, when after the entry of *nolo contendere* pleas, all defendants were sentenced by the Court to pay fines totalling $175,000.

II. Description of practices giving rise to the alleged violations. The following describes the practices or events giving rise to the alleged violations of the Sherman Act. This description is made in sufficient detail to permit understanding of the relief provided in the proposed Final Judgment. In addition, the description refrains from revealing evidentiary details obtained during the Grand Jury investigation leading to the prior criminal case. Disclosure of such evidence without a showing of particularized need would offend Rule 6(e) of the Federal Rules of Criminal Procedure.

A. *The Industry.* The industry which the complaint alleges as the subject of defendants' conspiracy is for-hire transportation of mobile homes. This transportation business is performed by trucking firms wihch pick up and deliver mobile homes (transportable structures which serve as dwelling places) from manufacturers ("initial moves") and from individual or non-manufacturing customers ("secondary moves"). The transportation is performed under certificates or licenses issued by the Interstate Commerce Commission ("ICC") for interstate moves and by various state agencies for intrastate moves wholly within the boundaries of individual states. Persons seeking to engage in such transportation must apply to the appropriate agency for the requisite certificate or license. Under the Interstate Commerce Act and most state laws, persons already holding such licenses may protest, i.e., seek the denial of, such applications on the ground that existing service is adequate.

Carriers holding ICC authority to transport mobile homes may also join together

to form organizations known as rate conferences or rate bureaus for the purpose of collective rate-making, if the agreement is approved by the ICC (49 U.S.C. 5(b)). While ICC approval of a rate-making agreement confers antitrust immunity on parties acting to carry the agreement out, no immunity exists for any action by the rate bureau or its members which would deprive another member of its statutory right of independent action (49 U.S.C. 5b(6)), that is, the right to charge rates different than those greed upon by other members of the bureau.

The defendants dominate the business of for-hire transportation of mobile homes, which generates annual revenues in excess of $100 million. As alleged in the complaint (para. 24), the defendants, commonly known in the industry as the "Big Three", have since 1965 "accounted for more than 85% of all revenues earned from for-hire transportation of mobile homes".

B. *Conspiracy to exclude and restrict the growth of competitors.* The complaint alleges that defendants conspired "to exclude other persons from for-hire transportation of mobile homes" (paragraph 30(a), complaint), "to limit and restrict the growth of other persons * * *" (paragraph 30(b), complaint), and "to acquire, maintain and to exercise the power to control the entry into" that industry (paragraph 33, complaint). The complaint charges that defendants and coconspirators carried out this objective of the conspiracy by a series of acts which, as a whole, served to deprive "persons applying for mobile home authority of meaningful access to, and of fair hearings before, federal and state agencies and courts" (paragraphs 31(a), 34 and 36, complaint). The means alleged to comprise this denial of meaningful access and of fair hearings include the following acts: (1) Protesting virtually all applications for mobile home authority, without regard to the merits (paragraph 31(a)(1), complaint); (2) inducing others to protest such applications, without regard to the merits (paragraph 31(a)(2), complaint); (3) jointly financing such protests, and jointly providing personnel including employees to aid in the conduct of such protests (paragraph 31(a)(3), complaint); (4) using tactics whose purpose and effect were to deter, delay and increase the costs of applications of other persons for mobile home authority (paragraph 31(a)(4), complaint); (5) refraining from protesting one another's applications for mobile home authority, for the purpose of qualifying each other to protest applications of other persons for mobile home authority (paragraph 31(a)(5), complaint); and (6) providing, procuring and relying upon testimony they knew to be false and misleading in agency proceedings concerning such applications (paragraph 31(a)(6), complaint).

The following generally describes the practices underlying these alleged terms of the conspiracy.

1. Defendants' automatic and *coordinated protest conduct.* The Government would have contended at trial that it was the policy and practice of Morgan, National and Transit for many years to protest virtually all conflicting applications for mobile home authority. Each of them would protest most interstate applications and most state-wide intrastate applications for conflicting mobile home authority.[1] In so doing, each of the defendant corporations repeatedly and commonly failed to make even cursory preprotest determinations about the merits of applications which were protested. Rather, the defendants elected to make the decisions automatic, in the interest of preserving and exercising the power to exclude competition wherever it appeared.

Defendants used other means to bar entry; for its was also their practice to coordinate their opposition, to share the costs of such opposiiton, and to act together to make the filing and prosecution of applications as costly and time consuming for others as possible. This coordinated opposition was accomplished by a variety of acts, which occurred in combination with each other and in conjunction with most protests.

The following are the kinds of acts performed to create defendants' coordinated or shared opposition: First, to insure that opposition was united and that no protest opportunity was lost, defendants would regularly solicit one another's protests; second, to create the appearance of a broad-based concern in the areas of an application, and to obscure the role of the Big Three as chief protestants, the defendants would solicit smaller carriers holding mobile home authority to join in Big Three protests, frequently inducing their participation by offering to absorb all legal costs of the smaller carriers; third, in order to reduce the costs of their protests and to increase their ability to engage in simultaneous protests in numerous jurisdictions, Morgan, National, and Transit, or any two of them, would frequently use common counsel in protests and would agree to share the expense of such joint representation on a prorata basis; fourth, to reduce costs and to hide the appearance of collusion, the three defendants would share the costs of protests even where less than all of them were parties; fifth, in conjunction with their joint protests, Morgan, National and Transit would share the costs of pleadings, of pre-hearing investigations, and of appeals, including the costs of any appeal bonds; sixth, also in conjunction with their joint protests the defendants would cooperate in advance of and during hearings in the fashioning of strategy, in sending employees to persuade the applicant's supporting shipper to drop their support, and in making each other's employees available to testify on behalf of any of the Big Three; and seventh, in order to deter the filing and prosecution of applications, representatives of the defendants would threaten potential applicants with prolonged and costly protests with the announced intention to deplete the financial ability of the applicant to operate under any new authority which he might eventually obtain.

2. *Meritless protests and false and misleading testimony.* The Government would have contended at trial that the real life context of the defendants' operating experience was materially different from the impression of adequate service sought to be created by their constant automatic and coordinated protesting. Acually, defendants experienced recurrent and substantial operating difficulties which were well known to them and at clear variance with many of their representations in agency proceedings.

In addition to the foregoing, the Government, at trial, would have contended that defendants, in the prosecution of their protests before various agencies, through their officers and employees, provided and relied upon testimony relating to their ability to serve which they knew to be false and misleading.

3. *Non-protest agreement.* The complaint charges that in furtherance of their conspiracy to exclude and restrict competition, defendants "refrain[ed] from protesting one another's applications for mobile home authority, for the purpose of qualifying each other to protest applications of other persons for mobile home authority" paragraphs 31(a)(5), 34, 36, complaint).

At trial, the Government would have contended that in about February of 1966, Morgan and National agreed that neither company would protest any of each other's applications for mobile home authority. The Government would have also contended that the non-protest agreement was implemented in March of 1966 and remained in effect until about September of 1971.

C. Conspiratorial conduct to coerce persons to join the MHCC, to relinquish rights of independent action and thereby to cause them to charge the rates of Morgan, National and Transit. The complaint alleges that defendants conspired to coerce competitors to join the MHCC (the defendants' section 5a rate bureau) and to raise their rates to the level of those charged by the defendants (paragraphs 30(c), 34 and 36, complaint); and to coerce competitors, who were fellow members of the MHCC, to relinquish their statutory right of independent action to charge rates lower than those of Morgan, National and Transit (paragraphs 30(d), 34 and 36, complaint). As alleged in the complaint (paragraphs 31(b), 34 and 36), the coercion used by defendants consisted of "threats of substantial rate reductions".

The Government would have contended at trial that the defendants, as one part of their alleged conspiracy, agreed to acquire, maintain and exercise power over the interstate rate charged for the for-hire transportation of mobile homes. It would have been contended that defendants carried out this agreement by coercing their only two significant competitors to charge or maintain the interstate rate agreed upon by the defendants. It would have been argued that defendants, through exchange of correspondence and a series of meetings, agreed to threaten these competitors with predatory rate reductions and thereafter successfully implemented the plan. As a result, one competitor was forced to join the defendants' rate bureau and to charge the military and commercial interstate rates agreed upon by the defendants. Another competitor was forced by the same means to relinquish his right of independent action to charge lower interstate rates than the defendants.

D. Conspiratorial conduct to fix the intrastate rates of Morgan, National and Transit, and to establish such agreed-upon rates as the rates of competitors by acts of inducement and coercion. The complaint alleges that defendants conspired to fix and stabilize the rates to be charged by the defendants for the transportation of mobile homes wholly within the individual states of the continental United States, without authorizaton of state law (paragraphs 30(e), 34 and 36, complaint); and to induce and coerce other motor carriers engaged in for-hire transportation of mobile homes to charge the same rates as the defendants for the transportation of mobile homes wholly within individual states of the continental United States, without authorization of state law (paragraphs 30(f), 34 and 36, complaint).

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[1] The ICC and most state agencies require carriers to obtain certificates of public convenience and necessity as a condition precedent to actual for-hire transportation. Applications to the ICC for mobile home authority are noticed in the FEDERAL REGISTER and a trade publication called "Traffic World". Many state agencies also provide notice to persons who subscribe to their notification services. Morgan, National and Transit have each assigned personnel to watch the FEDERAL REGISTER for notification of ICC applications for mobile home authority. Similarly, each corporate defendant subscribed to notice services of many state agencies.

1. Morgan, National, and Transit Agreement to fix and stabilize their intrastate rates on a nationwide basis. The Government would have contended at trial that since at least 1964, the defendants agreed to fix and stabilize the rates to be charged by them for the for-hire transportation of mobile homes in the majority of states of the continental United States. The agreement was implemented in a majority of the states of the continental United States.

Pursuant to this agreement, the intrastate rates of the defendants were from time to time jointly revised to increase rates to be charged in a majority of the states of the continental United States. Each revision was agreed to by the defendants, was applicable on a statewide basis in those states where it was implemented, and was implemented in over thirty states.

Since about 1964, defendants, with the aid of coconspirators, participated in the planning and implementation of the joint intrastate rate agreement by negotiations consisting of both oral and written communications. The subjects of these communications included the level of rates to be agreed upon, and the timing for joint implementation of agreed-upon rates.

2. Agreement to induce and coerce others to charge the agreed-upon rates of Morgan, National and Transit. At trial the Government would have presented evidence to show that one purpose of the alleged conspiracy was to establish the agreed-upon intrastate rates of the defendants as the common level of rates for all competitor motor carriers engaged in for-hire transportation of mobile homes within the individual states of the continental United States. Motor carriers were to be induced and coerced to charge the same rates as Morgan, National, and Transit for the transportation of mobile homes wholly within individual states where such action would further the goal of establishing the rates of the defendants as the common or uniform level of intrastate rates on a nationwide basis.

To induce others to join their intrastate rate agreement, the defendants made oral and written requests of cooperation and formed local rate-fixing groups without regard to local state laws. In circumstances where carriers refused to join defendants' agreed-upon rate, defendants would sometimes attempt to terminate or retard the growth of particular carriers by joint rate cuts or threats thereof.

E. Conspiratorial conduct to eliminate competition between Morgan, National and transit for drivers and field organization personnel. The complaint alleges that the defendants conspired "to eliminate competition between Morgan, National and Transit for the services of their drivers and field organization personnel" (paragraphs 30(g), 34 and 36, complaint). As alleged, the defendants carried out this term of the conspiracy by means of an agreement to fix driver commissions (paragraphs 31(c), 34 and 36, complaint) and an agreement to refrain from hiring each other's field organization personnel (paragraphs 31(d), 34 and 36, complaint).

1. *Agreement to fix driver pay.* Drivers for mobile home carriers are independent contractors who are paid a commission for services, based on a percentage of gross revenue paid for each move. A general and continuing concern of representatives of the defendants during the period of the conspiracy centered on loss of drivers. In order to prevent possible driver defections to each other, the Big Three sought to make their driver commissions uniform by agreement. The agreement was worked out by exchanges of correspondence among defendants.

2. *Non-hiring agreement.* Morgan, National and Transit by agreement also sought to eliminate competition among each other for field organization personnel, e.g., terminal agents and district managers. This agreement, too, was worked out by written communications among defendants.

III. *Explanation of the proposed consent judgment.* The United States and defendants have agreed that a Judgment, in the form negotiated by the parties, may be entered by the Court anytime after compliance with the Antitruts Procedures and Penalties Act, provided that plaintiff has not withdrawn its consent. The stipulation provides that there has been no admission by either party with respect to any issue of fact or law. Under the provisions of section 2(e) of the Antitrust Procedures and Penalties Act, entry of the Judgment is conditioned upon this Court's determination that it is in the public interest.

A. *Prohibited Conduct.*

SECTION V

This section permanently enjoins the defendants from entering into any agreement for the purpose of achieving those objectives alleged as unlawful terms of the conspiracy to restrain trade in violation of section 1 of the Sherman Act.

SECTION VI

This section imposes negative and affirmative obligations on the defendants with respect to litigation conduct, the primary means by which the defendants excluded others from entry into and growth in the industry during the conspiracy. This section provides that: Defendants refrain from coordinating opposition to applications for mobile home authority; that the decision of any defendant to protest is to be independently made; that defendants not improperly interfere with persons seeking to obtain operating authority; that the major costs of litigation be independently borne by each defendant; and that defendants do not engage in meritless protests.

SECTION VII

Paragraph (a) enjoins each defendant from entering into any non-protest agreement with any motor carrier when such agreement is not related to a particular legal proceeding and is not brought to the attention of the presiding officer of that proceeding. In other words, across-the-board or secret non-protest agreements to which any defendant is a party would be a violation of this section.

Paragraph (b) enjoins each defendant from entering into any agreement with any motor carrier to restrain or prevent any of the organizational personnel or owner-operators of any motor carrier from seeking, obtaining or holding employment with any other motor carrier engaged in for-hire transportation of mobile homes.

Paragraph (c) enjoins each defendant from entering into any agreement with any other motor carrier to fix or stabilize the level of compensation of organizational personnel or owner-operators.

Paragraph (d) enjoins each defendant from entering into any agreement with any other motor carrier to fix or stabilize rates to be charged pursuant to section 22 of the Interstate Commerce Act (49 U.S.C. 22) unless and until the ICC approves special procedures for the joint consideration, adoption and publication of Section 22 rates in connection with defendants' Section 5a rate agreement.

SECTION VIII

This section permanently enjoins each defendant from making certain kinds of threats and communicating with other motor carriers about making such threats. The kinds of threats covered by this section are those intended to coerce any other motor carrier to do or refrain from doing any act and those intended to create fear of being driven out of business.

SECTION IX

This section is intended to impose certain restraints on defendants for the purpose of reducing the opportunity to engage in conspiratorial or coercive conduct. Thus, paragraph (a) limits the occasions upon which defendants may discuss the formulation and implementation or maintenance of interstate rates, paragraph (b) limits the occasions upon which defendants may engage in similar discussions or communications regarding intrastate rates, and paragraph (c) limits the occasions upon which defendants may engage in discussions or communications regarding the employment of any person. A defendant may engage in discussions or communications regarding interstate rates during duly-called meetings of any rate conference of which the defendant is a member and which has been approved by the ICC under Section 5a of the Interstate Commerce Act. Defendants may discuss intrastate rates when acting in compliance with state action requirements. Defendants may discuss employment of any person where the subject of the discussions is limited to such person's fitness for employment.

SECTION X

Section X imposes a protest moratorium upon the defendants. The protest moratorium is intended to redress the injury to competition in for-hire transportation of mobile homes caused by defendants' monopolization of that industry. The protest moratorium is the means by which a diminution in defendants' market power, a restructuring of the industry, and an opportunity for new entry by existing and potential competitors is sought to be achieved. The protest moratorium applies separate time and geographic limits upon protests according to whether initial or secondary mobile home authority is sought. The terms "initial moves", "secondary moves", and "mobile home authority" are defined in section II of the Final Judgment.

Paragraph (a) enjoins each defendant from protesting any application for secondary interstate mobile home authority which is filed within twelve (12) months from the entry of the Final Judgment and which seeks authority to originate such for-hire transportation for any of twelve (12) enumerated states.

Paragraph (b) imposes a similar but longer moratorium for protests of applications for initial interstate mobile home authority. Under this moratorium each defendant is enjoined from protesting any application for initial interstate mobile home authority which is filed within thirty (30) months from the entry of the Final Judgment and which seeks authority to originate for-hire transportation of mobile homes from any of twenty-eight (28) enumerated states.

Section X provides, in effect, that each defendant is permanently enjoined from protesting any application for mobile home authority which meets the criteria set forth in paragraphs (a) or (b), even if the application is still pending after the expiration of the time period provided therein for filing.

SECTION XI

Under this section, each defendant must withdraw from or refrain from joining or contributing anything of value to any organization, conference or association which the

defendant knows or has reason to know engages in or enforces any act which the defendant is prohibited from doing by the Final Judgment or which is contrary to any provision of the Final Judgment.

B. SCOPE OF THE PROPOSED JUDGMENT

1. *Persons bound by the decree.* Section III of the Judgment provides that its terms shall apply to the defendants and to each of their respective subsidiaries, successors, assigns, officers, directors, employees and agents (except owner-operators) and to all persons in active concert or participation with any of them who receive actual notice of the Final Judgment by personal service or otherwise.

2. *Geographic coverage of the decree.* The prohibitions of the proposed Judgment apply to all acts or transactions within the United States, its territories and possessions, except with regard to those provisions which expressly refer to the continental United States. Any such provision covers only the 48 contiguous United States, the District of Columbia and Alaska.

3. *Duration of the judgment.* Except where otherwise specifically provided, the proposed Judgment perpetually restrains the prohibited conduct. Time limitations are provided for in two general types of situation: (1) where prohibitions are imposed on conduct not in and of itself unlawful (see injunction against sharing expenses of litigation or sharing common counsel, respectively Sections VI (d) and (e), Judgment); or, (2) where affirmative obligations are imposed on defendants which place them on a substantially different footing than others in the industry (see for example, the requirement that defendants reduce their preprotest investigation to writing, and the requirement that the defendants refrain from filing certain protests, respectively section VI (k), and X). The specific provisions which adopt time limitations are the following: Section VI (d), (e), (f), (k), and (m); and section X.

4. *Notice and compliance requirements.* Section XII requires each defendant, within 60 days of the entry of the Final Judgment, to mail a copy of the Judgment to each of: (1) Its officers and directors, (2) its agents and employees with supervisory or management responsibility, and (3) the officers and directors of its parent and subsidiary corporations. Thereafter, once each year for five additional years each defendant must take affirmative action to apprise: (1) its officers and directors, and (2) its agents and employees with supervisory or management responsibility of their and each defendant's obligations and duties under the Final Judgment.

Section XIII confers upon duly authorized representatives of the Department of Justice the power to obtain access, upon reasonable notice, to the records and personnel of each of the defendants in order to determine their respective compliance with the provisions of the Judgment. The Assistant Attorney General in charge of the Antitrust Division may also require submission of written reports with respect to matters covered by the Final Judgment. Representatives of the Department of Justice are also authorized to divulge to the Bureau of Enforcement of the ICC the existence of any practice which is discovered by the means described in Section XIII, and which is believed to violate any of the provisions of the Interstate Commerce Act.

D. EFFECT OF THE PROPOSED JUDGMENT ON COMPETITION

The proposed Judgment is intended to prevent the defendants from continuing their unlawful conspiracy or from resuming their unlawful conduct. The Judgment is intended to insure independent conduct on the part of each of the defendants. The Judgment is intended to insure that defendants not only will comply with the provisions of the antitrust laws, but also that they will refrain from any abuse of regulatory processes which may have occurred in the past as part of their alleged unlawful conspiracy. The Judgment also seeks, through its negative prohibitions and through the protest moratorium, to restore competition in the mobile home transportation industry. The protest moratorium is intended to achieve the kind of competitive balance which would have existed but for the conspiracy. Compliance with the proposed Judgment should restore competition to the mobile home transportation industry.

IV. *Remedies available to potential private litigants.* Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured in his business or property as a result of conduct prohibited by the antitrust laws may bring suit in Federal Court to recover three times the damages such person has suffered as well as costs and reasonable attorneys' fees. Entry of the proposed Consent Judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16a, this Consent Judgment has no *prima facie* effect in any subsequent private lawsuits which may be brought against these defendants.

V. *Procedures available for modification of the proposed Judgment.* As provided by the Antitrust Procedures and Penalties Act, any persons believing that the proposed Consent Judgment should be modified may submit written comments to Joseph J. Saunders, Chief, Public Counsel and Legislative Section, Department of Justice, Antitrust Division, Washington, D.C. 20530, within the 60-day period provided by the Act. These comments and the responses to them will be filed with the Court and published in the FEDERAL REGISTER. All comments will be given due consideration by the Department of Justice which remains free to withdraw its consent to the proposed Judgment at any time prior to its entry if it should determine that some modification of it is necessary.

VI. *Alternatives to the proposed consent judgment.* The purpose of instituting this lawsuit was to terminate an unlawful conspiracy, to prevent its recurrence and to restore competition to the mobile home transportation industry. Since the proposed Judgment should accomplish these objectives without the risk or delay which would necessarily result from any trial, it is believed that entry of the proposed Final Judgment by consent is preferable to seeking similar relief after a full litigation on the merits.

The following specific proposals were considered in connection with the Final Judgment:

A. *Asphalt clause.* By letter and memorandum directed to the parties and to the Court, dated April 30, 1975, William S. D'Amico, counsel for two alleged victims of defendants' conspiracy, urged that consideration be given to the inclusion of a so-called "asphalt clause" in any Consent Judgment. An "asphalt clause" would estop a defendant from denying any of the allegations of the complaint in any subsequent private action involving the same issues to which it was party. After due consideration of the proposal by the plaintiff, it was decided that this request was contrary to the overriding public interest in the most expeditious restortion of competition in for-hire transportation of mobile homes. Our conclusion was that injunctive relief obtained without trial which would be reasonably likely to restore competition in the business of for-hire transportation of mobile homes could not be secured if we insisted upon the proposed asphalt clause. The Government believes that the sooner the Judgment goes into effect, the quicker a more competitive environment will be restored to this industry.

B. *Former limited admission provision.* The first draft Judgment which was submitted to the defendants by the Government contained a section, no longer in the Judgment, which would have required Morgan and National, in connection with any of their protests of or applications for mobile home authority, to admit to certain facts relating to the alleged non-protest agreements. The purpose of this limited admission provision was to require the defendants to place on the record certain facts of their past conduct to be weighed by administrative agencies in connection with any subsequent protest or application. The purpose was not, however, to provide admissions for the benefit of treble damage plaintiffs. This provision was dropped because it was unnecessary. The injunctive provisions against meritless protests, the pre-protest investigation requirement, and the protest moratorium are more precise and more predictably effective means of accomplishing pro-competitive objectives than the discarded limited admission provision.

C. *Former certificate revocation provision.* The complaint lists certificate revocation by Morgan and National as relief to be sought by the plaintiff. The United States did in fact propose that Morgan and National relinquish certain initial interstate mobile home authorities under section 212a of the Interstate Commerce Act. The purpose of this certificate revocation was twofold: First, to diminish the market power of the defendants; and second, to provide for market restructuring by the actual transfer of those same certificates to other carriers, who would have had to apply to the ICC specifying the certificates or portions thereof in which they were interested. Ultimately, it was decided that this rather cumbersome method of restructuring was unnecessary, since a more efficient and equally effective method was available through a protest moratorium. Certificate revocation involved several significant problems. First, its impact was uncertain. Initial mobile home manufacturing is subject to rapid geographical shifts. Therefore, defendants could, by expanding in other areas offset any short-term diminution in market power. In addition, the actual relinquishment of certificates and transfer to other carriers would have been a costly and time-consuming process. Moreover, because of the past success of defendants' conspiracy, there appeared to be relatively few competitors who would be in a position to come forward and to apply for the relinquished certificates, most of which were restricted to origin points narrower than statewide. There appeared, therefore, to be substantial risk that the effect of the revocation would merely be to transfer some of the authorities and underlying business opportunities from two of the defendants to a relatively small group of carriers already operating in the industry. In short, the competitive alternatives were extremely narrow under certificate revocation.

By contrast, the protest moratorium, because of its duration and geographic scope, permits far greater numbers of potential competitors to consider the opportunities for new entry according to the dictates of the marketplace. Carriers in other segments of the trucking industry, small carriers with limited ICC authority, and carriers holding state-issued authorities will have time to determine where additional service is needed, to acquire the necessary drivers and trucks for performing the additional service, and to

assess their opportunities for suecess in light of these factors. In addition, the moratorium is self-executing and involves none of the legal and administrative cost and delay involved in certificate revocation. The moratorium seeks to redress the injury to competition, and also to protect the interests of the Interstate Commerce Commission in a continuation and expansion of adequate transportation service.

D. *Miscellaneous provisions.* The Government proposed and later removed three other provisions from the Judgment on the ground that each was unnecessary. One prohibited the defendants from providing any false information to any person which would be damaging to the good will or business reputation of a motor carrier. This provision was deleted by the Government because of the availability of sufficient remedies under existing law.

The other two deleted provisions enjoined the defendants from making knowingly false material representations before any court or agency, federal or state, in connection with a protest of an application for mobile home authority, a rate protest or an application for mobile home authority. These provisions were removed from the Judgment for two reasons. First, other provisions of the Judgment prevent the defendants from initiating or prosecuting meritless protests or rate actions. Second, there are existing federal and state laws which would cover any significant misrepresentations of this type.

7. *Determinative documents.* There are no materials or documents which the Government considered determinative in formulating this proposed Consent Judgment. Therefore, none is being filed with this Competitive Impact Statement.

Dated: January 15, 1976.

DONALD L. FLEXNER,
CARL A. CIRA, Jr.,
JAMES H. PHILLIPS,
ROBERT M. SILVERMAN,
ELLIOTT M. SEIDEN,
Attorneys,
Antitrust Division,
Department of Justice.

[FR Doc.76-2200 Filed 1-23-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 27265]

NEW MEXICO

Application

JANUARY 16, 1976.

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), Continental Oil Company has applied for an access road and a 2⅜ inch crude oil pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 24 S., R. 32 E.,
Sec. 12, SW¼NE¼ and W½SE¼.

The access road and the pipeline, which pipeline will convey crude oil, will cross .612 of a mile of national resource land in Lea 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, P.O. Box 1397, Roswell, NM 88201.

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

[FR Doc.76-2211 Filed 1-23-76;8:45 am]

RAWLINS DISTRICT ADVISORY BOARD

Meeting

JANUARY 6, 1976.

Notice is hereby given that the Rawlins District (Wyoming) Multiple Use Advisory Board will meet at 8:15 a.m. on Friday, February 13, 1976, in the conference room of the Bureau of Land Management office in Rawlins, Wyoming.

The agenda will include the organization and role of the District Board, the proposed board operating procedures, the current Bureau of Land Management district organization, a brief description of district programs, an overview of major public land issues in the district, and other presentations.

The meeting will be open to the public. Oral or written statements may be submitted for the Board's consideration. Such statements should be limited to matters set forth in the agenda. Those wishing to make an oral statement must inform the District Manager, Rawlins District, Bureau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301, in writing by close of business February 2, 1976. Time limits for oral presentations may be established by the chairman to ensure that all may be heard within the time available for such statements. Any interested person or organization may file a written statement with the Board for its consideration. Such statements may be submitted at the meeting or mailed to the District Manager, Rawlins District, Bureau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301.

Further information concerning the meeting may be obtained from Ms. Pat Korp, Public Affairs Officer, Rawlins District, Bureau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301. Her telephone number is (307) 324-2795.

FRED WOLF,
District Manager.

[FR Doc.76-2210 Filed 1-23-76;8:45 am]

[INT DES 76-5]

POWER RIVER RESERVOIR, WYO.

Availability of Draft Environmental Statement

The draft environmental statement for the proposed construction of a reservoir on the Middle Fork of the Powder River in Wyoming will be available to the public the third week of January 1976. After that date, the draft statement may be obtained or reviewed at: 1) Buffalo Resource Area, Bureau of Land Management, on Highway 16 west of Buffalo, Wyoming; 2) Casper District Office, Bureau of Land Management, 100 East "B" Street, Casper, Wyoming; and 3) State Office, Bureau of Land Management, 2120 Capitol Avenue, Cheyenne, Wyoming.

Notice is hereby given that public hearings will be held at: 1) Catholic Recreation Hall, Buffalo, Wyoming, February 24, 1976, at 7:00 p.m., MDT, and 2) Natrona County Library, Crawford Room, Casper, Wyoming, February 26, 1976, at 7:00 p.m., MDT.

Individuals wishing to testify may do so by appearing at a hearing place as specified above. Persons wishing to give testimony will be limited to ten minutes, with writtten submissions invited. Prior to giving testimony at the public hearings, individuals or spokesmen are requested to complete a hearing registration form. Registration forms may be obtained from any of the Bureau of Land Management Offices mentioned above.

Written comments or statements should be submitted to the Casper District Manager, Bureau of Land Management, P.O. Box 2834, Casper, Wyoming 82601, not later than March 10, 1976, to be considered.

Dated: January 23, 1976.

STANLEY D. DOREMUS,
Deputy Assistant Secretary
of the Interior.

[FR Doc.76-2383 Filed 1-23-76;9:51 am]

Office of the Secretary

OUTER CONTINENTAL SHELF ADVISORY BOARD

Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. No. 92-643, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A-63, Revised.

The Outer Continental Shelf Advisory Board will meet during the period 9:00 a.m. to 5:00 p.m., February 10, in the St. Maxent Room, Downtown Howard Johnson's, 330 Loyola Avenue, New Orleans, Louisiana.

The meeting will cover the following principal subjects:

1. Monetary assistance to the States to attend meetings
2. Status of leasing program
3. OCS legislation
4. Interior programs
   a. Operating orders for frontier areas—deepwater drilling
   b. Nearshore impact
   c. Pipeline management
   d. Development plans
5. Other issues
   a. Problems of Federal/State lands adjoining each other
   b. Time needed to review OCS papers
   c. Acknowledgement to groups making negative nominations

The meeting is open to the public. Interested persons may make oral or writ-

ten presentations to the committee. Such requests should be made no later than February 1 to:

Carolita Kallaur, Office of OCS Program Coordination, Department of the Interior, Washington, D.C. 20240, 202/343-9314.

Minutes of the meeting will be available for public inspection and copying three weeks after the meeting at the Office of OCS Program Coordination, Room 4126, Department of the Interior, 18th & C Streets, NW., Washington, D.C.

ROYSTON C. HUGHES,
Assistant Secretary, Program Development and Budget.

JANUARY 20, 1976.

[FR Doc.76-2143 Filed 1-23-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

COMMODITY CREDIT CORPORATION ADVISORY BOARD

Public Meeting

Pursuant to Pub. L. 92-463 notice is hereby given that the Commodity Credit Corporation Advisory Board will meet at 8:30 a.m. on Monday, February 9, 1976 and Tuesday, February 10, 1976, in Room 2-W, of the Administration Building of the U.S. Department of Agriculture, Washington, D.C.

The purpose of this regularly scheduled quarterly meeting of the Advisory Board is to advise the Secretary of Agriculture relative to surveys of the general policies of the Commodity Credit Corporation, including Corporation policies in connection with the purchase, storage and sale of commodities, and the operation of lending and price support programs.

The meeting will be open to the public. Any member of the public may file a written statement with the Board before or within one week following the meeting.

The names of the members of the Advisory Board, Agenda, Summary of the Meeting and other information pertaining to the meeting may be obtained from Mr. Frank G. McKnight, Secretary, Commodity Credit Corporation, Room 207-W, Administration Building, U.S. Department of Agriculture, Washington, D.C.

Signed at Washington, D.C., on January 19, 1976.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

[FR Doc.76-2222 Filed 1-23-76;8:45 am]

Forest Service

REGIONAL FORESTER, ALASKA

Delegation of Authority; Correction

FR Doc. 76-620, appearing at page 1611 in the FEDERAL REGISTER of January 9, 1976, is corrected as follows:

By virtue of the authority delegated to me by the Secretary of Agriculture through the Assistant Secretary for Conservation, Research and Education (7 CFR 2.60), there is hereby delegated to the Regional Forester, Alaska, Forest Service, United States Department of Agriculture, authority to approve selections of National Forest lands made by the State of Alaska pursuant to section 6(a) of the Act of July 7, 1958 (72 Stat. 339).

The authority herein delegated may not be redelegated.

JOHN L. MCGUIRE,
Chief, Forest Service.

JANUARY 20, 1976.

[FR Doc.76-2196 Filed 1-23-76;8:45 am]

SUPERIOR NATIONAL FOREST ADVISORY COMMITTEE

Meeting

The Superior National Forest Advisory Committee will meet at 10:00 a.m. on February 24, 1976, in Room 250, Kirby Student Center, University of Minnesota, Duluth.

The purpose of this meeting is to discuss the Boundary Waters Canoe Area Use Distribution Program, Herbicides, Forest Planning, and the Fish and Wildlife Habitat Program for the National Forests in Minnesota.

The meeting will be open to the public. Persons who wish to attend should notify James F. Torrence, Forest Supervisor, Superior National Forest, P.O. Box 338, Duluth, Minnesota 55801. Written statements may be filed with the committee before or after the meeting.

JAMES F. TORRENCE,
Forest Supervisor.

JANUARY 16, 1976.

[FR Doc.76-2209 Filed 1-23-76;8:45 am]

Office of the Secretary

GENERAL CONFERENCE COMMITTEE OF NATIONAL POULTRY IMPROVEMENT PLAN

Renewal

Notice is hereby given that the Secretary of Agriculture has reestablished the General Conference Committee of the National Poultry Improvement Plan. This Committee represents cooperating state agencies and participating industry members in advising the Department of Agriculture with respect to the interpretation of and changes in the National Poultry Improvement Plan which is administered under the authority of the Department of Agricuture Organic Act of 1944, as amended (7 U.S.C. 429). The committee's findings are reported in writing to the Secretary of Agriculture.

The Chairman of this committee is Dr. Raymond D. Schar, Agricultural Research Service, U.S. Department of Agriculture, BARC East, Beltsville, Maryland 20705.

This notice is given in compliance with Public Law 92-463.

Done at Washington, D.C., this 19th day of January 1976.

EARL L. BUTZ,
Secretary.

[FR Doc.76-2197 Filed 1-23-76;8:45 am]

PRIVACY ACT OF 1974

Systems of Records

Notice is hereby given of additional routine uses for USDA/ASCS-16 Farm Record File (Manual), USDA/ASCS-18 Farmers' Name and Address Master File (Manual) and USDA/ASCS-31 Tort, Program and Civilian Employees Claims.

These routine uses were inadvertently omitted when the systems notice was originally published in the FEDERAL REGISTER 40 FR 38905 through 38916 (August 27, 1975).

Under 5 U.S.C. 552a(e)(1), interested persons are invited to submit written comments on these routine uses. All comments must be received on or before February 25, 1976. Comments may be submitted to Director, Research and Operations Division, Office of the General Counsel, U.S. Department of Agriculture, Washington, D.C. 20250. Comments will be available for public inspection in Room 2321, South Building, from 8:30 a.m. to 5:00 p.m.

In consideration of the foregoing, notice is hereby given of additions to routine uses for the following systems of records:

USDA/ASCS-16 Farm Record File (Manual). Referral to State Forester for technical service on forestry practices.

USDA/ASCS-18, Farmers' Name and Address Master File (Manual). Referral to Commodity Promotion Boards when producer funds are withheld by ASCS. Referral to local taxing authorities and professional appraisal companies or consultants working under contract with such taxing authorities for tax appraisal purposes.

USDA/ASCS-31, Tort, Program and Civilian Employee Claims. Referral of list of producer names on claim record debt register to Cotton Loan Clerks for offsetting.

Signed at Washington, D.C., on January 20, 1976.

EARL L. BUTZ,
Secretary.

[FR Doc.76-2231 Filed 1-23-76;8:45 am]

DEPARTMENT OF COMMERCE

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 Thursday, March 11, 1976, in Dining Rooms A & B, Administration Building, 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 re-

lating 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: January 20, 1976.

ERNEST AMBLER,
Acting Director,

[FR Doc.76–2159 Filed 1–23–76;8:45 am]

FEDERAL INFORMATION PROCESSING STANDARDS TASK GROUP 13 WORKLOAD DEFINITION AND BENCHMARKING

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 Task Group 13 (FIPS TG–13), "Workload Definition and Benchmarking," will hold a meeting from 10:00 a.m. to 4:00 p.m. on Wednesday, March 3, 1976, in Room B–255, Building 225, of the National Bureau of Standards at Gaithersburg, Maryland.

The purpose of this meeting is to review the progress of two work-groups which are addressing the areas of Problem Definition and Benchmark Program Transferability.

The public will be permitted to attend, to file written statements, and, to the extent that time permits, to present oral statements. Persons planning to attend should notify the Acting Executive Secretary, Mr. Arthur F. Chantker, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C., 20234 (Phone—301–921–3485).

Dated: January 21, 1976.

ERNEST AMBLER,
Acting Director.

[FR Doc.76–2213 Filed 1–23–76;8:45 am]

National Oceanic and Atmospheric Administration

WILLIAM L. DOVEL

Receipt of Application for Endangered Species Permit—E11

Notice is hereby given that the following Applicant has applied in due form for a permit to take, by collecting, an unspecified number of an endangered species of fish for scientific purposes as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) and the National Marine Fisheries Service Regulations Governing Endangered Fish or Wildlife Permits (50 CFR 222) as published in the November 27, 1974, FEDERAL REGISTER on pages 41375–41377.

Mr. William L. Dovel, Coordinator, Estuarine Study Group, Boyce Thompson Institute for Plant Research, Inc., 1086 North Broadway, Yonkers, New York 10701, to conduct research on an endangered species of fish, the shortnose sturgeon (*Acipenser brevirostrum*), in the Hudson River from permit issuance through July 1978.

The proposed research will consist of the following combination of objectives and activities:

1. To study the biological characteristics of the populations of the shortnose sturgeon in the Hudson River, including determinations of abundance, distribution, movement, growth, age at sexual maturity, and year class strength;

2. To analyze the habitat requirements for the proper enhancement of the survival of the species, including feeding and spawning grounds;

3. To assess the impact of commercial fisheries, pesticides, polychlorinated bi-phenyls (PCB's), heavy metals, water use, and habitat alteration on the stability of shortnose sturgeon populations;

4. Providing information to the New York State Department of Environmental Conservation, U.S. Federal endangered species authorities and other interested conservation groups for use in the formulation of species management practices;

5. To assess the endangered species status of the shortnose sturgeon;

6. In the process of the above to capture, record physical data, mark (e.g., using dye, branding, or tagging procedures), and release shortnose sturgeon in the Hudson River from Tappan Zee, New York, to Albany, New York, bewteen permit issuance and July 1978;

7. Capture will be primarily by incidental catch in gill nets set by commercial shad fishermen, but will also include research trawling in the Hudson River, especially in its deeper parts, to collect specimens for data before release back into the river at the site of taking as immediately as possible, except for a few fish to be held in running water containers for short periods of time before release;

8. To keep to an absolute minimum any mortalities from the handling of shortnose sturgeon during the course of study, with any dead specimens to be preserved and sent to the American Museum of Natural History in New York or to another of the institutions cooperating in this research.

Although the Applicant states it would be desirable to preserve certain specimens for scientific documentation, the Applicant also states that the killing of sturgeon is not required by the research proposal. In connection with this proposed project, the Applicant has submitted copies of the detailed program narrative and project description of his proposal to study both the shortnose sturgeon and the Atlantic sturgeon (*Acipenser oxyrhynchus*), a species not presently listed on the U.S. Endangered Wildlife List. The New York State Department of Environmental Conservation and the Boyce Thompson Institute for Plant Research, Inc. are sponsoring this study.

Documents submitted in connection with this application are available for review in the Division of Marine Mammals and Endangered Species, National Marine Fisheries Service, Department of Commerce, 3300 Whitehaven Street NW., Washington, D.C. 20235, and in the Office of the Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Written data or views, or requests for a public hearing on this application, should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before February 25, 1976. The holding of such a hearing is at the discretion of the Director.

Any statements and opinions that may be contained in this notice in support of this application are summaries from information supplied by the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: January 16, 1976.

HARVEY M. HUTCHINGS,
Acting Associate Director for Resource Management, National Marine Fisheries Service.

[FR Doc.76–2144 Filed 1–23–76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 75P–0295]

PICKER CORP.

Approval of Variance for Cabinet X-ray Systems

Notice is hereby given that a variance from certain performance standards applicable to the Picker Corporation Tire Inspection Cabinet X-Ray System, Model 10/27, has been approved by the Director, Bureau of Radiological Health, Food and Drug Administration, effective February 25, 1976. The Picker Corporation, 595 Miner Rd., Cleveland, OH 44143, is the manufacturer.

The variance is approved under § 1010.4 (21 CFR 1010.4) of the regulations, which concerns granting of variances for electronic products for which there are performance standards promulgated under section 358 of the Public Health Service Act as added by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f).

The variance will apply to the Picker Model 10/27 Tire Inspection System, a cabinet x-ray system, which will deviate from the requirements of § 1020.40(c)(4)(i) (21 CFR 1020.40(c)(4)(i)) in that door opening of the system will not be required to result in physical disconnection of the energy supply circuit to the high voltage generator.

The applicant has stated that the Model 10/27 Tire Inspection System is a cabinet x-ray system designed for automatic production line x-ray inspection of tires. Two doors of the cabinet are provided for automatic transportation of tires into and out of the cabinet for x-ray inspection. These doors are not designed to be manually operated and are not readily accessible to operating personnel. During the time of tire entry and exit, the x-ray tube is automatically positioned at the top of the cabinet in a shielded enclosure which is designed so that the level of x radiation emitted through the open doors does not exceed the emission limit specified in § 1020.40

(c)(4)(i), and access to the primary beam through the doors is not possible.

The x-ray system is a type that requires a lengthy warmup cycle each time high voltage is removed in order to reach operating potential. The applicant has stated that the x-ray beam must be left on continuously to achieve the process speed necessary for production line inspection of tires. To require that door opening result in a physical disconnection of the energy supply circuit to the high voltage generator would necessitate using a warmup procedure for each tire inspection. Such operations would nullify the automatic materials handling feature of the system and would negate production line use of the system.

The applicant has stated that alternate means for providing radiation protection and safety equal to or greater than that provided by products meeting all requirements of the applicable performance standard is accomplished by a safety interlock network associated with the position of the x-ray tube and the entry and exit doors. In addition, a computer is used to monitor the sequence of operation for the x-ray tube and the entry and exit door movement. Thus, the computer senses the state of four door "closed" switches, two door "open" switches and four photo cells that monitor the position of the entry or exit door. The computer also monitors the state of the x-ray tube 'up" and "down" switches and the x-ray tube "covered" and "uncovered" switches. If, in the operation of the cabinet x-ray system, any of the above components do not change state in the proper sequence, the system will automatically shut down.

The Director, Bureau of Radiological Health, has concluded that the Picker Model 10/27 Tire Inspection Cabinet X-Ray System provides adequate means of radiation safety and protection and is granting the variance in accordance with the provisions of § 1010.4(a)(1) for a period of 5 years. The applicant has been directed to modify, in accordance with § 1010.4(d), the tags, labels, or other certification required by § 1010.2 (21 CFR 1010.2), which are permanently affixed to or inscribed upon products marketed under this variance, to state the following: "This product complies with Variance No. 75003, effective on February 25, 1976."

Under § 6.1(b) (21 CFR 6.1(b)), the possible environmental consequences of this variance have been considered. It has been determined that the action will not significantly affect the quality of the human environment. Based on this determination, it has been concluded that an environmental impact statement pursuant to section 102(2)(c) of the National Environmental Policy Act is not required.

A copy of the environmental impact analysis report is available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

Variance No. 75003 shall become effective on February 25, 1976, and terminate on February 2, 1976, unless written objections and supporting information are filed with the Hearing Clerk, Food and Drug Administration, on or before February 25, 1976, requesting that the variance be modified or not granted. Upon receipt of such objections and supporting documentation, the effective date of the variance will be stayed until the Director, Bureau of Radiological Health, rules on them. Pursuant to § 1010.4(c)(3), the applicant shall be notified by certified mail, and a notice of the stay shall be published in the FEDERAL REGISTER. The ruling on the objections shall be made within 60 days, shall be published in the FEDERAL REGISTER, and shall constitute final agency action subject to judicial review under section 358(d) of the act. The application for this variance and all related correspondence are available for public disclosure in the office of the Hearing Clerk, subject to the provisions of 21 CFR Part 4.

Dated: January 19, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76-2168 Filed 1-23-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 76-010]

LOOP, INC.

Deepwater Port License Application

Notice is hereby given under section 5(c)(1) of the Deepwater Port Act of 1974 (the Act) (33 U.S.C. 1504(c)(1)) that LOOP, Inc., 1010 Common Street, New Orleans, LA 70112 has filed an application with the Coast Guard for all Federal authorizations required for a license to own, construct, and operate a deepwater port off of the coast of Louisiana.

The application plans call for construction of the LOOP Deepwater Port in an area situated in the Gulf of Mexico approximately 20 miles south of Grand Isle, Louisiana.

The focal point of this port will be a pumping platform complex bearing 268.5°T, 31.3 nautical miles from South West Pass Entrance Light. This complex will contain machinery for pumping oil received at the port to the mainland, personnel accommodations, and a control station for directing and monitoring vessel movement in the port area.

Fanned out in a semi-circle to the south of the platform complex at a range of approximately 8,000 feet, will be six Single Point Mooring (SPM) Buoys. Vessels calling at the port will moor by the bow at these buoys. Floating oil transfer hoses are attached to each buoy in a manner to allow a vessel to moor to the buoy, connect to the hoses, and discharge its cargo. While moored, a vessel will weather vane 360° around the buoy to maintain a heading of least resistance to the elements when engaged in oil transfer operations.

An approach fairway, a traffic separation scheme, and an anchorage area for vessels awaiting a berth at the SPM's are proposed for the port. The proposed fairway will extend from the port southward to intersect the existing safety fairway leading to Southwest Pass. The traffic separation scheme will be marked with lighted aids to navigation and the movement of vessels arriving at and departing from the port will be monitored and controlled.

From the base of each SPM buoy buried submarine pipelines will carry oil to the pumping platform complex where it will be boosted to shore via two 48 inch diameter buried pipelines. The path of these pipelines to an onshore booster station is on an approximate bearing of 333°T from the platform complex. An onshore underground crude oil storage facility having a maximum capacity of 56,000,000 barrels is planned in La Fourche Parish near Galliant, Louisiana. Distribution of oil received at the port will be through a proposed pipeline system, designated the St. James pipeline (to be designed by the applicant but separately owned and financed) which consists of two parallel pipelines approximately 52 miles in length. The St. James pipeline system will connect the underground storage facility with the CAPLINE's St. James Terminal on the Mississippi River.

The deepwater port is designed to handle a maximum throughput of 3,400,000 barrels of crude oil daily.

In accordance with section 5(d) of the Act, the application area encompassing the LOOP Deepwater Port site is that area contained within a circle having a 14 nautical mile radius centered at latitude 28°53.50′ N. and longitude 90°01.05′ W. and south of a line drawn between the geographical coordinates at latitude 28°52′ N. longitude 90°20′ W. and latitude 29°11′ N. longitude 89°50′ W.

Any person interested in applying for a license for the ownership, construction, and operation of a deepwater port within the designated application area described above must file with the Commandant (G-WDWP/61), at the address listed below, a notice of intent to file an application not later than 60 days after the date of publication of this notice.

In accordance with section 9(a)(1) of the Act, the State of Louisiana is hereby designated as an adjacent coastal State. Any other State which desires such designation must comply with section 9(a)(2) of the Act and 33 CFR 148.217.

Any person who desires to receive notices of public hearings held in connection with the processing of this application may submit a written request therefor to the Commandant (G-CMC/81) U.S. Coast Guard, Washington, D.C. 20590.

A copy of the application, except trade secrets and confidential information for which protection from disclosure is afforded under section 14 of the Act, is available for inspection and copying at the document inspection facility of the Office of the Commander, Eighth Coast

Guard District, Customhouse, New Orleans, LA 70130 and at Commandant (G-WDWP/61) U.S. Coast Guard, Room 6125, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. A copy of the application may also be viewed at the applicant's office.

(33 U.S.C. 1504(c)); 49 CFR 1.46.

Dated: January 16, 1976.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76-2206 Filed 1-23-76;8:45 am]

[CGD 76-011]

SEADOCK, INC.

Deepwater Port License Application

Notice is hereby given under section 5(c)(1) of the Deepwater Port Act of 1974 (the Act) (33 U.S.C. 1504(c)(1)) that SEADOCK, Inc., Suite 720, Two Greenway Plaza East, Houston, TX 77046 has filed an application with the Coast Guard for all Federal authorizations required for a license to own, construct, and operate a deepwater port off the coast of Texas.

The application plans call for construction of the SEADOCK Deepwater Port in the Gulf of Mexico approximately 26 miles south of Freeport, Texas.

The focal point of this port will be a pumping platform complex bearing 177.8°T, 25.8 nautical miles from Freeport Entrance Light. This complex will contain machinery for pumping oil received at the port to the mainland, personnel accommodations, and a control station for directing and monitoring vessel movement in the port area.

Arranged around the circumference of a circle having an approximate 8,000 foot radius from the center of the platform complex will be four Single Point Mooring (SPM) buoys. Vessels calling at the port will moor by the bow at these buoys. Floating oil transfer hoses are attached to each buoy in a manner to allow a vessel to moor to the buoy, connect to the hoses, and discharge its cargo. While moored, a vessel will weather vane 360° around the buoy to maintain a heading of least resistance to the elements when engaged in oil transfer operations.

An approach fairway to the port and anchorage areas for vessels awaiting a berth at the SPM's are proposed for the port. A portion of the fairway and the anchorage areas will be marked with lighted aids to navigation, and safeguarded by a vessel traffic control scheme that will monitor the movement of vessels arriving at and departing from the port. The proposed fairway will extend from the port's traffic scheme southward to an existing Gulf safety fairway.

Buried submarine pipelines will carry oil from the base of each SPM buoy to the pumping platform complex where it will be boosted to shore via two 52 inch diameter buried pipelines. The path of these pipelines to an onshore storage terminal is on an approximate bearing of 336°T from the platform complex to the beachline, thence roughly parallel to Redfish Bayou on a northerly bearing to the facility.

The onshore storage terminal will be located five miles inland, near Freeport; it will contain 28 tanks with a total capacity of approximately 22,500,000 barrels. There will be pumps and ancillary facilities at the storage terminal to deliver oil pipelines owned by others for subsequent delivery to inland refineries and chemical plants.

The deepwater port is designed to handle a throughput of approximately 2,500,000 barrels of crude oil daily.

The applicant has also indicated tentative plans for future expansion. These plans call for an addition to the pumping platform complex, two additional SPM buoys, an additional 52 inch pipeline from the pumping platform complex to the shore, increased onshore crude oil storage capacity to a maximum of 35,500,000 barrels, and increased daily volume of oil throughput at the port to 4,000,000 barrels. An additional deepwater port license will be required prior to embarking on any plan for this expansion.

In accordance with section 5(d) of the Act, the application area encompassing the SEADOCK Deepwater Port site is that area contained within a circle of 21 nautical mile radius centered at latitude 28°30.5′ N. and longitude 95°16.8′ W. and south of a line drawn between latitude 28°29′ N., longitude 96°00′ W., and latitude 29°01′ N., longitude 95°00′ W., less that area contained within shipping safety fairways and fairway anchorages as plotted on National Ocean Survey chart number 11300.

Any person interested in applying for a license for the ownership, construction, and operation of a deepwater port within the designated application area described above must file with the Commandant (G-WDWP/61), at the address listed below, a notice of intent to file an application on or before March 26, 1976.

In accordance with section 9(a)(1) of the Act, the State of Texas is hereby designated as an adjacent coastal State. Any other State which desires such designation must comply with section 9(a)(2) of the Act and 33 CFR 148.217.

Any person who desires to receive notices of public hearings held in connection with the processing of this application may submit a written request therefor to the Commandant (G-CMC/81) U.S. Coast Guard, Washington, DC 20590.

A copy of the application, except trade secrets and confidential information for which protection from disclosure is afforded under section 14 of the Act, is available for inspection and copying at the document inspection facility of the Office of the Commander, Eighth Coast Guard District, Customhouse, New Orleans, LA 70130 and at Commandant (G-WDWP/61) U.S. Coast Guard, Room 6125, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. A copy of the application may also be viewed at the applicant's offices and at the Freeport Public Library, 410 Brazosport Boulevard, Freeport, Texas 77542.

(33 U.S.C. 1504(c)); 49 CFR 1.46.

Dated: January 16, 1976.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76-2207 Filed 1-23-76;8:45 am]

National Highway Traffic Safety Administration

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

Public Meeting

On February 11, 12 and 13, 1976 the subcommittees of the National Highway Safety Advisory Committee will hold open meetings at the DOT Headquarters Building, 400 Seventh Street, SW., Washington, D.C., in room 2232.

The National Highway Safety Advisory Committee is composed of 35 members appointed by the President in accordance with the Highway Safety Act of 1966 (23 U.S.C. 401 et seq.). The Committee consists of representatives of State and local governments, State legislatures, public and private interests contributing to, affected by, or concerned with highway safety, other public and private agencies, organizations, and groups demonstrating an active interest in highway safety, and research scientists and other experts in highway safety.

The Advisory Committee advises, consults with, and makes recommendations to the Secretary of Transportation on matters relating to the activities of the Department in the field of highway safety. The Committee is specifically authorized (1) to review research projects or programs, and (2) to review, prior to issuance, standards proposed to be issued by the Secretary under the national highway safety program.

This meeting is subject to the approval of the Secretary of Transportation.

The following subcommittees will meet:

On February 11 from 8:30 a.m. to 10:30 a.m. the Adjudication Task Force will meet. Also on February 11 from 10:30 a.m. to 4:30 p.m. the Driver Subcommittee will meet. On February 12 and 13 from 9:00 a.m. to 4:30 a.m. there will be a joint meeting of the Vehicle and Highway Environment Subcommittees. Agenda items will be published as soon as available and prior to the meeting.

For further information contact the NHTSA Executive Secretary, Room 5215, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202-426-2872.

This notice is given pursuant to section 10(a)(2) of Pub. L. 92-463, Federal Advisory Committee Act (FACA), effective January 5, 1973.

Issued: January 20, 1976.

WM. H. MARSH,
Executive Secretary.

[FR Doc.76-2203 Filed 1-23-76;8:45 am]

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

AMERICAN REVOLUTION BICENTENNIAL ADVISORY COUNCIL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.O. 92-463), notice is hereby given that the February 4, 1976 meeting of the American Revolution Bicentennial Advisory Council has been cancelled, and has been rescheduled for March 3, 4, 1976 in New York, New York.

The meeting will be open to the public on a space available basis. Further information can be obtained from Ms. Tracey Cole, Council Support Staff, ARBA, 2401 "E" Street NW., Washington, D.C. 20276, telephone (202)-634-1841.

JOHN W. WARNER,
Administrator.

[FR Doc.76-2212 Filed 1-23-76;8:45 am]

COMMISSION ON CIVIL RIGHTS

COLORADO ADVISORY COMMITTEE

Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the rules, and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Colorado Advisory Committee (SAC) to this Commission will convene at 9:00 a.m. on February 7, 1976, at 1405 Curtis Street, Zephyr Room, Executive Tower Inn, Denver, Colorado 80202.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission, Room 216, 1726 Champa Street, Denver, Colorado 80202.

The purpose of this meeting is to be briefed on the field investigation made in preparation for the Denver school desegregation leaving and to make plans for SAC participation. To discuss the school district site survey and contents of the report. To plan for follow-up to the medical and legal access studies.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 20, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-2201 Filed 1-23-76;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1976

Addition to Procurement List

Notice of proposed addition to Procurement List 1976, November 25, 1975 (40 F.R. 54742) was published in the FEDERAL REGISTER on November 14, 1975 (40 F.R. 53068).

Pursuant to the above notice the following commodity is added to the Procurement List:

CLASS 5510

	Price (each)
Wedge, Wood (SH):	
5510-00-640-9237	$0.57

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-2161 Filed 1-23-76;8:45 am]

PROCUREMENT LIST 1976

Addition to Procurement List

Notice of proposed addition to Procurement List 1976, November 25, 1975 (40 F.R. 54742) was published in the FEDERAL REGISTER on November 21, 1975 (40 F.R. 54287).

Pursuant to the above notice the following service is added to the Procurement List:

INDUSTRIAL CLASS 7331

Mailing Service	Price
Consumer Product Safety Commission, Washington, D.C. (SH).	Price list available from CPSC.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-2162 Filed 1-23-76;8:45 am]

PROCUREMENT LIST 1976

Addition to Procurement List

Notice of proposed addition to Procurement List 1976, November 25, 1975 (40 FR 54742) was published in the FEDERAL REGISTER on October 3, 1975 (40 FR 45867).

Pursuant to the above notice the following commodity is added to the Procurement List:

CLASS 3990

	Price (each)
Pallet, Wood (SH):	
3990-00-366-6806	$3.71

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-2163 Filed 1-23-76;8:45 am]

PROCUREMENT LIST 1976

Proposed Deletion

Notice is hereby given pursuant to section 2(a)(2) of Pub. L. 92-28; 85 Stat. 79, of the proposed deletion of the following service from Procurement List 1976, November 25, 1975 (40 FR 54742).

INDUSTRIAL CLASS 7349

Janitorial/Custodial: Homestead Air Force Base, Florida, for following building only: Hospital (Building 990).

Comments and views regarding this proposed deletion may be filed with the Committee on on before February 25, 1976. Comunications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-2164 Filed 1-23-76;8:45 am]

PROCUREMENT LIST 1976

Proposed Addition

Notice is hereby given pursuant to section 2(a)(2) of Pub. L. 92-28; 85 Stat. 79, of the proposed addition of the following service to Procurement List 1976, November 25, 1975 (40 FR 54742).

STANDARD INDUSTRIAL CLASS 0782

Grounds Maintenance, Fort Lawton, Washington.

Comments and views regarding this proposed addition may be filed with the Committee on or before February 25, 1976. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street, North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled on or before July 26, 1976.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-2165 Filed 1-23-76;8:45 am]

DEFENSE MANPOWER COMMISSION

Notice of 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 February 6, 1976 at 9:00 a.m. in the New Executive Office Building, Room 2008, 726 Jackson Place, N.W., Washington, D.C. 20036. The purpose of the meeting will be to discuss Minority Group Representation in the Armed Forces with a distinquished panel of minority scholars.

The meeting wil be open to the public. Because of limited space, interested persons wishing to attend should telephone (202) 254-7803 prior to the meeting.

Dated: January 22, 1976.

PAUL KEENAN,
General, USA (Ret.), Acting Executive Director.

[FR Doc.76-2360 Filed 1-23-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

BALTIMORE GAS & ELECTRIC CO.

Postponement of Public Hearing and Comments on Synthetic Natural Gas Feedstock Allocation

On December 30, 1975, the Federal Energy Administration (FEA) issued a notice that written comments would be received and a public hearing would be

held on the petition of Baltimore Gas & Electric Company (BG&E) for the assignment of a supplier and base period use of naphtha for synthetic natural gas feedstock use (41 FR 1129, January 6, 1976). Written comments were to be submitted by January 28, 1976, and a public hearing was scheduled for January 29, 1976.

Since the issuance of the notice, it has become apparent to FEA that additional information must be received from BG&E before meaningful comments may be made by interested parties and before a public hearing is held. Therefore, the deadlines for submitting written comments and requests to make oral presentations and the date of the public hearing will be postponed to the dates set forth below. Additional data from BG&E regarding its petition will be available for public inspection and copying beginning January 30, 1976, at the FEA Freedom of Information Library, Room 3210, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Written comments on BG&E's petition will be considered if received by February 13, 1976, in the manner and at the addresses specified in the original notice. Requests to make oral presentation must be received by 4:30 p.m., e.s.t., February 10, 1976, in Executive Communications, FEA, Box FF, Room 3309, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461. Each person selected to be heard will be notified before 4:30 p.m., e.s.t., February 12, 1976, and must submit 100 copies of his statement to Allocation Regulations Development Office, FEA, Room 2214, 2000 M Street, NW., Washington, D.C. 20461 before 4:30 p.m., e.s.t., on February 13, 1976.

The public hearing will be held beginning at 9:30 a.m., e.s.t., on February 17, 1976, in the Auditorium, Room 2105, 2000 M Street, NW., Washington, D.C. Any interested persons may submit questions to be asked of any person making a statement at the hearing to box FF, Executive Communications, FEA, Room 3309, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, before 4:30 p.m., e.s.t., February 13, 1976.

Additional public comment on all

Additional public comment on all written and oral presentations received by February 17, 1976, will be permitted through March 1, 1976. These additional comments should be submitted in the manner set forth in the original notice. A list of persons who submitted written comments or who participated in the public hearing will be made available at the public hearing or may be obtained after February 17, 1976, from Mr. Finn Neilsen at the address given in the original notice.

All other information and requirements contained in the original notice, including procedures, submission of confidential information and public viewing of documents and the transcript of the public hearing, continue to apply.

MICHAEL F. BUTLER,
General Counsel.

JANUARY 22, 1976.

[FR Doc.76-2384 Filed 1-22-76;4:23 pm]

FEDERAL MARITIME COMMISSION

SEA-LAND SERVICE, INC.

Application for Exemption

Notice is hereby given that the following application for exemption has been filed with the Commission for approval pursuant to section 35 of the Shipping Act, 1916, as amended (80 Stat. 1358, 46 U.S.C. 833a).

Interested parties may inspect and obtain a copy of this application at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, Room 11413; or may inspect a copy of the application at the Field Offices, New York, New York; New Orleans, Louisiana; San Francisco, California; and San Juan, Puerto Rico. Comments with reference to the application, including a request for hearing if desired, may be submitted to the Secretary, Federal Maritime Commission, on or before February 17, 1976. A copy of any such statement shall also be forwarded to the party filing the application (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of application filed by

Eldered N. Bell, Jr., Attorney At Law, Director Regulatory Affairs, Sea-Land Service, Inc., P.O. Box 900, Edison, New Jersey 08817, in behalf of Sea-Land Service, Inc.

Applcation designated Exemption No. 21 by Sea-Land Service, Inc., has been made pursuant to section 35 of the Shipping Act, 1916, for exemption from the Intercoastal Shipping Act, 1933, and the Shipping Act, 1916, and regulations applicable thereunder, to file supplements to Contract No. 100003374SC1972 (Bunker Fuel Oil Allowance) to MSC-SC1972 (Sea-Land Service Seattle/Kodiak/Adak) with the Commission in lieu of the requirements made necessary by the repeal of section 6 of the Intercoastal Shipping Act, 1933. Applicant has been filing supplements with both the Interstate Commerce Commission and the Federal Maritime Commission as stipulated in a contract entered on April 28, 1974, with the Department of Defense of the United States Government.

Dated: January 20, 1976.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-2221 Filed 1-23-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP76-225]

BOSTON GAS CO. AND THE CONNECTICUT GAS CO.

Application

JANUARY 16, 1976.

Take notice that on January 6, 1976, Boston Gas Company (Boston Gas), 144 McBride Street, Boston, Massachusetts 02130, and The Connecticut Gas Company (Connecticut Gas), P.O. Box 2010, Hartford, Connecticut 06101, jointly Applicants, filed in Docket No. CP76-225 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas to effectuate the delivery of liquefied natural gas (LNG) from Distrigas of Massachusetts Corporation (DOMC) to Connecticut Gas by displacement, all as more fully set forth in the application on file with the Commission and open to public inspection. Applicants state that Connecticut Gas is authorized to receive certain quantities of LNG under the terms of the Commission order issued September 2, 1975, in Docket Nos. CP73-135 and CP74-227 granting a temporary certificate to DOMC and Distrigas Corporation for the sale of LNG to Connecticut Gas, such LNG to be made available to Connecticut Gas at DOMC's Everett, Massachusetts, facility. Prompt delivery of this LNG to Connecticut Gas is said to be essential to insure maintenance of adequate gas service during the current winter heating season. Boston Gas and Connecticut Gas are both said to rely on Algonquin Gas Transmission Corporation (Algonquin) for a substantial portion of their supply of pipeline-delivered natural gas.

In order to effectuate the delivery to Connecticut Gas of the LNG purchased from DOMC, Connecticut Gas, Boston Gas, and Algonquin have entered into a temporary exchange-transportation agreement dated October 29, 1975, whereby the LNG would be made available to Connecticut Gas. This agreement is said to provide for the exchange of equivalent quantities of gas between Boston Gas and Connecticut Gas utilizing the interstate transportation facilities of Algonquin, with deliveries to be accomplished by displacement. For the period commencing with the date authorization is received through April 30, 1976, Connecticut Gas has arranged for Boston Gas to receive from DOMC for Connecticut Gas' account up to approximately 250 billion Btu of vaporized LNG. Boston Gas, upon receipt of such vaporized LNG, would release equivalent quantities of pipeline gas to Algonquin which would then by displacement transport and deliver such gas to Connecticut Gas. In conformity with the terms of the agreement, Boston Gas would provide, and Algonquin would transport and deliver, these quantities of gas on a best efforts basis.

Applicants state that since Boston Gas would receive vaporized LNG from DOMC with a higher Btu content than the Btu content of the Algonquin pipeline-delivered natural gas it would otherwise be receiving, Boston Gas under its presently effective tariff would suffer a revenue loss when selling the vaporized LNG to its customers. Accordingly, Connecticut Gas is said to have agreed as part of this exchange agreement to reimburse Boston Gas at the rate of 23.5 cents per million Btu for the loss of revenues occasioned by Boston Gas taking this quantity of LNG from DOMC in lieu of pipeline-delivered natural gas from Algonquin.

Applicants state that they do not believe Applicants' activities in connection with the instant transaction come within the purview of the Natural Gas Act, but that Applicants have had no recourse but to file the instant application. Applicants request that any certificate issued to them be subject to the conditions that:

1. The certificate shall be limited to authorization of the exchanges proposed herein;

2. The Commission shall waive any accounting and other requirements generally applicable to a "natural-gas company" for the term of the certificate and with respect to these exchanges, except for the quantities exchanged and the payments made to Boston Gas with respect to such quantities to make up for the loss of revenues;

3. The Commission shall indicate that all of the facilities and operations and related activities of Applicants are and will continue to be exempt from Commission regulations, and the non-jurisdictional status of the existing sales, operations and facilities of Applicants will not be rendered jurisdictional or otherwise affected by Commission regulation by reason of any certificate issued for the proposed exchanges; and,

4. The Commission shall indicate that upon the requested abandonment becoming effective, Applicants will not be considered as natural gas companies within the meaning of the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 26, 1976, 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 Applicants to appear or be represented at the hearing.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2179 Filed 1-23-76;8:45 am]

[Docket No. CP76-232]

BOSTON GAS CO. AND SOUTH JERSEY GAS CO.

Application

JANUARY 16, 1976.

Take notice that on January 12, 1976, Boston Gas Company (Boston Gas), 144 McBride Street, Boston, Massachusetts 02130, and South Jersey Gas Company (South Jersey), One South Jersey Plaza, Folsom, New Jersey 08037, jointly Applicants, filed an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas to effectuate the delivery of liquefied natural gas (LNG) from Distrigas of Massachusetts Corporation (DOMC) to South Jersey by displacement, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants state that South Jersey is authorized to receive certain quantities of LNG under the terms of the Commission order issued September 2, 1975, in Docket Nos. CP73-135 and CP74-227 granting a temporary certificate to DOMC and Distrigas Corporation for the sale of LNG to South Jersey, such LNG to be made available to South Jersey at DOMC's Everett, Massachusetts, facility. Prompt delivery of this LNG is said to be essential to South Jersey to insure maintenance of adequate gas service to the consuming public in South Jersey's service area during the current winter heating season.

In order to effectuate the delivery to South Jersey of the LNG purchased from DOMC, South Jersey, Boston Gas, Algonquin, Texas Eastern Transmission Corporation (Texas Eastern) and Transcontinental Gas Pipe Line Corporation (Transco) have entered into a temporary exchange-transportation agreement dated December 1, 1975, whereby this LNG would be made available to South Jersey. This agreement is said to provide for an exchange of equivalent quantities of gas between Boston Gas and South Jersey utilizing the interstate transportation facilities of Algonquin, Texas Eastern and Transco, with delivery to be accomplished by displacement.

For the period commencing with the date authorization is received through April 15, 1976, South Jersey is said to have arranged for Boston Gas to receive from DOMC for South Jersey's account up to approximately 312 billion Btu of vaporized LNG. Boston Gas, upon receipt of such vaporized LNG would release equivalent quantities of pipeline gas to Algonquin, Algonquin would in turn, transport and deliver such gas by displacement to Texas Eastern, and Texas Eastern would in turn deliver such gas to Transco for final delivery to South Jersey. It is stated that by the terms of the agreement, Boston Gas would provide, and Algonquin, Texas Eastern and Transco would transport and deliver such quantities of gas on a best-efforts basis.

It is stated that since Boston Gas would receive vaporized LNG from DOMC with a higher Btu content than the Btu content of Algonquin pipeline-delivered gas it would receive otherwise, Boston Gas under its presently effective tariff would suffer a revenue loss when selling the vaporized LNG to its customers. Accordingly, South Jersey has agreed as a part of this exchange agreement to reimburse Boston Gas at a rate of 23.5 cents per million Btu for the loss of revenues occasioned by Boston Gas taking this quantity of LNG from DOMC in lieu of pipeline-delivered natural gas from Algonquin.

Applicants state that they do not believe Applicants' activities in connection with the instant transaction come within the purview of the Natural Gas Act, but that Applicants have had no recourse but to file the instant application. Applicants request that any certificate issued to them be subject to the conditions that,

1. The certificate shall be limited to authorization of the exchanges proposed herein;

2. The Commission shall waive any accounting and other requirements generally applicable to a "natural-gas company" for the term of the certificate and with respect to these exchanges, except for the quantities exchanged and the payments made to Boston Gas with respect to such quantities to make up for the loss of revenues;

3. The Commission shall indicate that all of the facilities and operations and related activities of Applicants are and will continue to be exempt from Commission regulations, and the non-jurisdictional status of the existing sales, operations and facilities of Applicants will not be rendered jurisdictional or otherwise affected by Commission regulation by reason of any certificate issued for the proposed exchanges; and,

4. The Commission shall indicate that upon the requested abandonment becoming effective, Applicants will not be considered as natural gas companies within the meaning of the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 26, 1976, 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 Applicants to appear or be represented at the hearing.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2180 Filed 1-23-76;8:45 am]

[Docket No. ER76-395]

CONNECTICUT LIGHT AND POWER CO.

Amendment to Exchange Agreement

JANUARY 16, 1976.

Take notice that on December 29, 1975, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed Amendment to Exchange Agreement with respect to Northfield Mountain Project and Mystic Unit No. 5 (Amendment), dated November 19, 1975 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) (the "NU Companies"), and (2) Boston Edison Company (Edison).

CL&P states that the Amendment allows the NU companies to receive their capacity and energy entitlement, pursuant to the terms of the Exchange Agreement, from either of Edison's Mystic Unit Nos. 4, 5 or 6 (the Units) as determined by Edison, rather than solely from Mystic Unit No. 5.

CL&P requests that the Commission, pursuant to Section 35.11 of its regulations, waive the thirty-day notice period and permit the Amendment filed to become effective on November 19, 1975.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut, HELCO, Hartford, Connecticut, WMECO, West Springfield, Massachusetts and Edison, Boston, Massachusetts.

CL&P also states that no facilities are to be installed or modified in order to supply the services to be furnished under the Amendment.

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 Sections 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 January 29, 1976. 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.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2190 Filed 1-23-76;8:45 am]

[Rate Schedule Nos. 257, et al.]

CONTINENTAL OIL CO., ET AL.

Rate Change Filings Pursuant to Commission's Opinion No. 699-H

JANUARY 19, 1976.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increased rates to the applicable new gas national ceiling based on the interpretation of vintaging concepts set forth by the Commission in its 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 January 27, 1976, 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.

MARY KIDD PEAK,
Acting Secretary.

Filing date	Producer	Rate Schedule No.	Buyer	Area
Dec. 29, 1975	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	257	Southern Union Gathering Co.	Rocky Mountain.
Jan. 9, 1976	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001.	152	El Paso Natural Gas Co.	Permian Basin.

[FR Doc.76-2195 Filed 1-23-76;8:45 am]

[Project No. 2683]

CROWN ZELLERBACH CORP.

Application for Major License for Constructed Project

JANUARY 16, 1976.

Public notice is hereby given that an application for a major license was filed on July 22, 1968, and supplemented on November 2, 1968, February 14, 1969, and April 13, 1973, under the Federal Power Act (16 U.S.C. §§ 791a-825r) by Crown Zellerbach Corporation (Applicant) (Correspodence to: Mr. Thomas M. Meyersieck, Manager of Real Estate, Crown Zellerbach Corporation, One Bush Street, San Francisco, California 94119), for its constructed Elwha Project No. 2683, located in Clallam County, Washington, near the town of Port Angeles, Washington, on the Elwha River.

The Elwha Project has a total installed capacity of 10,800 kW, and consists of: (1) a 450-foot-long, 100-foot-high concrete dam with nine 18-foot, 9-inch tainter gates (dam crest at elevation 190 feet, top of tainter gates tainter at elevation 188 feet); (2) a 500-acre reservoir at normal pool elevation 188 feet, with 3,310 acre-feet of available storage; (3) two 9-foot, 6-inch-diameter, one 15-foot-diameter, and one two-foot, 6-inch-diameter water conduits; (4) a reinforced concrete powerhouse containing two 2,400 kW and three 300 kW hydroelectric-generating units, and a substation containing three 6.6/69 kV transformers; (5) a 7.0-mile-long, 69 kV transmission line to Port Angeles Mill; (6) a 9.75-mile-long, 69 kV transmission line to Port Angeles Mill and the Bonneville Power Administration substation; and (7) appurtenant facilities.

The power produced by this project is used entirely in Applicant's pulp and paper manufacturing plant located on Ediz Hook, Port Angeles, Washington.

With regard to recreational development, Applicant has leased an area at the southern end of the reservoir for use as a commercial recreation area, consisting of a service station, seven rental cabins, one boat-launching ramp, ten campsites, nine trailer hookups, two boat docks, and picnic areas. Clallam County has installed a public boat-launching ramp with parking for 25 cars and trailers. Applicant plans to install a small campsite area accessible only by boat, and to construct hiking trails where the terrain permits.

In its application, Applicant alleges that the Elwha River is non-navigable, and that the project may be subject to Commission jurisdiction only pursuant to the principles set forth in *FPC* v. *Union Electric Co.*, 381 U.S. 90 (1965). According to Applicant, the application is conditioned upon the Commission making such jurisdictional findings, if justified.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 22, 1976, 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 C.F.R. § 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 Commissions Rules. The application is on file with the Commission and is available for public inspection.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2181 Filed 1-23-76;8:45 am]

[Docket Nos. CI76-315 and CI76-316]

DORE CORP. AND HENRY CLAY SULLIVAN, ET AL.

Petitions for Declaratory Order and Motions for Protective Orders and Consolidation of Proceedings

JANUARY 16, 1976.

Take notice that on December 30, 1975, Dore Corporation (Dore), and Henry Clay Sullivan, *et al.* (Sullivan) [1] care of Thomas and Burdett, P.O. Box 1917, Hereford, Texas 79045, filed in Docket Nos. CI76-315 and CI76-316, respectively, pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure petitions for declaratory orders resolving certain issues similar to those raised in the proceeding styled *El Paso Natural Gas Company, et al.*, in Docket No. CP75-209, *et al.*, and addressed in Commission Opinion Nos. 737, 737-A, and 737-B, issued July 11, September 3, and December 18, 1975, respectively.[2] Take further notice that concurrently Dore and Sullivan filed motions for protective orders, such as that granted by the order accompanying Opinion No. 737-A, to protect their rights in the event the Commission does not issue a final order on the merits prior to the time the mineral estates which are the subject of the petitions herein revert to Petitioners and during any proceedings on the petitions subsequent to the Commission's final orders. The requested relief is more fully set forth in the petitions and motions of Petitioners which are on file with the Commission and open to public inspection.

Dore states that it holds the reversionary interest in two oil and gas leases covering production from acreage in Moore County, Texas. Dore states that Lease No. 1 has one gas well currently producing approximately 30,000 Mcf of gas per month, to which production Natural Gas Pipeline Company of America (Natural) is entitled as lessee, and Lease No. 2 has two gas wells currently producing approximately 1,750 and 7,850 Mcf of gas per month, respectively, to which production Diamond Shamrock Corporation (Diamond) is entitled as lessee. Dore claims that both Natural and Diamond are natural gas companies subject to the jurisdiction of the Commission. Dore states that both leases will expire by their own terms on March 18, 1976, at which time Dore will take over the rights of Natural and Diamond to the gas produced from said leases. Dore states that Natural has offered to buy the gas production from Dore of Dore Lease No. 1 at the national rate set forth in Section 2.56a (18 CFR 2.56a), but Dore has begun negotiations to sell the gas from both leases at higher rates to prospective intrastate purchasers.

Sullivan states that it holds the reversionary interest in an oil and gas lease covering production from acreage in Moore County, Texas. Sullivan states that the lease has one gas well currently producing approximately 27,000 Mcf of gas per month to which production Kerr-McGee Corporation (Kerr-McGee) is entitled as sublessee from Gulf Oil Corporation (Gulf) which retains an overriding royalty interest of 5/64 of the gas produced from said lease. Sullivan states that Kerr-McGee sells its gas from said lease to Phillips Petroleum Corporation (Phillips), a natural gas company subject to the Commission's jurisdiction. Sullivan states that the lease will expire by its own terms on March 23, 1976, at which time Sullivan will take over the rights of Gulf and Kerr-McGee to the gas produced from said lease. Sullivan states that it has begun negotiations for the sale of gas from the subject lease to prospective intrastate purchasers.

Petitioners state that Natural has adopted and Gulf, Kerr-McGee, and Phillips are expected to adopt the position that upon termination of the respective leases on March 18, 1976, and March 23, 1976, Petitioners will be subject to the jurisdiction of the Commission and will be required to sell the gas from the leases in interstate commerce absent abandonment permission and approval of the Commission pursuant to Section 7(b) of the Natural Gas Act. To the contrary Petitioners claim that they are not subject to the jurisdiction of the Commission and, therefore, that they are not required to sell their natural gas in interstate commerce following the expiration of the leases on March 18, and March 23, 1976. Petitioners request the Commission to resolve this conflict by issuing a declaratory order addressed to the following issues:

1. Accepting the fact that on March 18 and 23, 1976, Petitioners will not have sold any natural gas in interstate commerce from the subject leases at which time the full mineral estates revert to Petitioners and accepting the fact that Petitioners are not natural gas companies and do not choose to sell their gas in interstate commerce, does the Commission have authority or jurisdiction to compel Petitioners under the Natural Gas Act to sell their gas in interstate commerce?

2. Accepting the facts set forth in Question No. 1, is it necessary for Petitioners to seek abandonment authorization from the Commission under Section 7(b) of the Natural Gas Act before Petitioners can sell their gas in intrastate commerce, when in the terms of the statute, Petitioners are clearly not natural gas companies?

Petitioners further request that a hearing be held in these proceedings so that they might present oral arguments in support of their petitions.

In order to protect their rights pending ultimate determination of the matters in the instant petitions, Petitioners request that the Commission provide the following protective relief in the even the Commission does not issue final orders on the merits prior to the time the mineral estates revert to Petitioners and during any proceedings on the petitions subsequent to the Commission's final orders:

A. If it is determined in this proceeding or in the judicial review of Docket No. CP75-209 and/or Docket No. CI75-594 that gas may be sold to intrastate purchasers by reversioner mineral interest owners without abandonment authority, then any deliveries of gas by the mineral interest owners in this case, Petitioners, pending the declaratory order in this case and any judicial review hereof or final judicial determination of this issue in the appeal from FPC proceedings CP75-209 or CI75-594, shall not have constituted a dedication of such mineral interest owners' gas to the interstate market and acceptance of monies paid for gas delivered pending such order or final judicial review shall not prejudice the rights of the mineral interest owners in the premises;

B. Any purchaser of such gas for delivery and sale in interstate commerce shall be required to pay Petitioners in gas for the deliveries made to such purchaser pending the order herein or any final judicial review of the issues herein;

C. Such pay-back volumes of gas shall not be considered to be jurisdictional gas and acceptance thereof by Petitioners shall not subject them to Commission jurisdiction;

D. Such repayment of gas by such purchaser selling such gas in interstate commerce is to be redelivered in an equitable manner over a reasonable period of time subject to further Commission order as to scheduling, but not as to entitlement, if Petitioners and the purchasers of such gas cannot agree as to such scheduling and on the condition that Petitioners return to such purchasers of such gas the monies paid for deliveries made pending final order herein and judicial review of the issues raised in this proceeding with such repayment to be made within thirty days following the end of each calendar month during which pay-back volumes are delivered back to Petitioners.

On the basis of the similarity of facts and legal questions presented in Docket Nos. CI76-315 and CI76-316 the proceedings in these two dockets are consolidated for hearing.

Any person desiring to be heard or to make any protest with reference to said petitions and/or notices should on or before February 9, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a

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[1] The petition of Henry Clay Sullivan is filed on behalf of himself, James Wells Sullivan, Patricia Sullivan Woodward, Nancy Sullivan Dickens, Robbie Wells Smith, Hattie D. Wells, and H. Deskin Wells, all of whom have an interest in the reserves that are the subject of the petition.

[2] Appeal is pending of the Commission's decision in Opinion Nos. 737 and 737-A *sub nom. Southland Royalty Co.* v. *FPC*, No. 75-2851 (5th Cir.).

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.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2182 Filed 1-23-76;8:45 am]

[Docket No. ER76-454]

DUKE POWER CO.

Contract Supplement Filing

JANUARY 16, 1976.

Take notice that on January 8, 1976, Duke Power Company tendered for filing a supplement to the Company's Electric Power Contract with Union Electric Membership Corporation. The proposed effective date of the supplement is December 20, 1975, and waiver of notice is accordingly requested.

The Company states that the supplement reflects the SEPA re-allocation to Delivery Points No. 1 and 5, and that a copy of the filing has been mailed to the Manager of the Union Electric Membership Corporation.

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 Sections 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 February 5, 1976. 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.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2183 Filed 1-23-76;8:45 am]

[Docket Nos. RP71-15 and RP75-28]

EAST TENNESSEE NATURAL GAS CO.

Alternate Tariff Sheet

JANUARY 16, 1976.

Take notice that on January 8, 1976, East Tennessee Natural Gas Company (East Tennessee) tendered for filing an alternate Substitute Thirteenth Revised Sheet No. 4.

East Tennessee states that the sole purpose of the tendered filing is to permit East Tennessee to collect the rate change reflected on Substitute Thirteenth Revised Sheet No. 4, as filed December 18, 1975, to become effective January 1, 1976, to the extent it does not reflect the flowthrough by East Tennessee of the recovery by Tennessee of demand charge credits previously given its customers in prior periods, as set forth in the alternate request in East Tennessee's Application for Rehearing filed January 8, 1976, of the Commission's order of December 31, 1975, in this proceeding. East Tennessee states that with the exception of the exclusion of the disputed demand charge credits, this tariff sheet is identical in all other respects to that filed on December 18, 1975, in the above-captioned proceeding.

East Tennessee states 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 Sections 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 January 29, 1976. 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.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2184 Filed 1-23-76;8:45 am]

[Docket No. ER76-206]

IOWA ELECTRIC LIGHT AND POWER CO.

Filing of Service Agreements

JANUARY 16, 1976.

Take notice that on December 22, 1975, the Iowa Electric Light and Power Company (Company), tendered for filing copies of Electric Service Agreements between the Company and the City of Marathon, the City of State Center, the City of Tipton, and the City of Vinton, all in the State of Iowa.

The Company states that it had inadvertently failed to file these agreements with the Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, 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 January 26, 1976. 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.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2185 Filed 1-23-76;8:45 am]

[Docket No. ER76-292]

IOWA PUBLIC SERVICE CO.

Fuel Clause Filing

JANUARY 16, 1976.

Take notice that on January 6, 1976, Iowa Public Service Company (Company) tendered for filing additional material to supplement its filing tendered on November 20, 1975, in this docket. According to the Company, it is not seeking an overall increase to its wholesale for resale customer, but merely amending its fuel adjustment clause to conform to Order No. 517.

The Company proposes to make the change effective on meter reading cycles after January 1, 1976.

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 January 30, 1976. 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.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2186 Filed 1-23-76;8:45 am]

[Docket No. ER76-449]

THE KANSAS POWER AND LIGHT CO.

Proposed Changes in Rates and Charges

JANUARY 16, 1976.

Take notice that on January 7, 1976, The Kansas Power and Light Company (Kansas) tendered for filing a newly executed renewal contract dated December 18, 1975, with the City of Eudora, Kansas for wholesale service to that community. Kansas states that this is a renewal of a similar contract dated August 30, 1965, and designated KPL Rate Schedule FPC No. 86. The proposed effective date is December 1, 1975 and Kansas requests that the Commission waive the notice requirements as allowed in § 35.11 of its regulations. According to Kansas, the net billing for the twelve months succeeding the proposed change in agreements was $176,283.21. In addition, Kansas states that copies of the contract have been mailed to the City of Eudora and the State Corporation Commission of Kansas.

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 Sections 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 February 3, 1976. 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 the application are on file with the Commission and are available for public inspection.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2191 Filed 1-23-76;8:45 am]

[Docket No. ER76-450]

THE KANSAS POWER AND LIGHT CO.

Contract Renewal

JANUARY 16, 1976.

Take notice that on January 7, 1976, The Kansas Power and Light Company tendered for filing a newly executed renewal contract dated December 18, 1975 with the City of De Soto, Kansas for wholesale electric service to that community (said contract is designated KPL Schedule FPC No. 88). The new contract is proposed to be effective on December 1, 1975 and waiver of notice is accordingly requested.

The Company states that copies of the contract have been mailed to the City Clerk of De Soto, Kansas and the Kansas State Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, 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 February 5, 1976. 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.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2192 Filed 1-23-76;8:45 am]

[Docket No. RP73-14 (PGA 76-2)]

MICHIGAN WISCONSIN PIPE LINE CO.

Proposed Changes in FPC Gas Tariff

JANUARY 16, 1976.

Take notice that on December 17, 1975, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing Twelfth Revised Sheet No. 27F to its FPC Gas Tariff, Second Revised Volume No. 1 to become effective February 1, 1976.

Michigan Wisconsin states that the above revised tariff sheet reflects a reduction in rate of .27¢ per Mcf as a result of certain pipeline cost changes. The resultant effect on Michigan Wisconsin is equal to a decrease in costs of $2,123,006.

Michigan Wisconsin also encloses Alternate Twelfth Revised Sheet No. 27F, effective February 1, 1976, to be accepted for filing in place of Twelfth Revised Sheet No. 27F should the Commission not approve Michigan Wisconsin's filing to become effective January 1, 1976 in Docket No. RP75-96.

Michigan Wisconsin further states that copies of the filing have been mailed to its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests must be filed on or before January 26, 1976. 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.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2187 Filed 1-23-76;8:45 am]

[Docket No. ER76-242]

NORTHERN STATES POWER CO.

Order Permitting Fuel Adjustment Clause To Become Effective and Granting Intervention

JANUARY 19, 1976.

On December 22, 1975, Northern States Power Company (NSP) completed the filing it originally tendered on November 10, 1975, in the instant proceeding. The filing consists of a revised fuel adjustment clause applicable to sixteen of NSP's full requirements customers and fourteen of NSP's partial requirements customers.[1] The purpose of NSP's tendered filing is to conform NSP's rate schedule with Section 35.14 of the Commission's Regulations as promulgated in Order No. 517. NSP requested a January 1, 1976, effective date for the proposed fuel clause.

Based on a test period ending December 31, 1975, NSP's proposed fuel clause provides for the addition or subtraction in the net monthly bill of an amount per kwh which (1) for full requirements customers is equal to the amount by which the cost of fuel is more or less than 5.7 mills/kwh multiplied by a wholesale loss factor of .976; and, (2) for partial requirements customers is equal to the amount by which the cost of fuel is more or less than 3.49/kwh multiplied by a .976 wholesale loss factor. For the year ending December 31, 1976, NSP estimates the proposed fuel clause will operate to decrease revenues from full requirements customers by $207,148 and from partial requirements customers by $35,282.

Notice of the original tender of filing was issued on November 26, 1975, with protests, comments or petitions to intervene due on or before December 4, 1975. On December 2, 1975, a Petition to Intervene, Request for One Day Suspension, and for Consolidation with Docket No. E-9148 was filed by fourteen Municipal Customers[2] (Municipals) of NSP. The Municipals state that a determination of whether NSP's tendered filing complies with Order No. 517 "is not discernible from a mere reading of the clause but is dependent upon the actual computations under the new Commission regulations which may involve substantial judgment decisions." The Municipals request, therefore, that we suspend the proposed fuel clause for one day in order to protect their interests. They also request that we consolidate this proceeding with that in Docket No. E-9148, NSP's pending rate increase proceeding. NSP filed an Answer to the Municipals' Petition on December 10, 1975, in which they objected to a one day suspension, opposed consolidation, but did not object to the intervention of the Municipals.

Our review of the pleadings filed in this proceeding as well as the material filed by NSP in support of its proposed fuel clauses has led us to conclude that NSP's proposed fuel clauses are in conformance with Section 35.14 of our Regulations, as promulgated in Order No. 517, and that the base fuel rate is computed in a manner consistent with the test year conditions before us in Docket No. E-9148. We believe that any revenue effect on NSP's customers results from the mechanical operation of this proposed clause, not from "substantial judgment decisions." Accordingly, we find that there is no need for further investigation or for hearing in this proceeding, and a fortiori, that there is no need for consolidation with Docket No. E-9148.

The Commission finds. (1) Good cause exists to accept NSP's proposed fuel adjustment clauses for filing and to permit them to become effective without suspension.

(2) Good cause exists to grant the petition to intervene of the Municipals.

The Commission orders. (A) The fuel adjustment clause tendered by NSP is hereby accepted for filing and permitted to become effective as of January 1, 1976.

(B) Intervention is hereby granted to the named Municipals, subject to the

[1] See Appendix A.

[2] City of Anoka, City of Arlington, Village of Brownton, Village of Buffalo, City of Chaska, City of Granite Falls, Village of Kasota, Village of Kasson, City of Lake City, Village of North Saint Paul, City of Saint Peter, City of Shakopee, City of Waseca, and City of Winthrop; all of which are located in Minnesota.

Rules and Regulations of the Commission; *Provided, however,* That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in their petitions to intervene and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that the intervenors might be aggrieved because of any order or orders issued by the Commission in these proceedings.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY KIDD PEAK,
Acting Secretary.

APPENDIX A—NORTHERN STATES POWER COMPANY (MINNESOTA)

FUEL CLAUSES APPLICABLE TO FULL REQUIREMENTS CUSTOMERS

Designations	*Other party*
Supp. No. 4 to rate schedule FPC No. 338.	City of Anoka.
Supp. No. 4 to rate schedule FPC No. 378.	City of Arlington.
Supp. No. 4 to rate schedule FPC No. 324.	Village of Brownton.
Supp. No. 4 to rate schedule FPC No. 369.	Village of Buffalo.
Supp. No. 5 to rate schedule FPC No. 323.	City of Chaska.
Supp. No. 5 to rate schedule FPC No. 355.	City of Granite Falls.
Supp. No. 4 to rate schedule FPC No. 335.	Home Light & Power Co.
Supp. No. 5 to rate schedule FPC No. 318.	Village of Kasota.
Supp. No. 4 to rate schedule FPC No. 379.	Village of Kasson.
Supp. No. 4 to rate schedule FPC No. 361.	City of Lake City.
Supp. No. 4 to rate schedule FPC No. 371.	Village of North St. Paul.
Supp. No. 4 to rate schedule FPC No. 325.	City of St. Peter.
Supp. No. 4 to rate schedule FPC No. 368.	City of Shakopee.
Supp. No. 4 to rate schedule FPC No. 366.	Town of Valley Springs.
Supp. No. 4 to rate schedule FPC No. 380.	Town of Waseca.
Supp. No. 4 to rate schedule FPC No. 364.	City of Winthrop.

FUEL CLAUSES APPLICABLE TO PARTIAL REQUIREMENTS CUSTOMERS

Supp. No. 3 to rate schedule FPC No. 278 (supersedes supp. No. 1).	City of Delano.
Supp. No. 4 to rate schedule FPC No. 300 (supersedes supp. No. 3).	City of Fairfax.
Supp. No. 5 to rate schedule FPC No. 328 (supersedes supp. No. 3.	City of Glencoe.
Supp. No. 4 to rate schedule FPC No. 316 (supersedes supp. No. 2).	City of Janesville.
Supp. No. 4 to rate schedule FPC No. 275 (supersedes supp. No. 2).	City of Kenyon.
Supp. No. 4 to rate schedule FPC No. 166 (supersedes supp. No. 2).	City of Lake Crystal.
Supp. No. 3 to rate schedule FPC No. 311 (supersedes supp. No. 1).	City of LeSuer.
Supp. No. 5 to rate schedule FPC No. 281 (supersedes supp. No. 3).	City of Madelia.
Supp. No. 6 to rate schedule FPC No. 165 (supersedes supp. No. 5).	City of Marshall.
Supp. No. 4 to rate schedule FPC No. 317 (supersedes supp. No. 3).	City of Melrose.
Supp. No. 4 to rate schedule FPC No. 341 (supersedes supp. No. 2).	City of New Ulm.
Supp. No. 7 to rate schedule FPC No. 283 (supersedes supp. No. 6).	City of Redwood Falls.
Supp. No. 3 to rate schedule FPC No. 277 (supersedes supp. No. 2).	City of Sioux Falls.
Supp. No. 8 to rate schedule FPC No. 308 (supersedes supp. No. 6).	City of Sleepy Eye.

[FR Doc.76-2177 Filed 1-23-76;8:45 am]

[Docket No. E-9212]

PACIFIC POWER AND LIGHT CO.

Order Granting Late Intervention

JANUARY 16, 1976.

On November 17, 1975, the Commission issued an order setting out the procedural history of this proceeding and terminating Docket Nos. E-9173 and E-9212 subject to the condition that, within fifteen days of the issuance of the order, Pacific Power and Light Company (PP&L) file service agreements entered into pursuant to the terms of its Tariff as filed in Docket No. E-9212. Pacific complied with this condition on November 28, 1975, and notice of this compliance was issued on December 8, 1975, with comments due on or before December 22, 1975.

On December 22, 1975, the Pacific Gas and Electric Company (PG&E) filed a petition to intervene in Docket No. E-9212 in which it did not request a hearing of this matter but rather sought to be allowed "the opportunity to participate in any hearings which may be scheduled" in this proceeding.

We note that by the compliance with the terms of the order is ued on November 17, 1975, the proceedings of Docket No. E-9212 were terminated, and that no further hearings will be scheduled in this docket. PG&E's petition to intervene, however, will be granted.

The Commission finds. Good cause exists to grant PG&E's petition to intervene in these proceedings.

The Commission orders. (A) Pacific Gas and Electric Company is hereby permitted to intervene in these proceedings 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 Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2188 Filed 1-23-76;8:45 am]

[Project No. 943]

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY, WASHINGTON

Application for Amendment of Major License for Constructed Project

JANUARY 16, 1976.

Public notice is hereby given that an application was filed on December 5, 1975, under the Federal Power Act, 16 U.S.C. §§ 791a et. seq., by Public Utility District No. 1 of Chelan County, Washington (Correspondence to: Mr. Howard C. Elmore, Manager, Public Utility District No. 1 of Chelan County, Washington, P.O. Box 1231, Wenatchee, Washington 98801; Harvey F. Davis, Esq., Davis, Arneil, Dorsey & Kight, 605 Doneen Building, Wenatchee, Washington 98801; and John C: Mason, Esq., Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, D.C. 20036) for amendment of the major license for the Rock Island Project No. 943, located on the Columbia River in Chelan and Douglas Counties, Washington, near the cities and towns of Chelan, Ephrata, Waterville, and Wenatchee.

Applicant requests that the Commission amend Article 55 of the Project No. 943 license, added to the license by Commission order issued March 29, 1974. Article 55 required Applicant to file for Commission approval an Exhibit R (recreational use plan) to include outdoor recreation facilities alternative to, if not in replacement of, the Town of Rock Island's nine-hole golf course. The golf course will be inundated upon raising the Rock Island reservoir, as authorized by the Commission's March 29, 1974, order.

Applicant proposes to proceed with replacement of the Rock Island golf course rather than to provide alternative recreation facilities, and therefore requests that Article 55 of its license be amended to authorize Applicant to acquire the additional lands necessary to replace the golf course. According to the application, lands to be acquired are contiguous to the existing golf course and are described as: Lots 23, 26, 27, 37, 38, 39, 41, and portions of lots 22 and 28 of the East Wenatchee Land Company's plat, and a portion of Douglas County Road No. 1029 (known as Saunders Road), all located in Section 30, Township 22 North, Range 22 East, Willamette Meridian, Douglas County, Washington.

Any person desiring to be heard or to make protest with reference to said application should on or before March 4, 1976, file with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the re-

quirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1975). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act, 16 U.S.C. 825g and 825h, and the Commission's Rules of Practice and Procedure, specifically § 1.32(b), 18 CFR § 1.32(b) (1975), as amended by Order No. 518, a hearing before the Commission may be held on this application without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. Applicant has requested that the shortened procedure of § 1.32 (b) be used. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing before the Commission.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2189 Filed 1-23-76;8:45 am]

[Docket No. ID-1773]

RUFUS C. BARKLEY, JR.

Order To Show Cause

JANUARY 19, 1976.

On October 17, 1975, Rufus C. Barkley, Jr. (Applicant) Chairman of the Board, The Cameron and Barkley Company, Charleston, South Carolina, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director,[1] South Carolina Electric and Gas Company (South Carolina Electric), Public Utility.
Chairman of the Board, The Cameron and Barkley Company (Cameron and Barkley), Electrical & Mechanical Equipment.

South Carolina Electric is engaged in the generation, transmission and distribution of electric energy and the transmission and distribution of natural gas in the central, southern and southwestern portion of South Carolina. The company also provides public transit services in Charleston and Columbia, South Carolina.

[1] Elected to this position on December 16, 1970.

Cameron and Barkley is an industrial supply house handling mill supply and electrical equipment. For the period August 1, 1974, through July 31, 1975, South Carolina Electric issued 83 checks in the amount of $211,783 to Cameron and Barkley for the purchase of mechanical electrical equipment.

Persons are prohibited by Section 305(b) of the Federal Power Act from holding interlocking directorships on the boards of both a public utility and a supplier of electrical equipment unless the holding of such positions is not adverse to public or private interests. Historically, the Commission has been reluctant to sanction interlocking directorates between public utilities and large suppliers of electrical equipment.

Staff analysis indicates that the fairly substantial volume of sales made by Cameron and Barkley to South Carolina Electric make approval of Mr. Barkley's application inadvisable. The Commission is inclined to agree that, absent a contrary showing, authorization of the proposed interlocking directorships would be adverse to public or private interests.

In view of the foregoing, it is necessary and appropriate for the purpose of administering the Federal Power Act that the Applicant show cause, if there be any, why the Commission should not reject the application for authorization to hold the interlocking positions referred to above.

The Commission orders. Rufus C. Barkley, Jr., ID-1773, shall show cause, if any there be, on or before February 23, 1976, why the Commission should not find that the authority to hold the following interlocking positions:

Director, South Carolina Electric Gas Company (South Carolina Electric), Public Utility.
Chairman of the Board, The Cameron and Barkley Company (Cameron and Barkley), Electric & Mechanical Equipment.

would be adverse to public and private interests and should be terminated.

By the Commission.

[SEAL] MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2178 Filed 1-23-76;8:45 am]

[Docket No. E-9200]

UPPER PENINSULA POWER CO.

Filing of Rate Schedule

JANUARY 16, 1976.

Take notice that on January 8, 1976, Upper Peninsula Power Company (Uppco) tendered for filing a proposed rate schedule and fuel adjustment clause in its Rate WR-1, Wholesale Service to Electric Utilities. The filing was made in compliance with Commission order in this docket on December 9, 1975, approving a proposed settlement agreement.

Copies of Uppco's filing are on file with the Federal Power Commission and are available for public inspections. Any person desiring to file comments should file such comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before January 29, 1976.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2171 Filed 1-23-76;8:45 am]

[Docket No. ER76-452]

VIRGINIA ELECTRIC AND POWER CO.

Contract Supplement

JANUARY 16, 1976.

Take notice that on January 8, 1976, Virginia Electric and Power Company (Viriginia) tendered for filing a Contract Supplement dated November 13, 1975, to the Agreement designated as Virginia's Rate Schedule FPC No. 85-43 between Virginia and Southside Electric Cooperative.

Said supplement requests Commission authorization for the relocation of metering facilities from 12.5 kV to 34.5 kV at Center Star Delivery Point, located at the intersection of Route 645 and Route 611 near Dinwiddie, Dinwiddie County, Virginia.

Virginia requests an effective date as that of the date of connection of facilities which is November 15, 1975.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 3, 1976, file with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2172 Filed 1-23-76;8:45 am]

[Docket No. ER76-373]

WASHINGTON WATER POWER CO.

Supplemental Data

JANUARY 16, 1976.

Take notice that on December 29, 1975, The Washington Water Power Company of Spokane, Washington (Water Power), tendered for filing supplemental data to its Second Revision to Original Sheets 1, 2, 3, and 4 of Firm Wholesale Service Rate Schedule 61, filed on December 19, 1975, with a requested effective date of February 17, 1976.

Water Power states that copies of this additional information are being mailed to each of its five firm wholesale custom-

ers and the affected State regulatory agencies.

Any person desiring to be heard regarding said filing should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 27, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2193 Filed 1-23-76;8:45 am]

[Docket No. ER76-384]

WEST TEXAS UTILITIES CO.

Filing of Statement Setting Forth Company's Belief That Order No. 517 Is Inapplicable to Certain of the Company's Rate Schedules

JANUARY 16, 1976.

Take notice that on December 17, 1975, West Texas Utilities Company (WTU) filed a statement setting forth its belief that Order No. 517, which revised the Commission's fuel cost adjustment clause regulations under the Federal Power Act, does not apply to its FPC Rate Schedule Nos. 12 and 13. Those rate schedules, applicable for service to Greenbelt Electric Cooperative and Hall County Electric Cooperative, respectively, are fixed rate contracts which extend through 1979, WTU states. Accordingly, the Company asserts, changes in the fuel clauses contained in said rate schedules are barred by the Mobile-Sierra doctrine.

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 Sections 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 January 26, 1976. 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.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2173 Filed 1-23-76;8:45 am]

[Docket No. ER76-390]

WISCONSIN PUBLIC SERVICE CORP.

Concurrence

JANUARY 16, 1976.

Take notice that on January 5, 1976 Consolidated Water Power Company (Consolidated) tendered for filing its certification that it concurs in the Amendment to the Interconnection and Emergency Energy Agreement between Consolidated and the Wisconsin Public Service Corporation (Wisconsin), FPC Rate Schedule No. 31. This Amendment was tendered for filing on December 24, 1975 by Wisconsin.

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 January 29, 1976. 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.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2174 Filed 1-23-76;8:45 am]

[Docket No. E-8867]

WISCONSIN PUBLIC SERVICE CORP.

Tariff Sheet and Service Schedule Tender

JANUARY 16, 1976.

Take notice that on January 8, 1976, Wisconsin Public Service Corporation (WPSC) tendered for filing tariff sheet 8th Revised Sheet No. 1, Schedule W-1, and a Supplement to a Settlement Agreement which amends the service agreements, which WPSC states is in compliance with the Commission's order issued December 9, 1975.

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 February 3, 1976. 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.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2175 Filed 1-23-76;8:45 am]

[Docket No. ER76-228, ER76-40]

NEVADA POWER CO.

Order Approving Withdrawal of Rate Increase

JANUARY 19, 1976.

On December 22, 1975, Nevada Power Company (Nevada Power) filed a notice that it was withdrawing its rate increase which was tendered for filing on November 6, 1975, in Docket No. ER76-228 with respect to sales to California-Pacific Utilities Company at Henderson, Nevada.

By order issued December 5, 1975, the subject rate schedule was accepted for filing and suspended for five months to become effective as of May 7, 1976, and Nevada Power was ordered to file revised rates to reflect the exclusion of construction work in progress from the rate base. In addition, the proceeding in Docket No. ER76-228 was consolidated with Nevada Power's proposed rate increase for sales to California-Pacific Utilities Company at Needles, California in Docket No. ER76-40 for the purposes of investigation, hearing and decision.

Nevada Power proposes to withdraw the rate filing in Docket No. ER76-228 in order to prepare a new rate filing which will include a test period consistent with the intent of the Commission's Regulations under the Federal Power Act, specifically Section 35.13(b)(4)(iii), that rates be based on a test period that is reflective of conditions that will prevail when the proposed rates will be effective.

With respect to the withdrawal of suspended rate schedules, Section 35.17(a) of the Commission's Regulations states the following:

> (a) Withdrawal of suspended rate schedules or parts thereof. Where a rate schedule or parts thereof has been suspended by the Commission, it may be withdrawn during the period of suspension only by special permission of the Commission granted upon application therefor and for good cause shown. If permitted to be withdrawn, any such rate schedule may be refiled with the Commission within a one-year period thereafter only with special permission of the Commission for good cause shown.

Our review indicates that there is good cause to permit Nevada Power to withdraw its rate application, in Docket No. ER76-228, with respect to sales to California-Pacific Public Utilities Company at Henderson. Accordingly, we shall sever the proceeding in Docket No. ER76-228 from the proceeding in Docket No. ER76-40 and approve Nevada Power's withdrawal of that rate filing. Our action on this matter, however, has no effect upon the procedural schedule previously established in Docket No. ER76-40.

The Commission finds. (1) Good cause exists to sever the proceeding in Nevada Power's Docket No. ER76-228 from its proceeding in Docket No. ER76-40.

(2) Good cause exists to permit Nevada Power to withdraw its suspended rate schedule in Docket No. ER76-228.

The Commission orders. (A) Nevada Power's proceeding in Docket No. ER76-228 is hereby severed from the proceeding in Docket No. ER76-40.

(B) Nevada Power is hereby permitted to withdraw its suspended rate increase in Docket No. ER76-228.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-2176 Filed 1-23-76;8:45 am]

NATIONAL GAS SURVEY, SUPPLY-TECHNICAL ADVISORY TASK FORCE-NONCONVENTIONAL NATURAL GAS RESOURCES

Meeting

Conference Room 5200; Federal Power Commission, Union Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426; March 16, 1976, 9:30 a.m.; Presiding: Thomas Jennings, Senior Staff Engineer, National Gas Survey and Federal Power Commission Coordinating Representative and Secretary.

1. Call to order—Thomas Jennings.
2. Progress report of Sub-Task Forces—Dr. John W. Harbaugh, Chairman.
3. Discussion of progress to date by Sub-Task Forces.
4. Establishment of priorities and completion dates for work of the Sub-Task Forces.
5. Scheduling of next meeting date.
6. Other business.
7. Adjournment—Thomas Jennings.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the committee.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-1878 Filed 1-23-76;8:45 am]

NATIONAL GAS SURVEY, SUPPLY-TECHNICAL ADVISORY TASK FORCE-NONCONVENTIONAL NATURAL GAS RESOURCES SUB-TASK FORCE II: METHANE IN COAL

Meeting

Conference Room 6200; Federal Power Commission, Union Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426; March 8, 1976, 9:30 a.m.; Presiding: Thomas Jennings, Senior Staff Engineer, National Gas Survey and Federal Power Commission Coordinating Representative and Secretary.

1. Call to order—Thomas Jennings.
2. Discussion of Sub-Task Force Work to date, Arthur Warner, Chairman.
3. Assignment of additional work to Sub-Task Force members.
4. Scheduling of next meeting date.
5. Other business.
6. Adjournment—Thomas Jennings.

This meeting is open to the public. Any interested person may attend appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the committee.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-1879 Filed 1-23-76;8:45 am]

[Docket No. G-3491, et al.]

PHILLIPS PETROLEUM CO., ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

JANUARY 19, 1976.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 9, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

MARY KIDD PEAK,
Acting Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket number and date filed	Applicant	Purchaser and location	Price (cents per 1,000 ft) [3]	Pressure base
G-3491 ..... C 12-11-75	Phillips Petroleum Co., Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Lea County, N. Mex.	[4] 51.0	14.73
G-11879 ..... D 12-22-75	Texaco, Inc., P.O. Box 430, Bellaire, Tex. 77401.	Texas Eastern Transmission Corp., Del Grullo and East White Point Fields, San Patricio and Kleberg Counties, Tex.	([18])	.....
G-13552 ..... D 12-22-75	Texaco, Inc. (operator) et al., P.O. Box 430, Bellaire, Tex. 77401.	Texas Eastern Transmission Corp., Hidalgo Field, Hidalgo County, Tex.	([18])	.....
CI62-1475 ..... D 12-15-75	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	Transwestern Pipeline Co., Waha Field, Reeves County, Tex.	Non-productive	.....
CI66-1106 ..... C 12-30-75 [2]	CRA, Inc., P.O. Box 7305, Kansas City, Mo. 64116.	Northern Natural Gas Co., Mertzon Plant, Irion County, Tex.	[3] 60.199	14.65
CI72-492 ..... C 12-12-75	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Cascade Natural Gas Corp., Lower Horse Draw Area, Rio Blanco County, Colo.	[4] 50.291404	15.025
CI72-746 ..... D 12-11-75	Stephens Production Co., P.O. Box 248, Fort Smith, Kans. 72901.	Arkansas Louisiana Gas Co., Aledo Field, Dewey County, Okla.	Well plugged	.....
CI73-9 ..... C 12-15-75	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Arkansas Louisiana Gas Co., Northwest O'Keene Field, Blaine County, Okla.	18.875	14.65
CI74-528 ..... C 12-12-75	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	El Paso Natural Gas Co., Sand Hills Field, Crane County, Tex.	[5] 61.25	14.65
CI74-528 12-19-75	do	do	[5] 61.25	14.65
CI75-346 ..... C 12-17-75	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Mountain Fuel Supply Co., Spearhead Area, Converse County, Wyo.	[6] 55.274493	15.025
CI76-67 ..... (CS72-162) F 12-24-75 [7]	Gulf Oil Corp. (successor to Cenard Oil & Gas Co.), P.O. Box 1589, Tulsa, Okla. 74102.	Texas Gas Transmission Corp., Bayou Pigeon Field, Iberia Parish, La.	[8] 71.33	15.025
CI76-84 ..... (CS72-162) F 12-24-75 [7]	do	do	[8] 71.33	15.025
CI76-256 ..... F 12-11-75 [9]	Continental Oil Co. (successor to Skelly Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Guymon-Hugoton Field, Texas County, Okla.	[10] [11] 19.285	14.65

Filing code; A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

Docket number and date filed	Applicant	Purchaser and location	Price (cents per 1,000 ft)[2]	Pressure base
CI76-288 (CI73-715) F 11-26-75	American Pacific International, Inc. (successor to Norris Oil Co.), Global Marine Bldg., 811 West 7th St., Los Angeles, Calif. 90017.	Southern Natural Gas Co., Logansport Field, DeSoto Parish, La.	[13] 55.2375	15.025
CI76-297 B 12-4-75	Hi-Plains Production, Inc., 3405 Concord Rd., Amarillo, Tex. 79109.	Phillips Petroleum Co., Texas-Hugoton Sherman County, Tex.	Water encroachment	----
CI76-300 B 12-15-75	Marathon Oil Co. (operator) et al., 539 South Main St., Findlay, Ohio 45840.	Florida Gas Transmission Co., Buller Gas Unit, Palacios Field, Tex.	Depleted	----
CI76-302 B 12-15-75	The Chesterfield Corp., 320 Professional Bldg., South 3d St., Clocksburg, W. Va., 26301.	Consolidated Gas Supply Corp., Warren District, Upshur County, W. Va.	Operation costs exceeded income	----
CI76-303 A 12-16-75	Belco Petroleum Corp., One Dag Hammarskjold Plaza, New York, N.Y. 10017.	Northern Natural Gas Co., Arco-Childress No. 1 Well, Crockett County, Tex.	[12] 51	14.65
CI76-304 A 12-15-75	Sun Oil Co., P.O. Box 2880, Dallas, Tex. 75221.	Natural Gas Pipeline Co. of America, Carthage Field, Panola County, Tex.	[13] 56.3238	14.965
CI76-305 A 12-15-75	Florida Gas Exploration Co., P.O. Box 44, Winter Park, Fla. 32789.	Florida Gas Transmission Co., Grand Isle Block 76 Field, Offshore Louisiana.	[12 13] $1.63	15.025
CI76-307 F 12-17-75	Enserch Exploration, Inc. (successor to Mobil Oil Corp.), 301 South Harwood St., Dallas, Tex. 75201.	Transwestern Pipeline Co., Section 4, Block 43, H. & T.C. RR. Survey, Hemphill County, Tex.	[12 13] 70.0	14.65
CI76-311 B 1212-75	Texaco, Inc., 1501 Canal St., P.O. Box 60252, New Orleans, La. 70160.	Florida Gas Transmission Co., Pecaniere Field, St. Landry Parish, La.	Depleted	----
CI76-313 A 1222-75	American Natural Gas Co., 1 Woodward Ave., Detroit, Mich. 48226.	Michigan Wisconsin Pipe Line Co., Beaver County, Okla.	[12 13] 52.0	14.73
CI76-314 A 1224-75	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Columbia Gas Transmission Corp., Pecan Island Field, Vermilion Parish, La.	[13 14] $1.70	15.025
CI76-317 A 12-29-75	Case-Pomeroy Oil Corp., Gihls Tower East Bldg., Midland, Tex. 79701.	Columbia Gas Transmission Corp., Block 543, West Cameron Area, Offshore Louisiana.	[13 15] 56.7338	15.025
CI76-318 A 12-29-75	Felmont Oil Corp., 6 East 43 St., New York, N.Y. 10017.	do	[13 16] $1.7278	15.025
CI76-319 A 12-31-75	Arkla Exploration Co., P.O. Box 1734, Shreveport, La. 71151.	Arkansas Louisiana Gas Co., Stockman Area, Shelby County, Tex.	[12 13] $0.65	14.65
CI76-320 A 1-2-76	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	Michigan Wisconsin Pipe Line Co., Block 115, Ship Shoal Area, Offshore Louisiana.	[12 13] 76.5	15.025
CI76-321 A 1-2-76	do	Transwestern Pipeline Co., North Burton Flats Field, Eddy County, N. Mex.	[12 13] 80.0	14.65
CI76-322 F 1-2-76	Sun Oil Co. (successor to Exxon Co., U.S.A.), P.O. Box 2880, Dallas, Tex. 75221.	Natural Gas Pipeline Co. of America, South Lundell Field, Duval County, Tex.	[10 17] 18.0675	14.65

[1] Excludes 7.28¢ upward British thermal unit adjustment.
[2] Being renoticed to show a change in the price.
[3] Includes 4.193¢ tax reimbursement, 1.492¢ gathering allowance, and 2.796¢ upward British thermal unit adjustment.
[4] Includes 1¢ gathering allowance and is subject to tax reimbursement and upward and downward British thermal unit adjustment.
[5] Includes 4.93¢ upward British thermal unit adjustment and 1.49¢ gathering allowance.
[6] Includes 2.233089¢ tax reimbursement and is subject to upward and downward British thermal unit adjustment.
[7] Being renoticed to show a change in price.
[8] As a result of a price redetermination based upon contract prices for other sales of gas in the area, applicant has redetermined its price for the proposed sale.
[9] Being renoticed to show a correction in the price.
[10] Subject to downward British thermal unit adjustment.
[11] For sales from Nov. 5, 1975.
[12] Subject to upward and downward British thermal unit adjustment.
[13] Includes 4.1127¢ tax reimbursement, 0.9946¢ gathering allowance, and 0.4935¢ upward British thermal unit adjustment.
[14] Includes 0.82¢ upward British thermal unit adjustment.
[15] Includes 9.78¢ upward British thermal unit adjustment.
[16] Includes 9.78¢ upward British thermal unit adjustment.
[17] Includes 0.0675¢ tax reimbursement.
[18] Leases have expired or been released due to lack of production.

[FR Doc.76-2034 Filed 1-23-76;8:45 am]

FEDERAL RESERVE SYSTEM

BUYA CORP.

Formation of Bank Holding Company

BUYA Corp., Wakefield, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of The Wakefield National Bank, Wakefield, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 20, 1976.

Board of Governors of the Federal Reserve System, January 19, 1976.

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

[FR Doc.76-2138 Filed 1-23-76;8:45 am]

CENTRAL BANKING SYSTEM, INC.

Order Approving Acquisition of Computer Dynamics, Inc.

Central Banking System, Inc., Oakland, California ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire 51 percent of the voting shares of Computer Dynamics, Inc., Oakland, California ("Company"), a company that engages in the activity of providing data processing services for financial institutions and small businesses. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(8)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (40 FR 33071). The time for filing comments and views has expired, and none have been received. The Board has considered the application in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant, the fourteenth largest banking organization in California, controls three banks with aggregate deposits of $376.6 million, representing 0.5 percent of the total deposits in commercial banks in the State.[1] Applicant also has two wholly-owned nonbanking subsidiaries, one engaged in acting as agent or broker with respect to credit-related insurance and insurance for Applicant and its subsidiaries, and the other engaged in performing data processing services.

At present, Company is indirectly controlled by Applicant as a subsidiary of Applicant's lead bank, Central Bank, National Association, Oakland, California.[2] In 1974, Company had total operating revenues of $1.7 million Applicant's direct data processing subsidiary, Central Bank Computer Bureau, Oakland, California ("CBC") had total operating revenues of $3.3 million in 1974. The instant proposal contemplates the merger of Company into CBC. Since the proposed transaction is essentially a reorganization of Appicant's existing data processing activities, consummation of the proposal would not have an adverse effect on existing or potential competition. Furthermore, there is no evidence in the record indicating that consummation of the proposal would lead to any undue concentration of resources, conflicts of interests, unsound banking practices, or any other adverse effects upon the public interest.

On the other hand, it is anticipated that approval of the application will result in more efficient use of equipment and managerial resources. These efficiencies, in turn, should eventually result in some reduction of the cost of services offered to the public.

[1] All banking data are as of December 31, 1974, and reflect all bank holding company formations and acquisitions approved by the Board through November 30, 1975.

[2] Central Bank, National Association, acquired Company in December, 1973. In view of the small size of Company and the highly competitive nature of the local market, it does not appear that that transaction substantially lessened competition.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4(c)(8) of the Act, that Applicant's acquisition of Company can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of San Francisco.

By order of the Board of Governors,[3] effective January 19, 1976.

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

[FR Doc.76-2141 Filed 1-23-76;8:45 am]

ELLIS BANKING CORP.

Order Approving Acquisition of Bank

Ellis Banking Corporation, Bradenton, Florida, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 51 per cent or more of the voting shares of American Bank of Fort Meyers, Fort Myers, Florida ("Bank").

Notice of the application affording opportunity for interested persons to submit comments and views has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the application and all comments received have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the ninth largest banking organization in Florida, controls 24 banks with aggregate deposits of $660.3 million, representing 2.7 per cent of the total deposits in commercial banks of the State.[1] Acquisition of Bank (deposits of $13.9 million) would increase Applicant's share of commercial bank deposits in Florida by less than 1 per cent, and would have no appreciable effect upon the concentration of banking resources in Florida.

Bank, the ninth largest of seventeen banks in the Lee County banking market (approximated by Lee County), holds approximately 2.5 per cent of total market deposits. Applicant has no subsidiary in the market and its nearest subsidiary bank is approximately 67 miles north of Bank. Thus, it appears that no existing competition would be eliminated as a result of consummation of the proposal. Moreover, ease of entry into the Lee County banking market for other bank holding companies would not be significantly diminished by consummation of the present proposed acquisition. Although Applicant could enter the market *de novo*, the present proposal is considered to be a foothold acquisition. Accordingly, on the basis of the record, it is concluded that consummation of the proposed acquisition would not have significant adverse effects on existing or potential competition in any relevant area.

Considerations relating to the financial and managerial resources and future prospects of Applicant, its subsidiaries, and Bank are regarded as generally satisfactory and consistent with approval, particularly in view of Applicant's commitment to inject additional equity capital into five of its subsidiary banks. Affiliation with Applicant should enable Bank to expand and improve the banking services offered by it. Accordingly, these considerations relating to the convenience and needs of the community to be served are consistent with approval. It has been determined that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of the Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective January 15, 1976.

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

[FR Doc.76-2136 Filed 1-23-76;8:45 am]

NORTHEAST UNITED BANCORP, INCORPORATED OF TEXAS

Order Approving Acquisition of Bank

Northeast United Bancorp, Inc. of Texas, Fort Worth, Texas, a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of First State Bank, Bedford, Texas ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those submitted by First National Bank of Euless, Euless, Texas ("Protestant"), in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the 84th largest banking organization in Texas, controls one bank with aggregate deposits of approximately $42.6 million, representing one-tenth of one percent of the total deposits in commercial banks in the State.[1] Applicant's acquisition of Bank would increase Applicant's share of total State deposits by 0.03 percent and would not result in a significant increase in the concentration of banking resources in Texas, nor would it alter Applicant's ranking among the State's other banking organizations.

Bank holds deposits of approximately $14.3 million, representing 0.6 per cent of the total deposits in commercial banks operating in the Fort Worth banking market,[2] and ranks as the 22nd largest of 48 commercial banks in the market. The three largest banking organizations in the market control, in the aggregate, more than 70 per cent of the market's deposits. Applicant is the seventh largest banking organization in the Fort Worth banking market. Its sole subsidiary, Northeast National Bank of Fort Worth, Fort Worth, Texas ("Northeast Bank"), holds deposits of $42.6 million, representing 1.9 per cent of the market's total commercial bank deposits. To the extent that Northeast Bank and Bank operate in the Fort Worth banking market, some amount of competition would be eliminated as a result of the consummation of this proposal. However, on the basis of the facts of record, including the facts that Northeast Bank and Bank are located in separate suburbs of Fort Worth seven and one-half miles apart and that there is a large number of banks competing in the market, it does not appear that the effects on existing competition would be significant. For similar reasons, it appears that the effects on potential competition would not be serious. Moreover, even after consummation of the proposal, Applicant would control 2.5 per cent of the market's deposits (about one-fourth of the deposits held by the market's third largest banking organization, and less than one-tenth of the deposits held by the first or second largest banking organization in the market), and several independent banks in the

[3] Voting for this action: Vice Chairman Mitchell and Governors Holland, Wallich, Coldwell, Jackson and Partee. Absent and not voting: Chairman Burns.

[1] Banking data are as of December 31, 1974, and reflect acquisitions and formations approved by the Board through December 1, 1975.

[1] All banking data are as of December 31, 1974, and reflect holding company formations and acquisitions approved through November 30, 1975.

[2] The Fort Worth banking market, the relevant geographic market for purposes of analyzing the competitive effects of this proposal, is approximated by the Fort Worth RMA.

market would remain available for acquisition by holding companies not represented in the market. Accordingly, the Board concludes that consummation of the proposal would not eliminate any significant existing competition or foreclose the development of significant potential competition.

The financial condition and managerial resources of Applicant and its sole subsidiary are considered satisfactory and the future prospects for each appear favorable. In view of Applicant's commitment to inject $200,000 of equity capital into Bank following its acquisition, the same conclusions generally apply with respect to Bank's financial condition, managerial resources, and future prospects. Thus, the banking factors lend some weight toward approval of the application. Applicant proposes to increase the rates of interest paid on Bank's time and savings deposits, increase the parking facilities at Bank and, at a later date, provide trust services for customers of Bank. Therefore, the considerations relating to the convenience and needs of the community to be served lend weight toward approval of the application and, in the Board's view, outweigh any slight adverse competitive effects that might result from consummation of the proposal.

In its consideration of the subject application, the Board has considered the comments submitted on behalf of Protestant, a bank located approximately four miles from Bank. Protestant has raised two objections to the proposed transaction. First, Protestant asserts that consummation of the proposal would result in "a high concentration of financial power within a common trade area." This assertion is predicated upon Protestant's belief that the Mid-Cities area [3] is the relevant geographic market for the Board's competitive analysis of the proposed acquisition. In this regard, the Board has examined the materials submitted by Protestant in support of its position and, on the basis of its analysis of such material and the other material in the record, the Board has concluded that the relevant geographic market involved in the subject proposal is the Fort Worth banking market.[4] The basis for this conclusion rests upon several economic and demographic considerations. The Mid-Cities area is suburban in nature and it is economically and physically integrated with the city of Fort Worth. For example, the Mid-Cities area is linked to downtown Fort Worth by several major highways and is exposed to all of the major Fort Worth media sources. In addition, census data reveal that a significant portion of the working population in the Mid-Cities area commutes to Fort Worth daily. Although the Mid-Cities area may represent a distinct group of suburban communities, the Board is of the view that there is no evidence indicating that the commercial banks in this area are insulated from the competitive forces that emanate from the other banks in the Fort Worth banking market.

With respect to the concentration of banking resources within the relevant banking market, Applicant, upon acquisition of Bank, would increase its share of market deposits by 0.6 per cent to a total of 2.5 per cent, which is a substantially smaller percentage of market deposits than is held by any of the market's three larger banking organizations. In addition, Applicant's share of total market deposits would be approximately equal to the fifth, sixth and seventh largest banking organizations in the market. Thus, the Board concludes that approval of the application would not result in Applicant having a high concentration of banking resources within the relevant market.

Second, Protestant asserts that due to a substantial overlap of the service areas of Bank and Northeast Bank, approval of the proposal would result in the elimination of existing and future competition between Bank and Northeast Bank. Although the banks are located in the same banking market, it appears that Bank derives less than five per cent of its total deposits and less than one per cent of its total loans from the service area of Northeast Bank; and Northeast Bank derives less than four per cent of its total deposits and none of its loans from the service area of Bank. In view of the foregoing, the Board realizes that consummation of the subject proposal would result in the elimination of some existing competition. However, given the present structure of the Fort Worth banking market and the size of Bank and Northeast Bank in relation to that market, the Board does not believe that these adverse effects would be significant.

In several past cases, the Board has denied certain applications to acquire banks in large metropolitan markets on the basis that consummation of the proposed acquisition would eliminate competition within an area smaller than the entire relevant banking market.[5] In those cases, the applicant controlled a substantial share of total deposits within the relevant market. In addition, the applicant, in each of those other cases, had several existing subsidiary banks in close proximity to the bank to be acquired and there was a substantial overlap between the service areas of the applicant's existing subsidiary banks and the service area of the bank to be acquired.

The circumstances that warranted denial of the proposals described above do not appear to exist in the subject application. First, Applicant does not hold a substantial share of the market's deposits, and consummation would not result in Applicant holding a substantial share of such deposits. Second, as noted above, there does not appear to be a substantial overlap of the service areas of Bank and Northeast Bank. Furthermore, there are two banks, one of which is a subsidiary of the State's third largest banking organization, that intervene between Bank and Northeast Bank. In view of the foregoing, it does not appear that approval of the proposal would eliminate any significant competition presently existing between Bank and Northeast Bank, nor is it likely that significant competition would develop in the foreseeable future absent approval of Applicant's proposal. Moreover, the Board is of the view that the considertions relating to the convenience and needs of the communities to be served outweigh any anticompetitive effects that might result from Applicant's acquisition of Bank. Therefore, having considered the comments of Protestant, it is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[6] effective January 19, 1976.[7]

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

[FR Doc.76-2140 Filed 1-23-76;8:45 am]

NORTH LAWNDALE ECONOMIC DEVELOPMENT CORP.

Formation of Bank Holding Company

North Lawndale Economic Development Corporation, Chicago, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 90 per cent or more of the voting shares of Community Bank of Lawndale, Chicago, Illinois, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

North Lawndale Economic Development Corporation has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to engage

[3] The Mid-Cities area is approximated by the communities in the northeastern portion of Tarrant County between Fort Worth and Dallas, Texas; it includes the communities of Bedford, Euless, Hurst and Richland Hills.

[4] See fn. 2 for a description of the market.

[5] For example, see the Board's Order of June 26, 1974, denyinig the application by First Bancorporation, Houston, Texas, to acquire Meyerland Bank, Houston, Texas (60 *Fed. Res. Bulletin* 509 (1974)). Applicant's request for reconsideration of this application was denied by the Board on November 11, 1974.

[6] Voting for this action: Vice Chairman Mitchell and Governors Holland, Wallich, Coldwell and Jackson. Absent and not voting: Chairman Burns and Governor Bucher.

[7] Board action was taken while Governor Bucher was a Board Member and before Governor Partee became a Board Member.

or continue to engage in various long-term development ventures in the Midwest Impact Area of Chicago, a 12 square mile area in the City of Chicago which has been designated by various governmental agencies for assistance. Notice of the application was published on October 4, 1975, in the Chicago Daily News, a newspaper circulated in Chicago, Illinois.

Applicant states that its investments, existing and proposed, include two industrial park sites, a shopping center, health care facilities, housing facilities, and broad band telecommunication facilities. In its application Applicant states its belief that such activities are permissible for bank holding companies in accordance with § 225.4(a)(7) of Regulation Y, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 13, 1976.

Board of Governors of the Federal Reserve System, January 16, 1976.

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

[FR Doc.76-2137 Filed 1-23-76;8:45 am]

SUMMER COUNTY BANCSHARES, INC.

Formation of Bank Holding Company

Summer County Bancshares, Inc., Wellington, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of The National Bank of Commerce of Wellington, Wellington, Kansas. 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)).

Summer County Bancshares, Inc., Wellington, Kansas, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y, for permission to continue to engage in the following activities: Acting as an insurance agent or broker with respect to insurance that is directly related to extensions of credit by The National Bank of Commerce of Wellington, Wellington, Kansas. Notice of the application was published on November 11, 1975 in The Wellington Daily News, a newspaper circulated in Wellington, Kansas.

Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the questions whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 12, 1976.

Board of Governors of the Federal Reserve System, January 19, 1976.

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

[FR Doc.76-2139 Filed 1-23-76;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW; FEDERAL COMMUNICATIONS COMMISSION

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on January 19, 1976. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before February 13, 1976, and should be addressed to Mr. Carl F. Bogar, Assistant Director, Office of Special Programs, United States General Accounting Office, Room 5216, 425 I Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

FEDERAL COMMUNICATIONS COMMISSION

Request for clearance of new FCC Form 730, Application for Equipment Authorization—Registration of Equipment to Be Connected to the Public Switched Telephone Network Under Part 68 of the Commission's rules. This form is required to be filed when registering new equipment to be connected to the public switched telephone network; modifying previously registered equipment; and filing notification of modification which does not require prior Commission approval. The use of this form is prescribed by § 68.200 of the Commission's rules. The FCC anticipates that approximately 500 applications will be filed during the first year of this new registration requirement and the reporting burden is estimated to average 30 hours per application.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76-2225 Filed 1-23-76;8:45 am]

REGULATORY REPORTS REVIEW; FEDERAL ENERGY ADMINISTRATION

Receipt and Approval of a Proposed Report

The following request for clearance of a proposed report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on January 14, 1976. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt and the action taken by GAO.

FEDERAL ENERGY ADMINISTRATION

Request for clearance of a new single-time form, P122-S-0, Canadian Allocation Program Crude Oil Report. The Federal Energy Administration is amending Chapter II of Title 10, Code of Federal Regulations by establishing Part 214 to provide for the Mandatory Allocation of Canadian Crude Oil. The new form is designed to obtain data essential to the implementation of the program. Respondents are 33 refiners and 2 utilities who utilize Canadian crude oil; burden is estimated to be 15 hours per report.

GAO granted emergency clearance of this form based on FEA's statement that the new program is urgently needed and that respondents' comments during hearings indicated a willingness to supply the

information. The P122–S–0 was approved under number B–181254 (S76013).

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76–2226 Filed 1–23–76;8:45 am]

GENERAL SERVICES ADMINISTRATION

[FPM Temp. Reg. F–368]

FEDERAL TELECOMMUNICATION SYSTEM (FTS)

Identification Procedures

1. *Purpose.* This regulation prescribes revised identification procedures when making long-distance FTS telephone calls.

2. *Effective date.* This regulation is effective January 26, 1976.

3. *Expiration date.* This regulation expires July 31, 1976.

4. *Assignment of FTS identification symbols.* Each Federal agency authorized to use the FTS intercity voice network will be assigned FTS identification symbols by the General Services Administration. Use of the FTS identification symbols allows FTS operators to efficiently control network usage and ensure completion of official long-distance telephone calls with minimum delay. GSA will revise these FTS identification symbols periodically to assist agencies in ensuring that only authorized personnel have them. These symbols will be distributed by the GSA Central Office to agency headquarters staff only. Distribution of these symbols to the agency's FTS users is an internal agency responsibility.

5. *Agency responsibilities.*

(a) Agencies are responsible for controlling use of the FTS. Each Federal agency shall determine the personnel authorized to place long distance telephone calls.

(b) Each agency shall issue internal instructions requiring authorized FTS users (including non-Federal personnel) to tell the FTS operator, when requested, their seven-digit FTS telephone number and the 10-digit commercial telephone number being called when placing calls to non-FTS telephone numbers. FTS operators will not accept calls to non-FTS telephones unless the caller furnishes this information.

(c) Each agency shall issue the appropriate four-digit agency bureau code to authorized users of the FTS. Each agency shall issue internal instructions requiring authorized FTS users to tell the FTS operator their four-digit agency bureau code. This four-digit code is used for sampling purposes and for completing calls to Alaska, Hawaii, and Puerto Rico.

(d) Each agency shall issue FTS identification symbols only to FTS users who are authorized to place FTS calls from commercial telephones. Users shall be instructed to tell the FTS operator their last names and their identification symbols. Restricted issuance is essential since use of this symbol is considered certification that such calls are official. FTS operators will not accept calls from commercial telephones unless the caller furnishes his name, a valid FTS identification symbol, and the seven-digit FTS telephone number being called.

6. *Information.* Further information may be obtained from:

General Services Administration (CP), Washington, DC 20405. Telephone: IDS 183–7301, FTS 343–7301.

7. *Agency comments.* Comments concerning this regulation should be submitted to General Services Administration (CPSB, Washington, DC 20405, no later than March 1, 1976, for consideration and possible incorporation into the FPMR regulation.

8. *Effect on other issuances.* This regulation supersedes FPMR 101–35.309.

JACK ECKERD,
Administrator of General Services.

JANUARY 16, 1976.

[FR Doc.76–2145 Filed 1–22–76;8:45 am]

[FPMR Temp. Reg. E–36, Supp. 1]

SUPPLEMENT TO THE SUPPLY ACTIVITY REPORT

Reporting Requirements; Cancellation

1. *Purpose.* This supplement cancels the reporting requirements set forth in FPMR Temporary Regulation E–36, dated December 19, 1974.

2. *Effective date.* This regulation is effective January 26, 1976.

3. *Expiration date.* FPMR Temporary Regulation E–36 and this Supplement 1 expire on February 15, 1976, unless sooner revised or superseded.

4. *Background.*

a. FPMR Temporary Regulation E–36, published in the FEDERAL REGISTER on December 30, 1974, requires each civil executive agency to submit procurement activity data semiannually in accordance with attachment A to the temporary regulation. This semiannual report is assigned Interagency Report Control Number 0040–GSA–SA.

b. GSA is in the process of developing alternative procedures to obtain this data in a manner that will not unduly impact on current agency operations. Accordingly, agencies need not submit information presently required by FPMR Temporary Regulation E–36.

Dated: January 16, 1976.

T. M. CHAMBERS,
Acting Administrator of General Services.

[FR Doc.76–2146 Filed 1–23–76;8:45 am]

INTERNATIONAL TRADE COMMISSION

[Investigation Docket No. 337–TA–2]

CONVERTIBLE GAME TABLES AND COMPONENTS THEREOF

Prehearing Conference

Notice is hereby given that the United States International Trade Commission will hold a prehearing conference in connection with investigation No. 337–TA–2, Convertible Game Tables and Components Thereof, on Thursday, January 29, 1976, at 10 a.m., e.s.t. in the Hearing Room of the United States International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436.

The proposed agenda for the prehearing conference is:

1. The effect of the terms of a Mutual Release and Settlement Agreement between Armac Enterprises, Inc., and Ebonite Corp., dated July 31, 1975, on further proceedings in the above-entitled investigation.

2. Stipulation to proposed Commission rules of practice and procedure (40 FR 40173, September 2, 1975) for the conduct of this investigation, and to evidence of record.

3. The scope of a proposed additional hearing and date, time and place of such hearing.

4. A proposed protective order (to be furnished prior to the prehearing conference) and scheduled distribution to the parties of materials submitted in confidence to the Commission prior to said hearing.

5. Proposed schedule of witnesses to appear at said hearing.

6. Collection of additional economic data prior to said hearing.

7. Other matters mentioned in documents served in connection with proposals to include additional items on the prehearing conference agenda. To include additional items on the prehearing conference agenda, each interested party should serve written proposals on the Commission and all parties on or before January 22, 1976.

At the prehearing conference, each participant should be prepared to discuss the procedural and substantive aspects of the investigation and should be authorized to make commitments with respect thereto. Among the specific items to be discussed within the framework of the agenda listed above are: Stipulations as to facts, authentication of documents, dates for the service of evidence, hearing briefs and for the hearing.

Failure to attend the prehearing conference may result in the waiver of the right of any interested party to object to rules, stipulations entered into by parties, dates, the procedure ordered at such conference and the right to receive data.

Issued: January 20, 1976.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.76–2215 Filed 1–23–76;8:45 am]

[TA–201–12]

SHRIMP

Scheduling of Additional Hearing; Times and Places of Previously Announced Hearings

Notice is hereby given that the United States International Trade Commission

will hold an aditional public hearing in connection with its investigation No. TA–201–12, Shrimp, in New York City beginning on February 5, 1976, at a time and place to be announced.

Notice is also given that the public hearing previously scheduled in connection with this investigation for Brownsville, Texas, on Tuesday, January 27, 1976, will be held beginning at 10 a.m. at the Fort Brown Memorial Center Complex, 600 International Boulevard, Brownsville, and that the public hearing previously scheduled for Savannah, Georgia, on Tuesday, February 3, 1976, will be held beginning at 10 a.m. in the Center Ballroom of the DeSoto Hilton Hotel, Bull and Liberty Streets, Savannah.

Notice of investigation and hearings was published in the FEDERAL REGISTER on December 23, 1975 (40 F.R. 59377–78).

Issued: January 21, 1976.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.76–2214 Filed 1–23–76;8:45 am]

CERTAIN STAINLESS STEEL AND ALLOY TOOL STEEL PRODUCTS

Report to the President; Investigation

UNITED STATES INTERNATIONAL TRADE COMMISSION

JANUARY 16, 1976.

TO THE PRESIDENT: In accordance with section 201(d)(1) of the Trade Act of 1974 (88 Stat. 1978), the U.S. International Trade Commission herein reports the results of an investigation made under section 201(b)(1) of that act, relating to certain stainless steel and alloy tool steel products.

The investigation to which this report relates was undertaken to determine whether—

ingots, blooms, billets, slabs and sheet bars; bars; wire rods; and plates, sheets and strip, not cut, not pressed, and not stamped to nonrectangular shape; all the foregoing of stainless steel, alloy tool steel, or silicon electrical steel, provided for in items 608.18, 608.52, 608.76, 608.78, 608.85, 608.88, 609.06, 609.07 and 609.08 of the Tariff Schedules of the United States (TSUS), and as additionally subject to duty under items 607.01 through 607.04, inclusive, of the TSUS,

are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

The investigation was instituted on August 5, 1975, upon receipt of a petition filed on July 16, 1975, by the Tool and Stainless Steel Industry Committee for Import Relief and the United Steelworkers of America, AFL–CIO.

Public notice of the investigation and hearing were duly given by publishing the original notice in the FEDERAL REGISTER of August 11, 1975 (40 FR 33706). On October 3, 1975, the Commission, at the request of the petitioner and for other reasons, amended the scope of the investigation by deleting silicon electrical steel provided for in TSUS items 608.88 and 609.07. Notice of amendment of the scope of the investigation was published in the FEDERAL REGISTER on October 9, 1975 (40 FR 47580)

A public hearing in connection with the investigation was conducted from October 28 through October 31, 1975, in the Commission's hearing room in Washington, D.C. All interested parties were afforded an opportunity to be present, to produce evidence, and to be heard. A transcript of the hearing and copies of briefs submitted by interested parties in connection with the investigation are attached.

The information contained in this report was obtained from fieldwork, from questionnaires sent to domestic manufacturers, importers, and distributors, and from the Commission's files, other Government agencies, and evidence presented at the hearing and in briefs filed by interested parties.

DETERMINATIONS, FINDINGS, AND RECOMMENDATIONS OF THE COMMISSION

On the basis of its investigation, the Commission determines [1] that bars; wire rods; and plates, sheets and strip, not cut, not pressed, and not stamped to nonrectangular shape; all the foregoing of stainless steel or alloy tool steel, provided for in items 608.52, 608.76, 608.78, 608.85, 608.88, 609.06, 609.07, and 609.08 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat thereof, [2 3] to the domestic industry or industries producing articles like or directly competitive with the imported articles.

The Commission (Commissioner Parker abstaining) unanimously determines that ingots, blooms, billets, slabs, and sheet bars of stainless steel or alloy tool steel, provided for in item 608.18 of the Tariff Schedules of the United States, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

FINDINGS AND RECOMMENDATIONS

The Commission (Commissioners Leonard, Minchew, Moore, and Bedell) finds that—

(1) The quantitative limitations hereinafter specified are necessary to prevent or remedy such injury:

(2) Whenever, in calendar year 1976, or any calendar year thereafter up to and including 1980, the respective aggregate quantity specified below for one of the specified classes of articles has been entered, no article in such class may be entered during the remainder of such calendar year:

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[1] Chairman Leonard and Commissioners Moore and Bedell determine in the affirmative. Vice Chairman Minchew determines in the affirmative with respect to stainless-steel bars and wire rods, and alloy tool steel in all forms and in the negative with respect to stainless-steel plates and sheets and strip. Commissioner Ablondi determines in the negative. Commissioner Parker abstained.

[2] Chairman Leonard determines serious injury with respect to the listed articles other than stainless-steel plate, for which he determines threat of serious injury; he does not make a determination with respect to the threat of serious injury on articles other than stainless-steel plate, as he considers that a determination of threat of serious injury is unnecessary in view of his determination of serious injury.

[3] Vice Chairman Minchew determines serious injury with repect to stainless-steel bars and wire rods, and alloy tool steel in all forms; he does not make a determination with respect to the threat of serious injury, as he considers that a determination of threat of serious injury is unnecessary in view of his determination of serious injury.

[In short tons]

Calendar year	Stainless steel				Alloy tool steel
	Sheet and strip	Plate	Bar	Rod	
1976	79,000	13,000	19,600	16,000	18,400.
1977 to 1980: An amount for each calendar year equivalent to the following percentages of apparent U.S. consumption for the preceding calendar year, but not less than the quantities specified.	13 pct—73,100	15 pct—11,900	13 pct—19,600	52 pct—15,900	18 pct 18,400.

(3) The minimum quantities specified in (2), above, for calendar years 1977 to 1980, inclusive, are the average annual imports for each of the specified classes of articles adjusted upward to the nearest 100 short tons for the calendar years 1970 to 1974, inclusive, which period is the most recent period which is determined is representative of imports of each such class of articles;

(4) No more than 60 percent of each of the respective aggregate quantities specified in (2), above, for each class (determined from the specified percentages where appropriate) may be entered during the first 6 months of any calendar year;

(5) In order to provide for an equitable distribution of the imports among supplying countries, each of the respective aggregate quantities specified in (2), above for each class of articles, (determined from the specified percentages where appropriate) should be allocated by product group among supplying countries on the basis of their average annual historical market shares during the period 1972 to 1974, inclusive, and should any portion of a supplying country's allocated quota share remain unused at the end of the quota year, that country's subsequent allocation should be reduced to that extent and that amount should be apportioned among all other supplying countries; and

(6) On or before December 1 of each of the calendar years 1976 to 1979, inclusive, the United States International Trade Commission should determine and report to the President the estimated apparent United States consumption of each of the respective classes of quota articles in (2), above, for such calendar year; and on or before April 1 of each of the calendar years 1977 to 1980, inclusive, the United States International Trade Commission should determine and report to the President the apparent United States consumption of each of the respective quota articles in (2), above, during the preceding calendar year.

The Commission would keep itself informed about conditions of trade in the articles subject to the foregoing quotas, and, if it appears that conditions exist that may require that any of the quotas should be increased or terminated, it would promptly initiate an investigation and hold a hearing and would report the results thereof to to the President in accordance with the review procedures established by section 203(i) of the Trade Act.

Commissioner Ablondi—

Having made a negative determination, I abstain from any recommendation of remedy.

Issued: January 21, 1976.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.76-2216 Filed 1-23-76;8:45 am]

ASPARAGUS, FRESH, CHILLED OR FROZEN

Report to the President; Investigation

UNITED STATES INTERNATIONAL TRADE COMMISSION

JANUARY 12, 1976.

TO THE PRESIDENT: In accordance with section 201(d)(1) of the Trade Act of 1974 (88 Stat. 1978), the U.S. International Trade Commission herein reports the results of an investigation made under section 201(b)(1) of that act, relating to asparagus.

The investigation to which this report relates was undertaken to determine whether—

asparagus, fresh, chilled or frozen or otherwise prepared or preserved, provided for in items 137.85, 138.00,[1] and 141.81 of the Tariff Schedules of the United States,

is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

The investigation was instituted on July 22, 1975, upon receipt of a petition filed on July 10, 1975, by the California Asparagus Growers Association, Inc., Stockton, California, the Washington Asparagus Growers Association, Sunnyside, Washington, and certain unaffiliated asparagus growers.

Public notice of the institution of the investigation and hearings to be held in connection therewith was published in the FEDERAL REGISTER of July 29, 1975 (40 FR 31836). Public notice of the places and times of the hearings was published in the FEDERAL REGISTER of October 2, 1975 (40 FR 45480). Hearings were held in San Francisco, California, on October 14, 1975, and in Washington, D.C., on October 21, 1975. All interested parties were afforded an opportunity to be present, to produce evidence, and to be heard. A transcript of the hearings and copies of briefs submitted by interested parties in connection with the investigation are attached.

The information for this report was obtained from fieldwork, from questionnaires sent to domestic growers, canners, and freezers, and importers, and from the Commission's files, other Government agencies, and evidence presented at the hearings and in briefs filed by interested parties.

DETERMINATIONS, FINDINGS, AND RECOMMENDATIONS OF THE COMMISSION

The Commission, being equally divided,[2] makes no determination[3] of whether asparagus, fresh, chilled, or frozen, or otherwise prepared or preserved, provided for in items 137.85, 138.50, and 141.81 of the Tariff Schedules of the United States, is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

DETERMINATIONS

On the basis of the Commission investigation, Commissioners Moore, Bedell, and Ablondi determine—

That asparagus, fresh, chilled, or frozen, or otherwise prepared or preserved, provided for in items 137.85, 138.50, and 141.81 of the Tariff Schedules of the United States, is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic growers of asparagus;

Commissioners Leonard, Minchew, and Parker determine—

That asparagus, fresh, chilled, or frozen, or otherwsie prepared or preserved, provided for in items 137.85, 138.50, and 141.81 of the Tariff Schedules of the United States, is not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive, with the imported article.

FINDINGS AND RECOMMENDATIONS

Commissioners Moore, Bedell, and Ablondi find that—

(1) The following quantitative limitations on the aggregate amount of asparagus, fresh or chilled, but not frozen, imported into the United States from all foreign countries and entered for consumption under items 137.85 and 138.50 of the Tariff Schedules of the United States, are necessary to remedy such injury—

(a) For an initial 3-year period, a quantitative limitation of not over 700,000 pounds entered per month during the period February 1 to April 30;

(b) During the fourth year, a quantitative limitation of not over 875,000 pounds entered per month during the period February 1 to April 30;

(c) During the fifth year, a quantitative limitation of not over 1,050,000 pounds entered per month during the period February 1 through April 30.

It is not intended that there be any quantitative limitation on asparagus entered during the other 9 months of the year.

(2) In connection with the quantitative limitations found to be necessary under (1) above, it is recommended that in order to provide an equitable distribution of the imports among supplying countries during the respective quota periods, the entire quota should be limited to imports from Mexico,

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[1] The asparagus covered by item 138.00 is currently covered by item 138.50 of the Tariff schedules by virtue of Executive Order 11888. Accordingly, item 138.50 will be referred to hereinafter in lieu of item 138.00.

[2] Commissioners Moore, Bedell, and Ablondi voted in the affirmative, and Commissioners Leonard, Minchew, and Parker voted in the negative. In a situation of this kind, sec. 330(d) of the Tariff Act of 1930, as amended, requires that the findings of each group of Commissioners be transmitted to the President and provides that those of either group may be considered by the President as the findings of the Commission.

[3] Commissioner Parker is of the view that the Commission has made a conditional affirmative and a conditional negative vote and by operation of law the President can accept either.

the only country supplying imports in significant commercial quantities.

Commissioners Leonard and Parker—

Find that no increase in any duty nor any import restriction on the imported articles which are the subject of this investigation is necessary and do not recommend the provision of adjustment assistance.

Commissioner Minchew—

Noting that the Commission has not found with respect to any article, as a result of its investigation, the serious injury, or the threat thereof, described in section 201(b), finds, pursuant to 201(d), that no Commission recommendation of remedy is necessary.

Issued: January 21, 1976.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.76-2217 Filed 1-23-76;8:45 am]

LEGAL SERVICES CORPORATION

GRANTS AND CONTRACTS

Applications

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project * * *."

The Legal Services Corporation hereby announces publicly that applications for grants or contracts have been received from the projects listed in the Appendix below and that the Corporation is considering those applications.

Additional information may be obtained by writing the Legal Services Corporation, 733 Fifteenth Street, NW., Suite 700, Washington, D.C. 20005.

Dated: January 21, 1976.

THOMAS EHRLICH,
President,
Legal Services Corporation.

APPENDIX

Neighborhood Legal Assistance Program, Charleston, South Carolina 29403.
Legal Assistance Foundation of Chicago, Chicago, Illinois 60622.
Michigan Migrant Legal Assistance Project, Inc., Berrien Springs, Michigan 49103.
Ohio Migrant Legal Action, Bowling Green, Ohio 43402.
Milwaukee Legal Services, Inc., Milwaukee, Wisconsin 53203.
Colorado Rural Legal Services, Inc., Denver, Colorado 80218.
Maricopa County Migrant Legal Services, Phoenix, Arizona 85007.
Puerto Rico Migrant Legal Services, Hato Rey, Puerto Rico 00928.
Monroe County Legal Assistance Corporation, Middletown, New York 10940.
Neighborhood Legal Services, Inc., Hartford, Connecticut 06112.
DNA—People's Legal Services, Inc., Window Rock, Arizona 86515.
Leach Lake Reservation, Cass Lake, Minnesota 56633.
Zuni Legal Aid and Defender Society, Zuni, New Mexico 87327.
South Dakota Legal Services, Mission, South Dakota 57555.
Wind River Legal Services, Fort Washakie, Wyoming 82514.
North Dakota Legal Services, Inc., New Town, North Dakota 58763.
California Indian Legal Services, Inc., Oakland, California 94612.
Papago Legal Services, Sells, Arizona 85634.
Legal Aid Society of Cleveland, Inc., Cleveland, Ohio 44114.
National Clients Council, Washington, D.C. 20506.
Urban Law Institute of Antioch School of Law, Washington, D.C. 20009.
Council of Elders, Boston, Massachusetts 02115.

[FR Doc.76-2158 Filed 1-23-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR OCEANOGRAPHY

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Oceanography.
Date: February 11 and 12, 1976.
Time: 9 a.m. each day.
Place: Rm. 321, National Science Foundation, 1800 G St. NW., Washington, D.C.
Type of meeting: Closed.
Contact person: Dr. Robert E. Wall, Head, Oceanography Section, Rm. 317, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4227.
Purpose of Advisory Panel: To provide advice and recommendations concerning support for research in oceanography.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552 (b), (4), (5) and (6).
Authority to close meeting: The determination made on February 21, 1975, by the Director of the National Science Foundation pursuant to provisions of section 10 (d) of Pub. L. 92-463.

GAIL A. MCHENRY,
Acting Committee
Management Officer.

JANUARY 21, 1976.

[FR Doc.76-2237 Filed 1-23-76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 21, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

U.S. CIVIL SERVICE COMMISSION

Supplemental Questionnaire for Licensed Vocational Nurse, DH-60, on occasion, job applicants, Caywood, D. P., 395-3443.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Arkansas Orchard and Vineyard Survey—1975, single-time, fruit growers, Hulett, D. T., 395-4730.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, Retail Market Survey, single-time, retail food chains, Collins, L., 395-5867.

DEPARTMENT OF TRANSPORTATION

Coast Guard, Proceedings of the Marine Safety Council Mailing List Survey, CGHQ-3122, annually, persons engaged in maritime activities, Harry B. Sheftel, 395-5870.
Federal Highway Administration Prospectus for Research Study "Pavement Condition Measurements Needs and Methods", single-time, state highway departments, Strasser, A., 395-5867.

REVISIONS

Coast Guard, Application for Appointment as Cadet, U.S. Coast Guard, CG-4151, annually, high school graduates, Harry B. Sheftel, 395-5870.

EXTENSIONS

U.S. CIVIL SERVICE COMMISSION

Veterans Preference Claim, SF-15, on occasion, applicants for Federal employment, Caywood, D. P., 395-3443.
Application for Worker-Trainee, CSC-1094, on occasion, application, Caywood, D. P., 395-3443.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development, Preliminary Survey of Public Institutions for the Mentally Retarded, RSA-51, annually, State MH and MR agencies, Caywood, D. P., 395-3443.
Social Security Administration, Request for Ancillary Charge Information, SAA-L 554, on occasion, hospitals and nursing facilities, Marsha Traynham, 395-4529.

DEPARTMENT OF THE TREASURY

Bureau of Customs Declaration ofo Consignee when Entry is Made by an Agent CF 3347-A, on occasion, brokers, Harry B. Sheftel, 395-5870.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76-2356 Filed 1-23-76;8:45 am]

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 20, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Final Expenditure Report Addendum, on occasion, expansion arts constituency, Lowry, R. L., 395-3772.

DEPARTMENT OF COMMERCE

Bureau of Census, Residential Building Permit Lag Questionnaire, S-411, on occasion, permit issuing officials, Collins, L., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Study of State Program in Bilingual Education, OE-471-1, through 6, single-time, sea's and lea's Human Resources Division, George Hall, 395-3532.

National Institute of Education, IGE School Questionnaire, NIE 147, single-time, principals of IGE schools, Human Resources Division, Raynsford, R., 395-3532.

REVISIONS

Office of Human Development, HSST/CDA Questionnaires, on occasion, program managers, field supervisors and trainees, George Hall, 395-6140.

EXTENSIONS

Office of Education, Survey of Institutions for Neglected or Delinquent Children, OE 4376, annually, State and local agencies for neglected or delinquent children, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76-2358 Filed 1-23-76;8:45 am]

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 19, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes, the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Reclosable Plastic Bags—Firms Importing These Bags, single-time, importers of reclosable plastic bags, Evinger, S. K., 395-3710.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Household Asset Survey, FNS-1066, single-time, 100 applicants for food stamps in 50 project areas, Sunderhauf, M. B., 395-6140.

DEPARTMENT OF COMMERCE

Bureau of Census, 1974 Commodity Transportation Survey of Wholesalers and Mineral Industries, S-190(WM), single-time, rail, motor, freight and water carriers, Strasser, A., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development, State Child Welfare Study—Advance Questionnaire and Interview Guides, single-time, child welfare staffs of 25 States, Human Resources Division, Sunderhauf, M. B., 395-3532.

DEPARTMENT OF THE INTERIOR

Departmental and Other Medical History Form, annually, youth 15-18 years of age Harry B. Sheftel, 395-5870.

Bureau of Sport Fisheries and Wildlife, I. Adult Iowan General Questionnaire, Adult Iowan Hunter Questionnaire single-time, Iowans, Lowry, R. L., 395-3772.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration, Remotely Controlled Railroad Switch Operation Log, on Occasion, 100 railroads, Harry B. Sheftel, 395-5870.

REVISIONS

VETERANS ADMINISTRATION

Application for Change of Permanent Plan (Medical), 29-1549, on occasion, insured veterans, Caywood, D. P., 395-3443.

DEPARTMENT OF COMMERCE

Bureau of Census, Annual Demographic Survey—March 1976, CPS-1, CPS-5, CPS-581, CPS-630, monthly, households, Hulett, D. T., 395-4730.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, Survey of Intracranial Neoplasms, OSNIH-ND-6, single-time, persons with diagnosis intracranial neoplasms or relatives, George Hall, 395-6140.

EXTENSIONS

SMALL BUSINESS ADMINISTRATION

Title VI Compliance Report, SBA 707, annually, small businesses, Sunderhauf, M. B., 395-6140.

DEPARTMENT OF AGRICULTURE

Forest Service, Special Use Application (National Forest Lands), 2700-3, on occasion, persons or entities desiring to install facilities on national forest land, Marsha Traynham, 395-4529.

DEPARTMENT OF COMMERCE

Bureau of Census, Shippers Export Declaration Correction Form, FT 7403, on occasion, exporters, Marsha Traynham, 395-4529.

DEPARTMENT OF TRANSPORTATION

Coast Guard, Application for Coast Guard Officer Candidate School, CG-3210, on occasion, ships sailing on the high seas—worldwide, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76-2359 Filed 1-23-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 19353; 70-5788]

AMERICAN ELECTRIC POWER CO.

Proposed Issue and Sale of Common Stock by Holding Company Pursuant to an Underwritten Rights Offering

JANUARY 19, 1976.

Notice is hereby given that American Electric Power Company, Inc., 2 Broadway, New York, New York 10004 ("AEP"), a registered holding company, has filed a declaration, and an amendment thereto, with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6, 7, and 12(c) thereof and rules 42 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, summarized below, for a complete statement of the proposed transaction.

AEP proposes to offer up to 10,000,000 authorized but unissued shares of its common stock ("additional common stock)" for subscription by the holders of its outstanding shares of common stock on the basis of one share of additional common stock for each nine shares of common stock held on the record date. The record date will be February 18, 1976, or such later date as AEP's registration statement under the Securities Act of 1933 may become effective. The subscription price, to be determined by AEP's Board of Directors at approximately 4:15 p.m. on the day preceding the record

date, will be not more than the closing price of AEP common stock on the New York Stock Exchange on the day prior to the record date and not less than 90% thereof. The subscription offer will expire March 12, 1976, unless the record date should be later than February 18, 1976, in which event the expiration date will be redetermined and specified by amendment.

Each record holder of AEP common stock will receive, as soon after the record date as is practicable, a transferable subscription warrant representing the number of subscription rights to which the stockholder is entitled. It is proposed that no holder of a warrant will be permitted to subscribe for a fraction of a share of the additional common stock; however, any holder of less than nine shares of common stock on the record date will be entitled to purchase, at the subscription price, one full share of additional common stock. Any holder of more than nine shares, but not an exact multiple thereof, will be able to purchase, at the subscription price, one share of additional common stock for each multiple of nine shares plus one share of additional common stock for the excess shares. In addition, each holder of a warrant (or warrants) who exercises the subscription rights in full will be given the privilege of purchasing, subject to allotment if necessary, at the same subscription price, the unsubscribed shares of the additional common stock.

AEP expects that the subscription rights will be traded on the New York Stock Exchange and that rights may also be bought and sold through banks or brokers. AEP also intends to afford holders of warrants the opportunity to trade rights through AEP's subscription agent, such agent to charge 2¢ per right for its services.

AEP does not intend to mail warrants to stockholders entitled to receive such warrants but whose registered addresses are outside the United States, Canada and Mexico. To the extent that AEP does not receive instructions from such stockholders to either exercise or otherwise dispose of their warrants, AEP may sell the rights evidenced by such warrants and the rights evidenced by warrants which are returned to the subscription agent after the initial mailing as nondeliverable for any reason. AEP will, if such rights are sold, within 30 days following the fifth anniversary of such sale, pay any of the net proceeds then remaining unclaimed (as the same may have been reduced by the deduction of fees for the administration of such funds) pursuant to any applicable provisions of the Abandoned Property Law of New York.

In connection with the subscription rights offering, AEP anticipates that it may effect stabilizing transactions in order to maintain the market price of its common stock and/or the rights at levels above those which might otherwise prevail in an open market. AEP states that it will acquire no more than 1,000,000, shares of its common stock pursuant to these stabilizing activities.

AEP further proposes to issue and sell to the public through underwriters, subject to the competitive bidding requirements of Rule 50 under the Act, such of the shares of the additional common stock as are not purchased pursuant to the subscription offer and any shares of common stock acquired by AEP as a result of stabilizing activities. The competitive bidding will determine the underwriters' compensation for each share that they sell and any modification to a $1,000,000 base fee proposed by AEP which AEP will pay to the successful bidder for commitments and obligations under the purchase contract. Under the purchase contract the purchasing underwriters will be required to make a public offering of the unsubscribed shares of additional common stock promptly after the subscription expiration date.

It is stated that the proceeds of the sale of the shares of additional common stock and any unsubscribed shares are to be used to repay short-term indebtedness and to make additional investments in AEP's operating subsidiaries. At December 18, 1975, AEP had outstanding an aggregate amount of $121,560,000 of short-term debt.

Estimates of the fees and expenses to be incurred by AEP in connection with the proposed transaction are to be filed by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than February 10, 1976, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-2149 Filed 1-23-76;8:45 am]

[Rel. No. 19352; 70-5782]

JERSEY CENTRAL POWER & LIGHT CO.

Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

JANUARY 19, 1976.

Notice is hereby given that Jersey Central Power & Light Company, Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960 ("Jersey Central"), an electric utility subsidiary company of General Public Utilities Corporation, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) thereof and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, summarized below, for a complete statement of the proposed transaction.

Jersey Central proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to $60,000,000 principal amount of additional First Mortgage Bonds ("Bonds") which will mature no earlier than February 1, 1981, and no later than February 1, 2006. Jersey Central states that it will notify prospective bidders of the date of maturity of the Bonds not later than 72 hours prior to the bidding. The price of the Bonds, (which will be not less than 98% but not greater than 101% of the principal amount, plus accrued interest from February 1, 1976) and their interest rate (which will be a multiple of ⅛ of 1%) will be determined by the competitive bidding. It is stated that the bidding procdure will not establish a minimum or maximum interest rate within which bids may be submitted.

It is stated that the Bonds may be made subject to a mandatory redemption feature pursuant to which Jersey Central would be required to redeem annually, beginning in 1983, up to 4% of the aggregate principal amount of the Bonds at a price equal to par plus accrued interest. Jersey Central proposes that it will notify prospective bidders not less than 72 hours prior to the bidding whether it has elected to be required to so redeem the Bonds. Jersey Central states that it has an aggregate amount of more than $130,000,000 of outstanding bonds and debentures maturing during the period 1983–1986; accordingly, Jersey Central prefers that the maturity date of the Bonds be substantially after that period. Jersey Central states that if the maturity of the Bonds is greater than ten years, successful marketing of the Bonds would be facilitated by such redemption feature.

The Bonds will be issued under Jersey Central's Indenture, dated March 1, 1946, to First National City Bank, Trustee, as heretofore supplemented and amended and as to be further supplemented and amended by a Twenty-ninth Supplemental Indenture to be executed in connection with this issuance. The terms of the Bonds prohibit Jersey Central from redeeming them prior to February 1, 1981, if the moneys for such redemption are obtained by Jersey Central at a lower interest cost than the annual yield of the Bonds. It is stated that $34,500,000 of the principal amount of the Bonds will be issued against the retirement at maturity of a like principal amount of First Mortgage Bonds, 2⅞% Series, due March 1, 1976 ("1976 Series Bonds"), and that the balance of the Bonds will be issued against bondable property additions.

The proceeds realized from the sale of the Bonds will be applied to the payment at maturity of the 1976 Series Bonds and to repay short-term indebtedness or to defray construction costs. Jersey Central states that approximately $70,000,000 principal amount of short-term bank loans will be outstanding at the date of sale of the Bonds. Jersey Central's total construction requirements (including allowance for funds used during construction) for 1976 are estimated to be approximately $155,000,000.

It is estimated that the fees and expenses to be incurred by Jersey Central in connection with the proposed transaction will be $160,000, including legal and accounting fees of $33,000 and $12,500, respectively. The fees of counsel for the successful bidders, which will be paid by the successful bidders, will be supplied by amendment. It is stated that the Board of Public Utility Commissioners of the State of New Jersey has jurisdiction over the proposed transaction and that no other state commission or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than February 10, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.76-2150 Filed 1-23-76;8:45 am]

[Release No. 34-12029; File No. SR-NYSE-75-20]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 28, 1975, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule change as follows:

STATEMENT OF THE PROPOSED RULE CHANGE

Amend Rule 6 by adding the following next to last paragraph:

In consideration of any action by the Corporation to provide for the exercise of dissenters' rights, appraisal rights or similar rights available to the Corporation's nominee as registered owner of Deposited Securities, any Participant seeking to avail itself of such rights, either on its own behalf or on behalf of others, shall indemnify the Corporation and any nominee of the Corporation in the name of which such securities are registered against all loss, liability and expense which they may sustain, without fault on the Corporation's or such nominee's part, as a result of any action they may take pursuant to the instructions of such Participant in exercising any such rights. The Corporation shall not be obligated to do any act in pursuance of such rights otherwise than pursuant to the reasonable instructions of such Participant and shall not be obligated to determine for itself, or for any other person, the legal or other requirements to be followed or complied with in respect of the pursuit of such rights.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

3. *Purpose of Proposed Rule Change.*

The purpose of the proposed rule change is to facilitate the exercise of dissenters' rights, appraisal rights and similar rights through The Depository Trust Company (DTC), a subsidiary of the New York Stock Exchange, Inc. (Exchange), by providing for the indemnification of DTC and placing the burden of exercising such rights on the persons who benefit therefrom.

4. *Basis under the Act for Adopting the Proposed Rule Change.*

(a) Not Applicable.

(b) The proposed rule change relates to the Exchange's subsidiary, DTC. The rule change relates to DTC's carrying out the purposes of Section 17A of the Securities Exchange Act of 1934 (Act) by removing operational problems to, and perfecting the mechanism of, a national system for the prompt and accurate clearance and settlement of securities transactions.

(c) Not Applicable.

5. *Comments Received from Members, Participants or Others on Proposed Rule Change.*

No comments have been solicited.

6. *Burden on Competition.*

None.

On or before March 1, 1976, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before twenty-one days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

JANUARY 20, 1976.

[FR Doc.76-2152 Filed 1-23-76;8:45 am]

[Rel. No. 9131; 812-3856]

PACIFIC FIDELITY LIFE INSURANCE CO. ET AL.

Application

JANUARY 19, 1976.

Notice is hereby given that Pacific Fidelity Life Insurance Company ("PFL"), a California stock life insurance company, PFL Variable Annuity Fund I, PFL Variable Annuity Fund II, PFL Variable Annuity Fund III, PFL Variable Annuity Fund IV, PFL Variable Annuity Fund V, PFL Variable Annuity Fund VI (collectively referred to as "Funds"), separate accounts of PFL registered under the Investment Company Act of 1940 ("Act") as unit investment trusts, Piedmont Capital Corporation and West-

america Financial Corporation, 10100 Santa Monica Boulevard, Los Angeles, California 90067. (collectively referred to as "Co-principal Distributors"), co-principal underwriters for the variable annuity contracts issued by the Funds (PFL, the Funds and the Co-principal Distributors collectively referred to as "Applicants"), filed an application on September 2, 1975, and an amendment thereto on January 2, 1976, pursuant to section 6(c) of the Act, for an order of exemption from the provisions of sections 26(a) and 27(c)(2) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Each of the Funds was established as a separate account of PFL for the purpose of funding individual variable annuity contracts which will be offered and sold to the public. Funds I, III and V are designed to fund variable annuity contracts which are qualified for special tax treatment under sections 401, 403(b) and 408 of the Internal Revenue Code, and Funds II, IV and VI are designed to fund individual non-tax qualified variable annuity contracts. The Funds will invest the purchase payments they receive pursuant to the contracts, less deductions, in shares of diversified open-end investment companies; the assets of Funds I and II will be invested in the shares of Lexington Research Fund, Inc., the assets of Funds III and IV will be invested in shares of Lexington Growth Fund, Inc., and the assets of Funds V and VI will be invested in shares of Lexington Income Fund, Inc.

Sections 26(a) and 27(c)(2).

Sections 26(a) and 27(c)(2), in pertinent part, provide that a registered unit investment trust and any depositor or underwriter for such trust are prohibited from selling periodic payment plan certificates unless the proceeds of all payments (except amounts deducted for sales load) are deposited with a qualified bank as trustee or custodian under an agreement containing specified provisions. Such agreement must provide, in part, that (1) the custodian bank shall have possession of all the property of the unit investment trust and shall segregate and hold the same in trust; (2) the custodian bank shall not resign until either the unit investment trust has been liquidated or a successor custodian has been appointed; (3) the custodian may collect fees from the income and if necessary from the corpus of the trust for services performed and for reimbursement of expenses incurred; and (4) no payment to the depositor or principal underwriter shall be allowed the custodian bank as an expense, except a fee, not exceeding such reasonable amount as the Commission may prescribe, as compensation for performing bookkeeping and other administrative expenses normally performed by the custodian.

Applicants request an exemption from sections 26(a) and 27(c)(2) to permit the proceeds of all payments under the variable annuity contracts to be held by PFL and to permit PFL to otherwise perform the tasks customarily handled by the custodian. Applicants state that its status as a regulated insurance company, and its obligations as an insurance company to its variable annuity contract owners, substantially provide the protection contemplated by the requirements of sections 26(a) and 27(c)(2). Applicants have consented to the requested exemptions being made subject to the following conditions:

(1) That the charges to variable annuity contract owners for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purpose, and

(2) That the payment of sums and charges out of the assets of the Funds shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that the Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets other than the charges for administrative services, and Applicants reserve the right in any proceeding before the Commission or in any suit or action in any court to assert that the Commission has no authority to regulate the payment of such other sums or charges.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction or any class or classes of persons, securities or transactions from any provisions of the Act and Rules promulgated thereunder if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than February 12, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following February 12, 1976, unless the Commission orders a hearing on request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-2151 Filed 1-23-76;8:45 am]

VETERANS ADMINISTRATION

Privacy Act of 1974

SYSTEMS OF RECORD

In FR Doc. 76-1699 appearing at page 2880 in the issue of Tuesday, January 20, 1976, the following text should be inserted immediately above the penultimate line in the right hand column on page 2881 (following the second paragraph of the item numbered 5):

A record from this system of records may be disclosed to a State unemployment compensation agency, in response to its request, to the extent required to determine eligibility for their benefit.

A record from this system of records may be disclosed to the following agencies relative to military or naval service and as to both current and historical benefit payments made by the VA: Departments of the Army, Navy and Air Force; Marine Corps; Department of Transportation (Coast Guard); Department of Health, Education and Welfare, PHS (Public Health Service), Commissioned Corps; Department of Commerce, NOAA (National Oceanic and Atmospheric Administration), Commissioned Officer Corps.

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924 (b) 1932, or 1942 (b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75, published January 29, 1975 (40 FR 4393). In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing on or before February 9, 1976 to: Deputy Assistant Secretary for Employment and Training, 601 D St. NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 19th day of January 1976.

BEN BURDETSKY,
Deputy Assistant Secretary for Employment and Training.

Applications received during the week ending January 16, 1976

Name of applicant	Location of enterprise	Principal product or activity
Shimp's Hardware, Inc	Pennsville, N.J	Retail hardware.
Carbotek, Inc	Loiza, P.R	Xerographic toners and developers.
Carpenters Convalescent Home Inc	Athens, Pa	Nursing home service.
Montgomery Furniture Co	Christiansburg, Va	Upholstered household furniture.
Consolidated Foods of Bedford, Inc	Bedford County, Va	Warehousing and distribution of dry, canned, and frozen foods.
Tillman Packing Association	Tillman, S.C	Construct or purchase building and machinery.
Cordele Sash, Door & Lumber Co	Crips County, Ga	Manufacture of rough and finish lumber.
Manor Care of Southern Pines, Inc	Pinehurst, N.C	Skilled nursing care.
The Boathouse, Inc	Plymouth, N.C	Selling and retail of boats, motors, and all accessories.
Hazlewood Village Health Care and Rehabilitation Center of Virden, Inc.	Virden, Ill	Nursing home.
Siemer Milling Co	Teutopolis, Ill	Soft wheat flour, animal feeds, and farm supplies.
Heppner Villa	Pinconning, Mich	Bowling alley.
Fuqua Homes, Inc	Caldwell, Ohio	Manufacturer of single-wide and double-wide mobile homes.
Gould Inc	Caldwell, Ohio	Manufacturing bushings and bearings.
GFI, Inc	East Tawas, Mich	Fabrication and processing carbon and graphite articles.
Louisiana Freshwater Fisheries, Inc	Charenton, La	Fish market.
General Battery Corp	Salina, Kans	Manufacture of automotive and truck batteries.
William Lee Williams	Edwards, Colo	Shopping center.
Pelleted Feeds, Inc	Winnemucca, Nev	Manufacture of alfalfa pellets.
Capitol Center Bowl	Carson City, Nev	Bowling center.

[FR Doc.76-2169 Filed 1-23-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 958]

ASSIGNMENT OF HEARINGS

JANUARY 21, 1976.

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 119619 Sub-75, Distributors Service Co., now assigned February 18, 1976, at Milwaukee, Wis., will be held in Room 301-A, City Hall, 200 East Wells Street.

MC-F-12388, South Bend Freight Line, Inc.—Purchase—Delia Cartage Co., Inc., and MC 31533 Sub-13, South Bend Freight Line, Inc., now assigned February 23, 1976, at Chicago, Illinois, will be held in Room 1119, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street.

MC 94201 (Sub-No. 132), Bowman Transportation, Inc., now being assigned March 10, 1976, at Atlanta, Ga. (2 days), in a hearing room to be later designated.

MC 8973 Sub 39, Metropolitan Trucking, Inc., now assigned February 2, 1976, at New York, N.Y., is canceled and transferred to Modified Procedure.

MC 115331 (Sub-No. 387), Truck Transport, Incorporated, MC 116763 (Sub-No. 305), Carl Subler Trucking, Inc., MC 121060 (Sub-No. 33), Arrow Truck Lines, Inc., MC 128273 (Sub-No. 165), Midwestern Distribution, Inc., and MC 128273 (Sub-No. 170), Midwestern Distribution, Inc., now assigned February 5, 1976, at Washington, D.C., is postponed to February 19, 1976, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 108676 (Sub-No. 85), A. J. Metler Hauling and Rigging Co., now being assigned March 9, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

AB 57 (Sub-No. 1), Soo Line Railroad Co. Abandonment Between Rapid River and Eben Junction, In Delta and Alger Counties, Michigan, now being assigned March 11, 1976, at Escanaba, Mich. (2 days), in a hearing room to be later designated.

MC 120788 (Sub-No. 2), Fulsang's Motor Service, Inc., now being assigned March 15, 1976 (2 days), at Chicago, Ill.; in a hearing room to be later designated.

MC-F-12581, Transcon Lines—Purchase—Illinois Express, Inc., and MC 110325 (Sub-No. 68), Transcon Lines, now being assigned March 17, 1976 (3 days), at Chicago, Ill.; in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-2227 Filed 1-23-76;8:45 am]

[Notice No. 959]

ASSIGNMENT OF HEARINGS

JANUARY 21, 1976.

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.

Correction

MC 140918, Roger P. Mann d/b/a R. P. M. Trucking Service, now assigned March 3, 1976 (1 day), at Chicago, Ill.; in a hearing room to be later designated, instead of March 4, 1976.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-2228 Filed 1-23-76;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 21, 1976.

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 February 10, 1976.

FSA No. 43114—*Joint Water-Rail Container Rates—American President Lines, Ltd.* Filed by American President Lines, Ltd. (No. 24), for itself and interested rail carriers. Rates on general commodities, from ports in (1) Thailand, (2) Federation of Malaysia, Republic of Singapore, India, Indonesia, Pakistan, Sri Lanka, (3) France, Israel, Italy, and Spain, to rail stations on the U.S. Gulf Coast Seaports.

Grounds for relief—Water competition.

FSA No. 43115—*Pipeline Rates—Liquid Fertilizers from the Southwest.* Filed by Williams Pipe Line Company (No. 5). Rates on liquid fertilizers, as described in the application, from Verdigris (Tulsa), Oklahoma, to Jordan, Indiana, the intermediate point and Dublin, Indiana, the destination.

Grounds for relief—Motor-water competition.

By the Commission.

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

[FR Doc.76-2229 Filed 1-23-76;8:45 am]

[Notice No. 9]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JAUNARY 19, 1976.

The following are notices of filing of applications for temprorary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

No. MC 1924 (Sub-No. 10TA) (Correction), filed December 11, 1975, published in the FEDERAL REGISTER issue of December 29, 1975, and republished as corrected this issue. Applicant: WALLACE-COLVILLE MOTOR FREIGHT, INC., 400 North Sycamore, Spokane, Wash. 99220. Applicant's representative: Michael B. Crutcher, 2000 IBM Bldg., Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those which because of their size or weight require the use of special equipment), between Spokane, Wash. and Lewiston, Idaho, and their commercial zones, including the intermediate and off-route points of Colfax, Pullman and Clarkton, Wash. and Moscow, Idaho, over U.S. Highway 195, for 180 days. Joinder and interline: Applicant intends to join, and interline with other carriers at Spokane, Wash. Supporting shipper: This application is supported by more than 150 supporting shippers. The letters may be inspected at the Interstate Commerce Commission office in Washington, D.C., or the Seattle office. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, 915 Second Ave., Seattle, Wash. 98174.

NOTE.—The purpose of this correction is to more clearly indicate the request for authority.

No. MC 61231 (Sub-No. 87TA), filed January 7, 1976. Applicant: ACE LINES, INC., 4143 E. 43rd Street, Des Moines, Iowa 50317. 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) *Iron and steel articles* (except commodities in bulk), from the plantsite and facilities of National Pipe and Tube Company, located in Liberty County, Tex., to points in Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Wisconsin, and Wyoming; and (2) *materials, equipment, and supplies* used in the manufacture, processing and distribution of iron and steel articles (except commodities in bulk), from the states named in (1) above, to the plantsite and facilities of National Pipe and Tube Company, located in Liberty County, Tex. Restriction: The authority sought in Parts (1) and (2) above is restricted to traffic originating at and destined to the named plantsite and facilities of National Pipe and Tube Company, and the named states, for 180 days. Supporting shipper: National Pipe and Tube Company, 20th and State Streets, Granite City, Ill. 62040. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 64932 (Sub-No. 555TA), filed January 9, 1976. Applicant: ROGERS CARTAGE CO., 10735 S. Cicero Avenue, Oak Lawn, Ill. 60453. Applicant's representative: William F. Farrell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ink*, in bulk, in shipper owned vehicles, from the plantsite of Sun Chemical Corp. at Kankakee, Ill., to Warsaw, Ind.; Louisville, Ky.; Niles, Mich.; New York, N.Y.; Cleveland, and Springfield, Ohio; Atglen and Philadelphia, Pa.; and Gallatin and Memphis, Tenn., for 180 days. Supporting shipper: Sun Chemical Corp., 222 S. Marginal Road, Fort Lee, N.J. 07024. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 83539 (Sub-No. 425TA), filed January 8, 1976. Applicant: C & H TRANSPORTATION CO., INC., 1936-2010 West Commerce Street, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (except commodities in bulk), from the plantsite and storage facilities of National Pipe and Tube Company located in Liberty County, Tex., to points in the United States (except points in Alaska, Hawaii, and Texas), restricted to traffic originating at the plantsite and storage facilities of National Pipe and Tube Company, for 180 days. Supporting shipper: National Pipe and Tube Company, 20th and State Streets, Granite City, Ill. 62040. Send protests to: Opal Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 106775 (Sub-No. 40TA), filed January 9, 1976. Appplicant: ATLAS TRUCK LINE, INC., P.O. Box 9848, Houston, Tex. 77015. Applicant's representative: Rex L. Cooper (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles* (except commodities in bulk), from the plantsite and facilities of National Pipe and Tube Company, located in Liberty County, Tex., to points in the United States (except Alaska, Hawaii, and Texas); and (2) *materials, equipment, and supplies* used in the manufacture, processing and distribution of iron and steel articles (except commodities in bulk), from points in the United States (except Alaska, Hawaii, and Texas), to the plantsite and facilities of National Pipe and Tube Company, located in Liberty County, Tex., restricted in Parts (1) and (2) above to traffic originating at and destined to the named plantsite and facilities of National Pipe and Tube Company and the named

states, for 180 days. Supporting shipper: National Pipe and Tube Company, 20th and State Streets, Granite City, Ill. 62040. Send protests to: District Supervisor John F. Mensing, Interstate Commerce Commission, 8610 Federal Building, 515 Rusk, Houston, Tex. 77002.

No. MC 107162 (Sub-No. 43TA), filed January 9, 1976. Applicant: NOBLE GRAHAM TRANSPORT, INC., R.R. No. 1, Brimley, Mich. 49716. Applicant's representative: John Duncan Varda, 121 S. Pinckney Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, from the Port of Entry on the International Boundary Line between the United States and Canada at or near Sault Ste. Marie, Mich., to Rothschild, Wis., for 180 days. Supporting shipper: Weyerhauser Canada Ltd., 45 3rd Line West, Sault Ste. Marie, Ontario, Canada. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, Mich. 48933.

No. MC 107496 (Sub-No. 1014TA), (Correction), filed December 12, 1975, published in the FEDERAL REGISTER issue of January 7, 1976 as (Sub-No. 1013TA), and republished as corrected this issue. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk, from Waukegan, Ill., to points in Indiana and Wisconsin, for 180 days. Supporting shipper: American Admixtures Corporation, 5909 North Rogers Avenue, Chicago, Ill. 60646. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 875 Federal Building, Des Moines, Iowa 50309.

NOTE.—The purpose of this republication is to indicate the correct Sub-Number assigned to this proceeding. A request for authority docketed in MC 107496 (Sub-No. 1013TA) appeared in the FEDERAL REGISTER issue of December 29, 1975 and remains as noticed therein.

No. MC 108207 (Sub-No. 431TA), filed January 7, 1976. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: Mike Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Omaha, Nebr., to points in Oklahoma, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Omaha Steaks International, 4400 South 96th Street, Omaha, Nebr. 68127, and Morton Meats of Omaha, 1211 Howard Street, Omaha, Nebr. 68102. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 110525 (Sub-No. 1145TA), filed December 30, 1975. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Avenue, P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Leach, Ky., to points in North Carolina and South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ashland Chemical Company, P.O. Box 1063, Columbus, Ohio 43216. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 114533 (Sub-No. 336TA), filed January 9, 1976. Applicant: BANKERS DISPATCH CORPORATION, 1106 W. 35th Street, Chicago, Ill. 60609. Applicant's representative: Paul R. Bergant (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Exposed and processed film and prints, complimentary replacement film*, and *incidental dealer handling supplies* (except motion picture films and materials and supplies used in connection with commercial and television motion pictures), between Springfield, Mo., on the one hand, and, on the other, points in Kansas, for 180 days. Supporting shipper: Mellers Photo Labs, Inc., 1929 E. Bennett, Springfield, Mo. 65804. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 126436 (Sub-No. 10TA), filed January 9, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road SE., Forest Park, Ga. 30050. Applicant's representative: Richard M. Tettelbaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel shot* (except ammunition), from Bedford, Va., to points in Alabama, Louisiana, Oregon, Washington, and California, under a continuing contract with Wheelabrator-Frye, Inc., for 180 days. Supporting shipper: Wheelabrator-Frye, Inc., 400 S. Bryket Avenue, Mishawaka, Ind. 46544. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, 1252 W. Peachtree Street NW., Room 546, Atlanta, Ga. 30309.

No. MC 128273 (Sub-No. 216TA), filed January 7, 1976. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, 121 Humboldt Street, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, 1403 South Horton, Fort Scott, Kans. 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stone and stone products*, from points in Costilla County, Colo., to points in Pennsylvania, New York, New Jersey, Connecticut, Massachusetts, Rhode Island, Vermont, and New Hampshire, for 180 days. Supporting shipper: Colorado Aggregate Co., Inc., P.O. Box 106, Mesita, Colo. 81142. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 136008 (Sub-No. 66TA), filed January 8, 1976. Applicant: JOE BROWN COMPANY, INC., P.O. Box 1669, 20 Third Street SE., Ardmore, Okla. 73401. Applicant's representative: G. Timothy Armstrong, 6161 North May, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk in dump vehicles, (1) between points in Colfax County, N. Mex., restricted to subsequent movement by rail in interstate commerce, and (2) between points in Los Animas County, Colo., restricted to subsequent movement by rail in interstate commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wil-Mat Oil and Land Co., 1411 Classen Blvd., Oklahoma City, Okla. Send protests to: Larry Chapman, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 NW. Third, Oklahoma City, Okla.

No. MC 136087 (Sub-No. 3TA), filed January 8, 1976. Applicant: JAMES E. CHELF, WILLIAM F. SHARP, JR., ALVIN C. ELLIOTT, AND LOY GENE COKER, d/b/a JIM CHELF AND ASSOCIATES, 5226 Brighton Blvd., Denver, Colo. 80216. Applicant's representative: Leslie R. Kehl, Suite 1600 Lincoln Center Bldg., 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Used communication material* for recycling, from Denver, Colo. to the facilities of Phelps Dodge, located at or near El Paso, Tex., under a contract with Mountain States Telephone & Telegraph Co. (Mountain Bell) for 180 days. Supporting shipper: Mountain States Telephone & Telegraph Co., 930 15th Street, Room 1200, Denver, Colo. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, 2022 Federal Building, Denver, Colo. 80202.

No. MC 138469 (Sub-No. 20TA), (Correction), filed December 17, 1975, published in the FEDERAL REGISTER issue of January 7, 1976, and republished as corrected this issue. Applicant: DONCO CARRIERS, INC., 641 North Meridian, Oklahoma City, Okla. 73107. Applicant's representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200, Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over

irregular routes, transporting: *Drugs, medicines, infant and children's foods, water, feeding sets, dispenser stands, rubber and plastic articles, vaporizers, glass specimen bottles, and can openers,* from the facilities of or utilized by Mead Johnson & Co., located at or near Evansville, Ind., and Cabool and Springfield, Mo., to points in Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, Wyoming; and Deer Lodge, Flathead, Granite, Lake, Lincoln, Mineral, Missoula, Powell, Ravalli, Sanders, and Silver Bow Counties, Mont., restricted to traffic originating at the above named origins, for 180 days. Supporting shipper: Mead Johnson & Co., Michael A. Ehrmann, T.M., 2404 Pennsylvania, Evansville, Ind. 47721. Send protests to: Marie Spillars, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Room 240 Old Post Office Building, 215 NW. Third, Oklahoma City, Okla. 73102.

NOTE.—The purpose of this republication is to indicate applicant's correct name.

No. MC 140298 (Sub-No. 2TA), filed January 7, 1976. Applicant: BEN OLSSON, d/b/a BEN OLSSON TRUCKING, Route 1, Ellettsville, Ind. 47429. Applicant's representative: Stephen L. Ferguson, 403 East Sixth Street, Bloomington, Ind. 47401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and construction and building materials* (except commodities in bulk), from Wickes Lumber and Building Supplies in Huntertown, Ind., to points in William, Defiance, Pauling, VanWert, Mercer, Fulton, Henry, Putnam, Allen, Auglaize and Shelby Counties, Ohio, and Branch, St. Joseph and Hillsdale Counties, Mich., under a contract with Wickes Lumber and Building Supplies, Division of The Wickes Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wickes Lumber, Region 6, 3226 Lafayette Road, Indianapolis, Ind. 46222. Send protests to: Transportation Assistant Fran Sterling, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 141011 (Sub-No. 1TA), filed January 9, 1976. Applicant: SAM CROWDER AND SAM CROWDER, Jr., d/b/a CROWDER & CROWDER, 3705 Doris Drive, Tallahassee, Fla. 32303. Applicant's representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, Fla. 32302. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, in bulk, in dump trucks, from points in Gadsden County, Fla., to the plant site and facilities of Engelhard Minerals & Chemicals Corp. at Attapulgus, Ga., under a contract with Engelhard Minerals & Chemicals Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Engelhard Minerals & Chemicals Corp., Attapulgus, Ga. 31715. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 141278 (Sub-No. 2TA), filed January 9, 1976. Applicant: CHARLES W. SIRCY CORPORATION, 434 Atlas Drive, Nashville, Tenn. 37211. Applicant's representative: Roland M. Lowell, Suite 618, Hamilton Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat processinig plants* (except commodities in bulk), from Trenton, Mo., to Jackson, Tenn., under a contract with Kelly Foods, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kelly Foods, P.O. Box 548, Jackson, Tenn. 38301. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A–422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 141536 (Sub-No. 1TA), filed January 7, 1976. Applicant: BILL BLANN, d/b/a BLANN TRACTOR CO., Route 2, Box 38, Hampton, Ark. 71744. Applicant's representative: J. Phelps Jones, P.O. Box 557, Hampton, Ark. 71744. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rock, clay, dirt, sand*, and *gravel*, in bulk, in dump-bed trailers, from points in Calhoun, Ouachita and Bradley Counties, Ark., to points in Sabine, Natchitoches, Grant, LaSalle, Catahoula, De Soto, Red River, Caldwell, Franklin, Tensas, Concordia, Madison, East Carroll, West Carroll, Morehouse, Vernon, Rapids, Avoyeles, Winn, Caddo, Claiborne, Bienville, Webster, Bossier Parishes, La., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Louisiana Industries—Division of Texas Industries, Inc., P.O. Box 400, Arlington, Tex. 76010. Send protests to: District Superivsor William H. Land, Jr., Interstate Commerce Commission, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 141671 TA, filed January 9, 1976. Applicant: TESORO TRANSPORTATION COMPANY, 8700 Tesoro Drive, San Antonio, Tex. 78286. Applicant's representative: William L. Weddle (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude petroleum*, in bulk, in tank vehicles, from points in Lea, Curry, Eddy, Roosevelt, and Chavez Counties, N. Mex., to points in that part of Texas south of a line beginning at the New Mexico-Texas State line and extending along U.S. Highway 66 to Amarillo, Tex., thence south along U.S. Highway 87 to Big Spring, Tex., thence west along U.S. Highway 80 to Pecos, Tex., thence northerly along U.S. Highway 285 to the New Mexico-Texas State line, for 180 days. Supporting shipper: Tesoro Crude Oil Company, 8700 Tesoro Drive, San Antonio, Tex. 78286. Send protests to: Richard H. Dawkins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room B–400, Federal Building, 727 E. Durango, San Antonio, Tex. 78205.

No. MC 141672 TA, (filed January 9, 1976. Applicant: EVERGREEN EXPRESS, LTD., P.O. Box 611, Petoskey, Mich. 49770. Applicant's representative: Rowe A. Balmer, Jr., 770 S. Adams, Suite 111, Birmingham, Mich. 48011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* (except in bulk) at controlled temperatures, and *empty bottles, barrels and recyclable metals*, between Milwaukee, Wis. and Petoskey, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Zaiger Beverage Company, 1008 Franklin Street, Petosky, Mich. 49770. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, Mich. 48933.

No. MC 141673 TA, filed January 9, 1976. Applicant: BYRON A. MARTIN, d/b/a M & N TRUCKING, 410 Lorena Street, Farmington, N. Mex. 87401. Applicant's representative: James E. Snead, 215 Lincoln Street, P.O. Box 2228, Santa Fe, N. Mex. 87501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drilling mud*, in containers, between Farmington, N. Mex., on the one hand, and, on the other, points in Mesa, Huerfano, La Plata, and Garfield Counties, Colo.; San Juan County, Utah; and Navajo and Apache Counties, Ariz., under a contract with Baroid Division, N L Industries, Inc., for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Baroid Division, N L Industries, Inc., P.O. Box 1675, Houston, Tex. 77001. Send protests to: John H. Kirkemo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue, S.W., Albuquerque, N. Mex. 87101.

No. MC 141674 TA, filed January 8, 1976. Applicant: McCLUNG TRANSPORT, INC., 731 Rutgers, Lancaster, Tex. 75146. Applicant's representative: Jerry McClung (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boat trailers*, assembled, and *accessories* in a drive-away service, from Dallas-Fort Worth, Tex. commercial zone, to points in Texas, New Mexico, Oklahoma, Louisiana, and Arkansas, for 180 days. Supporting shipper: Nelson-Dykes Co., Inc., 4071 Shilling Way, Dallas, Tex. 75237. Send protests to: Opal M. Jones, Transportation

Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 141675 TA, filed January 9, 1976. Applicant: ECONOMY TRUCKING SERVICE, INC., 1079 West Side Avenue, Jersey City, N.J. 07306. Applicant's representative: Ira G. Megdal, P.O. Box 459–460, 499 Cooper Landing Road, Cherry Hill, N.J. 08002. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by department stores, and *supplies and equipment* used in the conduct of such business, between Jersey City, N.J., on the one hand, and, on the other, points in Massachusetts, Vermont, New York, Maine, Maryland, Indiana, Pennsylvania, Virginia, North Carolina, and Delaware, under a contract with Ames Department Stores, Inc., for 180 days. Supporting shipper: Ames Department Stores, Inc., 3580 Main Street, Hartford, Conn. 06112. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 141676 TA, filed January 8, 1976. Applicant: J. D. HINES AND BILLY HINES, d/b/a J. D. HINES AND BILLY HINES TRUCKING, Moore's Highway, Prescott, Ark. 71857. Applicant's representative: J. D. Hines (Same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt road building materials, chat, rock, gravel, sand, concrete road building mixes*, hot and cold (except liquid asphalt, dirt and marble lime), from points in Arkansas south of Interstate Highway 40, to points in Louisiana on and north of Louisiana Highway 28, under a contract with Madden Construction Company, Reynolds & Williams Construction Company, Arkadelphia Sand & Gravel Company, Inc. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Madden Construction Company, P.O. Box 826, Minden, La. 71055. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

By the Commission.

[SEAL] H. GORDON HOMME, Jr.,
Assistant Secretary.

[FR Doc.76-2230 Filed 1-23-76;8:45 am]

federal register

MONDAY, JANUARY 26, 1976

PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

NATIONAL HEALTH SERVICE CORPS PERSONNEL

Grants to Assist Entities

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 23]

ASSIGNED NATIONAL HEALTH SERVICE CORPS PERSONNEL

Grants to Assist Entities

Notice is hereby given that the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, proposes to add Subpart B entitled "Grants to Assist Entities With Assigned National Health Service Corps Personnel" to Part 23 of Title 42, Code of Federal Regulations. It is proposed that the current provisions of Part 23, which relate to the assignment of National Health Service Corps personnel, be redesignated Subpart A and be entitled "Assignment of National Health Service Corps Personnel".

Section 329(d)(2) of the Public Health Service Act, as amended by Section 802 of Public Law 94-63 provides that the Secretary may make grants of up to $25,000 to entities with approved applications for the assignment of National Health Service Corps personnel to assist in meeting the costs of establishing medical practice management systems for Corps personnel, acquiring supplies and equipment for their use in providing health services, and for other expenses related to the provision of health services. The purpose of proposed Subpart B is to establish regulations implementing such authority.

Interested persons are invited to submit written comments, suggestions, or objections to the Director, Division of Policy Development, Bureau of Community Health Services, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, on or before February 25, 1976.

Comments received will be available for public inspection at Room 6-17 during regular business hours.

It is therefore proposed to amend Part 23 of Title 42, Code of Federal Regulations, by redesignating the present provisions of Part 23 as Subpart A—assignment of National Health Service Corps Personnel, and by adding thereto Subpart B to read as set forth below.

Dated: November 21, 1975.

THEODORE COOPER,
Assistant Secretary for Health.

Approved: January 2, 1976.

MARJORIE LYNCH,
Acting Secretary.

Subpart B—Grants To Assist Entities With Assigned National Health Service Corps Personnel

Sec.

AUTHORITY: Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Sec. 329(d)(2), 89 Stat. 353 (42 U.S.C. 254b).

Subpart B—Grants To Assist Entities With Assigned National Health Service Corps Personnel

§ 23.110 Applicability.

The regulations of this subpart are applicable to grants under section 329(d)(2) of the Public Health Service Act (42 U.S.C. 254b) to entities with approved applications for the assignment of National Health Service Corps personnel to assist in meeting the costs of establishing medical practice management systems for Corps personnel, acquiring supplies and equipment for their use in providing health services, and for other expenses related to the provision of health services.

§ 23.111 Definitions.

As used in this subpart:

(a) "Act" means the Public Health Service Act, as amended.

(b) "National Health Service Corps personnel" or "Corps personnel" means health or health related personnel of the National Health Service Corps, including but not limited to, physicians, dentists, psychologists, nurses, paramedical personnel, medical services administrators or planners, and medical and psychiatric technicians, who are assigned, in accordance with section 329 of the Act and the regulations in this part, to an area to provide needed health care or services.

(c) "Medical practice management system" means the total system consisting of personnel, equipment, supplies, facilities, alministrative methods and formal agreements with other entities, by which the delivery of effective medical dental services by professional providers of such care is effectuated.

(d) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of that Department to whom the authority involved has been delegated.

(e) "State" means any of the several States, the District or Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

§ 23.112 Eligibility.

(a) *Eligible applicants.* Any entity whose application has been submitted to the Secretary for the assignment of Corps personnel, as authorized under section 329 of the Act and subpart A of this part, is eligible to apply for a grant under this subpart.

(b) *Eligible projects.* Grants may be made by the Secretary under section 329 of the Act to assist in meeting the costs of establishing medical practice management systems for Corps personnel, acquiring supplies and equipment for their use in providing health services, and other expenses related to the provision of health services.

§ 23.113 Application.

(a) An application for a grant under this subpart shall be submitted to the Secretary in such form and manner and at such time as the Secretary may prescribe.

(b) The application shall contain a budget and narrative plan of the manner in which the applicant intends to use the funds provided under this subpart, including an itemized list of all equipment proposed to be purchased and a narrative justification for such purchases. The application shall contain a full description of the present and estimated future financial resources of the applicant.

(c) Such application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the Act, the regulations of this subpart, or any additional terms or conditions of the grant.

§ 23.114 Evaluation and grant award.

(a) *General.* (1) Within the limits of funds available for such purposes, the Secretary may award grants to those applicants whose project will, in his judgment, best promote the purposes of section 329 of the Act and the regulations of this subpart taking into account among other pertinent factors:

(i) The reasonableness of the budget for the proposed medical practice management system, the supplies and equipment, and the other expenses related to the provision of health services in relation to the number of persons to be served and the services to be provided by the entity;

(ii) The need of the entity for financial assistance, as determined by the Secretary's evaluation of the entity's financial situation; and

(iii) The extent to which the applicant proposes to utilize resources in or near the area to be served for the purpose of acquiring supplies, equipment or services to be used in the approved activity.

(2) Not more than one grant shall be made with respect to any one critical health manpower shortage area designated under section 329(b)(1) of the Act.

(3) All grant awards shall be in writing and shall set forth the amount of funds granted and the period for which such funds shall be available for obligation. Such period may not exceed the duration of the agreement entered into with the applicant for the assignment of Corps personnel in accordance with § 23.8.

(b) *Determination of grant amount.* The amount of any grant, which may not exceed $25,000, shall be determined by the Secretary on the basis of his estimate of the sum necessary for all or a designated portion of the direct costs of the approved project plus an additional amount for the indirect costs, if any, which will be calculated by the Secretary either:

(1) On the basis of the estimate of the actual indirect costs reasonably related to the project; or

(2) On the basis of a percentage of all or a designated portion of the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs.

§ 23.115 Grant payments.

The Secretary will from time to time make payments to a grantee of all or a portion of any grant award, either by way of reimbursement for expenses incurred in the performance of the project, or in advance for expenses to be incurred in the performance of the project, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project.

§ 23.116 Use of grant funds.

(a) Any funds granted pursuant to this subpart may be expended solely for carrying out the approved project in accordance with section 329(d)(2) of the Act, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74.

(b) Funds granted pursuant to this subpart may be expended for:

(1) The costs of establishing medical practice management systems for Corps personnel, including the cost of ancillary personnel such as receptionists and bookkeepers, the cost of obtaining assistance on the methods of preparing and using medical and fiscal records, and the costs attendant upon agreements with other providers or support agencies for supplemental services such as specialty referrals and treatment, laboratory work, billing and collection;

(2) The cost of acquiring supplies and equipment for the use of Corps personnel in providing health services; and

(3) Other expenses related to the provision of health services, including alteration and renovation of office and laboratory space, payment for primary and support staff during developmental and initial stages of operation, and the continuing professional education of Corps personnel up to a maximum of $500 a year per individual.

(c) Prior written approval by the Secretary is required whenever a revision in the budget will result in a significant change in the scope or nature of project activities.

§ 23.117 Nondiscrimination.

(a) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) and in particular section 601 of such Act which provides that no person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(b) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

(c) Grant funds used for alteration or renovation shall be subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, 30 FR 12319 (September 24, 1965), as amended, and the applicable rules, regulations and procedures prescribed pursuant thereto.

§ 23.118 Publications and copyright.

(a) *State and local governments.* Where the grantee is a State or local government as defined in 45 CFR 74.3, the Department of Health, Education, and Welfare copyright requirement set forth in 45 CFR 74.140 shall apply with respect to any book or other copyrightable material developed or resulting from the activity supported by a grant under this subpart.

(b) *Grantees other than State and local governments.* Where the grantee is not a State or local government as so defined, except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publication, films or similar materials developed or resulting from an activity supported by a grant under this subpart, subject; however, to a royalty-free, nonexclusive, and irrevocable license in the Department to reproduce, publish, or otherwise use, and to authorize others to use the work for government purposes.

§ 23.119 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other funds, including funds derived from other grant awards. With respect to each approved project the grantee shall account for the sum of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart; *Provided*, That when the amount awarded for indirect costs was based on a predetermined fixed-percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total, or a selected element thereof, of the reimbursable direct costs incurred.

(b) *Accounting for royalties.* Royalties received by grantees from copyrights on publications or other works developed under the grant, or from patents or inventions conceived or first actually reduced to practice in the course of or under such grant, shall be accounted for as follows:

(1) *State and local governments.* Where the grantee is a State or local government as defined in Subpart A of 45 CFR, Part 74, royalties shall be accounted for as provided in 45 CFR 74.44.

(2) *Grantee other than State and local governments.* Where the grantee is not a State or local government as so defined royalties shall be accounted for as follows:

(i) Patent royalties, whether received during or after the grant period, shall be governed by agreements between the Secretary and the grantee, pursuant to the Department's patent regulations (45 CFR Parts 6 and 8).

(ii) Copyright royalties, whether received during or after the grant period, shall first be used to reduce the Federal share of the grant to cover the costs of publishing or producing the materials, and any royalties in excess of publishing or producing the materials shall be distributed in accordance with Chapter 1–420 of the Department of Health, Education, and Welfare Grants Administration Manual.[1]

(c) *Grant closeout.* (1) *Date of final settlement.* A grantee shall render, with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for pursuant to paragraph (a) and (b) of this section; and

(ii) Any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74.

Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

§ 23.120 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to all other grantee organizations under this subpart:

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[1] The Department of Health, Education, and Welfare Grants Administration Manual is available for public inspection and copying at the Department's and Regional Offices' information centers listed in 45 CFR 5.31 and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records
F Grant Related Income.
K Grant Payment Requirements.
L Budget Revision Procedures.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

§ 23.121 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved project, the interests of public health, or the conservation of grant funds.

[FR Doc.76-2063 Filed 1-23-76;8:45 am]

federal register

MONDAY, JANUARY 26, 1976

PART III:

ENVIRONMENTAL PROTECTION AGENCY

Air Programs

■

PERFORMANCE STANDARDS FOR NEW STATIONARY SOURCES

Primary Aluminum Industry

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 471–4]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Primary Aluminum Industry

On October 23, 1974 (39 FR 37730), under sections 111 and 114 of the Clean Air Act (42 U.S.C. 1857c–6, 1857c–9), as amended, the Administrator proposed standards of performance for new and modified primary aluminum reduction plants. Interested persons participated in the rulemaking by submitting written comments to EPA. The comments have been carefully considered and, where determined by the Administrator to be appropriate, changes have been made in the regulations as promulgated.

These regulations will not, in themselves, require control of emissions from existing primary aluminum reduction plants. Such control will be required only after EPA establishes emission guidelines for existing plants under section 111(d) of the Clean Air Act, which will trigger the adoption of State emission standards for existing plants. General regulations concerning control of existing sources under section 111(d) were proposed on October 7, 1975 (39 FR 36102) and were promulgated on November 17, 1975 (40 FR 53339).

The bases for the proposed standards are presented in the first two volumes of a background document entitled "Background Information for Standards of Performance: Primary Aluminum Industry." Volume 1 (EPA 450/2–74–020a, October 1974) contains the rationale for the proposed standards and Volume 2 (EPA 450/2–74–020b, October 1974) contains a summary of the supporting test data. An inflation impact statement for the standards and a summary of the comments received on the proposed standards along with the Agency responses are contained in a new Volume 3 (EPA 450/2–74–020c, November 1975) of the background document. Copies of all three volumes of the background documents are available on request from the Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711, Attention: Mr. Don R. Goodwin.

Summary of Regulations

The standards of performance promulgated herein limit emissions of gaseous and particulate fluorides from new and modified affected facilities within primary aluminum reduction plants. The standard for fluorides limits emissions from each potroom group within Soderberg plants to 2.0 pounds of total fluorides per ton of aluminum produced (lb TF/TAP), from each potroom group within prebake plants to 1.9 lb TF/TAP, and from each anode bake plant within prebake plants to 0.1 lb TF/TAP. Primary and secondary emission from potroom groups are limited to less than 10 percent opacity, and emissions from anode bake plants are limited to less than 20 percent opacity. The regulations require monitoring of raw material feed rates, cell or potline voltages, and daily production rate of aluminum and anodes. Also included with the standards is Reference Method 14 which specifies equipment and sampling procedures for emission testing of potroom roof monitors. Fluoride samples collected during performance tests will be analyzed according to Reference Method 13A or 13B which were promulgated along with standards of performance for the phosphate fertilizer industry on August 6, 1975 (40 FR 33152).

Significant Comments and Changes Made to the Proposed Regulations

Most of the comment letters received by EPA contained multiple comments. Copies of the comment letters received and a summary of the comments and Agency responses are available for public inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. In addition, copies of the issue summary and Agency responses may be obtained upon written request from the EPA Public Information Center (PM–215), 401 M Street, SW., Washington, D.C. 20460 [specify "Background Information for Standards of Performance: Primary Aluminum Industry Volume 3: Supplemental Information" (EPA 45/2–74–020c)]. The most significant comments and changes made to the proposed regulations are discussed below.

(1) *Designation of Affected Facility.* Several comments questioned the "applicability and designation of affected facility" section of the proposed regulations (§ 60.190) in view of regulations previously proposed by EPA with regard to modification of existing plants (39 FR 36946, October 15, 1974). In § 60.190 as proposed, the entire primary aluminum reduction plant was designated as the affected facility. The commentators argued that, as a result of this designation, addition or modification of a single potroom at an existing plant would subject all existing potrooms at the plant to the standards for new sources. The commentators argued that this situation would unfairly restrict expansion. The Agency considered these comments and agreed that there would be an adverse economic impact on expansion of existing plants unless the affected facility designation were revised.

To alleviate the problem, a new affected facility designation has been incorporated in § 60.190(a). The affected facilities within primary aluminum plants are now each "potroom group" and each anode bake plant within prebake plants. This redesignation in turn required splitting the fluoride standard for prebake plants into separate standards for potroom groups and anode bake plants (see discussion in next section). As defined in § 60.191(d), the term "potroom group" means an uncontrolled potroom, or a potroom which is controlled individually, or a group of potrooms ducted to the same control system. Under this revised designation, addition or modification of a potroom group at an existing plant will not subject the entire plant to the standards (unless the plant consists of only one potroom group). Similarly, addition or modification of an anode bake plant at an exiting prebake facility will not subject the entire prebake facility to the standards. Only the new or modified potroom group or anode bake plant must meet the applicable standards in such cases.

(2) *Fluoride Standard.* Many commentators questioned the level of the proposed standard; i.e., 2.0 lb TF/TAP. A number of industrial commentators suggested that the standard be relaxed or that it be specified in terms of a monthly or yearly emission limit. Some commentators argued that the test data did not support the standard and that statistical techniques should have been applied to the test data in order to arrive at an emission standard.

Standards of performance under section 111 are based on the best control technology which (taking into account control costs) has been "adequately demonstrated." "Adequately demonstrated" means that the Administrator must determine, on the basis of all information available to him (including but not limited to tests and observations of existing plants and demonstration projects or pilot applications) and the exercise of sound engineering judgment, that the control technology relied upon in setting a standard of performance can be made available and will be effective to enable sources to comply with the standards. In other words, test data for existing plants are not the only bases for standard setting. As discussed in the background document, EPA considered not only test data for existing plants, but also the expected performance of newly constructed plants. Some existing plants tested did average less than 2.0 lb TF/TAP. Additionally, EPA believes new plants can be specifically designed for best control of air pollutants and, therefore, that new plant emission control performance should exceed that of well-controlled existing plants. Finally, relatively simple changes in current operating methods (e.g., cell tapping) can produce significant reductions in emissions. For these reasons, EPA believes the 2.0 lb TF/TAP standard is both reasonable and achievable. A more detailed discussion of the rationale for selecting the 2.0 lb TF/TAP standard is contained in Volume 1 of the background document, and EPA's responses to specific comments on the fluoride standard are contained in Volume 3.

As a result of the revised affected facility designation, the 2.0 lb TF/TAP standard for prebake plants has been split into separate standards for potroom groups (1.9 lb TF/TAP) and anode bake plants (0.1 lb TF/TAP). The proposed 2.0 lb TF/TAP limitation for prebake plants always consisted of these two components, but was published as a com-

bined standard to be consistent with the original affected facility designation (i.e., the entire primary aluminum plant). At the time of proposal, the Agency had not foreseen the potential problems with modification of a two part affected facility. Data supporting each component of the standard as proposed is contained in the background document (Volumes 1 and 2). In support of the potroom component of the standard, for example, two existing prebake potrooms tested by the Agency averaged less than 1.9 lb TF/TAP. Because no well controlled anode bake plants existed at the time of aluminum plant testing, the components for anode bake plants was based on a conservatively assumed control efficiency for technology demonstrated in the phosphate fertilizer industry. Using the highest emission rate observed at two anode bake plants which were not controlled for fluorides and applying the assumed control efficiency, it was projected that these plants would emit approximately 0.06 lb TF/TAP (0.12 lb TF/ton of carbon anodes produced). In addition, as indicated in Volume 1 of the background document, it may be possible to meet the standard for anode bake plants simply by better cleaning of anode remnants. The Agency also has estimates of emission rates for a prebake facility to be built in the near future. The estimates indicate that the anode bake plant at the facility will easily meet the 0.1 TF/TAP standard.

One commentator questioned why the standard was not more stringent considering the fact that Oregon has promulgated the following standards for new primary aluminum plants: (a) a monthly average of 1.3 pounds of fluoride ion per ton of aluminum produced, and (b) an annual average of 1.0 pound of fluoride ion per ton of aluminum produced.

There are several reasons why the Agency elected not to adopt standards equivalent to the Oregon standards. Perhaps most important, EPA believes that the Oregon standards would require the installation of relatively inefficient secondary scrubbing systems at most if not all new primary aluminum plants. By contrast, EPA's standard will require use of secondary control systems only for vertical stud Soderberg (VSS) plants (which are unlikely to be built in any event) and side-work prebake plants. A standard requiring secondary control systems on most if not all plants would have a substantial adverse economic impact on the aluminum industry, as is indicated in the economic section of the background document. Accordingly, EPA has concluded that considerations of cost preclude establishing a standard comparable to the Oregon standards.

A second reason for not adopting standards equivalent to the Oregon standards stems from the fact that the latter were based on test data consisting of six monthly averages (calculated by averaging from three to nine individual tests each month) from a certain well controlled plant (which incorporates both primary and secondary control). Oregon applied a statistical method to these data to derive the emission standards it adopted. As discussed in the comment summary, EPA also performed a statistical analysis of the Oregon test data, which yielded results different from those presented in the Oregon technical report. If the Agency's results had been used, less stringent emission standards might have been promulgated in Oregon.

A third consideration is that the test methods used by Oregon were not the same as those used by the Agency to collect emission data in support of the respective standards. Therefore, Oregon's test data and the Agency's test data are not directly comparable.

Finally, a comment on the standard for fluorides questioned whether or not EPA had considered a new, potentially non-polluting primary aluminum reduction process developed by Alcoa. The commentator argued that if the process had become commercially available, the standard should be set at a level sufficiently stringent to stimulate the development of this new process. In response to this comment, EPA has investigated the process and has determined that it is not yet commercially available. Alcoa plans to test the process at a small pilot plant which will begin production early next year. If the pilot plant performs successfully, it will be expanded to full design capacity by the early 1980's. EPA will monitor the progress of this process and other processes under development and will reevaluate the standards of performance for the primary aluminum industry, as appropriate, in light of the new technology.

(3) *Opacity.* Some of the industrial commentators objected to the proposed opacity standards for potrooms and anode bake plants. They argued that good control of total fluorides will result in good control of particulate matter, and therefore that the opacity standards are unnecessary. EPA agrees that good control of total fluorides will result in good control of particulate matter; however, the opacity standards are intended to serve as inexpensive enforcement tools that will help to insure proper operation and maintenance of the air pollution control equipment. Under 40 CFR 60.11(d), owners and operators of affected facilities are required to operate and maintain their control equipment properly at all times. Continuous monitoring instruments are often required to indicate compliance with 60.11(d), but this is not possible in the primary aluminum industry because continuous total fluoride monitors are not commercially available. The data presented in the background document indicate that the opacity standards can be easily met at well controlled plants that are properly operated and maintained. For these reasons, the opacity standards have been retained in the final regulations.

EPA recognizes, however, that in unusual circumstances (e.g., where emissions exit from an extremely wide stack) a source might meet the mass emission limit but fail to meet the opacity limit. In such cases, the owner or operator of the source may petition the Administrator to establish a separate opacity standard under 40 CFR 60.11(e) as revised on November 12, 1974 (39 FR 39872).

(4) *Control of Other Pollutants.* One commentator was concerned that EPA did not propose standards for carbon monoxide (CO) and sulfur dioxide (SO_2) emissions from aluminum plants. The commentator argued that aluminum smelters are significant sources of these pollutants, and that although fluorides are the most toxic aluminum plant emissions, standards for all pollutants should have been proposed. As discussed in the preface to Volume 1 of the background document, fluoride control was selected as one area of emphasis to be considered in implementing the Clean Air Act. In turn, primary aluminum plants were identified as major sources of fluoride emissions and were accordingly listed as a category of sources for which standards of performance would be proposed. Naturally, the initial investigation into standards for the primary aluminum industry focused on fluoride control. However, limited testing of CO and SO_2 emissions was also carried out and it was determined (a) that although primary aluminum plants might be a significant source of SO_2, SO_2 control technology had not been demonstrated in the industry, and (b) that CO emissions from such plants were insignificant. For these reasons, standards of performance were not proposed for SO_2 and CO emissions.

It is possible that SO_2 control technology used in other industries might be applicable to aluminum plants, and recent information indicates that CO emissions from such plants may be significant. At present, however, EPA has insufficient data on which to base SO_2 and CO emission standards for aluminum plants. EPA will consider the factors mentioned above and other relevant information in assigning priorities for future standard setting and invites submission of pertinent information by any interested parties. Thus, standards for CO and SO_2 emissions from primary aluminum plants may be set in the future.

(5) *Reference Methods 13A and 13B.* These methods prescribe sampling and analysis procedures for fluoride emissions and are applicable to the testing of phosphate fertilizer plants in addition to primary aluminum plants. The methods were originally proposed with the primary aluminum regulations but have been promulgated with the standards of performance for the phosphate fertilizer industry (published August 6, 1975, 40 FR 33152) because the fertilizer regulations were promulgated before those for primary aluminum. Comments on the methods were received from both industries and mainly concerned possible changes in procedures and equipment specifications. As discussed in the preamble to the phosphate fertilizer regulations, some minor changes were made as a result of these comments.

Some commentators expressed a desire to replace Methods 13A and 13B with totally different methods of analysis. They felt that they should not be restricted to using only those methods published by the Agency. In response to these

comments, an equivalent or alternative method may be used if approved by the Administrator under 40 CFR 60.8(b) as revised on March 8, 1974 (39 FR 9308).

(6) *Reference Method 14.* Reference Method 14 specifies sampling equipment and sampling procedures for measuring fluoride emissions from roof monitors. Most comments concerning this method suggested changes in the prescribed manifold system. A number of commentators objected to the requirement that stainless steel be used as the structural material for the manifold and suggested that other, less expensive structural materials would work as well. Data submitted by one aluminum manufacturer supported the use of aluminum for manifold construction. The Agency reviewed these data and concluded that an aluminum manifold will provide satisfactory fluoride samples if the manifold is conditioned prior to testing by passing fluoride-laden air through the system. By using aluminum instead of stainless steel, the cost of installing a sampling manifold would be substantially reduced. Since the Agency had no data on other possible structural materials, it was not possible to endorse their use in the method. However, the following wording addressing this subject has been added to the method text (§ 2.2.1): "Other materials of construction may be used if it is demonstrated through comparative testing that there is no loss of fluorides in the system."

Some commentators also objected to the requirement that the mean velocity measured during fluoride sampling be within ±10 percent of the previous 24-hour average velocity recorded through the system. In order to reduce the number of rejected sampling runs due to failure to meet the above criteria, the requirement has been amended such that the mean sampling velocity must be within ±20 percent of the previous 24-hour average velocity. EPA believes that the relaxation of this requirement will not compromise the accuracy of the method.

(7) *Economic Impact.* Some comments raised questions regarding the economic impact of the proposed regulations. The Agency has considered these comments and responded to them in the comment summary cited above. As indicated previously, an analysis of the inflationary and energy impacts of the standards appears in Volume 3 of the background document. Copies of these documents may be obtained as indicated previously.

Effective date. In accordance with section 111 of the Act, these regulations are effective January 26, 1976 and apply to sources the construction or modification of which commenced after proposal of the standards; i.e., after October 23, 1974.

(It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order 11821)

Dated: January 19, 1976.

RUSSELL E. TRAIN,
Administrator.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations, is amended as follows:

1. The table of sections is amended by adding a list of sections for Subpart S and by adding Reference Method 14 to the list of reference methods in Appendix A as follows:

Subpart S—Standards of Performance for Primary Aluminum Reduction Plants

Sec.
60.190 Applicability and designation of affected facility.
60.191 Definitions.
60.192 Standard for fluorides.
60.193 Standard for visible emissions.
60.194 Monitoring of operations.
60.195 Test methods and procedures.

* * * * *

APPENDIX A—REFERENCE METHODS

* * * * *

METHOD 14—DETERMINATION OF FLUORIDE EMISSIONS FROM POTROOM ROOF MONITORS OF PRIMARY ALUMINUM PLANTS

AUTHORITY: Secs. 111 and 114, Clean Air Act, as amended by sec. 4(a), Pub. L. 91-604, 84 Stat. 1678, 42 U.S.C. 1857 C-6, C-9.

2. Part 60 is amended by adding subpart S as follows:

Subpart S—Standards of Performance for Primary Aluminum Reduction Plants

§ 60.190 Applicability and designation of affected facility.

The affected facilities in primary aluminum reduction plants to which this subpart applies are potroom groups and anode bake plants.

§ 60.191 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and in subpart A of this part.

(a) "Primary aluminum reduction plant" means any facility manufacturing aluminum by electrolytic reduction.

(b) "Anode bake plant" means a facility which produces carbon anodes for use in a primary aluminum reduction plant.

(c) "Potroom" means a building unit which houses a group of electrolytic cells in which aluminum is produced.

(d) "Potroom group" means an uncontrolled potroom, a potroom which is controlled individually, or a group of potrooms ducted to the same control system.

(e) "Roof monitor" means that portion of the roof of a potroom where gases not captured at the cell exit from the potroom.

(f) "Aluminum equivalent" means an amount of aluminum which can be produced from a ton of anodes produced by an anode bake plant as determined by § 60.195(e).

(g) "Total fluorides" means elemental fluorine and all fluoride compounds as measured by reference methods specified in § 60.195 or by equivalent or alternative methods [see § 60.8(b)].

(h) "Primary control system" means an air pollution control system designed to remove gaseous and particulate fluorides from exhaust gases which are captured at the cell.

(i) "Secondary control system" means an air pollution control system designed to remove gaseous and particulate fluorides from gases which escape capture by the primary control system.

§ 60.192 Standard for fluorides.

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected facility any gases which contain total fluorides in excess of:

(1) 1 kg/metric ton (2 lb/ton) of aluminum produced for vertical stud Soderberg and horizontal stud Soderberg plants;

(2) 0.95 kg/metric ton (1.9 lb/ton) of aluminum produced for potroom groups at prebake plants; and

(3) 0.05 kg/metric ton (0.1 lb/ton) of aluminum equivalent for anode bake plants.

§ 60.193 Standard for visible emissions.

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere:

(1) From any potroom group any gases which exhibit 10 percent opacity or greater, or

(2) From any anode bake plant any gases which exhibit 20 percent opacity or greater.

§ 60.194 Monitoring of operations.

(a) The owner or operator of any affected facility subject to the provisions of this subpart shall install, calibrate, maintain, and operate monitoring devices which can be used to determine daily the weight of aluminum and anode produced. The weighing devices shall have an accuracy of ±5 percent over their operating range.

(b) The owner or operator of any affected facility shall maintain a record of daily production rates of aluminum and anodes, raw material feed rates, and cell or potline voltages.

§ 60.195 Test methods and procedures.

(a) Except as provided in § 60.8(b), reference methods specified in Appendix A of this part shall be used to determine compliance with the standards prescribed in § 60.192 as follows:

(1) For sampling emissions from stacks:

(i) Method 13A or 13B for the concentration of total fluorides and the associated moisture content,

(ii) Method 1 for sample and velocity traverses,

(iii) Method 2 for velocity and volumetric flow rate, and

(iv) Method 3 for gas analysis.

(2) For sampling emissions from roof monitors not employing stacks or pollutant collection systems:

(i) Method 14 for the concentration of total fluorides and associated moisture content,

(ii) Method 1 for sample and velocity traverses,

(iii) Method 2 and Method 14 for velocity and volumetric flow rate, and

(iv) Method 3 for gas analysis.

(3) For sampling emissions from roof monitors not employing stacks but equipped with pollutant collection systems, the procedures under § 60.8(b) shall be followed.

(b) For Method 13A or 13B, the sampling time for each run shall be at least eight hours for any potroom sample and at least four hours for any anode bake plant sample, and the minimum sample volume shall be 6.8 dscm (240 dscf) for any potroom sample and 3.4 dscm (120 dscf) for any anode bake plant sample except that shorter sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the Administrator.

(c) The air pollution control system for each affected facility shall be constructed so that volumetric flow rates and total fluoride emissions can be accurately determined using applicable methods specified under paragraph (a) of this section.

(d) The rate of aluminum production shall be determined as follows:

(1) Determine the weight of aluminum in metric tons produced during a period from the last tap before a run starts until the first tap after the run ends using a monitoring device which meets the requirements of § 60.194(a).

(2) Divide the weight of aluminum produced by the length of the period in hours.

(e) For anode bake plants, the aluminum equivalent for anodes produced shall be determined as follows:

(1) Determine the average weight (metric tons) of anode produced in the anode bake plant during a representative oven cycle using a monitoring device which meets the requirements of § 60.194(a).

(2) Determine the average rate of anode production by dividing the total weight of anodes produced during the representative oven cycle by the length of the cycle in hours.

(3) Calculate the aluminum equivalent for anodes produced by multiplying the average rate of anode production by two. (Note: an owner or operator may establish a different multiplication factor by submitting production records of the tons of aluminum produced and the concurrent tons of anode consumed by potrooms.)

(f) For each run, potroom group emissions expressed in kg/metric ton of aluminum produced shall be determined using the following equation:

$$E_{pg}=\frac{(C_sQ_s)_1\,10^{-6}+(C_sQ_s)_2\,10^{-6}}{M}$$

where:

E_{pg}=potroom group emissions of total fluorides in kg/metric ton of aluminum produced.

C_s=concentration of total fluorides in mg/dscm as determined by Method 13A or 13B, or by Method 14, as applicable.

Q_s=volumetric flow rate of the effluent gas stream in dscm/hr as determined by Method 2 and/or Method 14, as applicable.

10^{-6}=conversion factor from mg to kg.

M=rate of aluminum production in metric ton/hr as determined by § 60.195(d).

$(C_sQ_s)_2$=product of C_s and Q_s for measurements of primary control system effluent gas streams.

$(C_sQ_s)_1$=product of C_s and Q_s for measurements of secondary control system or roof monitor effluent gas streams.

(g) For each run, as applicable, anode bake plant emissions expressed in kg/metric ton of aluminum equivalent shall be determined using the following equation:

$$E_{bp}=\frac{C_sQ_s\,10^{-6}}{M_e}$$

Where:

E_{bp}=anode bake plant emissions of total fluorides in kg/metric ton of aluminum equivalent.

C_s=concentration of total fluorides in mg/dscm as determined by Method 13A or 13B.

Q_s=volumetric flow rate of the effluent gas stream in dscm/hr as determined by Method 2.

10^{-6}=conversion factor from mg to kg.

M_e=aluminum equivalent for anodes produced by anode bake plants in metric ton/hr as determined by § 60.195(e).

3. Part 60 is amended by adding Reference Method 14 to Appendix A as follows:

METHOD 14—DETERMINATION OF FLUORIDE EMISSIONS FROM POTROOM ROOF MONITORS OF PRIMARY ALUMINUM PLANTS

1. *Principle and applicability.*

1.1 *Principle.* Gaseous and particulate fluoride roof monitor emissions are drawn into a permanent sampling manifold through several large nozzles. The sample is transported from the sampling manifold to ground level through a duct. The gas in the duct is sampled using Method 13A or 13B—DETERMINATION OF TOTAL FLUORIDE EMISSIONS FROM STATIONARY SOURCES. Effluent velocity and volumetric flow rate are determined with anemometers permanently located in the roof monitor.

1.2 *Applicability.* This method is applicable for the determination of fluoride emissions from stationary sources only when specified by the test procedures for determining compliance with new source performance standards.

2. *Apparatus.*

2.1.1 *Anemometers.* Vane or propeller anemometers with a velocity measuring threshold as low as 15 meters/minute and a range up to at least 600 meters/minute. Each anemometer shall generate an electrical signal which can be calibrated to the velocity measured by the anemometer. Anemometers shall be able to withstand dusty and corrosive atmospheres.

One anemometer shall be installed for every 85 meters of roof monitor length. If the roof monitor length divided by 85 meters is not a whole number, round the fraction to the nearest whole number to determine the number of anemometers needed. Use one anemometer for any roof monitor less than 85 meters long. Permanently mount the anemometers at the center of each equal length along the roof monitor. One anemometer shall be installed in the same section of the roof monitor that contains the sampling manifold (see section 2.2.1). Make a velocity traverse of the width of the roof monitor where an anemometer is to be placed. This traverse may be made with any suitable low velocity measuring device, and shall be made during normal process operating conditions. Install the anemometer at a point of average velocity along this traverse.

2.1.2 *Recorders.* Recorders equipped with signal transducers for converting the electrical signal from each anemometer to a continuous recording of air flow velocity, or to an integrated measure of volumetric flow. For the purpose of recording velocity, "continuous" shall mean one readout per 15-minute or shorter time interval. A constant amount of time shall elapse between readings. Volumetric flow rate may be determined by an electrical count of anemometer revolutions. The recorders or counters shall permit identification of the velocities or flow rate measured by each individual anemometer.

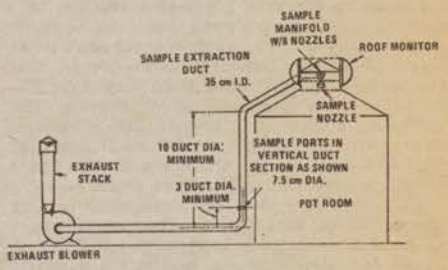

Figure 14-1. Roof Monitor Sampling System.

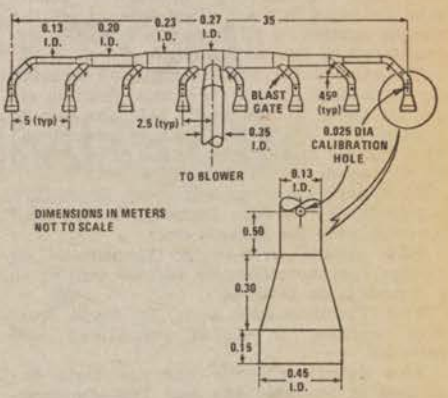

Figure 14-2. Sampling Manifold and Nozzles.

2.2 Roof monitor air sampling system.

2.2.1 *Sampling ductwork.* The manifold system and connecting duct shall be permanently installed to draw an air sample from the roof monitor to ground level. A typical installation of duct for drawing a sample from a roof monitor to ground level is shown in Figure 14–1. A plan of a manifold system that is located in a roof monitor is shown in Figure 14–2. These drawings represent a typical installation for a generalized roof monitor. The dimensions on these figures may be altered slightly to make the manifold system fit into a particular roof monitor, but the general configuration shall be followed. There shall be eight nozzles, each having a diameter of 0.40 to 0.50 meters. The length of the manifold system from the first nozzle to the eighth shall be 35 meters or eight percent of the length of the roof monitor, whichever is greater. The duct leading from the roof monitor manifold shall be round with a diameter of 0.30 to 0.40 meters. As shown in Figure 14–2, each of the sample legs of the manifold shall have a device, such as a blast gate or valve, to enable adjustment of flow into each sample nozzle.

Locate the manifold along the length of the roof monitor so that it lies near the midsection of the roof monitor. If the design of a particular roof monitor makes this impossible, the manifold may be located elsewhere along the roof monitor, but avoid locating the manifold near the ends of the roof monitor or in a section where the aluminum reduction pot arrangement is not typical of the rest of the potroom. Center the sample nozzles in the throat of the roof monitor. (See Figure 14–1.) Construct all sample-exposed surfaces within the nozzles, manifold and sample duct of 316 stainless steel. Aluminum may be used if a new ductwork system is conditioned with fluoride-laden roof monitor air for a period of six weeks prior to initial testing. Other materials of construction may be used if it is demonstrated through comparative testing that there is no loss of fluorides in the system. All connections in the ductwork shall be leak free.

Locate two sample ports in a vertical section of the duct between the roof monitor and exhaust fan. The sample ports shall be at least 10 duct diameters downstream and two diameters upstream from any flow disturbance such as a bend or contraction. The two sample ports shall be situated 90° apart. One of the sample ports shall be situated so that the duct can be traversed in the plane of the nearest upstream duct bend.

2.2.2 *Exhaust fan.* An industrial fan or blower to be attached to the sample duct at ground level. (See Figure 14–1.) This exhaust fan shall have a maximum capacity such that a large enough volume of air can be pulled through the ductwork to maintain an isokinetic sampling rate in all the sample nozzles for all flow rates normally encountered in the roof monitor.

The exhaust fan volumetric flow rate shall be adjustable so that the roof monitor air can be drawn isokinetically into the sample nozzles. This control of flow may be achieved by a damper on the inlet to the exhauster or by any other workable method.

2.3 Temperature measurement apparatus.

2.3.1 *Thermocouple.* Installed in the roof monitor near the sample duct.

2.3.2 *Signal transducer.* Transducer to change the thermocouple voltage output to a temperature readout.

2.3.3 *Thermocouple wire.* To reach from roof monitor to signal transducer and recorder.

2.3.4 *Sampling train.* Use the train described in Methods 13A and 13B—Determination of total fluoride emissions from stationary sources.

3. Reagents.

3.1 *Sampling and analysis.* Use reagents described in Method 13A or 13B—Determination of total fluoride emissions from stationary sources.

4. Calibration.

4.1 *Propeller anemometer.* Calibrate the anemometers so that their electrical signal output corresponds to the velocity or volumetric flow they are measuring. Calibrate according to manufacturer's instructions.

4.2 *Manifold intake nozzles.* Adjust the exhaust fan to draw a volumetric flow rate (refer to Equation 14–1) such that the entrance velocity into each manifold nozzle approximates the average effluent velocity in the roof monitor. Measure the velocity of the air entering each nozzle by inserting an S type pitot tube into a 2.5 cm or less diameter hole (see Figure 14–2) located in the manifold between each blast gate (or valve) and nozzle. The pitot tube tip shall be extended into the center of the manifold. Take care to insure that there is no leakage around the pitot probe which could affect the indicated velocity in the manifold leg. If the velocity of air being drawn into each nozzle is not the same, open or close each blast gate (or valve) until the velocity in each nozzle is the same. Fasten each blast gate (or valve) so that it will remain in this position and close the pitot port holes. This calibration shall be performed when the manifold system is installed. (Note: It is recommended that this calibration be repeated at least once a year.)

5. Procedure.

5.1 *Roof monitor velocity determination.*

5.1.1 *Velocity value for setting isokinetic flow.* During the 24 hours preceding a test run, determine the velocity indicated by the propeller anemometer in the section of roof monitor containing the sampling manifold. Velocity readings shall be taken every 15 minutes or at shorter equal time intervals. Calculate the average velocity for the 24-hour period.

5.1.2 *Velocity determination during a test run.* During the actual test run, record the velocity or volume readings of each propeller anemometer in the roof monitor. Velocity readings shall be taken for each anemometer every 15 minutes or at shorter equal time intervals (or continuously).

5.2 *Temperature recording.* Record the temperature of the roof monitor every two hours during the test run.

5.3 *Sampling.*

5.3.1 *Preliminary air flow in duct.* During the 24 hours preceding the test, turn on the exhaust fan and draw roof monitor air through the manifold duct to condition the ductwork. Adjust the fan to draw a volumetric flow through the duct such that the velocity of gas entering the manifold nozzles approximates the average velocity of the air leaving the roof monitor.

5.3.2 *Isokinetic sample rate adjustment.* Adjust the fan so that the volumetric flow rate in the duct is such that air enters into the manifold sample nozzles at a velocity equal to the 24-hour average velocity determined under 5.1.1. Equation 14–1 gives the correct stream velocity which is needed in the duct at the sample ports in order for sample gas to be drawn isokinetically into the manifold nozzles. Perform a pitot traverse of the duct at the sample ports to determine if the correct average velocity in the duct has been achieved. Perform the pitot determination according to Method 2. Make this determination before the start of a test run. The fan setting need not be changed during the run.

$$V_d = \frac{8\,(D_n)^2}{(D_d)^2}\,(V_m)\,\frac{1\text{ minute}}{60\text{ sec}}$$

where:

V_d=desired velocity in duct at sample ports, meter/sec.

D_n=diameter of a roof monitor manifold nozzle, meters.

D_d=diameter of duct at sample port, meters.

V_m=average velocity of the air stream in the roof monitor, meters/minute, as determined under section 5.1.1.

5.2.3 *Sample train operation.* Sample the duct using the standard fluoride train and methods described in Methods 13A and 13B—Determination of total fluoride emissions from stationary sources. Select sample traverse points according to Method 1. If a selected sampling point is less than one inch from the stack wall, adjust the location of that point to one inch away from the wall.

5.3.4 *Each test run shall last eight hours or more.* If a question exists concerning the representativeness of an eight-hour test, a longer test period up to 24 hours may be selected. Conduct each run during a period when all normal operations are performed underneath the sampling manifold, i.e. tapping, anode changes, maintenance, and other normal duties. All pots in the potroom shall be operated in a normal manner during the test period.

5.3.5 *Sample recovery.* Same as Method 13A or 13B—Determination of total fluoride emissions from stationary sources.

5.4 *Analysis.* Same as Method 13A or 13B—Determination of total fluoride emissions from stationary sources.

6. Calculations.

6.1 *Isokinetic sampling test.* Calculate the mean velocity measured during each sampling run by the anemometer in the section of the roof monitor containing the sampling manifold. If the mean velocity recorded during a particular test run does not fall within ±20 percent of the mean velocity established according to 5.3.2, repeat the run.

6.2 *Average velocity of roof monitor gases.* Calculate the average roof monitor velocity using all the velocity or volumetric flow readings from section 5.1.2.

6.3 *Roof monitor temperature.* Calculate the mean value of the temperatures recorded in section 5.2.

6.4 *Concentration of fluorides in roof monitor air in mg F/m³.* This is given by Equation 13A–5 in Method 13A—Determination of total fluoride emissions from stationary sources.

6.5 Average volumetric flow from roof is given by Equation 14–2.

$$Q_m = \frac{V_{mf}\,(A)\,(M_d)\,P_m\,(294°\text{K})}{(T_m + 273°)\,(760\text{ mm Hg})}$$

where:

Q_m=average volumetric flow from roof monitor at standard conditions on a dry basis, m³/min.

A=roof monitor open area, m².

V_{mf}=average velocity of air in the roof monitor, meters/minute, from section 6.2.

P_m=atmospheric pressure, mm Hg.

T_m=roof monitor temperature, °C, from section 6.3.

M_d=mole fraction of dry gas, which is given by $M_d = \frac{100 - 100\,(B_{wo})}{100}$

B_{wo}=is the proportion by volume of water vapor in the gas stream, from Equation 13A–3, Method 13A—Determination of total fluoride emissions from stationary sources.

[Sections 111 and 114 of the Clean Air Act, as amended by section 4(a) of Pub. L. 91–604, 84 Stat. 1678 (42 U.S.C. 1857c–6, c–9)].

[FR Doc.76–2133 Filed 1–23–76;8:45 am]

federal register

MONDAY, JANUARY 26, 1976

PART IV:

FEDERAL ELECTION COMMISSION

■

ADVISORY OPINIONS

FEDERAL ELECTION COMMISSION

[Notice 1976-8]

ADVISORY OPINIONS

The Federal Election Commission announces the publication today of Advisory Opinions 1975-44, 1975-100, 1975-110 and 1975-111. The Commission's opinions are in response to questions raised by individuals holding Federal office, candidates for Federal office and political committees, with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of the Federal Election Campaign Act of 1971, as amended, of Chapters 95 or 96 of Title 26, United States Code, or of Sections 608, 610, 611, 613, 614, 615, 616, or 617 of Title 18 United States Code.

The Commission points out that these advisory opinions should be regarded as interim rulings which are subject to modification by future Commission regulations of general applicability. In the event that a holding in either opinion is altered by the Commission's regulations, the persons to whom the opinions were issued will be notified.

ADVISORY OPINION 1975-44

REQUEST OF SOCIALIST WORKERS 1976 NATIONAL CAMPAIGN COMMITTEE

This advisory opinion is issued pursuant to 2 U.S.C. 437f in response to a request for an advisory opinion submitted by Ms. Andrea Morell, Treasurer of the Socialist Workers 1976 National Campaign Committee (hereinafter referred to as the Committee) and published in the FEDERAL REGISTER of September 3, 1975 (40 FR 40677). Interested persons were given an opportunity to submit written comments pertaining to the request. No comments were received.

The request raises several administrative as well as interpretative questions under the Federal Election Campaign Act of 1971, as amended (the Act).

1. The first question concerns the individual contribution limitations of 18 U.S.C. 608(b)(1). The Committee specifically asks the following:

Does this limit apply separately to primary, run-off (if any), and general elections? Section 608(b)(5) indicates that the limitation is $2,000 for presidential candidates but fails to give any time limitation. Is it for instance, $1,000 between the primary and the general election? If the limitation does apply separately for candidates contending in primary and run-off elections, does it also apply separately for candidates contesting only the general election?

The request indicates that the Committee has been designated as the principal campaign committee of the presidential candidate of the Socialists Workers Party; this opinion is issued in that context.

The contribution limitations in 18 U.S.C. 608(b)(1) apply separately to each election. The term election as defined in 18 U.S.C. 591(a) includes (1) "a general, special, primary, or run-off election" and (2) "a convention or caucus of a political party held to nominate a candidate." Under 18 U.S.C. 608(b)(5), all elections held in any calendar year for the office of President (except a general election for such office) are considered to be one election for purposes of the contribution limitation in 18 U.S.C. 608(b)(1). Thus, under a literal reading of section 608(b) it would appear that since the presidential candidate of the Socialists Workers Party is already nominated, all post-nomination contributions relate to the general election and are accordingly limited to $1,000 under section 608(b)(2).

However, in this case, as in the past, the Commission is concerned to construe the provisions of the Act in a manner consistent with Constitutional requirements, regardless of a candidate's party affiliation or independent status. See AOs 1975-11 (40 FR 42839, September 16, 1975) and 1975-53 (40 FR 40678, September 3, 1975). The primary election and convention process is a procedure through which major parties typically determine their candidates for the general election. The procedure for presidential candidates of minor parties, however, differs in that most states have a separate petition process whereby such candidates may qualify for the general election ballot. Accordingly, for the purpose of applying the limitations in 18 U.S.C. 608, the Commission will view the petition process required of the presidential candidates of the minor parties as the equivalent of the primary elections and convention process of the major party candidates. Therefore, an individual may contribute $1,000 to a presidential candidate of a minor party for his or her petition effort and $1,000 to the candidate for his or her general election effort.

Since the dates pertaining to petition qualification vary from State to State, the Commission considers it necessary to prescribe a uniform date when, for purposes of 18 U.S.C. 608(b), the petition process ends for minor party presidential candidates. The Commission concludes that the prescribed date should be when the presidential nominee last selected before the general election is nominated by a national nominating convention of a major political party. It is noted that this date coincides with the date when an eligible minor party presidential candidate, entitled to public funding before the general election, may properly expend or obligate public funds "to further his election * * *," 26 U.S.C. 9002 (11), (12).

2. The Committee's second question concerns the limitation [2 U.S.C. 437b(b)] of $100 on petty cash purchases and transactions. The Committee asks whether:

This means that no check to the order of "cash" can be made for over $100? What does a campaign committee do in a situation where a candidate or representative of a candidate is out of town and requires emergency funds in excess of $100? What does a committee do in the case where its checks are unacceptable as a means of payment for a certain vendor, for example, the U.S. Postal Service?

Under 2 U.S.C. 437b, each candidate and political committee must designate a national or State bank as a campaign depository and maintain a checking account therein. All contributions received by the committee must be deposited in this account and all expenditures, other than petty cash expenditures, must be made by check drawn on this account. A political committee may also maintain a petty cash fund from which it may make expenditures not in excess of $100 to any person in connection with a single purchase or transaction.

The Commission is of the opinion that checks drawn to make expenditures must be payable to a named person and not simply to "cash." Checks drawn to the order of cash are payable to the bearer and are equivalent to cash; under 2 U.S.C. 437b(b) cash expenditures may not exceed $100 to any person in connection with a single purchase or transaction.

3. The Committee further asks for clarification of the reporting requirements (10-day pre-election and 30-day post-election reports) when candidates are not contesting special, primary, or run-off elections. Under the Commission's proposed regulations, a presidential candidate's principal campaign committee is subject to monthly reporting requirements in an election year. Section 105.4(f) provides:

(f) *Monthly reporting.* (1) In any calendar year in which a general election is held (not including a special election to fill a vacancy), each Presidential candidate who makes contributions or expenditures in more than one state, his or her principal campaign committee and any other authorized committee, shall file the reports required by this Part 105 by the 10th day of the month in each month except January, November, and December of such calendar year, instead of pre- and post-primary reports and quarterly reports. These reports shall include all receipts and disbursements as of the last day of the month immediately preceding the month in which the report is filed.

(2) The pre- and post-election reports required to be filed under paragraph (b) relating to a general election, the 4th quarterly report required to be filed under paragraph (d), and the reports required to be filed prior to an election under paragraph (e), must still be filed.

4. The Committee asks what constitutes a "debt" or "obligation" itemizable under parts 11 and 12 of the reports, "Does this refer to long-term debts and obligations of say, 60 days, or something else?"

The Commission is of the opinion that a debt or obligation for purposes of the Act is anything owed to or by the Committee whether or not legally enforceable. An example of a debt owed to a political committee which would be itemized under part 11 is a written pledge for a contribution made by a contributor.[1] The Committee should report debts or obligations it owes under part 12. The Committee should report its debts or obligations of $500 or less, payment for which must be made within 60 days, either as of the time payment is made or when the 60 day time for payment has expired, whichever is earlier. Debts over this amount or debts for which payment is not due within 60 days must be reported as of the time the debt is incurred. The Commission has approved and submitted to the Congress regulations pertaining to the reporting of debts and obligations.

5. The Committee has raised the question of whether non-principal campaign committees have to be authorized in writing by the candidate.

Under the proposed disclosure regulations, any political committee authorized by a candidate to receive contributions or make expenditures must be authorized in writing by the candidate. Contributions to such a committee are contributions to the candidate. 18 U.S.C. 608(b)(4).

If a political committee solicits or receives contributions or makes expenditures on behalf of a candidate and is not authorized in writing by such candidate to do so, the committee must include a notice on the literature and advertisements published in connection with the candidate's campaign a statement that the committee is not authorized by the candidate and that such candi-

[1] The Commission notes parenthetically that in the case of a written pledge, the obligation could be unilaterally ended at any time, which would extinguish the reporting requirement with regard to that obligation.

date is not responsible for the activities of the committee. 2 U.S.C. 432(e).

Expenditures by an authorized political committee are charged against the candidate's expenditure limitation under 18 U.S.C. 608(c). "Expenditures on behalf of a candidate" by a political committee which has not been authorized in writing will still be charged against the candidate's expenditure limitation. An expenditure is made on behalf of a candidate if it is made by (1) "an authorized committee or any other agent of the candidate for the purpose of making any expenditure" or (2) "any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure. 18 U.S.C. 608(c)(2)(B) (i) and (ii). A committee's unauthorized expenditure relative to a clearly identified candidate is not an expenditure on behalf of that candidate within the meaning of section 608(c)(2)(B); such an expenditure is limited to $1,000 per candidate during a calendar year. See 18 U.S.C. 608(e).

6. The last question is "[w]hat constitutes 'affiliation' and 'relationship' of committees?" In accordance with the Commission's proposed disclosure regulations (approved by the Commission on November 25, 1975, and subsequently transmitted to the Congress) an affiliated committee includes:

(a) All authorized committees of the same candidate.

(b) Multicandidate committees other than national, state, or subordinate state party committees, and the House and Senate campaign committees each party, which are under common control.

A "connected organization" includes "any organization which is not a political committee but which organized or financially supported the registrant." See § 100.14(c) and § 102.2(b) of proposed disclosure regulations.

This advisory opinion is issued on an interim basis only pending the issuance of rules and regulations and policy statements of general applicability.

Advisory Opinion 1975–100

Volunteer internships in member's home office

This advisory opinion is rendered pursuant to 2 U.S.C. 437f in response to a request submitted by Senator Frank E. Moss. The request was published in the Federal Register on November 12, 1975 (40 FR 52796). Interested persons were given an opportunity to submit comments relating to the request. No comments were received.

Senator Moss inquired whether his allowing political science students to serve as voluntary interns in his Utah office must be treated as a contribution in-kind. Parenthetically, the Commission notes that Senator Moss has qualified as a candidate under 2 U.S.C. 431(b) and 18 U.S.C. 591(b).

The University of Utah's Hinckely Institute of Politics allows students to obtain credit while interning in political offices. Upon further inquiry with Senator Moss' staff, the Commission was informed that the Senator uses the students nominated by the Institute in both his home office and in his campaign headquarters. The students who work in the Senator's home office in Utah are on the Senate payroll. The work of these students would not be a contribution in-kind so long as they are engaged in the pursuit of legislative business.

The other group of students will work in the Senator's campaign office. These students will not be paid but will receive college credit for their work. Under the Act, a contribution does not include "the value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidat e or political committee." Accordingly the work of these students would not be a contribution in-kind if the students receive no compensation for the work, if the Institute's program is conducted in a nonpartisan manner and in a manner consistent with accepted accreditation standards generally applicable to institutions of higher education. The receiving of college credit would not, under these circumstances, constitute compensation. Consequently, Senator Moss need not report as contributions the value of services provided by the student interns. Nor would such services constitute contributions in-kind by the students thus affecting their contribution limitations under 18 U.S.C. 608(b).

This advisory opinion is issued on an interim basis only pending promulgation by the Commission of rules and regulations or policy statements of general applicability.

Dissenting opinion of Commissioners Joan D. Aikens and Thomas E. Harris

It is our hope to always encourage the full participation of all citizens, young and old, in the political process and we wholeheartedly approve the concept of the student internship program which was addressed in Advisory Opinion 1975–100. However, we vote against the adoption of Advisory Opinion 1975–100 because, and only because, we object to the requirement that the University's program be "conducted in a nonpartisan manner and in a manner consistent with accepted accreditation standards."

We regard this Commission requirement as a gratuitous injection of the Commission into matters that are not properly its concern.

Joan D. Aikens,
Commissioner.
Thomas E. Harris,
Commissioner.

Advisory Opinion 1975–110

Scope and applicability § 611

This advisory opinion is issued pursuant to 2 U.S.C. 437f in response to a request submitted by Congressman David C. Treen. The request was published on December 12, 1975, in the Federal Register (40 FR 57349). Interested parties were then given an opportunity to comment. No comments were received.

Congressman Treen's request poses four questions regarding the scope and application of 18 U.S.C. 611:

(1) Does Section 611 prohibit corporate contributions by Federal contractors to candidates for state and local elections?

(2) Are construction contracts covered by Section 611?

(3) If answer to (2) is yes, is a person holding a Federal-aid construction contract with a non-Federal agency considered a 'Federal Contractor' under Section 611?

(4) Is a competitively bid project covered by Section 611, the same as a negotiated contract?

As the first question is not actually asked on behalf of Congressman Treen, who is neither a state nor a local candidate, it is not properly the subject of an advisory opinion. See 2 U.S.C. 437f(a). However, the Commission notes that this question was addressed in a previous advisory opinion AO 1975–99 (40 FR 60162, December 31, 1975), in which the Commission concluded that the prohibitory language of 18 U.S.C. 611 extends only to Federal elections.

With regard to the second question the Commission is of the view that construction contracts are covered by section 611, provided they are "with the United States or any department or agency thereof." The language of § 611 applies to "*any* contract * * * for the rendition of personal services or furnishing any material, supplies, or equipment." [Emphasis added.] Construction contracts plainly involve the furnishing of material, supplies, and equipment and are thus within the reach of this provision.

Conversely, with regard to the third question, the Commission concludes that where an individual contracts with a non-Federal agency, he does not become subject to the prohibition of § 611 even if the agency receives Federal aid.

As already noted, § 611 plainly does not apply to nonFederal contractors. The fact that the agency involved receives Federal monies does not alter this conclusion. The basic contractual relationship is still between a non-Federal agency and the contracting party, with the Federal government at most playing a tangential, remote role; since there is no nexus between the contracting party and the Federal government, the § 611 prohibitions are not triggered. Indeed, the situation is analogous to that of doctors who receive payments under the medicaid and medicare programs. The Conference Report stated:

Under so-called Medicaid programs, it is true doctors may have specific contractual agreements to render medical services, but such agreements are with State agencies and not with the Federal Government. Medicaid programs are administered by State agencies using Federal funds. The House Committee did not believe that section 611 prohibiting political contributions by government contractors has any application to doctors rendering medical services pursuant to a contract with a State agency. H. Rept. No. 93-1438, p. 68.

As for the Congressman's final question, the Commission is of the view that for the purposes of the § 611 prohibitions, there is no distinction between a negotiated contract and a competitively bid contract. This conclusion follows from the language of § 611 which refers to "any contract". Since the word contract is used in a general rather than a limited sense, there is no basis in the statutory language for the differentiation suggested in the request. If a more limited meaning had been intended, it is logical to assume that Congress would have incorporated it into the statute.

This advisory opinion is issued only on an interim basis pending the promulgation by the Commission of rules and regulations or policy statements of general applicability.

Advisory Opinion 1975–111

Contributions to state and local candidates by a candidate for federal office

This advisory opinion is rendered under 2 U.S.C. 437f in response to a request for an advisory opinion which was submitted by Congressman Otto E. Passman, and was published as AOR 1975–111 in the December 8, 1975, Federal Register (40 FR 57349). Interested parties were given an opportunity to submit written comments relating to the request, but none were received.

The request indicates that following his 1974 race, the Congressman had a $10,000 surplus. The surplus was used to purchase a Certificate of Deposit (CD) maturing early in 1976. At the time the CD matures, the Congressman intends to commence his 1976 Congressional campaign using the surplus 1974 funds.[1] Before the CD matures, he de-

[1] Under 2 U.S.C. 432(f) a Federal candidate is required to designate a principal campaign committee which must have a chairman and treasurer, see generally 2 U.S.C. 432 and 433. The candidate is also required to designate one or more banks as campaign depositories where a checking account must be maintained for receiving contributions and making expenditures, 2 U.S.C. 437b.

sires to expend personal funds and later reimburse himself from the surplus funds carried over to his 1976 campaign effort. The first expenditure would be for contributions to candidates in State and local elections in Louisiana. The second expenditure would be an advance for the purchase of campaign items bearing his name and to be used in connection with his 1976 campaign. The Congressman states that he will be a candidate for re-election in 1976.

It is the Commission's opinion that Congressman Passman can make an advance of personal funds for both purposes and later reimburse himself when he commences his Congressional campaign. In making the second expenditure, the Congressman would clearly become a candidate for purposes of the Federal Election Campaign Act of 1971, as amended, and relevant provisions of Title 18, United States Code, within the Commission's jurisdiction.

The Commission is of the view that contributions from the Congressman's personal funds for candidates in state and local elections are not subject to the limitations of 18 U.S.C. 608(a).[2] However, any payment or gift to State or local candidates from campaign funds may be an "expenditure" for purposes of 608 (a) and (c) if made under circumstances where the gift or payment (1) may be reasonably viewed as consideration for services that would be rendered (or obtained from others) by the State or local candidate to promote the Congressman's candidacy for nomination or election; (2) is made in relatively close time proximity to a primary or other election in which the Congressman is entered; or (3) is otherwise made in connection with a campaign-related activity of the Congressman which involves the receiving or making of other contributions or expenditures as defined in 2 U.S.C. 431 and 18 U.S.C. 591. For purposes of reporting under 2 U.S.C. 434, all disbursements by the Congressman from campaign funds, including reimbursement to the Congressman for an advance previously made from personal funds (which advance would itself have to be reported under 434), would be required to be reported with an appropriate description as to the purpose of the disbursement, the date, identification of the payee, and amount, see 2 U.S.C. 434(b).

With regard to any expenditure from personal funds in 1975, for the purchase of campaign items to be used for the Congressman's 1976 campaign, both the expenditure and the subsequent reimbursement from his 1976 campaign account are to be reported under 2 U.S.C. 434. In addition, the advance from personal funds would be an expenditure under 18 U.S.C. 591(f) and count against the applicable spending limit in 18 U.S.C. 608(c). Also, under 18 U.S.C. 608(a), an advance from personal funds would be charged against the candidate's personal and "immediate family" limitation until it was repaid, and would have to be evidenced by a written instrument fully disclosing the terms and conditions of the advance. See 18 U.S.C. 608(a)(3).

This advisory opinion is issued only on an interim basis pending the promulgation by the Commission of rules and regulations or policy statements of general applicability.

Dated: January 20, 1976.

NEIL STAEBLER,
Vice Chairman for the
Federal Election Commission.

[FR Doc.76-2135 Filed 1-23-76;8:45 am]

[2] Contributions to Federal candidates would, of course, be limited under 18 U.S.C. 608(b).

[Notice 1976-10]

ADVISORY OPINION

The Federal Election Commission announces the publication today of Advisory Opinion 1975-81. The Commission's opinions are in response to questions raised by individuals holding Federal office, candidates for Federal office and political committees, with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of the Federal Election Campaign Act of 1971, as amended, of Chapters 95 or 96 of Title 26 United States Code, or of Sections 608, 610, 611, 613, 614, 615, 616, or 617 of Title 18 United States Code.

The Commission points out that these advisory opinions should be regarded as interim rulings which are subject to modification by future Commission regulations of general applicability. In the event that a holding in either opinion is altered by the Commission's regulations, the persons to whom the opinions were issued will be notified.

Advisory Opinions issued in response to requests carrying the designation 1975 will continue to bear the 1975 number assigned to the original request.

ADVISORY OPINION 1975-81

STATUS AND REPORTING REQUIREMENTS OF FREEDOM OF CHOICE, INC.

This advisory opinion is rendered under 2 U.S.C. 437f in response to a request on behalf of Freedom of Choice, Inc. The request was published in the FEDERAL REGISTER on October 20, 1975 (40 FR 49066) and interested parties were given an opportunity to submit written comments pertaining to the request. None were received.

The request concerns the limitations on contributions and expenditures and the registration and reporting requirements applicable to Freedom of Choice, Inc., a non-profit corporation which has been organized for the purpose of assuring that, "in the 1976 presidential election . . . The American voters, in each state, have the option of supporting an independent conservative alternative slate of electors for the offices of President and Vice-President."

Specifically, the request asks whether (1) such an organization is a political committee as defined by the Federal Election Campaign Act of 1971, as amended (the "Act") and (2) assuming the answer to inquiry (1) is affirmative, what must such an organization do to comply with the Act.

The Commission is of the opinion that Freedom of Choice is a political committee which must register with and report to the Commission under the Act. The request states that the subject organization will receive contributions and expend funds for the purpose of assuring that an independent conservative alternative slate of electors will appear on the ballot in the 1976 presidential election in every state in the United States. Additionally, its Articles of Incorporation state that "the Corporation is organized for political purposes including * * * the following specific purpose (a) To secure ballot positions in each of the fifty (50) states for candidates for the office of President and Vice President of the United States." The Commission concludes that such activities clearly place an organization within the definition of "political committee" set out in 2 U.S.C. 431(d).

The term political committee is defined in 2 U.S.C. 431(d), as "any committee, club, association or other group of persons which receives contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1000." The term "expenditure" includes payments of money or anything of value made "for the purpose of influencing * * * the election of any person * * * to the office of presidential or vice presidential elector." Hence, any amounts expended by Freedom of Choice to assure, in the 1976 presidential election, the appearance on the ballot in each state of an "independent conservative alternative slate of electors for the offices of President and Vice President," would clearly be statutory expenditures which, if anticipated to exceed $1000, would constitute Freedom of Choice, Inc. a political committee subject to the reporting and registration requirements of the Act.

The fact that the organization does not presently support named candidates for Federal office or for elections is not particularly relevant for determining its status as a political committee. It is the Commission's opinion that if Congress had desired to restrict the "purpose test" of 2 U.S.C. 431(e) and (f) to particular Federal candidates, it would have limited coverage to the specifically defined word "candidate" [2 U.S.C. 431(b)] and certainly would not have qualified "person" by inclusion of the word "any."

With respect to the second part of the request, it is the Commission's opinion that, at such time as Freedom of Choice anticipates receiving contributions or making expenditures to influence a Federal election in an aggregate amount exceeding $1000 for a calendar year, such organization shall be deemed a political committee. It must then register with and report to the Commission pursuant to the Act. See 2 U.S.C. 432, 433, 434. Further, such organizations will also be subject to the applicable limitations on contributions and expenditures set out in 18 U.S.C. 591 *et seq.*, including 18 U.S.C. 608, 610 and 611.

It appears that, at the present time at least, the limitations of 18 U.S.C. 608(b)(3) would be the only limitation applicable to contributions to Freedom of Choice. The limitations of 18 U.S.C. 608(b)(1) and (2) apply to contributions to candidates.[1] The limitations of section 608(b)(1) and (2) will apply to contributions to Freedom of Choice, if the committee becomes a single candidate committee or a candidate's principal campaign committee or authorized committee. These limitations would also apply to contributions which are made to Freedom of Choice but which are earmarked or otherwise directed by the contributor to a particular candidate. 18 U.S.C. 608(b)(6) and Advisory Opinion 1975-32 (40 FR 5556, November 28, 1975).

In the event that Freedom of Choice becomes a principal campaign committee, an authorized committee, or a single candidate committee the limits of section 608(b) (1) and (2) would apply to funds on hand as of that time. For example, the section 608(b)(1) contribution limit of $1,000 from any person per election would be triggered and would require Freedom of Choice to undertake a review of contributions from any person in excess of $1,000 to determine those situations where the return of any excess would be required.

The limitation of 18 U.S.C. 608(b)(3) applies generally to contributions as defined in 18 U.S.C. 591(e). This definition, like the definition in 2 U.S.C. 431(e), refers to contributions made for the purpose of influencing the

[1] The contribution limit in § 608(b)(3) applies to individuals only and is $25,000 per calendar year; the contribution limits in subsections (b) (1) and (2) are $1000 and $5000 per candidate per election and apply respectively to persons (including individuals) and qualified multicandidate committees.

nomination or election of any person. Consequently, the limitation on contributions in § 608(b)(3) would be applicable to individual contributors to this committee.

This advisory opinion is issued only on an interim basis pending the promulgation by the Commission of rules and regulations or policy statements of general applicability.

Dated: January 20, 1976.

THOMAS B. CURTIS,
Chairman for the
Federal Election Commission.

[FR Doc.76-2134 Filed 1-23-76;8:45 am]

federal register

MONDAY, JANUARY 26, 1976

PART V:

DEPARTMENT OF TRANSPORTATION

Coast Guard

■

TANK VESSELS

Structural Fire Protection Requirements

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74-127]

TANK VESSELS

Structural Fire Protection Requirements

● Purpose. The purpose of these amendments to the rules and regulations for tank vessels is to add regulations that incorporate the substance of IMCO Resolution A. 271 (VIII), "Draft Regulations Concerning Fire Safety Measures for Tankers and Combination Carriers", which was adopted by the Assembly of the Inter-Governmental Maritime Consultative Organization on November 20, 1973. ●

These amendments upgrade the structural fire protection requirements for certain tankships, require inerting systems for tankships above specified sizes, and require an increase in the capability of the foam systems of tankships.

A notice of proposed rulemaking, CGD 74-127, was published in the FEDERAL REGISTER of Monday, April 21, 1975, (40 FR 17592). Twenty-six comments received from 22 individuals during and within one month after the comment period are considered in this document. One comment on the advance notice of proposed rulemaking of September 5, 1974, (39 FR 32147) is also considered.

APPLICATION DATE

Eight commenters objected to application of these amendments to all tankships with a keel laying date on or after January 1, 1975. Several of these commenters urged the use of a contract date that is after the date of promulgation of the regulations. Others urged use of a keel laying date after promulgation. One suggested that the proposed keel laying date be used only for the inert gas regulations or even that those regulations be extended to apply to all U.S. tankships within the size limitations specified by the regulations and to all foreign flag tankships within the specified size limitations that enter U.S. ports. The commenter was concerned that use of the proposed keel laying date for the application of the remaining regulations would disrupt the series production methods that have made U.S. shipyards competitive with foreign shipyards.

The Coast Guard acknowledges that regulations based upon keel laying on or after January 1, 1975, do not provide as much planning flexibility as those based upon a contract date; however, most U.S. tankships of the specified size that are to be in use for the next 20 years would probably be excluded if these regulations were based upon contract date. There are a large number of tankships under contract, but few if any new contracts being signed. Furthermore, there may never again be a massive tankship building program such as now exists because of the national effort to reduce foreign oil imports and the decreasing amount of oil left to import. Therefore, the Coast Guard is applying the keel laying date concept recommended under Inter-Governmental Maritime Consultative Organization (IMCO) Resolution A.271 (VIII) which is that the regulations should apply to tankships "the keels of which are laid or which are at a similar stage of construction" after a specified date. This resolution was developed with U.S. marine industry participation. IMCO Resolution A.271(VIII) recommended that the regulations be applied to tankships that have their keels laid after June 30, 1974. Because the Coast Guard was unable to give the public notice of the proposed rulemaking until September 5, 1974; implementation was delayed until the January 1, 1975, date. Furthermore, these amendments only adopt, with minor exceptions, the substance of the IMCO resolution. Major deviations from the resolution, such as application of the inert gas regulations to all U.S. tankships of the specified size and to all foreign tankships of the specified size that enter U.S. ports, are being studied by the Coast Guard. The Coast Guard does not intend to make any of these deviations without ample opportunity for public participation.

DIFFERENCES BETWEEN IMCO AND COAST GUARD REQUIREMENTS

Two commenters stated that the proposed regulations were sometimes more stringent than the IMCO recommendations. The Coast Guard attempted to avoid differences, but it was necessary to correct inconsistencies within the IMCO resolution and between the resolution and other documents and to clarify vague requirements.

For example, the construction and arrangement of liquefied gas vessels are covered by the IMCO "gas code" as well as the Coast Guard "Tank Vessel Regulations". There are a few differences between this "gas code" and IMCO resolution A.271(VIII), but the Coast Guard regulations in this document have attempted to resolve any potential conflicts before they develop. IMCO Resolution A.271(VIII) requires that portlights facing cargo tanks have steel covers only on the first tier on the main deck. The "gas code" requires steel covers on all levels. Most fires large enough to expose the first tier will also radiate heat through portlights on upper decks. Because the Coast Guard considers these requirements of IMCO Resolution A.271(VIII) inadequate and inconsistent with the IMCO "gas code", the regulations in this amendment resolve the discrepancy by requiring steel covers at all levels except the wheelhouse. Other nations have taken similar action.

Similarly, the IMCO resolution's prohibition against doors on the first deck in way of the cargo area has been expanded in these regulations to include the entire housefront.

RENOVATIONS

One commenter asked about the applicability of the regulations to vessels undergoing major overhaul or conversion. 46 CFR 30.01-10, which does apply to the vessels addressed by these amendments, requires that work upon tank vessels undergoing major alterations or repairs must meet the requirements for new construction if possible. Each case is considered on its own merits. Although it may not be practical and feasible to meet certain structural fire protection requirements, inert gas systems can almost always be added.

INTEGRATED TUG-BARGES

One person responding to the notice of proposed rulemaking suggested that rules for integrated tug-barge systems should be addressed in these rules and asked if integrated tug-barge systems would be considered under these regulations as tankships or tank barges. This comment is not relative to the proposed rulemaking. Integrated tug-barge systems that carry liquid bulk cargo have some characteristics of tankships and some characteristics of tank barges. Therefore, they cannot be categorized as either.

LIQUEFIED GAS CARRIERS

Two commenters requested clarification of the application of these regulations to liquefied gas carriers. Since complete regulations for liquefied gas carriers are not yet ready for publication, the major exceptions are addressed in these regulations instead of publishing a separate interpretative ruling as was stated in the notice of proposed rulemaking.

DEFINITIONS

One commenter stated that the definitions in the notice of proposed rulemaking have altered his interpretation of the requirements in the advance notice which he had already begun to apply. These definitions were taken from IMCO and Coast Guard regulations and the Coast Guard believes that they are representative of traditional interpretations of the terms.

Section 30.10-6a. Clarification was requested as to whether a space containing a gas turbine prime mover is considered a Category A machinery space. Category A machinery spaces include spaces that contain certain internal combustion machinery. Gas turbines are categorized as "internal combustion machinery" under 46 CFR Subpart 58.10. Therefore, any gas turbine that fits one of the descriptions in paragraphs (a), (b), or (c) of § 30.10-6a is included within this definition of Category A machinery space.

Section 30.10-16b. This section has been renumbered § 30.10-14.

Section 30.10-19a. One commenter suggested that the definition of control station be modified by adding "this does not include special control equipment which can be most practically located in the cargo area". The intent of the definition is to include only certain listed equipment including centralized fire control equipment. Individual items of fire control equipment are not included. Therefore, fire hose stations, foam monitors, dry chemical stations, and similar fire fighting equipment are not considered to be control stations. Accordingly, the definitions has been modified by changing "control stations" to "control space" and by stating exceptions.

Section 30.10-20. One comment was that the definition of deadweight be

based upon assigned summer freeboard rather than upon the minimum permissible summer freeboard because many vessels are assigned a freeboard in excess of the minimum permitted under the Load Line Convention. This is especially true of liquified gas carriers where the specific gravity of the cargo is low. The definition has been revised to remove this discrepancy. Also, the term "metric" has been inserted to avoid confusion whenever deadweight is used in the regulations.

Section 30.10–37. A definition of keel laying date has been added to resolve confusion over the meaning of "keel laying date or similar stage of construction" as used in the proposed regulations. The keel laying has traditionally designated the start of construction of a vessel. Modern construction techniques have led to the fabrication of sections of a vessel before the official or actual laying of the keel. Since the term "keel laying date" is intended to mean the actual start of irreversible work on a particular vessel, prefabrication or other significant construction could be equivalent to keel laying for regulatory purposes. The work must be part of the regular, continuous construction, using normal shipyard work schedules, of a particular vessel. Therefore, components that are purchased or fabricated but are not assembled into a part of the hull cannot be considered in determining the keel laying date. As an example, prefabrication of standard web frames or bulkhead sections would not be accepted as a stage of construction similar to keel laying; however, the date when assembly of these standard sections into the first module of a particular hull began would be accepted as the keel laying date. If there is any question as to the keel laying date for regulatory purposes, the records of the Coast Guard marine safety personnel will usually be used to determine the date upon which tangible evidence of construction of a particular hull began. The term "or which are at a similar stage of construction" which appeared in several of the proposed regulations has been deleted since it is covered by the definition of keel laying.

INERT GAS SYSTEM

Twelve comments concerning the inert gas system requirements, including one comment received after the advance notice of proposed rulemaking, but before the notice of proposed rulemaking, were received and considered by the Coast Guard.

Section 32.53–1. Several persons recommended that the inert gas regulations be applied to other categories of vessels. Some of the alternatives suggested were that all inert gas systems installed on all vessels after the application date be required to meet the proposed regulations, that the regulations be made retroactive for all tank vessels, that the cut-off for application to tankships be reduced to 70,000 or even 20,000 deadweight tons, that the cut-off be based upon something other than deadweight, that foreign tankships in U.S. waters be included, and that the regulations be extended to tankships undergoing conversions. All of the suggestions have some merit and are being considered. The optimum size limits for application of the regulations are being studied by the Coast Guard. Additionally, other criteria such as tank size, static electricity control, and tank cleaning equipment are being evaluated to determine if they would provide a better criteria than deadweight for determinnig the need for an inert gas system. It must be remembered that these regulations could be applied on such short notice only because of the publicity within the marine industry caused by the IMCO resolution and the advance notice of proposed rulemaking for these regulations. It is not reasonable to apply the regulations to additional vessels without considerable advance notice to and participation in the rulemaking process by interested persons. If the Coast Guard determines that retroactive application of the inert gas regulations to other sizes and types of vessels is necessary and can be justified from an environmental, economic, and a safety viewpoint, separate action would be taken which allows time for purchase and installation of the systems without undue disruption of marine transportation.

One person believed that application of the inert gas regulations to other types of tank vessels was necessary because it would "essentially eliminate the explosion problems for all tankers." Inerting of cargo tanks has the potential of reducing cargo tank explosions but it cannot eliminate them. Furthermore, inerting of cargo tanks cannot prevent explosions or fires in other parts of tankships which are as numerous as those in cargo tanks. The Coast Guard is acting to reduce these other fires and explosions through extensive research and development programs, testing and internal studies, and further regulatory actions. The following are examples of these actions. The requirement in these regulations for locating accommodation, service, and control spaces aft of the cargo area reduces the probabiilty of explosions in these spaces, The requirement for limiting openings in the housefront should reduce the chance of explosive vapors reaching an ignition source within the house. Explosion suppression systems are being tested. Venting requirements are being evaluated under a research contract.

One commenter wanted "a complete revision and reissue of the proposed rules" on inert gas systems so that an environmental impact statement could be written and so that the regulations could be applied to a far broader range of vessels. The Coast Guard did an environmental assessment on the proposed regulations and filed a Negative Declaration stating that the action would not have a significant impact upon the environment of the United States (39 FR 17593). The Coast Guard believes that a complete revision and reissuance of the regulations to include additional vessels as well as development of an environmental impact statement based upon revised regulations could cause a delay of several years for the implementation of the regulations. This delay is not acceptable for the reasons stated in this preamble in response to comments on the application date of these regulations.

One commenter suggested that inert gas systems not be required for tank ships carrying grades D and E cargoes because IMCO Resolution A.271 is limited to cargoes with a closed-cap flash point not exceeding 60°C (140°F). The Coast Guard regulations define Grade D as any combustible liquid having a flashpoint below 150°F and above 80°F and Grade E as any combustible liquid having a flashpoint of 150°F or above. However, the Coast Guard uses an open-cup tester. The equivalent to 150°F in an open-cup tester is approximately 140°F in a closed cup tester. Based on these figures, it can be seen that the IMCO resolution excludes Grade E but not Grade D cargoes. Since Grade E cargoes are not normally carried in a dangerous condition, they have also been excluded from the Coast Guard regulations unless they are heated.

One person questioned the application of the inert gas requirements to liquefied gas carriers. Since these vessels have other means of preventing cargo tank explosions, the inert gas provisions in these regulations have been changed to exclude liquefied gas carriers. Rules for liquefied gas carriers are to be considered in a subsequent rulemaking.

Section 32.53–5. Three persons commented that the inert gas system need not be operated continuously to maintain an inert atmosphere within the tanks as the proposed regulation implied. Instead, the tanks can be pressurized with inert gas and in some cases the atmosphere may be maintained for several hours without the need for additional inert gas. In consideration of these comments, the section has been rewritten to clarify the intent to operate the system as is necessary to insure that an inert atmosphere is maintained.

Section 32.53–10(a). The requirements concerning vessel size which were formerly in § 32.53—10(a) have been moved to § 32.53–1.

Section 32.53–10(c). One comment suggested that the need for fresh air during gas freeing was not properly addressed in this section. The section has been reworded accordingly.

Section 32.53–10(d). One comment questioned the extent and type of tanks that must be connected to the inert gas system for purging. The section has been rewritten to clearly state that only cargo tanks and cargo slop tanks are included.

A clarification of the term "purged" was also requested. "Purge" is commonly understood to mean the effective removal of undesirable vapors. Before gas freeing an empty cargo tank, it must be purged by continually adding inert gas and allowing a mixture of inert gas and hydrocarbon vapors to be vented. When the amount of hydrocarbon vapors has been sufficiently reduced to prevent an explosive mixture, the tank is purged

with fresh air. A combination of air and insert gas is discharged to the atmosphere until the air within the tank is safe for entry by personnel. Similarly, the air in a gas free tank must be purged with inert gas before loading cargo into the tank. With proper purging, cargo tanks can be gas freed and later loaded without ever having an explosive mixture within the tanks. No change to the regulation is necessary to describe this procedure.

Section 32.53–10(f). Several people questioned the intent of the requirement concerning generation of static electricity and asked what would be acceptable. One person asked that the paragraph be deleted. The requirement is included because inert gas systems can generate static electricity and static electricity can cause ignition of cargo vapors. For example, nonconductive piping could allow static charge to accumulate so that a static discharge could take place. Static eliminations are not the only means of meeting this requirement. The state of the art should be explored before designing each system.

Section 32.53–15. One commenter asked what standard would be used for mechanical design. A paragraph has been added stating that the Marine Engineering Regulations in 46 CFR, Subchapter F apply. Because of corrosion problems encountered with inerting systems, materials other than those in 46 CFR 56.60 may be allowed as equivalent if it can be shown under 46 CFR 30.15–1 that they are more suitable for the intended use and that they provide a degree of safety equal to that of the materials required by 46 CFR 56.50. Mandatory pressure testing of the gas distribution system is limited to an initial service leak test.

Section 32.53–25. Several people suggested that the wording requiring that inert gas system be "designed to continuously supply" inert gas implies that the system must operate at full capacity at all times. The intent is to design a system capable of injecting inert gas into the tanks at a rate that is sufficient to prevent the development of a flammable atmosphere within the tank with a 25 percent safety factor. It is not necessary to operate the system at full capacity at all times to do this. The comment was also made that normal transfer operations might not include the use of all pumps at one time. In light of these comments, the section has been revised to say that the inert gas system must be "capable" of providing inert gas at a capacity of 125 percent of the combined maximum capacities of the cargo pumps that "can" be operated simultaneously.

Section 32.53–30. One commenter questioned the need to design the inert gas system to maintain a positive pressure on the tanks because this implies an automatic process. Manually operated systems are permitted by the regulations. Safeguards are required by § 32.53–70(b)(2) to ensure that the operators are warned of low inert gas pressure. The section has been rewritten to clarify this.

It was also stated that the system should be able to maintain a positive pressure during unloading as well as loading. The integrity of the inert atmosphere is not guaranteed unless a positive pressure is also maintained during unloading. The section has been rewritten accordingly.

Section 32.53–35. Two people stated that this section could be interpreted to require removal of all solid and sulphur combustion products from the inert gas. Another believed that the requirement was not adequate because "corrosion is a significant factor contributing to structural failures of oil carrying vessels" and that inert gas quality should therefore be closely regulated. The intent of the regulation is to provide a means for limiting extreme corrosion, blockage, or deposits within the piping and tanks. The extent of removal is being left to the vessel owners and operators who are responsible for maintenance. Certainly, corrosion left unchecked can lead to structural problems. The Coast Guard makes periodic inspections of the condition of U.S. flag vessels and requires renewal of structural members or plates that are unsafe because of corrosion. Corrosion therefore becomes a long term maintenance cost item rather than a safety item. The section has been changed to clarify that total removal of solids and sulphur combustion products is not required.

Section 32.53–45(b). It was suggested that use of blowers is not the only means of designing an inert gas system to prevent excessive pressure on the tanks. The section has been rewritten accordingly.

Section 32.53–50(a). A commenter asked if a device that is equivalent to a water seal could be used instead of the water seal required by this section. Section 30.15–1 of Subchapter D allows the use of equivalent equipment if it is as effective and as safe as the required equipment.

Clarification of the term "shut-down" valve was also requested. The requirement for a shut-down valve is clarified by § 32.53–75.

Section 32.53–50(b). One commenter stated that this section implied that an automatic water level control was necessary. The alarm required by § 32.53–70(a)(2) gives warning if the water supply to the water seal is lost, so this section has been rewritten to clarify that manual control is allowed.

Section 32.53–55. Several commenters questioned the requirement for stop valves at each tank suggesting that a hazardous situation could be created by opening or closing the valves at the wrong time. They recommended various flanges as an alternative. The section has therefore been changed to allow spectacle flanges and to require that each closure device be a type which can be visibly determined to be open or closed.

Section 32.53–60. Several persons asked questions about the location of the inert gas monitoring instruments and their sensors. Four commenters stated that inert gas systems are frequently controlled and monitored from the engine room when cargo transfer operations are not taking place and that instruments would also be necessary there. The section has been rewritten to clearly describe the location of the instrumentation and to include a requirement for readouts within the engine room.

One commenter suggested a high temperature alarm in place of a temperature indicator. The Coast Guard believes that it is beneficial to have the temperature readings available so that trends can be observed and therefore the requirement for a temperature indicator rather than a high temperature alarm remains unchanged.

Section 32.53–65. The question of the background atmosphere in which the portable instruments must operate was raised by two people who stated that most hydrocarbon measuring instruments are not operable in an inert atmosphere. Accordingly, the section has been rewritten to state that the portable instruments must be operable in an inert atmosphere.

One person suggested that the percentage limits of the oxygen and hydrocarbon measuring instruments be defined. No specification has been promulgated for the measuring instruments; however, the instruments may be inspected by the Coast Guard to determine that they are operable, accurate, and suitable for the intended use, and that the operators are familiar with their use.

Section 32.53–70(b). Clarification was requested of the types of pressures to be measured, of the location of sensors, and if measuring of water flow rather than pressure would be suitable. The type of pressure, gas or water, and the location of the gas sensors has been clarified. Also, the requirement for measuring water pressure has been revised to allow alternate measurement of water supply availability.

Section 32.53–70(b)(1). Several people recommended that the oxygen alarm operate when the oxygen content of the inert gas reaches 8% instead of 6% to be in conformance with the American Bureau of Shipping guide. Neither concentration will support combustion. Therefore, in the interest of uniformity, the regulation has been changed to allow the alarm to be set for an oxygen concentration of up to 8%.

Section 32.53–70(b)(3). Shutting down the blowers upon loss of water pressure to the water seal was questioned. A commenter stated that this could lead to a backflow and that a simple alarm would be better. Since shutting down of the blowers causes operation of the automatic shut down valve required by § 32.53–75, backflow is prevented and no change is necessary to the regulation.

Section 32.53–70(b)(4). Several commenters believe that a temperature alarm that responds to a differential temperature would be unnecessarily complicated and difficult to maintain. The use of a 150°F maximum temperature was suggested instead. A differential temperature above ambient seawater temperature was used because inert gas

scrubbers are normally cooled by seawater which varies in temperature. The use of a fixed maximum temperature could allow the inert gas to contain more water vapor and therefore condensation and corrosion in the pipeline and tanks would be increased. The Coast Guard has decided to accept a temperature limit of 150°F because fixed temperature devices are more reliable than differential temperature devices. The safety of the system would still be acceptable because replacement of components of the system is required if the Coast Guard during a regular inspection determines that these components are excessively corroded.

Section 32.53–70(b)(5). One person suggested that the loss of cooling water alarm and shut-down could be deleted because the high temperature shut-down would be sufficient. Although the high temperature controls would eventually shut down the inert gas system, a time lag can be expected during which hazardous conditions may develop. Therefore, the cooling water controls are required as proposed.

Section 32.53–80. The need for this section was questioned by a commenter since conventional tank cleaning systems work in an inert atmosphere. The Coast Guard believes that this section is necessary to prevent use of tank washing equipment that requires opening of the tanks and possible release of inert gas.

One person stated that this section could be interpreted to require that an inert atmosphere be maintained while men are manually cleaning the tanks. The section has been reworded to clarify that only mechanical tank washing equipment is intended.

STRUCTURAL FIRE PROTECTION

Section 32.56–5. One commenter believed there is a conflict between § 32.56–5(b)(3), which requires that certain spaces be located aft of cofferdams separating the cargo area from Category A machinery spaces, and §§ 32.56–5(a) and 32.56–5(d), which do not mention cofferdams. These sections were numbered §§ 32.56–5(b)(3), 32.56–5(a)(1), and 32.56–5(b) in the notice of proposed rulemaking. The Coast Guard believes that this is not an inconsistency. Category A machinery spaces are required by § 32.60–10(a) to be separated from cargo tanks by cofferdams or other spaces. Therefore, it is not necessary to put this requirement in these regulations. Also, since § 32.56–5(d) of these regulations requires that spaces located forward must have the same degree of fire safety as spaces located aft, it is unnecessary to repeat the requirement for cofferdams.

One commenter asked if the term "slop tank" included double bottoms. The term "slop tank" is no longer used in this section since a term "cargo area" has been added to the definitions as § 30.10–5a. "Cargo area" includes cargo slop tanks, cargo tanks, dirty ballast tanks, similar tanks that are intended to contain liquid cargo or cargo vapors, and spaces within, between, below, or outboard of these tanks. Double bottoms are not included in the "cargo area" unless they fall within this definition.

One person stated that the forward bulkhead of the accommodations is often located at the same frame as the after bulkhead of the pump room and asked if this is considered aft of the pump room. In that situation, the accommodations are located aft of the pump room; however, in a similar situation at the after bulkhead of a cargo tank, § 32.60–10(a) requires segregation of accommodation spaces and cargo tanks by a cofferdam or other space.

Two commenters suggested that the expression "cargo pump rooms" in §§ 32.56–5 (b)(2), (a)(2) in the notice, be changed to "cargo pump room access" to allow recessing of the lower level of the pump room into the machinery space. IMCO Resolution A.271 allows recessing of the lower level of the pump room into a Category A machinery space if the deck head of the recess is not more than one-third of the moulded depth above the keel. However, the IMCO Resolution also requires that the accommodation, service, and control spaces be aft of the cargo pump room, implying that these spaces should also be aft of any recess. Requiring the accommodations to be aft of the cargo pump room access does not satisfy this IMCO requirement. Because of the confusion caused by these conflicting rules, the Coast Guard is undertaking a study of damage caused by pump room explosions. Meanwhile, U.S. flag ships may be built with pump rooms recessed into the machinery space. Also, accommodations need not be aft of this recess if there is a substantial space between the deckhead of the recess and the underside of the accommodations. Accordingly, § 32.56–5 has been changed by adding a paragraph (c) that allows the pumproom to be recessed into the machinery space, and to allow a pump room recess to extend below the house if there is a buffer space at least equal to the height of the recess. This space may be a void, a machinery space, or other space not specifically prohibited.

One commenter noted that the proposed Coast Guard regulation changes in paragraph (a)(ii), which is now paragraph (b)(3), of § 32.56–5 require that the accommodation, service, and control spaces be located aft of "cofferdams that isolate cargo or slop tanks from machinery spaces of Category A," but that the IMCO "gas code" does not prohibit this arrangement. Since cofferdams adjacent to cargo tanks of conventional tankships may contain explosive vapors, these cofferdams should not be located under the house. However, the requirements for liquefied gas carriers are different from the requirements for conventional tankships because of the nature of the cargo. In a liquefied gas carrier the cargo is normally separated from the cofferdam space by two boundaries. Therefore, liquid cargo does not come in contact with the cofferdam bulkhead and there is less probability of a cofferdam explosion. An exception has been added to this regulation to exclude most liquefied gas carriers.

It was asked if main cargo control stations are prohibited in the cargo area of liquefied gas carriers under § 32.56–5(b), paragraph (a)(2) of the notice. Since liquefied gas carriers are often arranged so that not all of the cargo area is visible from the house, it is sometimes beneficial to locate the cargo control room in the cargo area where operations can be more easily observed. Liquefied gas carriers are also required to have automatic controls and protection systems not required on other tank ships. Therefore, an exception has been added to § 32.56–5(b) because there can be an equivalent degree of safety if the main cargo control station, often called a cargo control room on liquefied gas carriers, is located in the cargo area.

Section 32.56–15. One commenter was pleased with the requirements for deck coamings; however, the coamings are not to prevent overboard spills as the commenter had believed. They are intended to prevent cargo spills from flowing back to the accommodations and service areas where ignition could endanger personnel or prevent access to the Lifeboat embarkation areas. Coamings or drip pans are already required by 33 CFR 155.310 around manifold areas for preventing spills. The performance of currently approved arrangements is being monitored by the Coast Guard to determine if there is justification for a second spill barrier.

One commenter asked what the height of the protective barrier required by § 32.56–15 must be. The barrier is intended to protect against cargo spills and may vary in height depending upon factors such as the slope of the deck, the proximity of piping which could rupture, the presence of other coamings, and the pumping capacity. The exact height cannot be defined in advance because of these variables. Generally, a one foot coaming is acceptable unless the vessel is arranged so that cargo could flow over that barrier. The barrier is not intended to protect against other hazards such as radiant heat, so the section has been modified to clarify that protection against cargo spills is intended.

Section 32.56–20. One person suggested that the requirement for A–60 Class insulation at the housefront be limited to overhanging decks. Although the IMCO Resolution specifically singles out overhanging decks, it includes all exterior boundaries. The Coast Guard interprets this to include all decks except the top of the wheelhouse.

Section 32.56–21. This was § 32.56–20(b) of the notice of proposed rulemaking. A commenter requested clarification of the extent of protection required for openings in the superstructure and deckhouses that face or are near the cargo area and that contain accommodation, service, or control spaces. This section differs from the IMCO Resolution which requires protection of openings for 5 meters along the sides of the house. The Coast Guard believes that prohibition of openings for 5 meters would be impracticable for small ships. Therefore, the distance in meters to be protected on vessels less than 125 meters in length

is the length of the vessel divided by 25 or 3 meters, whichever is greater. The 5 meter distance applies on vessels of 125 meters or more in length. This is in conformance with the IMCO "gas code." For example, doors that open into accommodation, service, or control spaces on a conventional tankship that is 125 or more meters in length may not be located on the housefront or within 5 meters, measured from that front, along the sides of the house. If doors within this area are fitted to spaces other than accommodation, service, or control spaces, the interior of these spaces must have A–60 Class insulation and may not have openings that give access to accommodation, service, or control spaces. All glazing must be fixed and steel covers must be installed in this area. The covers for normal portlights and similar windows may be manually closed during a fire. The wheelhouse may be excluded from these requirements, but exterior openings to the wheelhouse of liquified gas ships must be arranged to permit rapid gas-tight closure, either automatic or manual.

Section 32.56–21 should not be confused with § 32.56–20. Although A–60 Class insulation is required for 3 meters along the sides of the house in all cases, openings along the sides of the house are restricted for at least 3 meters and often up to 5 meters.

One commenter objected to the requirement for fixed portlights because it "may be misconstrued to imply that windows in the house front are not permitted" and because the IMCO document did not prohibit windows. The intent of the IMCO recommendation is to prevent heat, flame, and gases from entering the house. Other windows have not been included in these regulations, but they may be allowed as equivalents under 46 CFR 30.15–1 if they provide protection that is at least equal to that provided by traditional portlights which are designed in accordance with these regulations. If these windows differ substantially in size or construction from traditional portlights, special precautions such as insulation and automatic operation of covers may be necessary if these windows are to be allowed by the Coast Guard as an equivalent protective barrier.

One commenter suggested "fire resistant glass" as an alternative to steel covers for protecting openings in the housefront. The Coast Guard is unaware of any fire resistant glass that provides equivalent protection. Even wired glass, which can withstand a standard fire test without melting or breaking, transmits heat by radiation and therefore is not acceptable.

Section 32.56–30(c). A commenter requested a determination of the degree of insulation required for separation of control stations from adjacent spaces. The amount of fire insulation is determined by the nature of the adjacent space. Specific rules have not been promulgated by IMCO. As an interim measure the insulation values in table 72.05–10(e) of the Passenger Vessel Regulations must be used as a guideline. Section 32.56–30(c) was improperly located in the notice of proposed rulemaking and has been renumbered as § 32.56–55.

Section 32.56–40. One commenter asked the meaning of "impervious" as applied to the surface of insulation in Category A machinery spaces. This means a permanent barrier, such as a metal foil, sheet metal, cementitious coating, or a vapor barrier. The barrier must be continuous or provision must be made for closing all discontinuities. An editorial change has been made to clarify that the impervious barrier is only required for structural insulation.

Section 32.56–50. One comment stated that there is a conflict between paragraph (a) of this section which restricts combustible veneers to a 2 millimeter (.079 inch) thickness and existing paragraph (d)(9) of § 32.57–10 which restricts them to a 2/28 (.0714 inch) thickness. Subparagraph (d)(9) of § 32.57–10 has been revised to remove this conflict.

Section 32.56–60. Several comments were received on the requirements for insulation of ventilation ducts in § 32.55–50 of the notice. The IMCO Resolution requires that Category A machinery space ventilation ducts passing through accommodations and similar spaces be A–60 Class or have fire dampers; however, the resolution also requires that ducts for ventilation of accommodations, service, or control spaces passing through Category A machinery spaces must have fire dampers at the boundaries. Furthermore, the IMCO resolution requires the separation of Category A machinery spaces from accommodation and service spaces by A–60 Class construction. The proposed A–60 requirement in § 32.55–50 was thought to satisfy all of these provisions. After further examination, the Coast Guard believes that A–60 Class insulation and fire dampers do not always provide equivalent protection and that failure to include dampers in the regulation unnecessarily reduces flexibility. The section has been changed accordingly.

FIREFIGHTING REQUIREMENTS

Section 34.20–10(e). One person requested a discussion of the requirement that deck foam systems be operational within three minutes. Although "simple and rapid operation" as recommended by the IMCO Resolution are good general goals, the Coast Guard believes that a specific time limit is necessary to avoid misunderstandings. Three minutes is used because it is usually considered to be a reasonable goal of fire departments, fire brigades, and similar firefighting activities. Foam system manufacturers can provide this capability with available equipment. The three minute time only applies to the process of placing the system into service, which includes opening all valves, starting the pump, turning on the foam proportioner, and all other steps before actual discharge of the foam. Since it may not be feasible to meet this goal with some existing systems, the regulation has been reworded to limit application to vessels with a keel laying date on or after January 1, 1975.

Section 34.20–15(g). Two commenters recommended that the foam stations required by this section be located at the housefront, but not necessarily aft of the cargo tanks and pumproom. The intent is to locate the monitors in an area that is always accessible during a fire in the monitors over the cargo area or pumproom is not acceptable. Furthermore, the cargo area or pumproom, so locating the monitors must be aft of the coaming which protects the accommodations area from cargo spills because they may not be accessible forward of that coaming. The wording has been changed to clarify the proper foam station location.

In consideration of the foregoing, Parts 30, 32, and 34 of Title 46, Code of Federal Regulations, are amended as follows:

PART 30—GENERAL PROVISIONS

1. Subpart 30.10 is amended by adding the following new sections:

Subpart 30.10 Definitions

Sec.	
30.10–2	Accommodation space—TB/ALL.
30.10–5a	Cargo area—TB/ALL.
30.10–5b	Cargo control station—TB/ALL.
30.10–6a	Category A machinery space—TB/ALL.
30.10–14	Combination carrier—TB/ALL.
30.10–19a	Control space—TB/ALL.
30.10–20	Deadweight or DWT—TB/ALL.
30.10–37	Keel laying date—TB/ALL.
30.10–38	Lightweight—TB/ALL.
30.10–42	Machinery space—TB/ALL.
30.10–48	Oil fuel—TB/ALL.
30.10–48a	Oil fuel unit—TB/ALL.
30.10–62a	Service spaces—TB/ALL.

AUTHORITY: 46 U.S.C. 375, 391a, 416; 49 U.S.C. 1655(b); 49 CFR 1.46(b), E.O. 11239 (30 FR 9671).

Subpart 30.10—Definitions

§ 30.10–2 Accommodation space—TB/ALL.

The term "accommodation space" means any public space such as a hall, dining room, mess room, lounge, corridor, lavatory, cabin, office, hospital, cinema, game and hobby room, pantry that contains no cooking appliances, and a similar space open to the passengers and crew.

§ 30.10–5a Cargo area—TB/ALL.

The term "cargo area" means that part of a vessel that includes the cargo tanks and other tanks into which cargo or cargo vapors are intentionally introduced, holds containing these tanks, all intervening space within, between, below, or outboard of these tanks or holds, and the deck area over the length and beam of the vessel above these tanks, holds, or spaces.

§ 30.10–5b Cargo control station—TB/ALL.

The term "cargo control station" means a location that is manned during cargo transfer operations for the purpose of directing or controlling the loading or unloading of cargo.

§ 30.10–6a Category A machinery space—TB/ALL.

The term "Category A machinery space" means any space and trunks and ducts to such a space that contains—

(a) internal combustion machinery used for main propulsion;

(b) internal combustion machinery used for purposes other than main propulsion where the total aggregate power

is at least 500 brake horsepower;

(c) internal combustion machinery that uses a fuel that has a flash point of less than 43.3°C (110°F); or

(d) one or more oil fired boilers or oil fuel units.

§ 30.10–14 Combination carrier—TB/ALL.

The term "combination carrier" means a tank vessel designed to carry alternatively liquid and solid cargoes in bulk.

§ 30.10–19a Control space—TB/ALL.

The term "control space" means an enclosed space in which is located a ship's radio, main navigating equipment, or emergency source of power or in which is located centralized fire recording or fire control equipment, but not including firefighting apparatus that must be located in the cargo area or individual pieces of firefighting equipment.

§ 30.10–20 Deadweight or DWT—TB/ALL.

The term "deadweight" or "DWT" means the difference in metric tons between the lightweight displacement and the total displacement of a vessel measured in water of specific gravity 1.025 at the load waterline corresponding to the summer freeboard assigned according to 46 CFR, Subchapter E.

§ 30.10–37 Keel laying date—TB/ALL.

The term "keel laying date" means the date upon which progressive construction identifiable with a specific vessel begins, including construction of the first module or prefabricated section of the hull that is identifiable with that vessel.

§ 30.10–38 Lightweight—TB/ALL.

The term "lightweight" means the displacement of a vessel in metric tons without cargo, oil fuel, lubricating oil, ballast water, fresh water, feedwater in tanks, consumable stores, and persons and their effects.

§ 30.10–42 Machinery space—TB/ALL.

The term "machinery space" means any space that contains machinery and related equipment including Category A machinery spaces, propelling machinery, boilers, oil fuel units, steam and internal combustion engines, generators and centralized electrical machinery, oil filling stations, refrigeration, stabilizing, ventilation, and air conditioning machinery, and similar spaces and trunks to such spaces.

§ 30.10–48 Oil fuel—TB/ALL.

The term "oil fuel" means oil used as fuel for machinery in the vessel in which it is carried.

§ 30.10–48a Oil fuel unit—TB/ALL.

The term "oil fuel unit" means the equipment used for the preparation of oil fuel for delivery to an oil fired boiler, the equipment used for the preparation of heated oil fuel for delivery to an internal combustion engine, and any oil fuel pressure pump, filter, and heater that deals with oil at a pressure of more than 1.8 kilograms per square centimeter (25 p.s.i.) gauge.

§ 30.10–62a Service spaces—TB/ALL.

Service spaces are spaces that are used for galleys, pantries containing cooking appliances, lockers, storerooms, paint and lamp rooms and similar spaces that contain highly combustible materials, laundries, garbage and trash disposal and stowage rooms, workshops other than those forming part of the machinery spaces, and similar spaces and trunks to such spaces.

PART 32—SPECIAL EQUIPMENT, MACHINERY AND HULL REQUIREMENTS

2. Part 32 is amended by adding a new Subpart 32.53 to read as follows:

Subpart 32.53—Inert Gas System

Sec.

AUTHORITY: 46 U.S.C. 375, 391a, 416; 49 U.S.C. 1655(b); 49 CFR 1.46(b), E.O. 11239 (30 FR 9671).

Subpart 32.53—Inert Gas System

§ 32.53–1 Application—T/ALL.

The provisions in this subpart apply to each tankship of 100,000 or more DWT (metric) and each combination carrier of 50,000 or more DWT (metric) that have a keel laying date on or after January 1, 1975, except if they—

(a) Carry Grade E cargo that is at a temperature that is lower than 5°C (9°F) below its flashpoint; or

(b) Carry only liquefied gas cargo.

§ 32.53–5 Operation—T/ALL.

The master of each tankship to which this subpart applies shall ensure that the inert gas system is operated as necessary to maintain an inert atmosphere in the cargo tanks at the pressure required under § 32.53–30, except when the cargo tanks are gas free.

§ 32.53–10 General—T/ALL.

(a) Each tankship to which this subpart applies must have an inert gas system that meets the requirements of this subpart and is approved in accordance with 46 CFR 50.20.

(b) Each inert gas system must be designed to supply the cargo tanks a gas or a mixture of gases that has an oxygen content of 5% or less by volume.

(c) Each inert gas system must be designed to eliminate the need for fresh air in the cargo tanks during normal operations except during gas freeing.

(d) Each cargo and cargo slop tank must be capable of being purged with inert gas.

(e) Each inert gas system that is designed to purge the tanks with fresh air must have blank flanges for installation on all fresh air inlets when they are not in use.

(f) Each inert gas system must be designed to minimize the risk of ignition from the generation of static electricity.

§ 32.53–15 Approval—T/ALL.

(a) The installer of each inert gas system must submit a description and specifications of the supply and distribution systems, including all control and monitoring devices, to the appropriate Coast Guard technical office in accordance with 46 CFR 50.20 for approval.

(b) Each inert gas system must meet the requirements of 46 CFR Part 56, except—

(1) The 50 p.s.i. minimum design pressure does not apply, but valves, fittings, and vessels such as scrubbers must be designed for the maximum pressure and temperature they may encounter in service; and

(2) The only initial service test the system is required to pass is an initial service leak test.

§ 32.53–20 Inert gas generators—T/ALL.

Systems employing inert gas generators must meet the requirements of 46 CFR 63.05–20 for control of the generator. Plans for each enert gas generator must be submitted for approval in accordance with 46 CFR 63.05–5.

§ 32.53–25 Gas supply—T/ALL.

Each inert gas system must be capable of supplying inert gas at a capacity of 125 percent of the combined maximum rated capacities of all cargo pumps which can be simultaneously operated.

§ 32.53–30 Positive pressure—T/ALL.

Each inert gas system must be designed to enable the operator to maintain a gas pressure of 100 millimeters (4 inches) of water on filled cargo tanks and during loading and unloading of cargo tanks.

§ 32.53–35 Gas scrubber—T/ALL.

If the inert gas production process uses heated gas or introduces contaminants into the system, the system must have a scrubber or other device that reduces solid and sulphur combustion products and cools the inert gas.

§ 32.53–40 Scrubber: cooling water supply—T/ALL.

(a) The cooling water system of each inert gas system that uses a scrubber must furnish an adequate supply of water to each scrubber without interfering with the water supply to the firefighting system.

(b) An alternate water supply must be available to each scrubber.

§ 32.53–45 Blowers—T/ALL.

(a) Each inert gas system must have at least two independent blowers that together are capable of delivering the amount of gas required by § 32.53–25 of this subpart.

(b) Each inert gas system must be designed to prevent the pressure exerted on the tanks from exceeding their maximum design pressure.

§ 32.53–50 Gas distribution lines: non-return devices—T/ALL.

(a) Two non-return devices, one of which is a water seal, must be fitted in the inert gas main.

(b) The water supply system must be designed to ensure that an adequate supply of water to the water seal can be maintained manually or automatically at all times.

§ 32.53–55 Stop valves—T/ALL.

(a) Stop valves or other means of closure such as spectacle flanges must be fitted in each branch pipe at each tank.

(b) Each stop valve or other device must be a type that provides visible indication of whether it is open or closed.

§ 32.53–60 Instrumentation—T/ALL.

(a) Each inert gas system must be equipped with the following instruments with sensors fitted downstream of the blowers:

(1) Oxygen concentration indicator and permanent recorder.

(2) Pressure indicator and permanent recorder.

(3) Temperature indicator.

(b) Each instrument listed in paragraph (a) of this section must operate continuously when inert gas is being supplied to the tanks.

(c) Each inert gas system must have readouts of oxygen concentration, pressure, and temperature provided at the cargo control station and the location of the person in charge of the main propulsion machinery.

§ 32.53–65 Portable instruments—T/ALL.

(a) Each ship that has an inert gas system must have portable instruments for measuring concentrations of oxygen and hydrocarbon vapor in an inert atmosphere.

(b) Each tank must have fittings which allow the use of portable instruments.

§ 32.53–70 Alarms and controls—T/ALL.

(a) Alarms must sound at the location of the controls for the main propulsion machinery.

(b) Each inert gas system must have the following:

(1) An alarm that gives an audible and visual warning when the oxygen content of the inert gas exceeds 8 percent by volume.

(2) An alarm that gives an audible and visual warning when the gas pressure in the inert gas main downstream of all non-return devices is less than 100 millimeters (4 inches) of water.

(3) An alarm that gives an audible and visual warning and a control that automatically shuts off the system's blowers upon loss of normal water supply at the water seal.

(4) An alarm that gives an audible and visual warning and a control that automatically shuts off the system's blowers when the temperature of the inert gas that is being delivered to the cargo tanks is more than 65.6°C (150°F).

(5) An alarm that gives an audible and visual warning and a control that automatically shuts off the system's blowers upon loss of normal cooling water supply to any scrubber.

§ 32.53–75 Gas main: Automatic shut-down valve—T/ALL.

(a) The gas main of each inert gas system must have an automatic shut-down valve that is fitted where the gas main leaves the production plant.

(b) Each shut-down valve must be designed to close automatically upon blower failure.

§ 32.53–80 Tank cleaning—T/ALL.

Each inert gas system must be capable of maintaining an inert atmosphere within tanks that are being mechanically washed.

§ 32.53–85 Instruction manual—T/ALL.

The master of each ship that has an inert gas system must have on board the ship an instruction manual that contains instructions for the safe operation and maintenance of the inert gas system.

Subpart 32.55—Ventilation and Venting

§ 32.55–40 [Reserved]

3. Subpart 32.55 is amended by revoking and reserving § 32.55–40.

4. Subpart 32.55 is amended by adding a new § 32.55–50 to read as follows:

§ 32.55–50 Ventilation of tankships that have a keel laying date on or after January 1, 1975—T/ALL.

Each tankship that has a keel laying date on or after January 1, 1975, must have deckhouse and superstructure ventilation inlets and outlets and other openings to the exterior arranged to minimize the admission of flammable gas to enclosed spaces that contain a source of ignition.

5. Part 32 is amended by adding a new Subpart 32.56 to read as follows:

Subpart 32.56—Structural Fire Protection for Tank Ships With a Keel Laying Date on or After January 1, 1975

AUTHORITY: 46 U.S.C. 375.391a, 416; 49 U.S.C. 1655(b); 49 CFR 1.46(b), E.O. 11239 (30 FR 9671).

Subpart 32.56—Structural Fire Protection for Tank Ships With a Keel Laying Date on or After January 1, 1975

§ 32.56–1 Application—T/ALL.

This subpart applies to all tankships that have a keel laying date on or after January 1, 1975.

§ 32.56–5 General—T/ALL.

(a) Except as provided in paragraphs (c) and (d) of this section, each Category A machinery space must be aft of the cargo area and pumprooms.

(b) Except as provided in paragraphs (c), (d), and (e) of this section, each accommodation space, service space except isolated storage spaces, and control space and each main cargo control station must be aft of—

(1) The cargo area;

(2) All cargo pumprooms; and

(3) All cofferdams that isolate the cargo area from Category A machinery spaces.

(c) Except as provided in paragraph (e) of this section, any pumproom may be recessed below accommodation, service, and control spaces and recessed into any Category A machinery space if the distance between the deckhead of the recess and the underside of the accommodation, service, or control space is at least equal to the height of the recess.

(d) Accommodation, service, control and certain machinery spaces, such as spaces for bow thrusters, windlass, and emergency fire pumps, may be located forward of the cargo area and pump rooms if it is demonstrated to the Commandant that the overall degree of safety of the vessel is improved and that the degree of fire and life safety for these spaces is not less than the degree of fire and life safety for similar spaces located aft.

(e) On liquefied gas carriers—

(1) Main cargo control stations may be located in the cargo area;

(2) Accommodation, service, and control spaces may be located over cofferdams that isolate cargo tanks other than integral tanks from Category A machinery spaces;

(3) Pumprooms may not be recessed into any space below deck.

§ 32.56–10 Navigation positions—T/ALL.

(a) No navigation position may be above the cargo area unless it is approved by the Commandant as necessary for the safe operation of the vessel.

(b) Each navigation position that is above the cargo area must be separated from the deck by an unenclosed space that extends at least 2 meters (6.6 feet) from the deck to the navigation position.

(c) Openings to navigation positions above cargo areas, except air locks, must be at least 2.4 meters (7.9 feet) above the deck.

§ 32.56–15 Deck spills—T/ALL.

A coaming or other barrier at least .3 meters (1 foot) higher than adjacent spill containment barrier must be provided to prevent cargo spills from flowing aft of the housefront.

§ 32.56–20 Insulation of exterior boundaries: Superstructures and deckhouses—T/ALL.

The following exterior boundaries of superstructures and deckhouses that contain accommodation, service, and control spaces, except wheelhouses, must be insulated to "A–60" Class:

(a) The exterior boundaries that face the cargo area.

(b) The portion of the exterior bulkheads and decks within 3 meters (10 feet) of these boundaries.

§ 32.56–21 Openings in exterior boundaries: Accommodation, service, and control spaces—T/ALL.

The following exterior boundaries of accommodation, service, and control spaces, except wheelhouses, must have no openings, and portlights must be of a fixed type with easily operable steel covers on the inside:

(a) The exterior boundaries that face the cargo area.

(b) The portion of the exterior boundaries within 3 meters (10 feet) or the length of the vessel divided by 25, whichever is greater, except that the distance need not exceed 5 meters (16.4 feet), of these boundaries.

§ 32.56–22 Openings in and insulation of boundaries: Other spaces—T/ALL.

If openings are fitted into the following exterior boundaries of any space other than an accommodation, service, or control space, the interior of the space must be insulated to "A–60" Class and the space must not provide access to any accommodation, service, or control space:

(a) The exterior boundaries that face the cargo area.

(b) The portion of the exterior boundaries within 3 meters (10 feet) or the length of the vessel divided by 25, whichever is greater, except that the distance need not exceed 5 meters (16.4 feet), of these boundaries.

§ 32.56–25 Category A machinery spaces: Windows and port lights—T/ALL.

(a) Except as provided in paragraph (b) of this section and 46 CFR 111.85–10, boundaries of Category A machinery spaces and boundaries of cargo pumprooms must not be pierced for windows or portlights.

(b) Skylights that can be closed from outside the spaces they serve may be fitted in boundaries of Category A machinery spaces.

§ 32.56–30 Category A machinery spaces: Bulkheads and decks—T/ALL.

(a) Bulkheads and decks that separate Category A machinery spaces from cargo pumprooms must be "A" Class construction.

(b) Bulkheads and decks that separate Category A machinery spaces or cargo pumprooms, including the pumproom entrance, from accommodation, service, or control spaces must be "A–60" Class construction.

§ 32.56–35 Doors—T/ALL.

(a) Casing doors in Category A machinery spaces and all elevator doors must be self-closing and must meet the requirements of 46 CFR 72.05–25(b).

(b) If a means of holding a door open is used, it must be a magnetic holdback or equivalent device that is operated from the bridge or other suitable remote control position.

§ 32.56–40 Category A machinery spaces: Insulation—H/ALL.

Structural insulation within Category A machinery spaces must have a barrier such as metal foil, sheet metal, cementitious coating, or other vapor barrier so that the surface of that insulation is impervious to all and oil vapors.

§ 32.56–45 Draft stops—T/ALL.

(a) Where ceilings or linings are fitted in accommodation, service, or control spaces, "B" Class bulkheads, except those that form passageways, may stop at the ceiling or lining if draft stops of "B" Class construction are fitted between the ceiling or lining and the deck or shell at intervals of 14 meters (45 feet) or less.

(b) Spaces behind the linings of stairways and other trunks must have draft stops at each deck.

§ 32.56–50 Combustible veneers—T/ALL.

(a) Except as provided in paragraph (b) of this section combustible veneers on bulkheads, linings, and ceilings within accommodation, service, or control spaces must be 2 millimeters (.079 inches) or less in thickness.

(b) Veneers on bulkheads, linings, and ceilings in concealed spaces, corridors, stairway enclosures, or control spaces must be an approved interior finish material or a reasonable number of coats of paint.

§ 32.56–55 Control spaces—T/ALL.

Bulkheads and decks that separate control spaces from adjacent spaces must be "A" Class construction and insulated against fire. 46 CFR Table 72.05–10(e) of the Passenger Vessel Regulations may be used as a guide.

§ 32.56–60 Ventilation ducts—T/ALL.

(a) Each duct for ventilation of Category A machinery spaces that passes through accommodation, service, or control spaces must be—

(1) Constructed of steel and insulated to "A–60" Class; or

(2) constructed of steel, fitted with an automatic fire damper at each boundary where it enters and leaves the Category A machinery space, and insulated to "A–60" Class for a distance of 5 meters (16.4 feet) beyond each machinery space boundary.

(b) Each duct for ventilation of accommodation, service, and control spaces that passes through Category A machinery spaces must be constructed of steel and be fitted with an automatic fire damper at each Category A machinery space boundary.

Subpart 32.57—Structural Fire Protection for Tank Vessels Contracted for on and after January 1, 1963

6. Section 32.57–5 is amended by revising paragraph (b) to read as follows:

§ 32.57–5 Definitions—TB/ALL.

* * * * *

(b) *"A" Class divisions.* "A" Class divisions such as bulkheads and decks, means divisions that are composed of steel or an equivalent metal, suitably stiffened, and made intact with the main structure of the vessel, including the shell, structural bulkheads, or decks. They are constructed so that, if subjected to the standard fire test, they are capable of preventing the passage of flame and smoke for one hour. In addition, they are insulated with approved structural insulation, bulkhead panels, or deck coverings so that the average temperature on the unexposed side does not rise more than 139° C (250°F) above the original temperature, nor does the temperature at any one point, including any joint, rise more than 181° C (325°F) above the original temperature, within the time listed below:

Class	A–60	60 minutes
Class	A–30	30 minutes
Class	A–15	15 minutes
Class	A–0	0 minutes with no insulation requirement

* * * * *

7. Section 32.57–10 is amended by revising the introductory clause of paragraph (d) to read as follows:

§ 32.57–10 Construction—TB/ALL.

* * * * *

(d) The following conditions apply within accommodation, service, and control spaces: * * *

8. Section 32.57–10 is further amended by revising paragraph (d)(7) and by adding a new paragraph (d)(7a) to read as follows:

§ 32.57–10 Construction—TB/ALL.

* * * * *

(d) * * *

(7) Except as provided in subparagraph (d)(7a) of this paragraph, ceilings, linings, and insulation, including pipe and duct laggings, must be made of approved incombustible material.

(7a) Combustible insulations and vapor barriers that have a maximum extent of burning of 122 millimeters (5 inches) or less when tested in accordance with American Society for Testing and Materials (ASTM) Specification D–1692, "Rate of Burning or Extent of Burning of Cellular Plastics Using a Supported Specimen by a Horizontal Screen", may be used within refrigerated compartments.

9. Section 32.57–10 is further amended by deleting the words "$\frac{2}{28}$ of an inch"

in paragraph (d)(9) and substituting the words "2 millimeters (.079 inch)" in place thereof.

PART 34—FIREFIGHTING EQUIPMENT

Subpart 34.20—Deck Foam System, Details

10. Section 34.20–1 is amended by revising paragraph (a) to read as follows:

§ 34.20–1 Application—T/ALL.

(a) Where a deck foam system is installed, the provisions of this subpart, except § 34.20–90, apply to all installations that are contracted for on or after January 1, 1970, unless otherwise indicated.

* * * * *

11. Section 34.20–5 is amended by revising paragraph (c) to read as follows:

§ 34.20–5 Quantity of foam required—T/ALL.

* * * * *

(c) *Supply of foam-producing material.* Each deck foam system must have a supply of foam-producing material sufficient to operate the system at its designed rate of foam production for the following periods:

(1) For installations contracted for on or after January 1, 1970, 15 minutes without recharging, except as required in subparagraph (c)(2) of this section.

(2) For installations on ships that have a keel laying date on or after January 1, 1975, 20 minutes without recharging.

12. Section 34.20–10 is amended by adding a new paragraph (e) to read as follows:

§ 34.20–10 Controls—T/ALL.

* * * * *

(e) The deck foam system on each tankship that has a keel laying date on or after January 1, 1975, must be capable of being actuated, including introduction of foam to the foam main, within three minutes of notification of a fire.

13. Section 34.20–15 is amended by adding a new paragraph (g) to read as follows:

§ 34.20–15 Piping—T/ALL.

* * * * *

(g) Tankships of 100,000 or more DWT (metric) and combination carriers of 50,000 or more DWT (metric) that have a keel laying date on or after January 1, 1975, must have at least one foam station port and at least one foam station starboard that are separated from each other by a distance equal to at least one-half the beam of the vessel—

(1) At the housefront or aft of the cargo area in a location that is accessible to the crew for fighting a cargo and a pumproom fire; and

(2) If the tankship has a forward accommodations house, at the after boundary of that house.

14. Subpart 34.20 is amended by adding a new § 34.20–25 to read as follows:

§ 34.20–25 Foam monitor capacity—T/ALL.

The capacity of each foam monitor on ships that have a keel laying date on or after January 1, 1975, must be at least 3 liters per minute per square meter (.073 gallons per minute per square foot) of cargo area protected by that monitor.

(46 U.S.C. 375, 391a, 416; 49 U.S.C. 1655(b); 49 CFR 1.46(b), E.O. 11239 (30 FR 9671))

Effective date. These amendments become effective on ———

Dated: January 21, 1976.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

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