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federal register

WEDNESDAY, JULY 28, 1976

highlights

NOTICE REGARDING PRIVACY ACT PUBLICATIONS GUIDELINES

The Office of the Federal Register announces that publication of the Privacy Act Publication Guidelines originally scheduled for the July 28th issue of the "Federal Register" has been postponed. A new publication date will be announced in advance.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

Twelve agencies have agreed to a six-month trial period based on the assignment of two days a week beginning February 9 and ending August 6 (See 41 FR 5453). The participating agencies and the days assigned are as follows:

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this trial program are invited. Comments should be submitted to the Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: Questions, corrections, or requests for information regarding the contents of this issue only may be made by dialing 202–523–5286. For information on obtaining extra copies, please call 202–523–5240. To obtain advance information from recorded highlights of selected documents to appear in the next issue, dial 202–523–5022.

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PROCLAMATION 4450

Leif Erikson Day, 1976

By the President of the United States of America

A Proclamation

In this extraordinary year which holds so much significance for the citizens of the United States, we render especial honor to those intrepid explorers who reached our land so long ago and prepared the way for the many who followed to settle this proud nation.

Although we celebrate the 200th year of our nationhood this year, our history stretches back much further to that Norseman of vision and courage, Leif Erikson. In a dark and superstitious age, he sailed far beyond the limits anyone else had dared, to touch our shores and to weave his brave exploit into our historical fabric. He has left for us all a standard by which to set our sails as we move into a new century of existence.

In a joint resolution approved September 2, 1964 (78 Stat. 849, 36 U.S.C. 169c), the Congress authorized the President to proclaim October 9 in each year as Leif Erikson Day

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, do hereby designate Saturday, October 9, 1976, as Leif Erikson Day and I direct the appropriate Government officials to display the flag of the United States on all Government buildings that day.

I also invite the people of the United States to honor the memory of Leif Erikson on that day by holding appropriate exercises and ceremonies in suitable places throughout our land.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of July, in the year of our Lord nineteen hundred seventy-six, and of the Independence of the United States of America the two hundred first.

Gerald R. Ford

[FR Doc.76-22040 Filed 7-26-76;4:47 pm]

rules and regulations

Title 7—Agriculture

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

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON

Expenses and Rate of Assessment for 1976–77 Fiscal Period and Carryover of Unexpended Assessment Funds From 1975–76 Fiscal Period

This document authorizes expenses of the Washington-Oregon Fresh Prune Marketing Committee, under Marketing Order No. 924, as amended, for the 1976–77 fiscal period at $19,077 and prescribes that each handler pay $0.60 per ton of prunes handled as his pro rata share of such expenses. Unexpended assessment income from the 1975–76 fiscal period will be carried over as a committee reserve.

Notice was published in the June 28, 1976, issue of the FEDERAL REGISTER (41 FR 26577) that consideration was being given to proposals regarding the expenses and the fixing of the rate of assessment for the fiscal period ending March 31, 1977, and carryover of unexpended funds from the fiscal period ending March 31, 1976, pursuant to the marketing agreement and Order No. 924, as amended (7 CFR Part 924) regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This notice allowed interested persons until July 20, 1976, to submit written data, views, or arguments in connection with said proposals. None were received.

After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Washington-Oregon Fresh Prune Marketing Committee (established pursuant to said amended marketing agreement and order), it is hereby found and determined that:

§ 924.216 Expenses, rate of assessment, and carryover of unexpended assessment funds.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Washington-Oregon Fresh Prune Marketing Committee during the period April 1, 1976, through March 31, 1977, will amount to $19,077;

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 924.41, of said amended marketing agreement and order is fixed at $0.60 per ton of fresh prunes;

(c) *Carryover of unexpended funds.* Unexpended assessment funds in excess of expenses incurred during the fiscal year ended March 31, 1976, will be carried over as a reserve in accordance with § 924.42 of said amended marketing agreement and order; and

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

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of fresh prunes grown in the designated production area will shortly be made; (2) the relevant provisions of said amended marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable prunes during the aforesaid period; and (3) such period began on April 1, 1976, and said rate of assessment will automatically apply to all such prunes beginning with such date.

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

Dated: July 23, 1976.

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

[FR Doc.76-21841 Filed 7-27-76;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket 9016]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Herbert R. Gibson, Sr. t/a Gibson Products Company, Etc., et al.

Subpart—Discriminating in price under Section 2, Clayton Act—Payment or acceptance of commission, brokerage or other compensation under 2(c): § 13.800 Buyers' agents; § 13.817 Decreased brokerage; § 13.822 Lowered price to buyers. Subpart—Discriminating in price under Section 5, Federal Trade Commission Act: § 13.870 Charges and prices; § 13.894 Unequal discount.

In the Matter of Herbert R. Gibson, Sr., individually and doing business as Gibson Products Company and The Gibson Trade Show and the following individuals, Herbert R. Gibson, Jr., Gerald Gibson, Belva Gibson, and the following corporations, Gibson's Inc., Gibson's Discount Center, Inc., Ideal Travel Agency, Inc., Gibson Warehouse, Inc., Gibson's Products Co., Inc., Progressive Brokerage, Inc., Borshell, Inc., Al Cohen Associates, Inc.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 2, 49 Stat. 1526; 15 U.S.C. 45, 13.)

Consent order requiring Progressive Brokerage, Inc., and Barshell, Inc., two Dallas, Tex., brokerage firms and respondents in this case, among other things to cease collecting brokerage fees, commissions, or other compensations from sellers while acting for, or in behalf of, buyers.

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

It is ordered, That respondents Progressive Brokerage, Inc., and Barshell, Inc., corporations (hereinafter referred to as respondents), their representatives, agents or employees, directly or through any corporate or other device, in connection with the sale of goods, wares or merchandise for any seller principal, in commerce, as "commerce" is defined in the Clayton Act, as amended, and in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist, except as otherwise permitted by law, from:

1. Paying, granting or allowing, directly or indirectly, to any buyer, or to anyone acting for or in behalf of or who is subject to the direct or indirect control of such buyer, any allowance or discount in lieu of brokerage, or any part or percentage thereof, by selling any goods, wares or merchandise to such buyer at prices reflecting a reduction from the prices at which sales of such products are currently being effected by respondents for any seller principal where such reduction in price is accompanied by a reduction in the regular rate of commission, brokerage or other compensation currently being paid to respondents by such seller principal for brokerage services; or

2. In any other manner, paying, granting or allowing, directly or indirectly, to any buyer, or to anyone acting for or in behalf of or who is subject to the direct

[1] Copies of the Complaint, Decision and Order as to Respondents Progressive Brokerage, Inc. and Barshell, Inc. filed with the original document.

or indirect control of such buyer, anything of value as a commission, brokerage or other compensation or any allowance or discount in lieu thereof upon, or in connection with, any sale of goods, wares or merchandise to such buyer for its own account.

It is further ordered, That Respondents notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in either corporate respondent which may affect compliance obligations arising out of the Order, such as dissolution, assignment or sale resulting in the emergence of successor corporations or the creation or dissolution of subsidiaries.

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

The Decision and Order as to respondents Progressive Brokerage, Inc. and Barshell, Inc. was issued by the Commission June 17, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-21766 Filed 7-27-76;8:45 am]

[Docket 8957]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Walter Kidde & Company, Inc.

Subpart—Acquiring corporate stock or assets: § 13.5 Acquiring corporate stock or assets.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 18)

In the Matter of Walter Kidde & Company, Inc., a corporation.

Consent order requiring a Clifton, N.J., multi-market manufacturer, among other things to divest itself, within two years, of two of its door lockset product lines obtained through the acquisition of Arrow Lock Corporation. Further, the order requires respondent to license two other product lines and imposes a ten-year ban on acquisitions by respondent in the lockset manufacturing industry without prior F.T.C. approval.

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

I. *It is ordered,* That as used herein:

A. The term "Kidde" means respondent Walter Kidde & Co., Inc., a corporation organized and existing under the laws of the State of Delaware with principal offices at 9 Brighton Road, Clifton, New Jersey, all predecessors thereof and successors thereto.

B. The term "Arrow" means the Arrow Lock Corporation, a wholly-owned subsidiary of Kidde, with offices at 4900 Glenwood Avenue, Brooklyn, New York.

C. The term "Sargent" means Sargent & Company, a division of Kidde, with offices at 100 Sargent Drive, New Haven, Connecticut.

D. The term "door locksets" means those products described in paragraph 1a (1) through (8) of the Complaint herein.

E. (1) "5 Line" means the door lockset product line heretofore sold by Sargent under the trade name "5 Line."

(2) "Arrow mortise lockset" means the mortise door lockset product line heretofore sold by Arrow.

(3) "Integralock" means the door lockset product line sold by Sargent under the registered trademark "Integralock."

(4) "Keso product line" means the security cylinders and keys sold by Sargent under the registered trademark "Keso."

II. *It is ordered,* That, subject to the prior approval of the Federal Trade Commission, respondent Kidde, a corporation, through its officers, directors, agents, representatives, employees, successors and assigns, shall as soon as possible and in any event no later than two (2) years from the date this Order becomes final, divest itself of the 5-Line and the Arrow mortise lockset by divesting absolutely and in good faith all right, title and interest to and in all equipment, tools, parts, tooling, blueprints, drawings, assembly plans and instructions which are itemized or described in Schedule "A" hereto and are referred to hereinafter as "the divested property." Said divestiture shall be made to an acquirer able to use the divested property in the manufacture and sale of door locksets in the United States. In addition, Kidde, shall offer for sale to any such acquirer of the divested property such inventories of the 5-Line and the Arrow mortise lockset as may be negotiated by and between the parties to any transaction entered into pursuant hereto: *Provided, however,* That nothing contained herein shall be deemed or construed to limit in any way the right of Kidde, Sargent or Arrow to engage in the manufacture, assembly, distribution and/or sale of any product, subject only to the provisions of Section V hereof regarding prohibitions on future acquisitions.

III. *It is further ordered,* That, upon the written request of the acquirer of the divested property, Kidde shall furnish such technological information and make available for a reasonable period of time such personnel and technical assistance as may be reasonably necessary to enable such acquirer to relocate and use the divested property in the production of door locksets. For each such person furnished Kidde may charge an amount not to exceed the reasonable traveling and living expenses and the actual cost to Kidde for the time involved.

IV. *It is further ordered,* That, pending divestiture, Kidde shall not, except in the ordinary course of business, make any changes, or permit any deterioration in the divested property so as to frustrate or impair the requirements of this Order.

V. *It is further ordered,* That Kidde shall cease and desist for a period of ten (10) years beginning on the date this Order becomes final from acquiring, or acquiring and holding, directly or indirectly, without prior approval of the Federal Trade Commission, any part of the assets, stock, share capital, or other actual or potential equity or right of participation in the earnings of any concern, corporate or non-corporate, which is engaged in the manufacture and sale of door locksets in the United States, or from entering into any agreement or understanding with such a concern whereby Kidde acquires control over the business activities thereof: *Provided, however,* That the provisions of this Section V shall not apply to any acquisition or holding of, or other transaction whereby Kidde acquires or holds control over, a concern (or part thereof) which is not engaged in the manufacture and sale of door locksets in the United States.

VI. *It is further ordered,* that: A. For a period of five (5) years following the effective date of this Order, insofar as it now has or may acquire the power to do so, Kidde shall grant, on a reasonable royalty basis, to any person making written request therefor: (a) a non-exclusive right to use such know-how, trademarks, goodwill and other rights as Kidde may have in connection with the manufacture and sale within the United States of the Integralock; and/or (b) a non-exclusive sublicense to manufacture, have manufactured, use and sell in the United States, the Keso product line, as well as any other of Kidde's rights in and to the Keso product line which it now has or may acquire and which it may legally be entitled to license or sublicense.

B. For purposes of this Section VI, a reasonable royalty is defined as a rate (a) in the case of the Integralock, not to exceed two percent (2%) of sales; and (b) in the case of the Keso product line, not to exceed the greater of: (i) five percent (5%) of sales; or (ii) a per unit rate of fifty cents ($.50) plus the equivalent in United States currency of .75 Swiss franc.

C. Each license or sublicense granted pursuant to this paragraph shall include, if desired by the licensee or sublicensee, all of Kidde's rights in and to the registered trademarks "Integralock" (T.M. Reg. No. 861,953) and "Keso" (T.M. Reg. No. 784,400) and U.S. Patents Nos. 3,303,677 and DES 206,397 as well as any and all future patents, patent applications and know-how issued, filed or acquired by Kidde which relate to the Keso product line or the Integralock.

D. Nothing contained herein shall be deemed to prevent Kidde from refusing to grant a license or sublicense to any person for bona fide business reasons indicating that such person cannot or will

[1] Copies of the Complaint, Decision and Order filed with the original document. Because of the substantial cost of printing Schedule "A" of the Order, only two copies were made and are available for review at the Office of the Secretary if necessary.

not fulfill the duties, obligations and responsibilities of a licensee or sublicensee, including but not limited to the following reasons: (a) lack of financial responsibility or credit worthiness; (b) inability to agree upon reasonable terms and conditions of a license or sublicense agreement; (c) failure to meet any qualification imposed by law or governmental regulation or specification; or (d) information indicating that the grant of a license or sublicense to such person would impair Kidde's goodwill or the confidentiality of its business secrets. *Provided, however,* That any such refusal shall be made in writing, stating the reasons therefor and *Provided further* Kidde shall notify the Federal Trade Commission in writing within ten (10) days of any such refusal stating the reasons therefor.

E. Upon the request of any licensee or sublicensee, Kidde shall furnish to said licensee or sublicensee necessary technical information and know-how and make available such supervisory personnel and technical assistance as may reasonably be necessary to establish production of the Integralock and/or the Keso product line on a going basis. For a period of two (2) years following the date of each license or sublicense agreement, upon the request of each licensee or sublicensee, Kidde shall make available at a place designated by the licensee or sublicensee, a person or persons technically qualified in the manufacture of the Integralock and/or the Keso product line for the purpose of furnishing to the licensee or sublicensee such manufacturing, engineering and technical assistance and know-how as may reasonably be required for the manufacture of the Integralock and/or Keso product line which Kidde has and/or may acquire and which it may at that time lawfully disclose. For each such person or persons furnished Kidde may charge an amount not to exceed his reasonable travel and living expenses and the actual cost to Kidde for the time involved.

F. If, during the term of the license or sublicense agreement, Kidde develops or receives any new technical information pertaining to the manufacture of the Keso product line and/or the Integralock, Kidde shall promptly and fully make available to each licensee or sublicensee such technical information.

G. The duration of any license or sublicense granted pursuant to the terms of this Order, shall, at the option of the licensee or sublicensee, be for a duration of not less than fifteen (15) years, *Provided, however,* That provision may be made for the termination of said license or sublicense agreements by either party on 90 days notice to the other if the other party shall be in default or breach of any material provision of said license or sublicense agreement and such default or breach shall not have been cured within such 90 day period. Except as provided herein the rights granted to any licensee or sublicensee shall not be terminated or abated.

VII. *It is further ordered,* That nothing in this Order shall be deemed to prevent any licensee or sublicensee or applicant for a license or sublicense, from attacking in any proceeding or controversy, the validity, scope, or enforceability of any patent nor shall this Order be construed as imputing any validity, enforceability or value to any such patent.

VIII. *It is further ordered,* That Kidde shall not voluntarily dispose or permit the disposition of any patents, trademarks or rights thereunder or voluntarily perform or fail to perform any act so as to deprive it of the power to grant or cause to be granted the licenses or sublicenses required by this Order. However, the obligations set forth in this Order with respect to the granting of licenses or sublicenses shall be subject to Kidde's continued right to license or sublicense said products and said obligations shall automatically abate if, and to the same extent that Kidde's right to license or sublicense should be terminated or become impaired during the period hereof; *Provided, however,* That Kidde shall notify the Federal Trade Commission in writing immediately upon knowledge that any such termination or impairment will occur or has occurred setting forth the circumstances and reasons therefor.

IX. *It is further ordered,* That Kidde shall, within six (6) months after the effective date of this Order, and every six (6) months thereafter, until Kidde has fully complied with the provisions of this Order, submit in writing to the Federal Trade Commission a verified report setting forth in detail the manner and form in which Kidde is endeavoring to comply or has complied with this Order. All compliance reports shall include among other things that may from time to time be required, a summary of contacts, offers, contracts or negotiations with anyone for the divested property, and the identity of all such persons and copies of all written communications to and from such persons.

X. *It is further ordered,* That respondents Kidde notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the corporate respondent, or any subsidiary thereof, which may affect compliance obligations arising out of this Order, such as dissolution, assignment or sale resulting in the emergence of a successor corporation or the creation or dissolution of subsidiaries.

The Decision and Order was issued by the Commission June 29, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-21767 Filed 7-27-76;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5727, 34-12649, 35-19621, 39-441, IC-9361 and IA-528]

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Schedule of Fees for Records Services

On June 21, 1976, following the submission of competitive proposals from prospective contractors, the Securities and Exchange Commission awarded a new information dissemination services contract to Disclosure, Inc. to commence on July 1, 1976. Pursuant to the new contract, a new schedule of fees to be charged to the public for facsimile copies of Commission documents went into effect on that date. In part, the new schedule results in reductions of prior fees.

In accordance with the provisions and schedule of fees under the new contract, 17 CFR 200.80e is revised effective July 1, 1976, without prior notice as the matter involved rules of agency procedure and practice, and notice and public procedure thereon was impracticable and unnecessary. 17 CFR 200.80e is revised to read as follows:

§ 200.80e Appendix E—Schedule of Fees for Records Services.

Searching and Attestation Services.—Locating and making available records requested for inspection or copying (including overhead costs): First one-half man-hour—No Fee; Each additional one-half hour or fraction thereof—$2.50.

Attestation with Commission Seal (in addition to other fees, if any): $2.00.

Payment for the above services must be made by check or money order payable to: "Treasury of the United States." Address mailed payments to:

Comptroller, Securities and Exchange Commission, Washington, D.C. 20549.

Facsimile Copies of Documents.—Copies of public records filed with or retained by the Commission are provided by a commercial copier at rates established by a contract between the copier and the Commission. All requires for facsimile copies should be directed to the Public Reference Section, Securities and Exchange Commission, Washington, D.C. 20549. Cost estimates with respect to any copying job will be supplied upon request by the Public Reference Section.

Copies, when authorized, will be sent directly to the purchaser by the contract copier unless attestation is requested. The purchaser will be billed by the copier for the cost of the copies plus postage or other delivery charges, if any. Payment of all copying charges must be made to the official copier, not to the SEC, in the manner specified on the company invoice. The purchaser will be billed separately by the Commission for searching and attestation services, if any, at the rates noted above.

All of the following facsimile copying services provide copies on pages ranging from 8" x 10½" to 8½" x 14" in size, regardless of the size of the original. Materials to be copied which cannot be copied onto one page without reducing character images to less than 6-point type size will be copied on two pages which the purchaser may match and join.

The following types of facsimile copying services are available. The stated time for delivery in each case begins to run only after receipt of the material by the Contractor; if files cannot immediately be made available by the Commission, the time of shipment will be affected.

Regular service.—Hard (facsimile) copies of originals, microfiche or of other hard copies will be shipped within seven calendar days after material is received by the Contractor—each page—$0.10; Minimum charge each order for regular service—$3.50. (Delivery costs are additional.)

Expedited service.—Hard (facsimile) copies of originals, microfiche or other hard copies will be shipped within four working days after material is received by the Contractor—each page—$0.20; Minimum charge each order for expedited service—$5.00. (Delivery

costs and sales taxes, when applicable, are additional.)

Priority service.—Hard (facsimile) copies of originals, microfiche or other hard copies will be shipped by the close of business of the day following receipt by the Contractor, exclusive of weekends or holidays—each page—$0.30; Minimum charge each order for priority service—$5.00. (Delivery costs and sales taxes, when applicable, are additional.)

Watching service.—Hard (facsimile) copies of originals will be shipped within one working day of receipt of the filing by the Contractor, for all reports of a given type (complete reports only, not excerpts) for all companies which file them during the requested "Watching Service" time period—each page—$0.40; Minimum charge each order for watching service—$5.00. (Delivery costs and sales taxes, when applicable, are additional.)

Self-Service Copying Facilities.—In addition to the copying services described above, the contract copier maintains customer operated machines in the public reference rooms of the Commission in Washington, D.C., New York, Los Angeles and Chicago. These machines can be used to make immediate copies of material available for inspection in those offices, at a cost of 10 cents each page (up to 8½" x 14" in size), plus applicable sales taxes.

Microform Copies of Documents.—The Contractor also offers certain microform copying services pursuant to the contract. Microfiche copies are offered in a variety of subscription and special order services. The cost of microfiche services varies according to the type of service and the volume. Packages currently offered include registration statements and prospectuses under the Securities Act of 1933, annual reports to stockholders, definitive proxy solicitation materials, and filings on Forms 8-K, 10-K, 10-Q, and Forms N-1R and N-1Q under the Investment Company Act of 1940, in various combinations and groupings, including Standard Industrial Classifications. Arrangements also may be made to subscribe to reports of companies selected by the requester, or to obtain microfiche of individual documents.

The Contractor supplying these services will supply information and price lists upon request. Please address all requests for information, and all orders for microfiche copies to: Disclosure, Inc., 4827 Rugby Avenue, Bethesda, Maryland 20014 (Telephone: Area Code 301/565-5200).

By the Commission.

Dated: July 21, 1976.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-21783 Filed 7-27-76;8:45 am]

Title 32—National Defense

CHAPTER VI—DEPARTMENT OF THE NAVY

PART 731—TRAINEES FROM ACCREDITED NONFEDERAL INSTITUTIONS AT NAVAL MEDICAL FACILITIES

Revision

Pursuant to the authority conferred in 5 U.S.C. 301, and 5351-5356, 10 U.S.C. 5031, and 32 CFR 700.1202, the Chief, Bureau of Medicine and Surgery revises 32 CFR Part 731. Part 731 is a codification of a U.S. Navy Bureau of Medicine and Surgery Instruction (BUMEDINST 12000.5 series). The revision relates to internal naval management and personnel practices and largely reflects nonsubstantive changes adopted in BUMEDINST 12000.5D. It has been determined that invitation of public comment on these changes prior to adoption would be impracticable and is therefore not required under the public rulemaking provisions in Part 296 and 701 of 32 CFR.

32 CFR 731 is therefore revised as follows:

Sec.

AUTHORITY: 5 U.S.C. 301, 5351-5356, 8144, 8331-8332); (10 U.S.C. 5031); 32 CFR 700.1202.)

§ 731.1 Purpose.

This part authorizes acceptance of trainees pursuant to 5 U.S.C. 5351-5356 from accredited nonfederal institutions as affiliates for part of their training in naval medical and dental facilities, and provides procedures for their appointment.

§ 731.2 Program information.

Navy medical and dental activities have developed effective working relationships with educational institutions and professional groups through means such as exchange of information and use of services of outstanding civilian specialists in medical and dental training programs. There is an opportunity to continue Navy cooperation with local educational institutions through acceptance of trainees from accredited nonfederal institutions as affiliates for part of their training. Programs have been approved for clinical training on a part-time basis in some of our naval hospitals for residents, medical students, clinical psychology interns, student nurses, and other students. Such programs have proved mutually beneficial to the medical facility and to the community.

§ 731.3 Policy.

Within available resources and to the extent that it does not interfere with the naval medical and dental facility's basic mission, addressees may, after Bureau of Medicine and Surgery approval (and the approval of the major claimant when applicable) participate in cooperative programs with accredited nonfederal educational institutions to provide clinical learning experience for bona fide students enrolled at such nonfederal institutions in programs described in § 731.1.

§ 731.4 Requirements.

Formal contracts will not be entered into. However, a memorandum of understanding will be prepared in compliance with § 731.9, as the basis for assignment of trainees by the educational institution and their acceptance by the naval activity.

§ 731.5 Appointment requirements.

To provide for the acceptance of trainees into the naval activity, excepted appointments shall be made under appropriate sections of schedule A of Part 213 of the Civil Service Regulations (5 CFR Part 213) and only to positions excluded from the Classification Act (5 U.S.C. 5101-5115) under 5 U.S.C. 5102 (c)(16). Detailed procedures and requirements for appointment of trainees accepted from nonfederal institutions for a part of their training are contained in § 731.10.

§ 731.6 Prior approval.

On receipt of a request from an accredited nonfederal institution for assignment of trainees as affiliates, a copy of the request, together with the commanding officer's comments and recommendations, should be forwarded to the Bureau of Medicine and Surgery via the Commanding Officer, Naval Health Sciences Education and Training Command (HSETC) or to the Bureau of Medicine and Surgery via HSETC and the major claimant when applicable. If approved, the commanding officer will be authorized to complete arrangements by executing a memorandum of understanding.

§ 731.7 Renewal.

Memorandums of understanding that are to be renewed, without a change of provisions, do not require prior Bureau of Medicine and Surgery approval. In those instances where existing memorandums of understanding are to be modified (except dates regarding terms of training) the procedures of § 731.6 will be followed.

§ 731.8 Reporting.

By October 15 of each year, commanding officers will provide the Bureau of Medicine and Surgery, via the Naval Health Sciences Education and Training Command, a letter summary listing all current memorandums of understanding and number of trainees, all of those which have been canceled since July 1, and those that will remain in effect through the current fiscal year. The report shall carry the title Trainees from Accredited Nonfederal Institutions (Report Symbol MED-12000-1). Commanding officers will forward copies of the executed memorandum of understanding and all modifications or termination notices as they occur.

§ 731.9 Sample format of a memorandum of understanding.

MEMORANDUM OF UNDERSTANDING BETWEEN (NAME OF NONFEDERAL INSTITUTION) AND (NAME OF NAVAL ACTIVITY) GENERAL

1. The trustees, administrators, etc.) of the (name of nonfederal institution) have established an approved professional program of special training in preparation for _____, and such program requires bona fide students enrolled therein to obtain clinical learning experience as set forth in the curriculum of the said _____.

2. The (name of naval activity), which is under the jurisdiction of the U.S. Navy is engaged in certain activities in which bona fide students, currently enrolled in the basic

professional (category) program at (name of nonfederal institution), if allowed to participate in Navy patient care or research, can obtain a part of the required clinical learning experience as set forth in the curriculum of (name of nonfederal institution.)

3. It is to the benefit of the (nonfederal institution) that students enrolled in the basic professional (category) program at (nonfederal institution) be permitted to participate in the said Navy patient care or research at the (name of naval activity), to obtain their required clinical learning experience.

4. It is to the benefit of the (name of naval activity) to allow bona fide students enrolled in the basic professional (*category*) program of the (nonfederal institution) to participate in Navy patient care or research to obtain their clinical learning experience, thereby contributing to the educational preparation of the future supply of (category of personnel; medical specialists, nurses, etc.).

UNDERSTANDING

5. Insofar as the commanding officer deems it consonant with his command's basic mission, the (name of naval activity) will:

a. Appoint such numbers of students as he may deem appropriate who are enrolled in the basic professional (category) program at the (nonfederal institution) for such learning experience, for participation in Navy patient care and research in accordance with the Federal Personnel Manual (FPM), chapter 213, appendix C, and chapter 534; FPM Supplement 990-1, Part 534; and the Navy Civilian Manpower Management Instruction (CMMI) 213, appendix C.

b. Coordinate with the (nonfederal institution) staff the schedules and activities in such a manner as to prevent conflict of schedules in the learning experience and designate an appropriate officer of the staff of the naval command for this purpose. This coordination involves the planning with faculty or staff members for the assignment of trainees to specific clinical cases and experiences, including their attendance at selected conferences, clinics, courses, and programs conducted under the direction of the activity.

c. Provide, whenever possible, in connection with the trainee's clinical learning experience, reasonable classroom, conference room, office, and storage space for participating trainees and their faculty or staff supervisors if assigned; also; whenever feasible, dressing, and locker room space.

d. Permit, upon request, the inspection of its clinical and related facilities by agencies charged with the responsibility for accreditation of the (nonfederal institution).

6. The (nonfederal institution) will:

a. Prior to the beginning of each training period, provide the names of the trainees to be assigned, the dates and hours they will be assigned, and the clinical services to which their assignment is desired.

b. Provide faculty or staff members to assume the responsibility for instruction and supervision of the students' clinical learning experiences.

c. Provide a supervising faculty or staff member to plan, in coordination with the coordinating officer of the (name of naval facility) the assignment that will be assumed by the trainees while participating in their clinical conferences, clinics, courses, and programs conducted under the direction of the naval command.

d. Provide and maintain the personal records and reports necessary for the conduct and documentation of the trainees' clinical learning experience.

e. Enforce such rules and regulations governing the trainees and their conduct as may be promulgated by the commanding officer of the (name of naval facility).

f. Be responsible for health examinations and such other medical/dental examinations and protective measures as the (name of naval activity) may deem necessary.

g. Prohibit the publication by the trainees and faculty or staff members of any material relative to their clinical experience that has not been approved for release for publication by the (name of naval facility).

h. Permit designated trainees to accept intermittent limited appointments under the provisions of the Federal Personnel Manual (FPM), chapter 213, appendix C, and Chapter 534; FPM Supplement 990-1, part 534; and the Navy Civilian Manpower Management Instruction (CMMI) 213, appendix C, for the purpose of participating in this program.

7. It is further understood and agreed that the (nonfederal institution) will, upon notice from the commanding officer, (name of naval facility) that further participation by any student(s) is not desirable, forthwith withdraw such student(s) from participation in the program.

TRAINING

8. The terms of training shall be from _____ to _____. Termination may be effected by either the (*nonfederal institution*) or the (*name of naval activity*), upon written notice to the other when deposited in the United States mail, and directed to the party to whom notice is being given, at the address set forth below.

_____
(Date)

_____
Signature and Title

_____
Address of Nonfederal Institution

_____
Signature and Title

_____
Address of Naval Facility

§ 731.10 Procedures and requirements for appointment of trainees.

(a) *General.* The trainees accepted under the program shall be given limited, excepted appointments for temporary, intermittent training assignments. A general statement of the program with typical training duties and areas should be stated in writing. Positions of certain trainees assigned or attached to a federal hospital, clinic, or medical or dental laboratory are excluded from Chapter 51, Title 5, U.S.C. (formerly the Classification Act) and the pay and hours of work provisions of Subchapter III of Chapter 53, Subchapter V of Chapter 55 and Sections 5504 and 6101 of Title 5, U.S.C. (formerly the Federal Employees Pay Act.)

(b) *Stipends.* The Civil Service Commission established maximum stipends for trainees. However, trainees from nonfederal institutions assigned to federal facilities as affiliates for part of their training shall receive no stipend from the federal facility other than any maintenance that may be provided (Civil Service Regulations—Part 435, FPM Supplement 990-1).

(c) *Appointing authority and nature of action.*

(1) The Secretary of the Navy has delegated authority to make Schedule A excepted appointments to certain trainee positions. In processing appointments, the nature of action should be "Excepted Appointment—NTE _____—Intermittent". The authority to be cited on the Personnel Action Standard Form 50, is the applicable subdivision and paragraph of Schedule A. Schedule A exceptions which apply to all agencies are listed in Appendix C to Chapter 213 of the Federal Personnel Manual. Sections of Schedule A which apply only to the Department of Defense and the Department of the Navy are printed in Navy Civilian Manpower Management Instruction 213, Appendix C and in 5 CFR Part 213, particularly paragraphs (a) (4), (7), (8), (10), (11), (12), and (13) of § 213.3108.

(2) Listed below in the first column are Schedule A positions excepted from the Classification and Pay Act cited in Section 1, and in the second column are shown the Schedule A authorities, applicable to all agencies, which the Department of the Navy activities may utilize in making appointments:

Clinical Psychology Interns	Use one of the following authorities in Federal Personnel Manual 213, Appendix C (5 CFR Part 213) as appropriate:
Dental Hygiene Students	Sec. 213.3102(k) [213.3102(k)]. When no stipend is paid.
Dental Interns	Sec. 213.3102(p) [§ 213.3102(p)]. When filled by bona fide graduate students at accredited colleges or universities in connection with academic requirements toward a graduate degree.
Dietetic Interns	
Dietetic Residents	
Hospital Administrative Residents	
Medical Residents	
Medical Student Interns	
Occupational Therapy Interns	
Physical Therapy Interns	
Psychology Student Trainees	
Student Dieticians	
Student Laboratory Assistants	
Student Medical Librarians	
Student Nurses	
Student Occupational Therapists	
Student Physical Therapists	Sec. 213.3102(g) [§ 213.3102(g)]. Positions GS-7 and below when appointees are bona fide high school, college, or university students who will assist scientific, professional, or technical employees in areas related to their course of study. (Limited to 1040 working hours.)

(3) Requests for exclusion of other positions from the Classification and Pay Acts and/or requests for excepting other positions from the competitive service and including them under Schedule A should be submitted to the Bureau of Medicine and Surgery with full supporting information. See Part 534 of the Civil Service Regulations and Appendix B of Chapter 213 of the Federal Personnel Manual (5 CFR Parts 213 and 534).

(d) *Physical fitness.* The commission does not require that a Certificate of Medical Examination be obtained for Schedule A appointees. The physical examination requirements met by the trainees for admission to their parent institution should be adequate assurance

of their physical qualifications for the training program. Therefore no additional requirements are imposed by the Bureau of Medicine and Surgery.

(e) *Security investigation.* The commanding officer will determine the investigative requirements for appointment of six months or less to critical-sensitive, noncritical-sensitive, and nonsensitive positions in accordance with CMMI 736.1–6.e; for those appointments of more than six months in accordance with CMMI 736.1–4.

(f) *Employment documents and records.* The following must be maintained:

(1) Any license required in applicable Civil Service Regulations for the positions to which appointed.

(2) Standard Form 171—Personal Qualifications Statement, or Part A of Standard Form 50–A—Notice of Short Term Employment.

(3) Standard Form 50—Notification of Personnel Action (or "List Form in Lieu of Standard Form 50").

(4) Standard Forms 61 and 61–B—Appointment Affidavit and Declaration of Appointee.

(5) Brief statement of duties or services performed which may be included in memorandum of understanding or on Notification of Personnel Action.

(6) Record of time and attendance.

(g) *Exemption from personnel ceiling.* Trainees appointed as affiliates from nonfederal institutions to naval facilities for a part of their training are not counted against personnel ceiling limitations.

Dated: July 20, 1976.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General, (Civil Law).

[FR Doc.76-21812 Filed 7-27-76;8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Pandering Advertisements; New Implementing Regulations

On June 18, 1976, the Postal Service published in the FEDERAL REGISTER (41 FR 24726) a notice of proposed rulemaking on this subject, setting forth a proposed new 123.6 of the Postal Service Manual, primarily to facilitate employment of the protections offered by the "pandering advertisements statute", 39 U.S.C. 3008 (formerly section 4009). The new regulation is designed to inform both postal personnel and postal customers of the continuing availability and exact nature of this remedy, and how to employ it. Interested persons were invited to submit written views and arguments on the proposed addition at any time on or before July 20, 1976.

No written objections have been received. Accordingly, the Postal Service hereby adopts, without change from the published proposal, except for the correction of minor printing errors, the following addition to the Postal Service Manual, effective immediately:

PART 123—NONMAILABLE MATTER—WRITTEN, PRINTED, AND GRAPHIC MATTER

In Part 123 of the Postal Service Manual add new § 123.6 reading as follows:

123.6 *Pandering advertisements.*

.61 *Application for prohibitory orders (39 U.S.C. 3008).*

.611 An addressee who receives by mail an advertisement, whether solicited by him or not, offering for sale matter which he determines, in his sole discretion, is "erotically arousing or sexually provocative" may obtain a prohibitory order directing the mailer of the advertisement to refrain from making further mailings to him. P.S. forms (Form 2150; Publication 123) are available for the purpose of requesting such orders. The use of these forms is not mandatory, provided the information they solicit is presented in a signed written statement.

.612 An addressee who is the parent of one or more children under nineteen years of age residing with him may request an order on behalf of any or all of such children. Where the parent of any such child determines that matter offered for sale in an advertisement addressed to the child is "erotically arousing or sexually provocative," he may request issuance of an order prohibiting further mailings to such child.

.613 If, at the time he applies for issuance of a prohibitory order, the addressee is receiving mail at more than one address, he may request that the order apply to any or all such addresses.

.614 A person entitled to receive mail addressed to a deceased person will be regarded as the addressee of such mail for purposes of obtaining a prohibitory order in the name of the deceased.

.615 A person authorized to receive mail addressed to a job title (e.g., sales manager) of any business, government agency, or institution, will be regarded as the addressee of such mail for purposes of obtaining a prohibitory order covering such job title.

.616 Any person having apparent authority to act for a business, governmental or institutional addressee will be regarded as the addressee of such organization's mail for purposes of obtaining a prohibitory order in the name of such organization.

.617 The application for prohibitory order may be submitted at any post office and must be accompanied by the advertisement upon which the application is based, and its opened envelope or other cover or wrapper. The postal services center serving the applicant's address (see P.S. Publication 26) is responsible for granting or denying the application. Applications submitted to other than the appropriate services center are to be forwarded promptly to such services center for processing. P.S. Publication 125 provides guidance to assist the services centers in such processing.

.62 *Denial of applications.*

A prohibitory order will not be issued when the application is based upon one or more of the following:

(a) The request of one who the Postal Service finds does not qualify under any of the foregoing paragraphs of this section.

(b) A mail piece which the Postal Service finds does not offer matter for sale.

(c) A mail piece not originating with the person against whom the order is sought (e.g., a newspaper or magazine not mailed by the advertiser therein upon whose advertisement the application is based).

(d) A mail piece received by a foreign addressee who has no regular mailing address at which mail is delivered directly by the Postal Service.

(e) A mail piece sent by a mailer not subject to the jurisdiction of the United States.

(f) A basis in any other way insufficient under the statute.

.63 *Issuance of orders.*

The prohibitory order forbids the mailer, his agents or assigns from making any further mailings to the designated addressees effective on the thirtieth calendar day after the mailer's receipt of the order; directs immediate deletion of such addressees from all mailing lists owned or controlled by the mailer, his agents or assigns; and, prohibits any sale, rental, exchange, or other transaction by the mailer, his agents or assigns, involving mailing lists bearing the names of the designated addressees.

.64 *Availability of remedies.*

The fact that a name and address is included on the Postal Service list of those desiring not to receive any sexually oriented advertisements through the mails (see § 123.5) does not in any way limit or affect the authority of the Postal Service to issue a prohibitory order protecting such name and address. Likewise, issuance of a prohibitory order does not in any way limit or affect the authority of the Postal Service to list, in accordance with § 123.5, the name and address protected by such prohibitory order.

.65 *Violations.*

A person protected by a prohibitory order who receives a mail piece apparently in violation of such order should open the envelope or other outside cover of such mail piece and write thereon the identifying number of the prohibitory order (if known) and a statement indicating his receipt by mail and the date of receipt—e.g., "I received this mail piece (date)"—followed by his signature. The mail piece should then be submitted directly, or via a post office, to the postal services center which issued the order. Such submission will constitute an application for enforcement of the order. When the Postal Service finds, after appropriate administrative proceedings as described in P.S. Publication 125 and Title 39, Code of Federal Regulations, Part 916, that enforcement action is warranted, it requests the Department of Justice to seek a court order directing compliance with the prohibitory order.

.66 *Abandonment of applications.*

An applicant for a prohibitory order or its enforcement will be deemed to have abandoned his application if he fails to comply, within 60 days, with any request by the Postal Service to supplement, correct or complete his application. Abandoned applications need not be retained by the Postal Service.

.67 *Void orders.*

A prohibitory order will be considered void upon expiration of five years from the date of issuance, except that when application for enforcement of a prohibitory order has been made, it will not be considered void until expiration of five years from the last application for enforcement. Postal Service files relating to such void orders may be disposed of provided a record is maintained of the disposal of each such file and the reason therefor.

.68 *Modified orders.*

.681 An addressee protected by a prohibitory order who has a permanent change of mailing address may continue the protection provided by the order by notifying the mailer of his change of address and his desire to have the order honored with respect to the new address. The notification should be in writing and should be forwarded to the mailer by registered mail, return receipt requested. The notification should state that the addressee previously obtained a prohibitory order, and should identify the order by giving the prohibitory order number. It should also state the address covered by the order, that the addressee has had a permanent change of address, and the new address which the addressee wishes covered.

.682 To permit enforcement with respect to any violation of the order at the new address, a copy of the notification and return mailing receipt must be submitted to the postal services center which issued the order. Such written notification shall modify the order by substituting the new address for the address designated in the original or previously modified order. An order thus modified will take effect in the same manner as the original order.

.69 *Ratified orders.*

Orders issued on behalf of persons who had not attained nineteen years of age will not be enforced with respect to mailings received by such persons after they attain the age of nineteen unless they ratify the order by giving written notice to the postal services center which issued the order that they wish to have the order continue in effect as to themselves. Such notice should include the prohibitory order number.

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual will be published and will be transmitted to subscribers automatically. Notice of the issuance of this transmittal letter will be published in the usual manner in the FEDERAL REGISTER through an appropriate amendment to 39 CFR 111.3.

(39 U.S.C. 401, 3008.)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.76-21806 Filed 7-27-76;8:45 am]

Title 43—Public Land, Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER E—FOREST MANAGEMENT

[Circular No. 2400]

PART 5400—SALE OF FOREST PRODUCTS: GENERAL

Export of Timber From Federal Lands

On March 26, 1976, the FEDERAL REGISTER (41 FR 12658) contained regulations amending Parts 5400 and 5420 of Title 43 Code of Federal Regulations. The purpose of this amendment is to add clarification to the existing regulations and to correct a misunderstanding concerning the application of marketing areas for administration of the substitution regulations.

The congressional intent regarding substitution was to provide latitude for a company owning land in two localities, and exporting from one, not to be limited from purchasing public timber in the other location. In addition, the substitution amendment should not apply in the locality from which logs were exported unless the company undertakes to substitute public timber for exported private timber. Since ninety-five (95) percent of BLM timber originates from western Oregon, it was originally thought that this situation did, in fact, create marketing areas.

However, marketing areas more closely associated with utilization facilities was determined desirable.

The regulations are amended to alleviate this disparity by the rewriting of paragraph (n) of § 5400.0-5.

Publication of this revision as final regulations is being made as a result of additional public comment received since regulations published in March, 1976. Because of this, public response is not requested.

To add clarity, Federal timber is defined under § 5400.0-5 (o). The regulations are adopted as set forth below and shall become effective August 1, 1976.

Dated: July 23, 1976.

CHRIS FARRAND,
Deputy Assistant Secretary of the Interior.

1. Section 5400.0-5 is revised by revising paragraph (n) and by adding a new paragraph (o) as follows:

§ 5400.0-5 Definitions.

* * * * *

(n) "Substitution" means: (1) The purchase of a greater volume of Federal timber by an individual purchaser than has been his historic pattern within twelve (12) months of the sale of export by the same purchaser of a greater volume of his private timber than has been his historic pattern during the preceding twelve (12) months, exclusive of Federal timber purchased by negotiated sale for right-of-way purposes, and (2) The increase of both the purchase of Federal timber and export of timber from private lands tributary to the plant for which Bureau of Land Management timber covered by a specific contract is delivered or expected to be delivered.

(o) "Federal timber" means timber sold by the Bureau of Land Management as used under these regulations.

[FR Doc.76-21803 Filed 7-27-76;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. No. 1084, Amdt. 9]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Company

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 23rd day of July 1976.

Upon further consideration of Service Order No. 1084 (36 FR 22063; 37 FR 12726, 28059; 38 FR 20840; 39 FR 3827, 27672; 40 FR 5162, 31939 and 41 FR 4929), and good cause appearing therefore:

It is ordered, That: § 1033.1084 *Service Order No. 1084* (Chicago, Rock Island and Pacific Railroad Company, W. M. Gibbons, Trustee, authorized to operate over tracks of Chicago and North Western Transportation Company) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., January 31, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., July 31, 1976.

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

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

ing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Lewis R. Teeple, Thomas J. Byrne and William J. Love.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-21869 Filed 7-27-76;8:45 am]

[S. O. No. 1206, Amdt. 3]

PART 1033—CAR SERVICE

Burlington Northern Inc., Authorized To Operate Over Tracks of Union Pacific Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 23rd day of July 1976.

Upon further consideration of Service Order No. 1206 (40 FR 2587, 32337 and 41 FR 4929), and good cause appearing therefor:

It is ordered, That: § 1033.1206 *Service Order No. 1206* (Burlington Northern Inc., authorized to operate over tracks of Union Pacific Railroad Company) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1977, unless otherwise modified, changed, or suspended by order to this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., July 31, 1976.

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

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

By the Commission, Railroad Service Board, members Lewis R. Teeple, Thomas J. Byrne and William J. Love.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-21870 Filed 7-27-76;8:45 am]

[S.O. No. 1238, Amdt. 4]

PART 1033—CAR SERVICE

Certain Railroads Directed To Operate Portions of Lines Formerly Operated by Railroads in Bankruptcy

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 23rd day of July 1976.

Upon further consideration of Service Order No. 1238 (41 FR 14520, 15848, 18850, 19223 and 22819), and good cause appearing therefor:

It is ordered, That: § 1033.1238 *Service Order No. 1238* (certain railroads directed to operate portions of lines formerly operated by railroads in bankruptcy) be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 12:01 a.m., September 27, 1976, or upon notification to the Commission of the entry of a rail service continuation payment operating agreement, whichever occurs first, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective 12:01 a.m., July 29, 1976.

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

(Interprets and applies sec. 304 of Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 744); Pub. L. 93-236, 94-210)

By the Commission, Railroad Service Board, members Lewis R. Teeple, Thomas J. Byrne, and William J. Love.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-21868 Filed 7-27-76;8:45 am]

Title 50—Wildlife and Fisheries

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

PART 32—HUNTING

Crab Orchard National Wildlife Refuge, Illinois

The following special regulation is issued and is effective July 28, 1976.

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

ILLINOIS

CRAB ORCHARD NATIONAL WILDLIFE REFUGE

The public hunting of deer on the Crab Orchard National Wildlife Refuge on that portion of the refuge enclosed by a 5-strand barbed wire fence and designated as Area II is permitted from 6:30 a.m. to 4:00 p.m., November 19 through November 21, 1976, and from December 10 through December 12, 1976. This area, comprising 21,000 acres, is delineated on maps available at refuge headquarters, Carterville, Illinois 62918, and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State and Federal regulations, including State Administrative Orders, and subject to the following special conditions:

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

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

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

(4) Hunters will be permitted use of the area only between the hours of 5:30 a.m. and 5:00 p.m. during their assigned three day season.

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

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

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

The public hunting of deer on that portion of the Crab Orchard Refuge designated as Areas I and III is permitted during the regular state deer hunting season. This area comprised of 23,000 acres, is delineated on maps available at refuge headquarters, Carterville, Illinois 62918, and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in compliance with all applicable State and Federal regulations, including State Administrative Orders, and subject to the following special condition: No deer hunting is permitted from any permanent tree stand. Permanent being any stand that is nailed, wired or otherwise affixed so as to damage the tree. All tree stands must be temporary and be removed at the end of the hunt.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 12, 1976.

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

JULY 20, 1976.

[FR Doc.76-21770 Filed 7-27-76;8:45 am]

PART 32—HUNTING

Crab Orchard National Wildlife Refuge, Illinois

The following special regulation is issued and is effective July 28, 1976.

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

ILLINOIS

CRAB ORCHARD NATIONAL WILDLIFE REFUGE

Public hunting of pheasants, squirrels, bobwhite quail, rabbits, raccoons, opossums, skunks, weasels and crows is permitted in accordance with the seasons and limits established by the Illinois Department of Conservation. The area open to hunting within Crab Orchard National Wildlife Refuge is designated by green public hunting signs. This open area is delineated on a map available at refuge headquarters, Carterville, Illinois 62918 and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

The provisions of this special regulation supplements the regulations which govern hunting on wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 15, 1977.

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

JULY 21, 1976.

[FR Doc.76-21769 Filed 7-27-76;8:45 am]

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 20—MIGRATORY BIRD HUNTING

Frameworks for 1976–77 Early Hunting Seasons on Certain Migratory Game Birds in the Contiguous United States and Alaska

On page 27382 of the FEDERAL REGISTER of July 2, 1976 (41 FR 27382) there was published a Notice of Supplemental Proposed Rulemaking to amend Part 20 of Title 50 of the Code of Federal Regulations. Included in that Notice were "Proposed Regulations Frameworks for 1976–77 Early Hunting Seasons on Certain Migratory Game Birds," which prescribed season lengths, limits, shooting hours, and outside dates within which States could select seasons for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe and gallinules; for September teal seasons; for sea ducks in certain defined areas of the Atlantic Flyway; and for waterfowl, coots, snipe, and cranes in Alaska. Interested persons were given until July 17, 1976, to submit written comments, suggestions, or objections regarding the proposed amendments.

This final rulemaking notice is the sixth in a series of proposed and final rulemaking documents and deals specifically with final frameworks for selecting open season dates for hunting migratory birds in the contiguous United States and Alaska during the 1976–77 season. The first notice in the series consisted of proposed rulemaking dealing with the establishment of open hunting seasons, daily bag and possession limits, and shooting hours for the 1976–77 season in the contiguous United States, Alaska, and Hawaii, and was published in the FEDERAL REGISTER on March 3, 1976 (41 FR 9177) with a comment period ending May 1, 1976. The second notice in the series consisted of proposed rulemaking dealing with the establishment of hunting seasons, daily bag and possession limits, and shooting hours for the 1976–77 season in Puerto Rico and the Virgin Islands, and was published in the FEDERAL REGISTER on May 12, 1976 (41 FR 19341) with a comment period ending June 26, 1976. The third notice in the series consisted of supplemental proposed rulemaking dealing with proposed early season frameworks and proposed Canada goose hunting regulations in Wisconsin as described in the opening paragraph of this document. The fourth notice in the series consisted of final frameworks for selecting open season dates for hunting migratory birds in Puerto Rico and the Virgin Islands during the 1976–77 season and was published in the FEDERAL REGISTER on July 16, 1976 (41 FR 29387). The fifth notice in the series consists of final rulemaking amending § 20.101 of 50 CFR Part 20 to reflect seasons, limits, and shooting hours for Puerto Rico and the Virgin Islands for the 1976–77 season and is scheduled for publication in the FEDERAL REGISTER on July 23, 1976.

In this connection, the "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the FEDERAL REGISTER on June 13, 1975 (40 FR 25241).

The Annual Regulations Conference for Migratory Shore and Upland Game Birds convened on June 22, 1976, in accordance with the notice published in the FEDERAL REGISTER on May 21, 1976 (41 FR 20901). The purposes of this meeting were for the Committee to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, rails, gallinules, and common snipe and discuss proposed hunting regulations for the 1976–77 hunting season. This meeting was open to the public and statements by interested persons were invited.

REVIEW OF PUBLIC COMMENTS AND SERVICE RESPONSES TO SAME

In response to the July 2, 1976, FEDERAL REGISTER publication of supplemental proposed rulemaking containing "Proposed Regulations Frameworks for 1976–77 Early Hunting Seasons on Certain Migratory Game Birds" (41 FR 27382), 6 comments had been received as of July 17, 1976. These comments represented the views of 3 States, 1 waterfowl association, and 2 individuals. One State supported the entire proposed framework. The remainder of the comments related to items listed in the same sequence as the proposed frameworks, as follows.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway) and September Teal Season. A letter from Maine Department of Inland Fisheries and Game urged that consideration be given to the following: (1) Changing the opening framework date for sea duck seasons to October 1; (2) Better defining areas in which sea ducks may be taken; and (3) Reestablishing the September teal season option in Maine. The Service response follows.

Sea ducks.—The framework opening date for sea duck seasons in 1975 was September 1. For reasons expressed in the FEDERAL REGISTER dated July 2, 1976 (41 FR 27382), the Service proposed to delay the date this year to September 18. Inasmuch as sea duck seasons are of interest to a number of other States in the Atlantic Flyway, the Service believes that it is desirable that they have the opportunity to comment upon any further changes proposed, preferably through the Atlantic Flyway Council, prior to implementation. Therefore, action on this proposal is delayed until next year to provide additional opportunity for comment.

Maine requested the description of sea duck areas be changed to allow hunting from certain land areas such as points, tidal ledges, and islands. Inasmuch as the same types of hunting situations are shared by five other New England States, the Service believes that the problem should be jointly considered by the Atlantic Flyway Council, with appropriate action recommended to the Service.

September teal season.—Maine was allowed an experimental September teal season in the Merrymeeting Bay area only during 1970–73. Subsequently, the September season in Merrymeeting Bay was terminated. At present, September teal seasons are not offered in the Atlantic Flyway but States in this flyway have been offered the option of two additional blue-winged teal in the bag during nine days of the regular duck season. The Service believes that a change of the type proposed should be discussed at the Flyway Council level prior to taking action. It is further noted that there is insufficient time to evaluate the proposed change in time for the 1976–77 hunting season. Therefore, it is deemed advisable to postpone action on this proposal until it can be considered in more depth and by other member States of the Atlantic Flyway Council.

Waterfowl, coots, lesser sandhill (little brown) cranes, and common snipe in Alaska.—The FEDERAL REGISTER dated March 3, 1976 (41 FR 9177) advised that no changes were proposed then in seasons, limits, and shooting hours for these species; and described information that would be considered in reaching final

regulatory decisions. Among these considerations were results of aerial breeding pair and production surveys. The FEDERAL REGISTER dated July 2, 1976 (41 FR 27382) advised that a proposal for five years of stabilized regulations for migratory game birds in Alaska was carefully considered but no action was taken for a number of specified reasons. Since then, the Alaska Department of Fish and Game submitted a request within the official comment period in effect from July 2 to July 17, 1976, inclusive, for consideration of a basic daily bag of 7 ducks and 21 in possession, and that provision be made to allow a split waterfowl season in the Kodiak (State game management unit 8) area. In the 1975–76 season, the basic daily bag and possession limits of ducks in Alaska were 6 and 18, respectively. It was pointed out that the requested increase in the daily bag limit would provide Alaska with the same daily bag limit as that in the Pacific Flyway in 1975–76 and anticipated this year. Many ducks produced in Alaska are harvested in the Pacific Flyway. Recently available harvest survey information indicate that the harvest of all duck species in Alaska during the 1975–76 season approximated 69 thousand birds and that approximately 15 thousand adult hunters participated in the season. It was further noted that the recently concluded waterfowl breeding pair survey in Alaska indicated a 22 percent increase in duck breeding populations, including a 32 percent increase in mallards and a 30 percent increase in pintails. It is anticipated that the fall flight of ducks from Alaska in 1976 will be 20 percent above that in 1975. Copies of this report are available from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240. In view of the above the Service concurs in the Alaska request. Alaska may select basic daily bag and possession limits of no more than 7 and 21 ducks, respectively. For the same reasons, Alaska may elect to split its waterfowl season in the Kodiak (State game management unit 8) area.

Comments on the Service's regulations proposals are available for public inspection during normal business hours at the Service's Office of Migratory Bird Management, Fish and Wildlife Service, Room 2257, U.S. Department of the Interior, 18th and C Streets, Washington, D.C.

CLARIFICATION CONCERNING WHITE-WINGED DOVES

A statement in the FEDERAL REGISTER dated July 2, 1976 (41 FR 27384) indicated that an additional harvest might be anticipated from the longer season framework (September 1 through December 31) being proposed for white-winged dove seasons in Texas. As pointed out in the same paragraph, most white-winged doves depart South Texas in September. Furthermore, the proposed number of hunting days this year is being reduced from 7 half-days in effect in 1975 to 5 half-days this year. In view of these factors, any increase in white-winged dove harvests would likely be due to factors other than the time of the season and the length of the framework period. Other factors being equal, it seems more probable that the harvest of white-winged doves this year will be reduced from the 1975 harvest.

COMPLIANCE WITH SECTION 7 OF THE ENDANGERED SPECIES ACT OF 1973

Section 7 of this Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act." Consequently, the Service reviewed all migratory bird regulations being contemplated this year and concluded that none of the proposals, if implemented, would jeopardize any population of birds designated as endangered under the Act. As in the past, hunting regulations this year are designed to remove or alleviate chances of conflict between seasons for migratory game birds and the protection of endangered species. Examples of such consideration include closures of designated areas in Alaska and the Aleutian Islands to the taking of Canada geese, for the protection of the Aleutian Canada goose (*Branta canadensis leucopareia*); closures in Puerto Rico for protection of the Plain pigeon (*Columba inornata wetmorei*) and Puerto Rican parrot (*Amazona vittata*); protection of all species of rails in the Pacific Flyway, for the protection of the California, light-footed, and Yuma clapper rails, (*Rallus longirostris* spp.); and the setting of limited lesser sandhill crane seasons in the Central Flyway so as to alleviate risks to the whooping crane (*Grus americana*).

REGULATIONS PROMULGATION

The Fish and Wildlife Service is of the view that, although the rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints, every attempt should be made to give the public the greatest possible opportunity to comment on the regulations; thus, when the above-mentioned proposed rulemaking was published, the Service established what is believed was the longest period possible for public comment. In doing this, the Service recognized that at the period's close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select their season dates, shooting hours and bag limits, to communicate those selections to the Service, and finally to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

After due consideration of the comments received, the U.S. Fish and Wildlife Service, under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; (16 U.S.C. 703–711)), prescribes below the final frameworks, setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and special closures, from which State conservation agency officials may select open season dates. Upon receipt of season selections from State officials, the Service will publish in the FEDERAL REGISTER final rulemaking amending certain sections of subpart K of 50 CFR 20 to reflect seasons, limits and shooting hours for the contiguous United States, Alaska, and Hawaii for the 1976–77 season.

Effective date: Final rulemaking on the frameworks for selecting open season dates for hunting certain migratory game birds in the contiguous United States and Alaska becomes effective on July 28, 1976.

Dated: July 23, 1976.

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

FINAL REGULATIONS FRAMEWORKS FOR 1976–77 EARLY HUNTING SEASONS ON CERTAIN MIGRATORY GAME BIRDS

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved final frameworks which prescribe season lengths, limits, shooting hours, and outside dates within which States may select seasons for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe and gallinules; for September teal seasons; for sea ducks in certain defined areas of the Atlantic Flyway; and for waterfowl, coots, snipe, and cranes in Alaska. Frameworks are summarized below.

NOTE.—Any State desiring its season on gallinules, woodcock, or snipe to open in September must make its selection no later than July 30, 1976. Those States which desire their gallinule, woodcock, or snipe season to open after September may make their selection at the time they select their regular waterfowl season.

Those Atlantic Flyway coastal States desiring their season on sea ducks in certain defined areas to open in September must make their selection no later than July 30, 1976. Those Atlantic Flyway coastal States which desire their season on sea ducks in certain defined areas to open after September may make their selection at the time they select their regular waterfowl season.

MOURNING DOVES

Between September 1, 1976, and January 15, 1977, except as noted, States may select hunting seasons and bag limits as follows:

Eastern Management Unit: All States east of the Mississippi River and Louisiana.

1. Shooting hours between 12 o'clock noon and sunset daily;

2. Daily bag and possession limits not to exceed 12 and 24, respectively, in all States;

3. Hunting seasons of not more than 70-half-days which may run consecutively or be split into not more than three periods.

4. As an option to the above, Alabama, Georgia, Louisiana, and Mississippi may elect to zone their States as follows:

A. Two zones per State having the following descriptions or division lines:

Alabama.—The South Zone consists of the Counties of Baldwin, Clarke, Coffee, Conecuh,

Covington, Dale, Escambia, Geneva, Henry, Houston, Mobile, Monroe, and Washington. The North Zone consists of the remaining counties.

Georgia.—U.S. Highway 280.

Louisiana.—Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell, and Interstate Highway 10 from Slidell to the Mississippi State line.

Mississippi.—State Highway 12 from the Arkansas State line to Kosciusko, and State Highway 14 from Kosciusko to the Alabama State line.

B. Within each zone, these States may select a hunting season of not more than 70 half-days which may run consecutively or be split into not more than three periods.

C. The hunting seasons in the southern zones of these States may commence no earlier than September 20, 1976.

Central Management Unit: Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

1. Shooting hours between ½ hour before sunrise and sunset daily in all States except that in Texas during the white-winged dove season, the shooting hours may be between 12 o'clock noon and sunset in those counties where white-winged dove hunting is allowed;

2. Daily bag and possession limits not to exceed 10 and 20, respectively, in all States;

3. Hunting seasons in all States of not more than 60 full days which may run consecutively or be split into not more than three periods.

4. Texas may select hunting seasons for each of two previously established zones subject to the following conditions:

A. The hunting season may be split into not more than two periods.

B. The North Zone may have a season of not more than 60 days between September 1, 1976, and January 20, 1977.

C. The South Zone may have a season of not more than 60 days between September 20, 1976, and January 20, 1977. In the Counties of Cameron, Willacy, Hidalgo, Starr, Zapata, Webb, and Maverick, the mourning dove season may be held concurrently with the white-winged dove season and with shooting hours coinciding with those for white-winged doves. However, the remainder of the season must be within the September 20, 1976–January 20, 1977, period (60 days less the number of days of the white-winged dove season).

5. In New Mexico, daily bag and possession limits of mourning and white-winged doves may not exceed 10 and 20, singly or in the aggregate of the two species.

Western Management Unit: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

1. Shooting hours between ½ hour before sunrise and sunset daily;

2. Daily bag and possession limits not to exceed 10 and 20, respectively;

3. Hunting seasons of not more than 50 full days which may run consecutively or be split into not more than three periods.

In the Nevada Counties of Clark and Nye, and in the California Counties of Imperial, Riverside, and San Bernardino, daily bag and possession limits of mourning and white-winged doves may not exceed 10 and 20, respectively, singly or in the aggregate of the two species.

White-Winged Doves

Arizona, California, Nevada, New Mexico, and Texas may select hunting seasons between September 1, 1976, and December 31, 1976, and daily bag and possession limits as stipulated below. Shooting hours may be selected between ½ hour before sunrise and sunset, except in Texas where shooting hours may be selected between 12 o'clock noon and sunset.

Arizona may select a hunting season for the entire State of not more than 25 consecutive days, to run concurrently with the first period of the split mourning dove season. The daily bag and possession limits may not exceed 10 white-winged doves.

California may select a hunting season for the Counties of Imperial, Riverside, and San Bernardino only. The daily bag and possession limits may not exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

Nevada may select a hunting season for the Counties of Clark and Nye only. The daily bag and possession limits may not exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

New Mexico may select a hunting season with daily bag and possession limits not to exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

Texas may select a hunting season of not more than 5 half-days for the following Counties only: Brewster, Cameron, Culberson, El Paso, Hidalgo, Hudspeth, Jeff Davis, Kinney, Maverick, Presidio, Starr, Terrell, Val Verde, Webb, Willacy, and Zapata. The daily bag and possession limits may not exceed 10 and 20 white-winged doves, respectively. The season may be split within the overall time frame.

Band-Tailed Pigeons

West Coast States: California, Oregon, and Washington.

These States may select hunting seasons not to exceed 30 consecutive days between September 1, 1976, and January 15, 1977. The shooting hours may be selected between ½ hour before sunrise and sunset. The daily bag and possession limits may not exceed 8 band-tailed pigeons.

California may zone by selecting hunting seasons of 30 consecutive days for each of the following two zones:

1. In the Counties of Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity; and

2. The remainder of the State.

Four-Corners States: Arizona, Colorado, New Mexico, and Utah.

These States may select hunting seasons not to exceed 30 consecutive days between September 1 and November 30, 1976. The shooting hours may be selected between ½ hour before sunrise and sunset. The daily bag and possession limits may not exceed 5 and 10, respectively. These seasons shall be open only in the areas delineated by the respective States in their hunting regulations. *Provided,* That each hunter must have been issued and carry on his person while hunting band-tailed pigeons a valid band-tailed pigeon hunting permit issued by the respective State game department, and such permit will be valid in that State only; and *Provided further,* That this season shall be open only in the areas delineated by the respective States in their hunting regulations.

New Mexico may divide its State into two zones, along a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and along Interstate Highway 25 from Socorro to the Texas State line. Between September 1, 1976, and November 30, 1976, in the North Zone, and October 1, 1976, and November 30, 1976, in the South Zone, New Mexico may select hunting seasons not to exceed 20 consecutive days in each zone.

Rails

(Clapper, King, Sora, and Virginia)

The States included herein may select seasons between September 1, 1976, and January 20, 1977, on clapper, king, sora, and Virginia rails as follows:

The season length for all species of rails may not exceed 70 days.

Shooting hours in all States for all species may be selected between ½ hour before sunrise and sunset.

Clapper and King Rails

1. In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, the daily bag and possession limits may not exceed 10 and 20 clapper and king rails, respectively, singly or in the aggregate of these two species.

2. In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia, the daily bag and possession limits may not exceed 15 and 30 clapper and king rails, respectively, singly or in the aggregate of the two species.

3. The season will remain closed on clapper and king rails in all other States.

Sora and Virginia Rails

In addition to the prescribed limits for king and clapper rails, daily bag and possession limits not exceeding 25, singly or in the aggregate of sora and Virginia rails, are prescribed in States in the Atlantic, Mississippi, and Central Flyways.

No hunting season is prescribed for rails in the Pacific Flyway.

Woodcock

States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1976, and February 28, 1977, of not more than 65 days, with daily bag and possession limits of 5 and 10, respectively, *Provided,* That in the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia the season must end by January 31. Shooting hours may be selected between ½ hour before sunrise and sunset. Any State may split its woodcock season without penalty.

Common (Wilson's) Snipe

States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1976, and February 28, 1977, not to exceed 107 days, except that in the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia the season must end no later than January 31. Seasons not to exceed 93 days may be selected in the Pacific Flyway portions of Montana, Wyoming, Colorado and New Mexico between September 1, 1976, and February 28, 1977.

All States in the Pacific Flyway, except those portions of Colorado, Montana, New Mexico, and Wyoming in the Pacific Flyway, must select their snipe seasons to run concurrently with their regular duck seasons.[1]

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[1] The Pacific Flyway consists of Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; those portions of Colorado and Wyoming lying west of the Continental Divide; those portions of New Mexico lying west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation; and in Montana, the Counties of Hill, Chouteau, Cascade, Meagher, and Park, and all counties west thereof.

In these Pacific Flyway States, except portions of the four States noted previously, it will be unlawful to take snipe when it is unlawful to take ducks.

Shooting hours may be selected between ½ hour before sunrise and sunset. Daily bag and possession limits may not exceed 8 and 16, respectively. Any State may split its snipe season without penalty.

States or portions thereof in the three easterly Flyways may defer selection of their snipe season at this time and make their selection at the time they select their waterfowl seasons in August. In that event, the daily bag and possession limits will remain the same but shooting hours hust conform with those for waterfowl.

GALLINULES

States in the Atlantic, Mississippi and Central Flyways may select hunting seasons between September 1, 1976, and January 20, 1977, of not more than 70 days. States in the Pacific Flyway must select their hunting seasons within the waterfowl seasons. States may split their seasons without penalty. Shooting hours may be selected between ½ hour before sunrise and sunset. The daily bag and possession limits may not exceed 15 and 30, respectively.

States may select their gallinule seasons at the time they select their waterfowl seasons. If the selection is deferred, daily bag and possession limits will remain the same, but shooting hours must conform with those for waterfowl, and the season length will be the same as that for waterfowl, or 70 days, whichever is the shorter period. Exception: A gallinule season selected by any State in the Pacific Flyway may not exceed its waterfowl season, and the daily bag and possession limits may not exceed 25 coots and gallinules, singly or in the aggregate of the two species.

SCOTER, EIDER, AND OLDSQUAW DUCKS (ATLANTIC FLYWAY)

A maximum open season of 107 days for taking scoter, eider, and oldsquaw ducks is prescribed during the period between September 18, 1976, and January 20, 1977, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut; in those coastal waters of the State of New York lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the town of Riverhead to Red Cedar Point in the town of Southampton, including any ocean waters of New York lying south of Long Island; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in the States of New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open waters from any shore, island, and emergent vegetation in the States of Delaware, Maryland, North Carolina, and Virginia: *Provided*, That any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

The daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily bag limit of 7 and a possession limit of 14 scoter, elder, and oldsquaw ducks, singly or in the aggregate of these species.

Shooting hours are ½ hour before sunrise until sunset daily.

Any State desiring its sea duck season to open in September must make its selection no later than July 30, 1976. Those States desiring their sea duck season to open after September may make their selection at the time they select their waterfowl seasons.

In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, or special scaup and goldeneye season) exceed 107 days for any geographical area.

SEPTEMBER TEAL SEASON

Between September 1 and September 30, 1976, an open season on all species of teal may be selected by the States of Alabama, Arkansas, Colorado, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, Ohio, Oklahoma, Tennessee, and Texas in areas delineated by State regulations.

Shooting hours are from sunrise to sunset daily. The season may not exceed 9 consecutive days with a bag limit of 4 teal daily and 8 in possession. States must advise the Service of season dates and special provisions to protect non-target species by July 30, 1976.

In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, or special scaup and goldeneye season) exceed 107 days for any geographical area.

MIGRATORY GAME BIRD SEASONS IN ALASKA

Between September 1, 1976, and January 26, 1977, Alaska may select seasons on waterfowl, coots, snipe, and cranes, subject to the following limitations:

1. Shooting hours on all species are ½ hour before sunrise until sunset daily.

2. *Season lengths:*

A. In the Pribilof and Aleutian Islands, except Unimak Island, an open season of 107 consecutive days for ducks, geese, brant, and coots. In the Kodiak (State game management unit 8) area, an open season of 107 days for ducks, geese, brant, and coots and the season may be split without penalty.

B. Except: The season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain.

C. In the remainder of Alaska including Unimak Island, an open season of 107 consecutive days for ducks, geese, brant, and coots.

D. An open season of 65 days for snipe.

E. An open season of 45 consecutive days for lesser sandhill (little brown) cranes.

3. *Bag and Possession Limits:*

A. *Ducks.*—A basic daily bag limit of 7 and a possession limit of 21 ducks. In addition to the basic limit, there is a daily bag limit of 15 and a possession limit of 30 scoter, eider, oldsquaw, harlequin, and American and red-breasted mergansers, singly or in the aggregate of these species.

B. *Geese.*—A basic daily bag limit of 6 and a possession limit of 12, of which not more than 4 daily and 8 in possession may be white-fronted or Canada geese, singly or in the aggregate of these species. In addition to the basic limit, there is a daily bag limit of 6 and a possession limit of 12 Emperor geese.

C. *Brant.*—A daily bag limit of 4 and a possession limit of 8.

D. *Coots.*—A daily bag and possession limit of 15.

E. *Common (Wilson's) snipe.*—A daily bag limit of 8 and a possession limit of 16.

F. *Lesser sandhill (little brown) cranes.*—A daily bag limit of 2 and a possession limit of 4.

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PART 20—MIGRATORY BIRD HUNTING

Use of Steel Shot Ammunition or Ammunition Containing Pellets Made of Other Approved Material for Waterfowl Hunting

On July 23, 1974 the U.S. Fish and Wildlife Service proposed (39 FR 26745–26747) to require that shotgun shells containing steel pellets or pellets made of such other materials as may be approved by the Director, be the only type of shot loads permitted for hunting ducks, geese, and swans (*Anatidae*), and coots (*Fulica americana*). It was proposed further that the changes be implemented beginning in the 1976 hunting season in States of the Atlantic Flyway, in 1977 in States of the Mississippi Flyway and in 1978 in States of the Central and Pacific Flyways.

The purpose of the proposal was to eliminate further, deposition of lead pellets in areas used by aquatic birds. Spent lead pellets are known to be consumed by these birds, causing lead intoxication and death to a portion of the resource each year. The net environmental result of the proposed action would be the alleviation and eventual elimination of lead poisoning from lead shotgun pellets as a significant mortality factor among these birds.

With the changes noted in this preamble this rulemaking adopts the proposal effective 30 days from the date of this publication.

BACKGROUND

Responsibility for the protection, conservation, and management of migratory birds, including waterfowl, and authority to regulate the manner in which these birds will be hunted in the United States lies with the Department of the Interior as described by the Migratory Bird Treaty Act, July 3, 1918, and Executive Order 10250, July 5, 1951. Authority vested in the Secretary of the Interior includes authority: "* * * to promulgate regulations permitting and governing the hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any migratory bird included in the terms of certain conventions, or any part, nest, or egg thereof." (Executive Order 10250).

Research on the problem on lead poisoning in waterfowl has been conducted during the past 25 years. The complexities of the issue have been explored with conservationists, ammunition manufacturers, and State fish and game departments. During the past 4 years the United States Fish and Wildlife Service has intensively studied this

complex issue in cooperation with organizations representing a broad cross section of interests affected by and concerned with the problem of lead poisoning in waterfowl.

In connection with these studies and previous research, and pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, Pub. L. 91–190, the Service prepared a draft environmental impact statement for the proposed regulations (U.S. Department of the Interior, DES 74–76, Use of Steel Shot for Hunting Waterfowl in the United States). The draft statement contained a full description of the proposed action, a review and summary of knowledge about lead poisoning in waterfowl, and an evaluation of the impacts of the proposed action.

On July 23, 1974 the Service published notice in the FEDERAL REGISTER (39 FR 26764) of the availability to the public of the draft statement. Public comments on both the proposal and the draft statement were solicited during the period July 23–November 15, 1974. In addition, public hearings were held in each of the four flyways in order to provide further opportunity for public comment. The schedule for these hearings was announced in the FEDERAL REGISTER on September 18, 1974 (39 FR 33535–33536) and the hearings were subsequently held at the following locations and times:

ATLANTIC FLYWAY

Date: October 22, 1974.
Place: Auditorium, Department of the Interior, 18th and C Street, N.W., Washington, D.C.
Time: 9:00 a.m.–4:00 p.m.

PACIFIC FLYWAY

Date: October 31, 1974.
Place: California State Building, Room 1194, 455 Golden Gate Avenue, San Francisco, California.
Time: 9:00 a.m.–4:30 p.m.

MISSISSIPPI FLYWAY

Date: November 4, 1974.
Place: Auditorium, St. Louis County Library, 1640 South Lindbergh Blvd., St. Louis, Missouri.
Time: 9:00 a.m.–5:00 p.m.

CENTRAL FLYWAY

Date: November 6, 1974.
Place: Auditorium, Room 269, Denver Post Office Building, 1823 Stout Street, Denver, Colorado.
Time: 9:00 a.m.–4:00 p.m.

SUMMARY OF THE PROPOSAL

The proposal would amend the basic migratory bird hunting regulations to restrict the type of shotgun pellets that may be used for taking ducks, geese, swans (*Anatidae*), and coots (*Fulica americana*) in certain areas over a phased time schedule. Specifically, it was proposed to add a new subsection to § 20.21 Hunting methods, which would contain the basic prohibition against the use of any shot pellets except those made from a material approved by the Director, in States or areas within States to be specified in Subpart K—Annual Seasons, Limits, and Shooting Hour Schedules. Subpart K is revised annually and is the appropriate place to designate the States, and areas within States, where it is determined that the prohibition should be applied.

It was proposed to apply the restriction only to the taking of ducks, geese, and swans (*Anatidae*), and coots (*Fulica americana*), because it is believed that the deposition of lead pellets into the environment so as to create a lead poisoning problem results primarily from hunting activities directed at these types of birds. The hunting of other types of aquatic and upland game birds does not, in itself, appear to be the source of a significant lead poisoning problem.

It was further proposed that Subpart K of the regulations will be amended at the appropriate time so that the proposed restriction shall take effect in States of the Atlantic Flyway (Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia) with the hunting season commencing in 1976; in States of the Mississippi Flyway (Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin) with the hunting season commencing in 1977; and in States in the Central Flyway (Colorado (part), Kansas, Montana (part), Nebraska, New Mexico (part), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (part)) and Pacific Flyway (Arizona, California, Colorado (part), Idaho, Montana (part), Nevada, New Mexico (part), Oregon, Utah, Washington, and Wyoming (part)) with the hunting season commencing in 1978.

Additionally, it was proposed that Subpart K of these regulations be amended so that these restrictions would apply flywaywide in the Atlantic and Mississippi Flyways. In the Central and Pacific Flyways the regulation would be limited to specifically designated areas where the United States Fish and Wildlife Service, in consultation with the States of these flyways, determined that a lead poisoning problem exists. It is believed that lead poisoning from shotgun pellets is less widely distributed in the Central and Pacific than in the Atlantic and Mississippi Flyways.

A gradual implementation of the shot type regulation beginning in 1976 in the Atlantic Flyway and extending to other flyways during the succeeding 2 years established a systematic implementation time table which was designed to:

1. Allow adequate time for public review and discussion of the proposal prior to a final decision. This is a matter of great interest and controversy among hunters, wildlife administrators and conservationists throughout the United States.

2. Begin action against the lead poisoning problem in the flyway (Atlantic) where it appears to be most severe.

3. Allow adequate time for ammunition manufacturers to perfect production techniques and develop production capability for sufficient quantities of the required ammunition type to supply the needs of hunters in the United States once a decision has been made.

4. Allow adequate time to develop and produce ammunition for commonly used shotgun gauges other than 12-gauge, presently the only gauge for which the required ammunition type is available.

5. Allow ammunition wholesalers and retailers to dispose of current inventories of lead shot ammunition.

6. Allow law enforcement and hunter acceptance problems to be determined prior to full implementation so that methods for resolving them can be developed and employed as implementation proceeds.

7. Allow for development of more refined information about lead poisoning and methods of dealing with it which may be used to better define the most suitable procedures for implementation, particularly in the Central and Pacific Flyways.

These proposed regulations also included new sections which set forth the method and procedure for approval of nontoxic shot material by the Director, requiring application with supporting data and appropriate public review procedures. There was also a new section which described shot material which had been approved for use by the Director.

PUBLIC COMMENTS

Following publication of the proposed rulemaking on July 23, 1974 (39 FR 26745–26747), and notice of availability of DES 74–76 on July 23, 1974 (39 FR 26764), interested persons were invited to submit comments to the Director either in writing or orally at the four public hearings. Subsequently, the Service received comments from 1,045 organizations or individuals. The comments and Service responses to them are described in detail in a final environmental statement discussed below and are summarized essentially as follows:

General support of the proposal was expressed. For example, from the total of 1,045 responses 229 letters accepted the proposal as written, and 584 letters expressed support but requested additional restrictions on the use of lead shot. There were 110 letters in opposition to the proposal. Despite certain reservations on the part of some commentors with respect to the impacts of the proposed action, the sum of all comments reflects a preponderance of opinion in support of the proposal. Issues of major concern to the commenters who were opposed to the proposal can be summarized as follows:

1. Steel shot might result in an increase in the number of birds downed but not retrieved.

2. Steel shot causes stresses in some shotgun barrels that results in choke expansion.

3. Initial costs of steel shot will be approximately 50 percent greater than costs of commonly used lead shotshells.

The three issues identified above were discussed in detail in the final environmental statement and it is the opinion of the U.S. Fish and Wildlife Service that

they do not justify further delay in the implementation of steel shot for waterfowl hunting.

DESCRIPTION OF THE RULEMAKING

Further pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, Pub. L. 91–190, and following careful review and consideration of all comments received on the proposal and the draft environmental impact statement, the Service prepared a final environmental statement (FES 76–1) on the Use of Steel Shot for Hunting Waterfowl in the United States. FES 76–1 was filed with the Council on Environmental Quality on January 7, 1976 and a notice of availability to the public was announced in the FEDERAL REGISTER (41 FR 1934) on January 13, 1976. Included in FES 76–1 are modifications to the proposal for use of steel shot made as a result of review and consideration of public comments. The substantive changes are described below.

1. *Designation of areas in all flyways.* The proposal to implement the regulations flyway-wide in the Atlantic and Mississippi Flyways while allowing the option for limitation of the regulations to specifically designated areas in the Central and Pacific Flyways was changed to provide for implementation Statewide or in specifically designated areas in all flyways. Areas will be delineated by the U.S. Fish and Wildlife Service in consultation with the States. The requirement to use steel shot in designated geographical areas is expected to have an effect of reducing lead poisoning-caused waterfowl mortality similar in magnitude to the proposal in DES 74–76.

Area designations in the two eastern flyways will permit limited supplies of steel shot ammunition to be utilized where they will be most effective in reducing lead poisoning. The area designation concept was applied to all flyways in recognition of the fact that some eastern areas are not causing lead poisoning in waterfowl even though the problem seems to be more widespread in eastern flyways than in western flyways. Based on this proposal the use of steel shot for waterfowl hunting will be implemented on certain specified areas in the Atlantic Flyway in the waterfowl hunting season commencing in the fall of 1976. To facilitate this implementation it was necessary for the Service to develop criteria for selection of areas and begin consultation with affected States regarding proposed areas and boundaries and with ammunition manufacturers regarding production and distribution of ammunition supplies in advance of this rulemaking. Such consultations and negotiations are presently on-going. A proposed rulemaking regarding the specific areas in the Atlantic Flyway to be affected is in preparation for immediate publication in the FEDERAL REGISTER.

2. *Other changes from the proposal.* Several sections were changed to reflect information presented or requested at public hearings and in letters. A section on "Effects of Conversion on Reloaders" was inserted. Two additional alternatives were presented. Other suggested alternatives were discussed. A calculation of possible increase in number of ducks not retrieved was added. A discussion of the impact of reduced mortality losses on waterfowl populations and a discussion of annual mortality rates and extent of hunting and non-hunting mortality were added.

Several changes were made in the discussion of potential impacts of the proposal. New data on possible increase in number of birds downed but not retrieved were incorporated. The question of ingested iron shot causing a lowering of resistance of birds to disease was discussed. Discussion of barrel bursts and/or splits and richocheting were expanded. A stated concern for capitalization loss if steel shot were later replaced by improved substitute shot was discussed. Additional standards for other substitute shot were added for clarification because several comments on the proposal had requested a more complete definition of what is to be considered toxic.

ADOPTION AND EFFECTIVE DATE

Following careful review and consideration of the information provided in FES 76–1, and a program decision option document prepared by the Service including thorough evaluation of all public comments received and in accordance with the provisions of section 102(2)(c) of the National Environmental Policy Act of 1969, Pub. L. 91–190, the Secretary of the Interior determined that a lead poisoning problem exists and that the Service in consultation with State fish and game agencies should proceed to implement the use of steel shot for waterfowl hunting according to the proposal (as modified) outlined by the Service in FES 76–1. The Secretary's decision was announced by Department of Interior public news release on March 20, 1976 and by announcement at the annual meeting of the National Wildlife Federation in Louisville, Kentucky, and the annual meeting of the National Waterfowl Council in conjunction with the North American Wildlife and Natural Resources Conference in Washington, D.C., on March 20 and March 21, 1976, respectively.

Having considered public comments on the proposed rulemaking of July 23, 1974 (39 FR 26745–26747) and all other pertinent information described above, the Service deems it appropriate to adopt the following proposal with modifications discussed above. Accordingly, Subpart C, of Chapter I, Subchapter B of Title 50 of the Code of Federal Regulations is amended by adding a new paragraph (j) to § 20.21 and by adding a new § 20.134 to Subpart L. These rules become effective on or before August 27, 1976.

This rulemaking is issued under the authority of the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703–711).

Dated: July 23, 1976.

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

§ 20.21 Hunting methods.

Migratory birds on which open seasons are prescribed in this part may be taken by any method except those prohibited in this section. No person shall take migratory game birds:

* * * * *

(j) With a shotgun containing shells loaded with shot composed of any metal other than steel or such material as may be approved by the Director pursuant to the procedures set forth in § 20.134: *Provided,* That this restriction applies only to the taking of ducks, geese, and swans (*Anatidae*), and coots (*Fulica americana*) in States designated or in areas within States described in Subpart K of 50 CFR Part 20.

§ 20.134 Nontoxic shot.

(a) *Approval procedures.* The Director, U.S. Fish and Wildlife Service shall determine that a specific type of shot material is acceptable for the purposes of § 20.21(j) if after a review of applications and supporting data submitted in accordance with this section, together with all other relevant evidence, it is concluded that the shot material can be used in migratory waterfowl habitats without imposing a significant danger to such waterfowl or to such habitats.

(1) *Application.* All applications under this section shall be submitted to the Director and shall include (i) the name, chemical identity, and composition of the shot material; (ii) a full and complete report of the results of all experimental work by the applicant on the toxicity of the shot material to migratory waterfowl and their habitat; (iii) data relating to the toxicity of the shot material to migratory waterfowl and their habitat obtained by other investigators; (iv) information on the effectiveness and performance of the ammunition made from this shot material; (v) any other information which the applicant believes will justify a finding of "nontoxicity;" and (vi) information analyzing the environmental impacts associated with use of the proposed shot material for waterfowl hunting (including information on possible health and safety hazards), which information should be of the type, quantity, and quality specified by the Council on Environmental Quality for Preparation of Environmental Impact Statements, in order that the Director can make an assessment of the environmental impact of the proposed activity as required under the National Environmental Policy Act.

(2) *Public participation.* Approximately 30 days after receipt of a complete and valid application for a determination of "nontoxicity," the Director will publish such application, or a summary thereof, in the FEDERAL REGISTER and invite public comment thereon for a period of at least 60 days.

(3) *Decision time table.* The Director, within 180 days after receipt of an application will make a determination of toxicity or "nontoxicity," he may reject such an application without prej-

udice to any later applications for the same shot material. Such a rejection without prejudice may be made if there exists insufficient data, or if the application contains insufficient data, to demonstrate that the shot material can be used in migratory waterfowl habitats without imposing a significant danger to such waterfowl or to such habitats. In making these decisions the Director is not limited to his review of the application, supporting data, and public comments, but may consider any data deemed relevant to a determination of toxicity. The Director may deem it necessary to require further testing of the shot material. Shot materials which have been demonstrated to cause no increase in the percentage of birds unretrieved (birds downed but not retrieved divided by birds downed) beyond that resulting from the use of steel shot under field test conditions similar to that used to assess performance of steel shot will, if they have met the other standards be approved as substitute shot. Notice of the Director's decision will be published in the FEDERAL REGISTER, together with a summary of the reasons for this determination.

(4) *Standards.* Acceptable substitute shot must meet the following standards relative to toxicity. The toxicity evaluation experiments must include undosed and controls dosed with five number 4 lead shot which experience 75 percent mortality.

(i) Less than 20 percent mortality to each sex of pen-reared, 6-month-old or older mallards during 6-week-long experiments after administering five number 4 shot via tube to the proventriculus to experimental groups of not less than 20 birds of each sex on an ad libitum diet of only whole kernel, dent yellow corn and water during both a winter period and a laying period. However, if the substitute shot is formed with a non-toxic coating over a toxic core substance, the time period for assessing mortality will not be until two weeks after all administered shot are completely eroded or passed.

(ii) No debilitating factor (e.g., immobility, excessive weakness or excessive weight loss, i.e., no more than 20 percent of undosed controls) caused by the proposed substitute shot.

(iii) No lowering of productivity performance as measured by parameters including number of eggs laid in first and second clutches, fertility, time of start of laying, interruption of laying sequence, hatchability and survivability of young up to 2 weeks of age.

(iv) No evidence of increased susceptibility to disease beyond that posed by steel shot.

(v) No significant known harmful effects to the environment.

[FR Doc.76-21807 Filed 7-27-76;8:45 am]

proposed rules

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 51]

WALNUTS (JUGLANS REGIA) IN THE SHELL

Proposed United States Standards for Grades

Corrections

In FR Doc. 76-21010, appearing at page 30026 in the issue of Wednesday, July 26, 1976, in the table to § 51.2954 on page 30027, in the sixth line of the Internal (kernel) defects column for U.S. No. 1, the fraction reading "⅛" should read "5/".

[7 CFR Part 919]

PEACHES GROWN IN MESA COUNTY, COLORADO

Proposed Expenses and Rate of Assessment for 1975-76 Fiscal Period

This notice invites written comment relative to the proposed expenses of $1,000 and rate of assessment of $0.01332 per cwt. of peaches to support activities of the Administrative Committee for the 1975-76 fiscal period under Marketing Order No. 919.

Consideration is being given to the following proposals submitted by the Administrative Committee, established under the marketing agreement, as amended, and Order No. 919, as amended (7 CFR Part 919), regulating the handling of peaches grown in the County of Mesa in the State of Colorado, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the terms and provisions thereof:

(1) That expenses that are reasonable and likely to be incurred by the Administrative Committee during the period December 1, 1975, through November 30, 1976, will amount to $1,000.

(2) That there be fixed, at $0.01332 per cwt. of peaches the rate of assessment payable by each handler in accordance with § 919.41 of the aforesaid marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than August 16, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: July 23, 1976.

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

[FR Doc.76-21842 Filed 7-27-76;8:45 am]

[7 CFR Part 1046]

[Docket No. AO-123-A45]

MILK IN THE LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Louisville-Lexington-Evansville marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by August 12, 1976. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Louisville, Kentucky, on November 13, 1975, pursuant to notice thereof which was issued October 22, 1975 (40 FR 50050).

The material issues on the record of the hearing relate to:

1. The level of Class I price.

2. Modification of the amount and procedure of applying location adjustments.

3. Point of pricing diverted milk.

FINDINGS AND CONCLUSIONS

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

1. *Class I price.* The Class I differential (the amount added to the basic formula price in computing the class I price) should be increased from the present $1.49 to $1.70.

Dairymen, Inc. (DI) and the National Farmers' Organization (NFO) proposed Class I differentials of $1.75 and $1.80, respectively. They contended that a higher Class I differential is needed to achieve an appropriate alignment of the Louisville-Lexington-Evansville (Order 46) Class I price with the Class I prices in surrounding markets. They also claimed that the present Class I differential does not reflect accurately the cost of obtaining alternative supplies of milk from the Chicago milkshed.

Although proprietary handlers at the hearing generally favored increasing the Class I differential, the testimony they presented was not in support of the specific differentials ($1.75 and $1.80) proposed by DI and NFO. There was no opposition at the hearing to increasing the Class I differential.

Two proprietary handlers operating pool plants testified in support of the cooperatives' proposals for a higher Class I differential. They took the position that the Order 46 Class I differential is misaligned with the Class I differentials in other orders and should be increased to achieve an appropriate interoder alignment of Class I prices. One such handler supported a Class I differential of $1.70 as appropriate for achieving the desired interoder alingment of Class I prices. No specific amount as a Class I differential was proposed by the other pool plant operator.

The operator of a plant at Bristol, Virginia, which is fully regulated under the Appalachian order (to be included in the recommended merged Tennessee Valley order), claimed that the present Order 46 Class I differential ($1.49) is unduly low in relation to the higher Class I differentials under the present Appalachian order ($2.13) and to those proposed ($1.84 and $2.15) at the July 1975 hearing for the Tennessee Valley order. This Appalachian handler's primary concern in supporting an increase in the Order 46 Class I differential is an interorder Class I price relationship, which will permit him to compete on an equitable basis with Order 46 handlers in their common sales areas.

A handler operating fully regulated plants under the Appalachian and Knox-

ville orders, respectively, proposed that the Order 46 Class I differential be increased to relate appropriately to the Class I differential that would be applicable under the proposed merged Tennessee Valley order. He contended that to achieve an equitable relationship the Order 46 Class I differential should be not more than 35 cents below the Class I differential that would be applicable at his plants under the proposed merged order.

The principal handler under the Chattanooga order claimed that the $1.49 Order 46 Class I differential is too low relative to the Chattanooga Class I differential of $2.15. The handler, whose sales area is within the distribution range of handlers regulated by Order 46, urged that the Order 46 Class I differential be increased to the extent necessary to align it with the present Chattanooga order Class I differential or that adopted under the proposed Tennessee Valley order.

At a hearing completed July 10, 1975, on a proposal to merge the Appalachian, Knoxville and Chattanooga orders, Class I differentials ranging from $1.84 to $2.15 were proposed. The recommended decision resulting from that hearing, issued March 12, 1976 (41 FR 11432), official notice of which is taken, provided a Class I differential of $2.10. A final decision is yet to be issued in this matter and hence this $2.10 differential cannot be presumed as final. Because of the emphasis placed by proponents on the matter of interorder price alignment it is nevertheless essential for purpose of this decision to recognize the prospective price level to be applicable in this forthcoming merged order.

Although Order 46 handlers at the hearing emphasized that a price increase should be made only to the extent that corresponding Class I price increases were made in surrounding orders, their concern was centered on the Nashville order. A companion decision, issued concurrently with this decision, on proposals considered at a November 11, 1975, hearing in Nashville, would increase the Nashville Class I differential from $1.58 to $1.85.

The Class I price under an order must be established at a level which, in conjunction with other class prices, results in sufficient returns to producers to maintain an adequate but not excessive supply of quality milk to meet the fluid requirements, including the necessary market reserves. In the interest of continuing orderly marketing, the Class I price also, insofar as practicable, should be in reasonable alignment with the Class I prices in surrounding competing Federal order markets. It cannot, however, in the public interest, be established at a level that exceeds the cost of obtaining milk of acceptable quality and availability from alternative sources.

Substantial quantities of milk are distributed regularly in the Order 46 marketing area from plants, variously located, which are not pooled under Order 46. Of the 31 plants from which milk was distributed in the Order 46 marketing area in September 1975, only 15 were Order 46 pool plants. The 16 nonpool plants were fully regulated plants under other Federal orders (six under the Indiana order, three under each of the Nashville and Southern Illinois orders and one under each of the Ohio Valley, Paducah, Southern Michigan and St. Louis orders, respectively). In addition to competing for sales in the Order 46 marketing area with handlers whose milk is priced under other orders, Order 46 handlers also actively compete with such other order handlers for sales outside the Order 46 marketing area.

Clearly, with this broad area of overlapping sales, in which handlers regulated under eight Federal orders actively compete for fluid outlets, and with significant overlap of procurement area with certain markets (particularly Nashville), it would not be possible to long maintain orderly marketing unless there were a close interrelationship of handler milk costs and producer returns. The existing Class I pricing structure under Order 46 was established many years ago when there was a minimal overlap of procurement and Class I sales areas with other order markets. In the intervening period, price adjustments made in competing markets (particularly those made in Chicago and adjacent markets in 1968[1] when the Chicago order was reinstituted) were not made in Order 46. Under the circumstances, orderly marketing could not reasonably be expected if the present Order 46 price was the effective market price.

The effective prices in the Order 46 and surrounding Federal order markets have exceeded the order prices and the prevailing Class I price in the Order 46 market has in fact been in close relationship with prevailing Class I prices in adjacent markets. For this reason there has been no significant manifestations of market disorder. However, this is a very tenuous thread on which to place reliance to preserve continuing orderly marketing. Some price adjustments is mandated to provide assurance that, should existing institutional arrangements in the market change, the order would continue to implement the purposes of the Act.

In 1975 the Class I utilization of producer milk Order 46 was 72 percent. This is in sharp contrast to the 1975 Class I utilization percentages under the Paducah, Memphis, Appalachian, Knoxville and Chattanooga orders, which ranged from 81 to 84 percent. The adjacent market most similar to Order 46, in terms of utilization, was the Nashville market with a 63 percent utilization. While proponent cooperative contends that the Nashville and Louisville orders have historically carried reserve milk supplies to service both regulated and unregulated markets to the south, this cannot be the basis for maintaining a higher than necessary price level to insure adequate milk supplies for the regulated market.

[1] Official notice is taken of the monthly and annual issues of the USDA publication "Federal Milk Order Statistics" from 1948 to date.

The dominant cooperative represents the preponderance of producers in the markets in the region, except Memphis, and has followed the practice of reblending proceeds from the several markets. To what extent this has contributed to the ample milk supplies in the Order 46 market cannot be evaluated on the basis of this record. Nevertheless, it is clear that returns to producers have continued to attract increasing milk supplies beyond the immediate needs of the market. Because the order price has not been the effective price in recent years, it is not possible to conclude with certainty what precise level of Class I price would be appropriate to fully implement the purposes of the Act if the order price would become the effective price.

Historically, the Nashville order Class I price has exceeded the Order 46 Class I price. For the 11-year period 1948–58 the Nashville price averaged 10 cents higher. This relationship was disrupted by the operation of supply-demand adjustors during the decade of the 1960's with the result that the Order 46 price actually averaged about 5 cents above the Nashville price. With the removal of the supply-demand provisions throughout the Federal order system, the Nashville order Class I price has been maintained at a level 9 cents above Order 46. The present indicated effective Class I price in the Nashville market, as reflected in the cooperative's selling prices placed on the record, is 27 cents more than in the Order 46 market.

The Chicago milkshed has been a major source of supplemental supplies for markets throughout much of the United States, including markets in this general region. To reflect the variable cost of moving milk from the Chicago milkshed to distant markets, Class I prices in Federal order markets are generally structured to increase in relation to the distance from the Chicago milkshed. Substantially, the graduation of prices from market to market from north to south reflects a differential approximating 1.5 cents per hundredweight of milk per 10 miles.

The Class I differential under the Chicago Regional order is $1.26. The amount computed at 1.5 cents per 10 miles for the 292 miles from Chicago to Louisville is 44 cents. Relating the $1.26 Chicago Regional order Class I differential to Louisville would thus suggest a Class I differential at Louisville of $1.70.

Cincinnati, which is 113 miles northeast of Louisville, is a principal city in the Ohio Valley marketing area. Milk from farms in the same geographic areas is regularly supplied to regulated plants in Cincinnati and Louisville. Likewise, milk from Ohio Valley order pool plants in Cincinnati competes regularly for sales with distribution from Order 46 pool plants in Louisville. The distance from Chicago to Louisville (292 miles) and from Chicago to Cincinnati (287 miles) are essentially the same. Thus, the Class I differential of $1.70 at Cincinnati under the Ohio Valley order would appear appropriate for Order 46.

At the hearing the maintenance of an appropriate relationship between the Order 46 Class I price and the Class I price under the proposed Tennessee Valley order was a major concern, particularly because the DI plant under construction at London, Kentucky, is scheduled to be in operation before the end of this year. London is located in southeastern Kentucky between the Tennessee and Order 46 marketing areas. It is anticipated that this plant will obtain supplies from the production areas of both order 46 and the pending Tennessee Valley order and that there will be substantial distribution from that plant in both the Order 46 and Tennessee Valley marketing areas.

Bristol, Chattanooga and Knoxville, the principal cities in the Appalachian, Chattanooga and Knoxville marketing areas, are 585, 562 and 527 miles, respectively, from Chicago. These distances exceed the 292-mile distance from Chicago to Louisville by 293, 270 and 235 miles, respectively. The amounts computed for these additional distances at 1.5 cents per 10 miles are 44, 41 and 35 cents, respectively. The proposed $2.10 Class I differential under the Tennessee Valley order to be applicable at Bristol. Chattanooga and Knoxville would require a Class I differential at Louisville from $1.66 ($2.10 minus 44 cents) to $1.75 ($2.10 minus 35 cents) to insure alignment.

In the interest of insuring continuing market stability throughout the region, some improvement in interorder price alignment is essential. To this end, it is concluded that the Class I price differential should be increased from the present $1.49 to $1.70. This will result in an Order 46 Class I price level equal to that under the Ohio Valley and Paducah orders, and 15 cents and 40 cents less than the Nashville and Tennessee Valley (Chattanooga, Knoxville and Appalachian) order prices, respectively. This alignment, it is concluded, will serve to implement the purpose of the Act under current marketing conditions. Because prevailing prices in the market have substantially exceeded minimum order prices, such price adjustment will not require, and should not result in, any increase in prices being charged handlers in the market.

2. *Location adjustments.* No location adjustments should be applicable to milk received at plants located: (1) In the marketing area, (2) In the State of Kentucky (except the 12 contiguous southeastern Kentucky counties of Bell, Breathitt, Clay, Harlan, Knott, Knox, Laurel, Leslie, Letcher, McCreary, Perry and Whitley), (3) In the State of Tennessee or (4) East of the Mississippi River and south of the southern boundary of Tennessee or the northern boundary of South Carolina. At plants within the 12 above named Kentucky counties, the Class I and uniform prices should be increased by a location adjustment of 15 cents. At any other plant location outside the territory described above and 85 miles or more from the nearest of the cities of Louisville, Lexington or Evansville, the Class I and uniform prices should be reduced 1.5 cents for each 10 miles distance or fraction thereof that such plant location is from the nearest of such basing points.

Order 46 now provides that the Class I and uniform prices applicable to milk received at a plant 85 miles or more from the nearest of Evansville, Indiana, or Louisville, Lexington, Danville, Elizabethtown or Madisonville, Kentucky, shall be reduced 15 cents plus an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 95 miles.

The Dairymen, Inc. (DI) proposal set forth in the hearing notice would have applied a location adjustment at plants 60 miles or more from the nearest of Louisville, Lexington or Evansville of 10 cents plus an additional 2 cents for each 10 miles distance or fraction thereof in excess of 70 miles. Such location adjustment would have reduced the Class I and uniform prices at plants north of the Ohio River or west of the Mississippi River and increased such prices at other locations.

At the hearing DI abandoned its hearing notice proposal in favor of a proposal that would adjust Class I and uniform prices at all plant locations outside a proposed "Zone I" consisting of a contiguous 40-county area of the 17 Indiana counties and 23 Kentucky counties, all in the marketing area. Such Zone I would contain 75 percent of the total marketing area population of 2.4 million.

Of the 17 pool plants under the order, 12 (10 distributing plants and two supply plants) are located within Zone I (six in Louisville, two in Evansville and one each in Holland, Indiana, and Madisonville, Owensboro and Taylorsville, Kentucky).

A proposed "Zone III" would include the five southeasternmost counties (Clinton, Cumberland, Pulaski, Russell and Wayne, Kentucky) in the marketing area and would carry a plus 20-cent location adjustment. The total population (75,000) of the five-county area, which is basically rural, is only 3 percent of the marketing area population. One pool distributing plant, in Somerset, is in this proposed zone.

A proposed "Zone II" would include the 21 contiguous counties in the marketing area located between Zones I and III and would carry a plus 10-cent location adjustment. Lexington is the major city in this area, which is also basically rural. Four pool distributing plants are located in this proposed zone, two in Lexington and one in each of Campbellsville and Russellville.

The modified DI proposal would also provide three location adjustment zones covering specified territories surrounding the marketing area. No location adjustment was proposed for a 29-county area (four southeastern Indiana counties, 12 southwestern and 13 north central Kentucky counties) adjacent to the proposed Zone I. A plus 10-cent location adjustment area would encompass a 28-county area (nine southwestern and 16 northeastern Kentucky counties and three north central Tennessee counties) adjacent to the proposed Zone II. Finally, in a nine-county area in Kentucky adjacent to the proposed Zone III of the marketing area, a plus 20-cent location adjustment would apply. No presently regulated pool plant is located in any of these three proposed pricing zones surrounding the marketing area.

At plants outside of the six proposed pricing zones and 60 miles or more from the nearest of Louisville, Lexington or Evansville, DI proposed a location adjustment of 10 cents plus an additional 2 cents for each 10 miles or fraction thereof in excess of 70 miles. The adjustment would reduce the Class I and uniform prices applicable to milk received at plants located north of the Ohio River or west of the Mississippi River. At other plant locations it would increase the Class I and uniform prices.

The National Farmers' Organization (NFO) proposed that no location adjustments apply at plants in the marketing area. For plants outside the marketing area, it proposed a location adjustment rate of 1.5 cents for each 10 miles from Louisville, Lexington or Evansville, whichever is nearest. It supported the DI position that location adjustments should reduce Class I and uniform prices at plants located north of the Ohio River or west of the Mississippi River and increase such prices at other locations.

The operator of a pool distributing plant in Louisville testified in support of DI's proposed zone pricing structure that would provide a plus 10-cent location adjustment for Lexington. Such plus location adjustment for Lexington based plants was opposed by one Lexington pool handler and by NFO, which is the principal supplier of producer milk for the two pool distributing plants in Lexington.

A principal concern at the hearing was the prices that would be applicable at London, Kentucky, where DI is now building a new processing plant with a projected capacity for handling 45 million pounds of milk a month. It is anticipated that the new plant will be in operation before the end of 1976. London is in Laurel county, which borders on both the Order 46 marketing area and the proposed Tennessee Valley marketing area. Handlers regulated under Order 46 as well a certain other order handlers unquestionably will be competing for Class I sales with the London plant. The other order handlers were particularly concerned that the location pricing applicable under the order should result in an Order 46 f.o.b. Class I price at London that is appropriately aligned with the Federal order Class I price in their respective markets.

London is approximately 140 miles from Louisville, 160 miles from Bristol, 190 miles from Chattanooga and 100 miles from Knoxville, the principal cities in the present Louisville-Lexington-Evansville, Appalachian, Chattanooga and Knoxville marketing areas, respectively. The latter three areas are now under consideration for merger into a single Tennessee Valley order. It is anticipated that milk from the London plant will be distributed over a wide area, primarily

within the proposed Tennessee Valley and the Order 46 marketing areas. Because of the London plant's location relative to these two marketing areas, it seems most prospective that the plant will be regulated under the proposed Tennessee Valley order. Nevertheless, the possibility of regulation under Order 46 cannot be totally dismissed.

The operator of an Appalachian order pool distributing plant in Bristol, Virginia, proposed a location adjustment that would provide an Order 46 Class I price at London the same as the Class. 1 price that would be applicable at Bristol under the proposed Tennessee Valley order.

The operator of a Chattanooga pool distributing plant at Athens, Tennessee, proposed a location adjustment that would result in an Order 46 Class I price at London not more than six cents below the Class I price applicable at his plant under the proposed Tennessee Valley order. The six-cent differential reflects the 42-mile greater distance (at 1.5 cents per 10 miles) from Knoxville to London than from Knoxville to Athens. Knoxville is a major city where distribution is made from the Athens plant and where it is likely that milk will be distributed from the London plant when it is completed.

The recommended decision on the proposed Tennessee Valley order, of which official notice is taken elsewhere in this decision, provides no location adjustment at plants within the marketing area. Thus, no location adjustment is prospective under that order at either the Bristol or Athens plant locations. However, a 15-cent location differential would be applicable at the London plant location.

To provide equal pricing under Order 46 for the London plant location would require a location adjustment that would raise the price 25 cents over the price hereinbefore concluded to be appropriate for the Order 46 market. In view of the London location with respect to other regulated plant locations, i.e., Lexington, Somerset, Campbellsville and Russellville in particular, such a pricing structure could be accomplished only through a system of designated areas similar to that offered by proponents. This would significantly alter the historical interplant pricing relationships which have existed between fully regulated plants under Order 46.

NFO and the operator of a pool plant in Lexington opposed the DI proposal that would result in a plus 10-cent location adjustment at Lexington. The two pool distributing plants in Lexington are supplied by NFO.

Lexington has been in the marketing area since March 1, 1960, when the marketing area of the then Louisville order was enlarged. Since that time the location pricing of milk at Lexington has been the same as at Louisville. No location adjustment, plus or minus, has been applicable under the order at either location.

DI and the Louisville handler, who urged that a plus 10-cent location adjustment apply at Lexington, did not point to any changed conditions or circumstances to show that higher Class I and uniform prices at Lexington relative to Louisville are needed to insure that Lexington handlers would be adequately supplied. Neither was it shown that, at the present (and historical) relationship of prices f.o.b. the two cities, Louisville handlers are disadvantaged in their competition for sales with Lexington handlers.

Lexington is only 72 miles from Louisville and is 29 miles closer to Cincinnati than is Louisville. In view of the overlapping production and distribution of handlers in these areas, it is not possible to justify a 10-cent higher Class I price at Lexington as proponents proposed. Under the present order structure, all presently fully regulated plants are subject to the same pricing. There is no compelling evidence on this record to justify any change in interplant price relationships among those fully regulated plants now under the order.

The centralized plant operation now being constructed at London does add a new element for consideration. However, it cannot be concluded with any assurance from this record what market changes may result.

When the London plant is in operation, it is likely that distribution from that plant will result in the closing of at least two presently regulated plants, one under Order 46 and the other an Appalachian order pool plant that would be regulated by the Tennessee Valley order. This is not likely to result in regulation of the plant under Order 46, however.

Should the London plant be regulated by the Tennessee Valley order, the Class I price, as provided in the recommended decision under that order, would be subject to a location adjustment of minus 15 cents at London. Subtracting 15 cents from the $2.10 Class I differential proposed for the Tennessee Valley order equates to a $1.95 Class I differential at London. This compares to a differential of $1.70 which has been hereinbefore determined applicable for the Order 46 market.

It is understandable that handlers are concerned over the possibility, even though remote, that the London plant might become regulated under Order 46. Without some remedial action the plant in such unlikely event would enjoy a 40-cent pricing advantage over competing Tennessee Valley handlers. Under the circumstances, it is concluded that to bridge the price differential between Tennessee Valley and Louisville-Lexington-Evansville an interim price zone should be established under Order 46. This should encompass only the 12 contiguous county area in southeastern Kentucky which includes nine counties (Bell, Breathitt, Harlan, Knott, Knox, Leslie, Letcher, Perry and Whitley) in the proposed Tennessee Valley marketing area and three counties (Clay, Laurel and McCreary) located between the Order 46 and Tennessee Valley marketing areas and not within the marketing area of any Federal order. London (in Laurel county) is centrally located in the 12-county area, which is much closer to the major population center (Knoxville) in the proposed Tennessee Valley marketing area than to Louisville, the major center in the Order 46 marketing area. London is about 75 miles from Lexington. A 15-cent plus location differential for the 12-county area will insure reasonable continuing price alignment regardless of the order under which the London plant is regulated.

While a more precise interorder alignment at the London location might be desirable, this is not possible on this record. However, in the unlikely event that the London plant should become fully regulated under Order 46 consideration possibly may here be given to a further merger and to a restructuring of prices in this general area.

The plus 15-cent location adjustment should implement more orderly marketing in the region by achieving a more appropriate relationship (than now exists between Order 46 and the Appalachian order Class I prices) between the Class I prices under Order 46 and the proposed Tennessee Valley order at plant locations within the 12-county area. Without the plus location adjustment of 15 cents adopted herein, the London plant (if regulated under Order 46) could be seriously disadvantaged in its procurement, particularly in view of the higher Class I price in the region under the Tennessee Valley order.

Except for the location adjustment adopted herein to apply in 12 southeastern Kentucky counties, no useful purpose would be served by the application of location pricing at plant locations south of the principal cities (Louisville, Lexington and Evansville) in the marketing area. This may most appropriately be provided in the order by specifying that no location adjustment shall apply at any plant: (1) In the marketing area, (2) In Kentucky (outside the designated 12 southeastern Kentucky counties), (3) In Tennessee and (4) East of the Mississippi River and south of the southern boundary of Tennessee or the northern boundary of South Carolina.

Class I prices in the Federal order markets that are east of the Mississippi River and to the south exceed the Class I price adopted herein. Milk markets to the south are generally in tight supply and handlers should not be encouraged to procure milk for this market from plants in the order markets south of the marketing area. To do so would encourage uneconomic milk movements. To provide adjustments that would reduce the order price at locations that are east of the Mississippi River and to the south could distort the interorder price alignment among competing plants, which is essential to continuing orderly marketing in the region.

Except for the plus 15-cent location adjustment adopted in this decision for southeastern Kentucky, the DI proposal to provide location adjustments would result in higher Class I and blend prices at plants within specified geographic areas (generally south and east of Louis-

ville) must be denied. To provide such adjustments could only have the effect of limiting outside handlers access to the regulated market. While competitive prices at outside locations, in some situations, may exceed the Order 46 Class I price here provided it would not be appropriate to assess on outside handlers under the terms of the order a price higher than that assessed on handlers in the regulated market.

As proposed by DI and NFO, Louisville, Lexington and Evansville would be designated as basing points for applying location adjustments. Such adjustments would reduce the Class I and uniform prices for milk received at plants 85 miles or more from such cities by 1.5 cents per hundredweight for each 10 miles from the nearest of the three cities. This adjustment, as indicated above, would not be applicable at plants that are directly south of the basing points.

The plants of major distributors in the marketing area are located in, or in close proximity to, Louisville, Lexington and Evansville. As the principal population centers in the marketing area, these cities are most appropriate basing points for computing location adjustments. Madisonville, Elizabethtown and Danville, which are directly south of Evansville, Louisville and Lexington, respectively, and which are now used as basing points (in addition to Louisville, Lexington and Evansville), would no longer be used. Since no minus location adjustments would be applicable at any plant south of Louisville, Lexington, or Evansville, no purpose would be served by retaining Madisonville, Elizabethtown and Danville as basing points.

Using the criteria of 85 miles or more from the nearest basing point for applying location adjustments is now provided in the order and is retained in this decision. No minus location adjustments are now applicable, and none would be applicable, at any regulated plant as a result of this decision. The 85-mile distance from the nearest basing point is a reasonable standard for applying location adjustments under conditions in this market. Although DI proposed applying location adjustments at plants 60 miles (instead of 85 miles) or more from the nearest basing point, no testimony was presented on the record to justify the change.

In urging the adoption of its proposed location adjustment rate of 2 cents per 10-mile distance, DI contended that the present 1.5-cent rate no longer reflects the cost of transporting milk from distant plants to the market. In support of its position, DI introduced data showing actual charges it had paid for hauling supplemental milk from Wisconsin and Minnesota during the fall months of 1974 and 1975. These hauling charges averaged 2.05 cents per hundredweight per 10 miles in 1974 and 2.2 cents in 1975.

NFO urged that the 1.5-cent rate be retained, contending it would be inappropriate to increase the 1.5-cent rate unless it is increased in all Federal orders at the same time.

It is neither appropriate nor necessary to establish higher prices in this market solely to reflect the currently higher transportation costs for moving milk. A realignment of prices to reflect such higher transportation cost can be accomplished only through a general hearing covering all Federal orders. At any such hearing, a matter that would have to be resolved is how this might be accomplished within the limits of the present variation in Class I prices from north to south. Further, if the total difference in prices north to south were to be increased, an important consideration at such hearing would center on how this might be accomplished under the standards of the Act and existing supply-demand relationships. Accordingly, the 2-cent per 10-mile location adjustment rate proposed by DI is denied.

3. *Point of pricing diverted milk.* Producer milk diverted from a pool plant to a nonpool plant should be priced at the location of the nonpool plant to which it is delivered. Milk diverted between pool plants at which different prices would apply under the order also should be priced at the location of the plant to which it is delivered. All such milk is now priced at the location of the pool plant from which diverted.

Dairymen, Inc. (DI) proposed pricing milk at the location of the pool plant from which diverted when diverted to a nonpool plant within 125 miles of Louisville, Lexington or Evansville. Milk diverted to nonpool plants at other locations would be priced at the location of such nonpool plants. A spokesman for the National Farmers' Organization (NFO) stated that NFO favored adoption of the DI proposal.

The intent of the DI proposal was to avoid the application of a minus location adjustment (when none is applicable at the pool plant from which diverted) on milk diverted to a nonpool plant within 125 miles of Louisville, Lexington or Evansville. DI claimed that such a provision is needed in the order to facilitate the disposition of reserve supplies of producer milk.

The capacity available at nonpool plants within 125 miles of Louisville, Lexington or Evansville, to which milk is currently being diverted, has generally been adequate to handle the diverted milk for the market. If the location adjustment provisions adopted in this decision were applied at the location of any such plants, no location adjustment would result. In effect, the location adjustment pricing adopted herein achieves substantially the same pricing for diverted milk as proposed by DI.

When producer milk is received as diverted milk at a non-pool plant, its location value is the same as milk delivered by producers to a pool plant at the same location. Pricing milk at the location of the pool plant from which diverted tends to subsidize, at the expense of producers generally, the more distant producers whose milk is diverted to distant manufacturing plants rather than delivered to the market. This is because the distant producers, in that circumstance, receive the f.o.b. market uniform price on milk that is not moved to the market and on which the full cost for the farm to market hauling has not been incurred.

The order's location adjustments, including the modifications adopted in this decision, recognize the greater value of producer milk, particularly at plants in or near the principal population centers in the marketing area as compared to its value at other locations. In view of this, it would be inconsistent to price milk at the location of the pool plant from which diverted when actually delivered to a nonpool plant where a different price is appropriate, based on the location adjustment that would be applicable to a pool plant at the same location.

While the issue of point of pricing of milk diverted between pool plants was not a direct issue at the hearing, the matter is necessarily raised by proposals to establish zone prices. As has been previously stated, all existing pool plants, both under the existing order and under the order as herein modified, are subject to the same pricing so that the matter of point of pricing of diversions between pool plants may be moot. However, the decision to establish a plus 15-cent differential zone covering 12 southeastern Kentucky counties raises the possibility that there could be a differential in pricing between two pool plant locations. In such event, the use of diversions to move milk between the two locations could effectively circumscribe the intended effect of the pricing differential. Without appropriate safeguards a loophole would exist whereby a 15-cent higher return could be recovered from the pool for producer milk delivered (by diversion) from a plant in the higher priced zone to a plant in the base zone for other than Class I use. Conversely, milk could be moved from the base zone to the higher priced zone (by diversion) for Class I use to evade the intended higher pool obligation. Neither of such movements could serve to implement orderly marketing. To deter such results, it must be prescribed that milk moved by diversion between pool plants at which different prices apply under the order shall be priced at the location of the plant at which it is physically received.

Rulings on Proposed Findings and Conclusions

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

General Findings

The findings and determinations hereinafter set forth are supplementary and

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

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

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

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

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Louisville-Lexington-Evansville marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In § 1046.13, paragraphs (b) and (c)(1) are revised as follows:

§ 1046.13 Producer milk.

* * * * *

(b) Diverted by a handler from a pool plant pursuant to § 1046.7(a) to another pool plant for any number of days of the month. Milk so diverted shall be deemed to have been received by the diverting handler:

(1) At the location of the pool plant from which diverted if no location adjustment or the same location adjustment is applicable at both the plant from which diverted and the plant to which diverted;

(2) At the location of the pool plant to which diverted if the location adjustment applicable pursuant to § 1046.52 is different at the plant from which diverted than at the plant to which diverted.

(c) * * *

(1) Such milk shall be accounted for as received by the diverting handler at the location of the nonpool plant to which diverted;

* * * * *

2. In § 1046.50, paragraph (a) is revised as follows:

§ 1046.50 Class prices.

* * * * *

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.70.

* * * * *

3. In § 1046.52, paragraph (a) is revised as follows:

§ 1046.52 Plant location adjustments for handlers.

(a) For milk received from producers or from a handler described in § 1046.9(c) at a plant 85 miles or more from the City Halls in Louisville and Lexington, Kentucky, and Evansville, Indiana, by the shortest hard-surfaced highway distance as determined by the market administrator and classified as Class I milk (subject to the limitations pursuant to paragraph (b) of this section), the Class I price shall be reduced by a location adjustment of 1.5 cents for each 10 miles or fraction thereof that such plant is from the City Hall in Louisville, Lexington or Evansville, whichever is nearest, except as follows:

(1) For such milk that is physically received at plants located in the Kentucky counties of Bell, Breathitt, Clay, Harlan, Knott, Knox, Laurel, Leslie, Letcher, McCreary, Perry and Whitley, the Class I price shall be increased by a location adjustment of 15 cents; and

(2) Except as provided in paragraph (a)(1) of this section, no location adjustment shall apply at a plant located:

(i) In the marketing area;

(ii) In the State of Kentucky;

(iii) In the State of Tennessee; or

(iv) East of the Mississippi River and south of the southern boundary of Tennessee or the northern boundary of South Carolina.

* * * * *

4. In § 1046.61, paragraph (b) is revised and a new paragraph (b–1) is added as follows:

§ 1046.61 Computation of uniform price (including weighted average price).

* * * * *

(b) Add an amount equal to the total value of the minus location adjustments computed pursuant to § 1046.75;

(b–1) Subtract an amount equal to the total value of the plus location adjustments applicable pursuant to § 1046.75;

* * * * *

5. Section 1046.75 is revised as follows:

§ 1046.75 Plant location adjustments for producrs and on nonpool milk.

(a) The uniform price for producer milk received at a plant shall be adjusted according to the location of the plant at the rates set forth in § 1046.52; and

(b) For purposes of computations pursuant to §§ 1046.71 and 1046.72 the weighted average price shall be adjusted at the rates set forth in § 1046.52 applicable at the location of the nonpool plant(s) from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

Signed at Washington, D.C., on July 22, 1976.

DONALD E. WILKINSON,
Administrator.

[FR Doc.76-21796 Filed 7-27-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 20]

MIGRATORY BIRDS

Proposed Rule Making on Areas in Which Steel Shot Will Be Required for Waterfowl Hunting in Hunting Seasons Commencing in 1976

Pursuant to authority contained in the Migratory Bird Treaty Act of July 3, 1918, and Executive Order 10250, June 5, 1951, it is proposed to amend Subpart K, § 20.105e of Title 50, Code of Federal Regulations. This amendment is confined to designation of specific areas in the Atlantic Flyway where no person shall take ducks, geese, and coots with a shotgun containing shells loaded with shot composed of any metal other than such material as may be determined by the Director to be non-toxic to migratory waterfowl pursuant to procedures set forth in § 20.134: *Provided*, That this restriction applies only to the taking of ducks, geese, and coots in the areas described. At the present time the only shot type available for use in this regard, and approved by the Director pursuant to the procedures set forth in § 20.134 is steel shot. Commencing in the Atlantic Flyway in 1976, in designated areas, ducks, geese, and coots are to be hunted only with ammunition containing shot made of steel. Shot made of lead or any metal other than steel will not be permitted in these designated areas.

PURPOSE OF REGULATIONS

The purpose of the proposed regulations is to eliminate further deposition of lead pellets in specific major waterfowl hunting areas of the Atlantic Flyway. Spent lead pellets are known to be consumed by waterfowl causing lead intoxication and death to a portion of the resource each year.

BACKGROUND

Regulations requiring the use of steel shot or other approved shot types for waterfowl hunting in specifically described areas in the United States were published in the FEDERAL REGISTER on July 28, 1976 along with a description of the reasons and purposes of the regulations.

On March 20, 1976, the Secretary of the Interior announced a plan for progressive implementations of steel shot over the next 3 years. According to this plan steel shot will be required for waterfowl hunting in specifically designated

areas of the Atlantic Flyway in 1976, in the Mississippi Flyway in 1977 and in the Central and Pacific Flyways in 1978.

At a March 21, 1976, meeting of the Atlantic Flyway Council in Washington, D.C., Council members indicated that the Service should develop recommendations about specific areas and criteria for identifying them.

Accordingly, the Service recommended that steel shot be required for waterfowl hunting in counties or portions of counties in the Atlantic Flyway where waterfowl are harvested at the highest and most intensive levels as indicated by long-term records of the harvest of ducks. An additional factor requiring consideration for 1976 was a limitation on the amount of steel shot ammunition that could be produced and distributed by the manufacturers in time for the 1976 hunting season.

The following criteria were used to identify counties to be considered for use of steel shot in 1976:

1. An average annual harvest rate of 25 or more ducks per square mile.
2. An average annual duck harvest of 12,000 or more.

Counties meeting these criteria are believed to represent some of the most critical lead poisoning problem areas in the flyway. The high levels and intensity of harvest in these counties are indicative that hunting is sufficiently intensive to result in the annual deposition of large quantities of lead shot in waterfowl habitat.

For example, in a county with an average annual harvest of 12,000 ducks, it is estimated that duck hunting alone results in the annual deposition of more than 3 tons of lead shot, and this would be concentrated in the waterfowl habitat of that county. Unless some unidentified modifying influences are present, the consequences of this are a relatively high availability of lead pellets to waterfowl, and high exposure to lead poisoning. That waterfowl in the Atlantic Flyway, are, in fact, picking up this lead at a high rate is shown by the high lead levels found in the bodies of ducks during studies conducted by the Service since 1972.

Based on the above criteria the Service identified 12 counties in nine States of the Atlantic Flyway. In consideration of limited availability of steel shot ammunition in 1976, and in order to insure that adequate amounts of ammunition would be available for hunters required to use steel shot, it was determined that the program would be implemented in no more than one county in each of the nine States. This information and the Service's recommendations were presented and discussed with Atlantic Flyway Council representatives at a meeting in Hershey, Pennsylvania, on April 27, 1976. Affected States not present were contacted separately immediately after the meeting.

Additionally, all States in the Atlantic Flyway were informed of the Service's recommendations for 1976 as presented at the Hershey, Pennsylvania meeting in a memorandum from the Director, U.S. Fish and Wildlife Service, dated May 7, 1976. Discussion with the nine States involved in the 1976 program regarding precise boundary descriptions of the recommended areas or alternative areas proposed by the States have been in progress from April 27, 1976, to the present date.

As a result of these discussions the Service has determined that the following specific areas in the Atlantic Flyway, in which the use of steel shot will be required for hunting waterfowl beginning with the 1976 waterfowl hunting season, are proposed:

Delaware

Steel shot ammunition only is permitted for waterfowl hunting on the following State wildlife management areas:

1. Woodland Beach Wildlife Area.
2. Little Creek Wildlife Area.
3. Gordon's Pond Wildlife Area.
4. Assawoman Wildlife Area.
5. Prime Hook Wildlife Area.

Florida

Steel shot ammunition only is permitted for waterfowl hunting in that portion of Brevard County, Florida, lying east of Interstate Highway 95.

Maine

Steel shot ammunition only is permitted for waterfowl hunting on the waters of the Kennebec River, known as Merrymeeting Bay, bounded as follows: From the high tension wires at Chop's Point to the first dam on the Androscoggin River, to the first road bridge on the Muddy, Cathance, Abbagadasset and Eastern Rivers, and the Richmond-Dresden Bridge on the Kennebec River, and within a 150 yard zone of land adjacent to the margins of these waters, being in the Counties of Cumberland, Sagadahoc and Lincoln.

Maryland

Steel shot ammunition only is permitted for waterfowl hunting in Dorchester County, Maryland, on all open waters, lakes, ponds, marshes, swamps, rivers and streams, and within a 150 yard zone of land adjacent to the margin of such waters. Cropland drainage ditches in cultivated fields and temporary sheet water on cultivated fields will be excluded from this provision.

Massachusetts

Steel shot ammunition only is permitted for hunting waterfowl within that portion of Essex County, Massachusetts, bounded on the north by the Massachusetts-New Hampshire State line; on the west by U.S. Rt. 1, from its intersection with the Massachusetts-New Hampshire State line southward to its juncture with Rt. 1A in Newburyport, thence southward on Rt. 1A to its juncture with Rt. 133 south of Ipswich, thence southeastward on Rt. 133 to its juncture with Rt. 128; bounded on the south by Rt. 128 from its juncture with Rt. 133 eastward to the west bank of the Annisquam River; bounded on the east by the west bank of the Annisquam River northward to Ipswich Bay and continuing northward along the shoreline of Ipswich Bay and the Atlantic Ocean to the Massachusetts-New Hampshire State line.

New Jersey

Steel shot ammunition only is permitted for waterfowl hunting in that portion of Atlantic County, New Jersey, lying east of the Garden State Parkway.

New York

Steel shot ammunition only is permitted for waterfowl hunting in those portions of Nassau and Suffolk Counties, New York bounded on the south by the Long Island shoreline from the Robert Moses Causeway west to the Nassau County-New York City line; on the west by the New York City-Nassau County line northward from Long Island Sound to the Sunrise Highway (Rt. 27); on the north by the Sunrise Highway (Rt. 27) eastward to its juncture with the Captree Highway (Robert Moses Causeway); on the east by the Captree Highway (Robert Moses Causeway) southward to its terminus at Fire Island Inlet.

North Carolina

Steel shot ammunition only is permitted for waterfowl hunting in Currituck County, North Carolina, on all open waters, lakes, ponds, marshes, swamps, rivers and streams, and within a 150 yard zone of land adjacent to the margin of such waters. Cropland drainage ditches in cultivated fields and temporary sheet water on cultivated fields will be excluded from this provision.

Virginia

Steel shot ammunition only is permitted for waterfowl hunting in the city of Virginia Beach on Back Bay and its tributaries and the marshes adjacent thereto, and the land and marshes between Back Bay and the Atlantic Ocean from Sandbridge to the North Carolina line, and the shore of North Landing River and the marshes adjacent thereto and along the shore of Lake Tecumseh and Red Wing Lake and the marshes adjacent thereto.

Public Comment

Special circumstances are involved in the promulgation of these proposed regulations. Specifically, this notice was delayed in order to provide maximum opportunity for States to provide advice and viewpoints to further refine the boundaries of proposed designated areas and/or to propose alternatives to the areas identified by the U.S. Fish and Wildlife Service. Accordingly, good cause is found to shorten the comment period to a period less than 30 days. The period of public comment will extend from the date of this publication until August 23, 1976.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. Accordingly, interested persons may participate in this rulemaking by submitting written comments to the Director (FWS/MBM), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. Comments received will be available for public inspection during normal business hours at the Service's office in Room 2249, U.S. Department of Interior, "C" Street between 18th and 19th, Washington, D.C.

This notice of proposed rulemaking is issued under the authority of the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703–711).

Dated: July 23, 1976.

Lynn A. Greenwalt,
Director,
U.S. Fish and Wildlife Service.

[FR Doc.76-21808 Filed 7-27-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI 2221]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Township of Upper Chichester, Delaware County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Township of Upper Chichester, Delaware County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Upper Chichester Township Building, Boothwyn, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Thomas C. Roberts, President of the Board of Commissioners of Chichester, Township Building, P.O. Box 2136, Boothwyn, Pennsylvania 19061. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
East Branch Marcus Hook Creek.	Conchester Rd	94	900	80
	Cherry Tree Rd	93	120	50
Marcus Hook Creek	Riviera Rd. (extended)	84	140	250
	Dutton St. (extended)	80	200	180
	Meetinghouse Rd	73	130	500
	Delaware Expressway	68	60	40
	Market St	66	70	60
	Johnson Ave. (extended)	51	50	100

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

Issued: June 29, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-21673 Filed 7-27-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2215]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Township of Jenkins, Luzerne County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Township of Jenkins, Luzerne County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Commissioner's Room, Jenkins Township Volunteer Hose Company Building, 2 Second Street, Port Griffith, Pittston, Pennsylvania 18640.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. John Para, Chairman of the Board of Supervisors, 1475 River Road, Pittston, Pennsylvania 18640. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Susquehanna River	Corporate limits	558	100	
	Coal St. (extended)	558	70	
	Market St. (extended)	557	50	
	8th St	556	480	
	Corporate limits	554	760	

Source of flooding	Location	Area (square feet)
Mill Creek Reservoir	Adjacent to southern boundary in central portion of township	4,608,000
Reservoir on Gardner Creek	Near southern boundary, east of northwest extension of Pennsylvania Turnpike.	844,800

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

Issued: June 14, 1976.

RICHARD W. KRIMM,
Acting Federal Insurance Administrator.

[FR Doc.76–21674 Filed 7–27–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–2216]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Township of Hampden, Cumberland County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4 (a)) hereby gives notice of his proposed determinations of flood elevations for the Township of Hampden, Cumberland County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Bulletin Board in the Lobby of the Hampden Township Municipal Building, 230 South Sporting Hill Road, Mechanicsburg, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Meade E. Green, Jr., President of the Board of Commissioners of Hampden Township, 230 South Sporting Hill Road, Mechanicsburg, Pennsylvania 17055. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Condoguinet Creek	East corporate limits	330	50	140
	Orr's Bride Road Bridge	336	50	70
	Sporting Hill Road Bridge	345	0	0
	Skyport Rd. (Extended)	347	310	180
	Jerusalem Rd. (Extended)	353	0	320
	Lambs Gap Road Bridge	358	250	150

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

Issued: June 15, 1976.

RICHARD W. KRIMM,
Acting Federal Insurance Administrator.

[FR Doc.76–21675 Filed 7–27–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2217]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Borough of Exeter, Luzerne County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Exeter, Luzerne County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines for the flood-prone areas and the proposed flood elevations are available for review at the Borough Building, Wyoming Avenue, Exeter.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Andrew Mauriello, 1229 Wyoming Avenue, Exeter, Pennsylvania 18643. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Susquehanna River	Corporate limits	565	(1)	90
	Conrail	564	(1)	100
	Penn St. (extended)	558	(1)	340
	Lincoln Ave. (extended)	558	(1)	860
	Grant Ave. (extended)	558	(1)	1,120
	Schooley Ave. (extended)	558	(1)	670
	Barber Ave. (extended)	557	(1)	850
	Trayor St. (extended)	557	(1)	1,360
	Sullivan St. (extended)	557	(1)	1,310
	Corporate limits	557	(1)	1,340
	Scovell Island, included in entirety			

[1] Corporate limits.

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

Issued: June 14, 1976.

RICHARD W. KRIMM,
Acting Federal Insurance Administrator.

[FR Doc.76-21676 Filed 7-27-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI 2218]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Township of East Pennsboro, Cumberland County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Township of East Pennsboro, Cumberland County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the meeting room in the Township Building, 243 Columbia Road, Enola, Pennsylvania 17025.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Fred Souders, 243 Columbia Road, Enola, Pennsylvania 17025. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding		Elevation in feet above mean sea level	Width in feet from shoreline to 100-yr flood boundary	
Susquehanna River	County boundary	326	140	
	I-81 bridge	325	200	
	Front St. and corporate limits	322	80	
			North of centerline of creek	South of centerline of creek
Conodoguinet Creek	Mathew Rd	321		320
	Center Street Bridge	321	75	
	Bridge Road Bridge	325	200	60
	West corporate limits	330	100	50

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

Issued: June 11, 1976.

RICHARD W. KRIMM,
Acting Federal Insurance Administrator.

[FR Doc.76-21677 Filed 7-27-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2219]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Borough of Danville, Montour County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Danville, Montour County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Municipal Building, Mill and Penn Streets, Danville, Pennsylvania 17821.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor John A. Reilly, Municipal Building, Mill and Penn Streets, Danville, Pennsylvania 17821. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Future conditions		
Susquehanna River	Corporate limits	462	(1)	450
	Park Ave. (extended)	461	(1)	235
	Nassan St. (extended)	461	(1)	130
	Iron St. (extended)	461	(1)	200
	Rooney St. (extended)	460	(1)	50
	Corporate limits	459	(1)	1,020
Mahoning Creek	do	459	(1)	90
	Chestnut St. (extended)	460	10	120
	Northumberland St	459	380	1,560
	Spruce St. (extended)	459	30	25
	Corporate limits	468	50	50
Sechler Run	Rooney St	459	220	980
	Jacob St	460	370	440
	Ferry St	460	120	400
	Pine St	460	500	370
	Church St	460	30	300
	Railroad St	460	20	200
	Erie-Lackawanna RR	462	550	450
	Approximately 700 ft upstream from Erie-Lackawanna RR.	469	440	40

[1] Corporate limits.

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
	Existing conditions			
Susquehana River	Corporate limits	462	(1)	450
	Park Ave. (extended)	461	(1)	235
	Nassau St. (extended)	461	(1)	130
	Iron St. (extended)	461	(1)	200
	Rooney St. (extended)	460	(1)	50
	Corporate limits	459	(1)	1,020
Mahoning Creek	do	459	(1)	90
	Chestnut St. (extended)	460	10	120
	Northumberland St	459	380	1,560
	Spruce St. (extended)	459	30	25
	Corporate limits	468	50	50
Seehler Run	Rooney St	459	220	1,000
	Jacob St	459	370	440
	Ferry St	459	115	400
	Pine St	459	500	370
	Church St	459	10	320
	Railroad St	460	20	210
	Erie-Lackawanna R R	461	500	550
	Approximately 700 ft upstream from Erie-Lackawanna R R.	464	340	45

[1] Corporate limits.

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

Issued: June 14, 1976.

RICHARD W. KRIMM,
Acting Federal Insurance Administrator.

[FR Doc.76–21678 Filed 7–27–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–2220]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for City of Williamsport, Lycoming County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the City of Williamsport, Lycoming County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Township Building, 2501 East Third Street, Williamsport, Pennsylvania 17701.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Bruce E. Henry, Secreetary of Loyalsock Board of Supervisors, 2501 East Third Street, Williamsport, Pennsylvania 17701. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Loyalsock Creek	U.S. 220	529	400	
	4 Mile Dr	533	40	
	Walters Rd. (extended)	558	740	
	Corporate limits	566	20	
West branch Susquehanna River.	Canfields Lane	524		2,100
	Westminister Dr	525		720
	Sherman St	527		140
Lycoming Creek	Corporate limits	536	10	
	U.S. Route 15	538	140	
	Corporate limits	535	160	80
	Memorial Ave	535	40	100
	4th St	534	60	80
	West 3d St	534	70	110
	Williamsport Beltway	534	1,160	180

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

Issued: June 29, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-21679 Filed 7-27-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2206]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Township of Point, Northumberland County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Township of Point, Northumberland County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Bulletin Board, Point Township Building, Ridge Road, Northumberland.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Neil Mertz, Chairman of the Board of Supervisors of Point, R. D. 2, Northumberland, Pennsylvania 17857. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
West Branch Susquehanna River.	9th St. (extended)	452	800	(1)
	Ridge Rd. (extended)	456	450	(1)
	North corporate limits	457	1,950	(1)
Susquehanna River	Borough of Northumberland corporate limits. LR-49052 (extended).	452	(1)	800
		452	(1)	1,100
	Packers Run confluence	454	(1)	550
	Raups Run confluence	457	(1)	580
	Eastern corporate limits	458	(1)	150

[1] Corporate limits.

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

Issued: June 14, 1976.

RICHARD W. KRIMM,
Acting Federal Insurance Administrator.

[FR Doc.76-21680 Filed 7-27-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2207]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Borough of Sayre, Bradford County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a) hereby gives notice of his proposed determinations of flood elevations for the Borough of Sayre, Bradford County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the

Council Room, Sayre Borough Hall, 110 West Packer Avenue, Sayre, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Nicholas Chicona, Mayor, Borough Hall, 110 West Packer Avenue, Sayre, Pennsylvania 18840. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Susquehanna River	Madison St. (extended)	763	----------	900
	East Packer St. (extended)	765	----------	320
	East Lockhart St	765	----------	400
	Garden St	766	----------	870
Cayuta Creek	Shepard St. (extended)	770	240	1,200
	Bensley St. (extended)	772	600	600
	Bradford St	787	120	300
	Draper St. (extended)	792	200	500
	Perkins St. (extended)	797	400	520

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

Issued: June 11, 1976.

RICHARD W. KRIMM,
Acting Federal Insurance Administrator.

[FR Doc.76–21681 Filed 7–27–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–2208]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Township of Abington, Montgomery County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Township of Abington, Montgomery County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Township Engineer's Office, Municipal Building, 1176 Old York Road, Abington.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. George F. Shuster, Jr., President of the Board of Commissioners, 1176 Old York Road, Abington, Pennsylvania 19001. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Baeder Run	Jenkintown Rd.	226	150	110
	Cross Rd. (extended)	230	150	50
	Pleasant Ave. (extended)	242	75	50
	Running Brook Rd.	250	100	200
	Highland Ave.	267	75	50
	Abington Ave.	295	80	40
North Baeder Run	Hilltop Rd. (extended)	260	100	75
	Harte Rd.	274	140	50
	Highland Ave.	300	100	150

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

Issued: June 21, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–21682 Filed 7–27–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–2209]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Borough of Colwyn, Delaware County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.5(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Colwyn, Delaware County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Borough Hall, 3rd and Spruce Streets, Colwyn.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor William Bradley, 100 Chestnut Street, Colwyn, Pennsylvania 19023. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Darby Creek	Northern corporate limits	22	685	(1)
	Conrail	[2] 22	115	(1)
	do	20	415	(1)
	5th St. (extended)	19	750	(1)
	Cobbs Creek confluence (south corporate limits).	18	575	(1)
Cobbs Creek	North corporate limits	28	(1)	125
	Footbridge	27	(1)	150
	do	26	(1)	100
	Purex RR	[2] 26	(1)	60
	Conrail	25	(1)	75
	Pine St. (extended)	24	(1)	575
	Colwyn Ave. (extended)	23	(1)	325
	Ellis Ave. (extended)	23	(1)	100
	Tribet Pl. (extended)	18	(1)	350

[1] Outside corporate limits.
[2] Upstream.

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

Issued: June 24, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–21683 Filed 7–27–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–2210]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Township of Derry, Dauphin County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Township of Derry, Dauphin County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood In-

surance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Meeting Room in the Township Municipal Building, 235 Hockersville Road, Hershey, Pennsylvania 17033.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Robert E. Shaffer, Chairman of the Board of Supervisors, 235 Hockersville Road, Hershey, Pennsylvania 17033. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Swatara Creek	Corporate limits	559		2,840
	Landermilch Rd	356		410
	do	354		220
	Sand Beach Rd	347		620
	Hershey Rd	346		1,020
	Pennsy Supply Rd	341		150
	Corporate limits	340		100
	do	327		470
	Conrail Bridge	320		140
	do	317		80
	Corporate limits	312		500
Spring Creek	Confluence of Swatara Creek	344	2,200	510
	State Route 39	344	90	0
	State Route 743	358	70	360
	Confluence of Tributary No. 3		180	260

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

Issued: June 24, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-21684 Filed 7-27-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2211]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for City of Harrisburg, Dauphin County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4 (a)) hereby gives notice of his proposed determinations of flood elevations for the City of Harrisburg, Dauphin County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the City Clerk's Office, Room 300, Municipal Building, Walnut and Aberdeen Streets, Harrisburg.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Harold A. Swinson, Room 100, Municipal Building, Walnut and Aberdeen Streets, Harrisburg, Pennsylvania 17101. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Susquehanna River/ Paxton Creek.	Corporate limits	314	1,200	(1)
	South bridge	315	1,860	(1)
Susquehanna River	Conrail (upstream)	318	360	(1)
	Conrail	318	140	(1)
	Market St	319	20	(1)
	Walnut St	320	30	(1)
	Taylor Memorial Bridge	321	60	(1)
Paxton Creek	Conrail	318	540	80
	Mulberry St	319	280	720
	Market St	319	240	760
	Herr St	321	860	600
	Maclay St	322	890	40

[1] Corporate limit.

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

Issued: June 21, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-21685 Filed 7-27-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2212]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Borough of Montoursville, Lycoming County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Montoursville, Lycoming County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Borough Building, 12 North Washington Street, Montoursville, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Anthony J. Rotordi, Borough Building, 12 North Washington Street, Montoursville, Pennsylvania 17754. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
West Branch Susquehanna River.	D.S. corporate limits	517	3,960	
	Winter Lane (extended)	518	4,440	
	Arch St. (extended)	520	2,500	
	Washington St. (extended)	521	2,500	
Loyalsock Creek	Broad St	529	1,950	
	Mulberry St. (extended)	530	2,000	
	Spruce St. (extended)	532	2,600	
	Nicely Ave. (extended)	533	3,360	
	Pearl Ave. (extended)	540	3,060	
	U.S. corporate limits	544	2,460	

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

Issued: June 24, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-21686 Filed 7-27-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2213]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Borough of Schuylkill Haven, Schuylkill County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Schuylkill Haven, Schuylkill County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Borough Manager's Office, Borough Hall, 39 Dock Street, Schuylkill Haven.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Thomas F. Reeder, President of the Council, Borough Hall, 39 Dock Street, Schuylkill Haven, Pennsylvania 17972. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Schuylkill River	Penn St. (extended)	509	1,630	20
	Union St. (extended)	511	780	40
	Railroad St. (extended)	515	80	20
	Paxson St. (extended)	518	20	940
	8,000 ft upstream of corporate limit	524	80	25
Long Run Creek	Berne St.	510	60	220
	Lincoln St. (extended)	510	50	80
	Stover St. (extended)	514	50	100
Willow Creek	Coal St.	521	220	35
	Willow St.	529	260	90
	Center Ave.	544	170	80
	750 ft downstream of corporate limit	567	70	50
Tributary No. 1	Dock St.	521	140	40
	Haven St.	524	120	65

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

Issued: June 21, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-21687 Filed 7-27-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2214]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Township of West Whiteland, Chester County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Township of West Whiteland, Chester County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Bulletin Board in the Foyer of the West Whiteland Township Building, 222 North Pattstown Pike, Exton, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify George S. Defrancesco, Chairman of the Board of Supervisors of West Whiteland, Township Building, P.O. Box 210, Exton, Pennsylvania 19341. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Valley Creek	Conrail (upstream)	284	1,440	340
	Whiteford Rd	287	920	600
	Route 100	301	40	80
	Route 30	304	140	440
	Valley Rd	315	170	400
	Ship Rd	322	220	130
	Conrail (upstream)	336	300	1,000
	do	340	80	460
	Farm Rd	345	180	110
	Corporate limits	368	200	60
Colebrook Run	Conrail (upstream)	281	320	120
	Route 30	298	1,220	370
	Colebrook Rd	352	60	70
Indian King Run	Conrail	293	140	80
	do	374	80	320
Lionville Run	Route 30	291	200	70
	Abandoned Swedesford Rd	318	720	110
	Shoen Rd	359	100	400
	Township-Line Rd	386	70	200
Ship Road Run	Conrail	325	61	60
	Route 30	325	600	1,100
	Ship Rd	371	300	220
Swedesford Road Run	Winding Way	314	200	300
	Swedesford Rd	330	140	100

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

Issued: June 24, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–21688 Filed 7–27–76;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 STATE

[Public Notice 492]

ARTS AND ARTIFACTS INDEMNITY ACT

Criteria for Certifications

The Arts and Artifacts Indemnity Act, Pub. L. No. 94–158, approved December 20, 1975, authorizes the Federal Government, under certain circumstances, to indemnify certain art, artifacts, and other objects to be exhibited internationally.

Section 3(a) of the Act provides that, in order for the Federal Council on the Arts and Humanities to make an indemnity agreement under the Act, the exhibition of any item must be certified by the Secretary of State or his designee as being in the national interest.

Now therefore, the criteria that shall be considered by the Secretary of State or his designee in making the certification required by section 3(a) of the Arts and Artifacts Indemnity Act that an exhibition is in the national interest are:

Whether the exhibition for which an indemnity is sought will be carried out under the terms of an official agreement between the United States and a foreign government or an international organization; or, Whether the exhibition will promote the foreign policy interests of the United States, as well as increasing mutual understanding between the people of the United States and the people of another country or countries.

Dated: July 21, 1976.

WILLIAM K. HITCHCOCK,
Acting Assistant Secretary for Educational and Cultural Affairs.

[FR Doc.76–21833 Filed 7–27–76;8:45 am]

[Public Notice CM–6/72]

SHIPPING COORDINATING COMMITTEE; SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on radiocommunications of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 1:30 p.m. on Thursday, August 19, 1976, in Room 7428 of the Department of Transportation, 400 Seventh Street, SW., Washington, D.C.

The purpose of the meeting is to prepare position documents for the 17th Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO). In particular, the working group will discuss the following topics:

Report on the 16th Session of the Subcommittee on Radiocommunications (July 19–23, 1976)

Assignment of tasks in preparation for the 17th Session

Requests for further information on the meeting should be directed to Lt. F. N. Wilder, United States Coast Guard. He may be reached by telephone on (area code 202) 426–1345.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

JULY 16, 1976.

[FR Doc.76–21832 Filed 7–27–76; 8:45 am]

[Public Debt Series—No. 17–76]

DEPARTMENT OF THE TREASURY

Office of the Secretary

TREASURY NOTES OF SERIES P–1978

Interest Rates

JULY 21, 1976.

The Secretary of the Treasury announced on July 20, 1976, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 17–76 dated July 15, 1976, will be 6⅞ percent per annum. Accordingly, the notes are hereby redesignated 6⅞ percent Treasury Notes of Series P–1978. Interest on the notes will be payable at the rate of 6⅞ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.76–21789 Filed 7–27–76;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

DEFENSE ADVISORY COMMITTEE ON WOMEN IN SERVICES

Notification of Meeting

Pursuant to Public Law 92–463, notice is hereby given that a meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) will be held August 22, 1976 at the Hotel Washington, 15th and Pennsylvania Avenue, from 11:00 a.m. to 4:00 p.m. and on August 23, 1976 from 9:00 a.m. to 4:00 p.m. at the Pentagon, Washington, D.C. The session will be open to the public.

The purpose of this meeting is to plan the program for the semi-annual meeting of the full Committee and for the 25th Anniversary celebration of the Committee on November 14–18, 1976. Composed of 25 civilian women, DACOWITS provides the Department of Defense with assistance and advice on matters relating to women in the Armed Forces.

Interested persons desiring to make oral presentations, submit written statements for consideration, attend the meeting or receive additional information must contact Lucille B. Dion, Consultant to DACOWITS Secretariat, OASD (Manpower and Reserve Affairs), Room 2B257, The Pentagon, Washington, D.C. 20301, telephone (202) 695–5153 no later than August 9, 1976.

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

JULY 22, 1976.

[FR Doc.76–21793 Filed 7–27–76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

AREA MANAGERS, HAVASU AND YUMA RESOURCE AREAS, ARIZ.

Authority Delegation

Correction

In FR Doc. 76–20266, appearing on page 29000, of the issue of Wednesday, July 14, 1976, the approving officer's signature was inadvertently omitted. The signature set out below should appear after the District Managers' signature:

Approved:

EDWARD F. SPANG,
Acting, State Director.

ARIZONA

Redelegation of Authority to Area Managers

Under authority of Bureau Order 701, dated July 23, 1964, and as amended, the Area Managers administering the Vermillion and shivwits Resource Areas of the Arizona Strip District, Arizona, are authorized to act on the following matters:

Within their area of responsibility in accordance with existing policies and regulations of the Department and under direct supervision of the Arizona Strip District Manager, they may exercise the functions of the Bureau Director on the matters specified below subject to the limitations of Bureau Order 701, Part III.

AUTHORITY IN SPECIFIC MATTERS

Sec. 3.3 *Fiscal Affairs.* The Area Manager may take action on:

(d) *Trespass.* Determine liability and issue notice on grazing trespass: Accept settlement offer up to $500.00; recommend as to acceptance of settlement offer made over $500.00.

Sec. 3.6 *Minerals.* The Area Manager may take all action on:

(m) Oil and gas exploration operations.

(n) Geothermal exploration operations.

Sec. 3.7 *Range Management.* The Area Manager may take all action on:

(a) Grazing District Administration.

(1) Within area, the issuance of license and permits to graze or trail livestock.

(2) Permits or cooperative agreements to construct and maintain range improvements and determine the value of such improvements.

(3) Expenditure of funds appropriated by Congress or contributed by individuals, associations, advisory boards, or others for the construction, purchase or maintenance of range improvements, within the approved annual work plan.

(d) Soil and watershed conservation.

(e) Controlled brush burning. In accordance with plans and specifications approved by the State Director.

(f) Protection of wild, free-roaming horses and burros.

Sec. 3.8 *Forest Management.* The Area Manager may take all action on:

(a) Disposition of forest products including sale of timber not exceeding $500.00 in value.

Sec. 3.9 *Land Use.* The Area Manager may take all action on:

(g) Disposition of material other than forest products, not exceeding $2,000.00 in value.

(z) Recreation. All actions relating to recreation management pursuant to 43 CFR Parts 6000–6270.

The District Manager may at any time temporarily restrict, or withhold any portion of the above delegated authority through use of Form 1213–1, District Office Authority and Responsibility Guide.

This order will become effective on August 2, 1976.

Dated: July 21, 1976.

GARTH M. COLTON,
District Manager.

Approved: EDWARD F. SPANG,
Acting State Director.

[FR Doc.76–21768 Filed 7–27–76;8:45 am]

[Wyoming 55750]

WYOMING

Application

JULY 20, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4 inch pipeline for the purpose of transporting natural gas across the following described National Resource Lands:

SIXTH PRINCIPAL MERIDIAN

WYOMING

T. 21 N., R. 94 W.,
Sec. 8, S½NE¼.

The pipeline will transport natural gas from a point in the NE¼ sec 8 to a point in sec 9, T. 21 N., R. 94 W. in Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views on this matter should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76–21814 Filed 7–27–76;8:45 am]

Geological Survey

[Coal Land Classification Order Colorado No. 138]

COLORADO

Coal Land Classification

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; (43 U.S.C. 31)), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

SIXTH PRINCIPAL MERIDIAN

COLORADO

Coal Lands

T. 2 N., R. 92 W.,
Sec. 5, E½SW¼;
Sec. 8, E½NW¼, SW¼NW¼, W½SW¼;
Sec. 17, lots 1 and 2, NW¼NW¼;
Sec. 18, lots 6, 7, and 10;
Sec. 19, lots 5, 8, and 9.
T. 4 N., R. 95 W.,
Sec. 12, lot 11;
Sec. 13, E½NW¼.
T. 5 N., R. 96 W.,
Sec. 25, NW¼SW¼.

Reclassified Coal Land from Noncoal Land

Prior classification of the following subdivisions as noncoal is hereby revoked and the land is reclassified as coal land:

T. 2 N., R. 92 W.,
Sec. 31, lot 1.
T. 3 N., R. 92 W.,
Sec. 32, lots 9, 12, and 13.
T. 4 N., R. 92 W.,
Sec. 29, NE¼SE¼;
Sec. 33, W½SW¼.
T. 2 N., R. 93 W.,
Sec. 31, SE¼NW¼;
Sec. 34, SE¼SW¼, SW¼SE¼;
Sec. 35, SE¼SE¼;
Sec. 36, NE¼NE¼.
T. 4 N., R. 93 W.,
Sec. 21, S½SE¼;
Sec. 26, lots 8 and 10;
Sec. 27, NE¼NW¼;
Sec. 35, lots 1 to 3, inclusive, and lot 7;
Sec. 36, lot 2.
T. 1 N., R. 94 W.,
Sec. 6, lot 8;
Sec. 15, lots 3, 4, 11 and 12, NE¼NE¼, SW¼SE¼;
Sec. 21, lots 5 to 8, inclusive;
Sec. 28, lots 15 to 17, inclusive;
Sec. 33, lots 12, 13, 19, 20, and 33 to 35, inclusive, and 39.
T. 2 N., R. 94 W.,
Sec. 7, lots 3, 4, and 26;
Sec. 12, W½SW¼;
Sec. 17, SW¼SW¼;
Sec. 18, lots 1 to 4, inclusive, SW¼NE¼, E½W½, SE¼;
Sec. 19;
Sec. 20, SW¼NE¼, W½, SE¼;
Sec. 29, W½NE¼, NW¼, N½SW¼, SW¼SW¼;
Sec. 30;
Sec. 31, lots 1, 2, 7, and 8, NE¼, E½NW¼, NE¼SE¼;
Sec. 32, NW¼NW¼.
T. 3 N., R. 94 W.,
Sec. 13, SW¼NE¼;
Sec. 22, NE¼NE¼;
Sec. 24, SE¼SE¼;
Sec. 28, SE¼NE¼;
Sec. 29, NW¼SE¼, S½SE¼;
Sec. 30, lot 6, SW¼NE¼;
Sec. 36, NW¼NW¼.
T. 4 N., R. 94 W.,
Sec. 7, lot 10;
Sec. 8, lots 7 and 8.
T. 2 N., R. 95 W.,
Sec. 1, lot 4, S½NW¼, SW¼, W½SE¼, SE¼SE¼;
Sec. 2;
Sec. 3, lots 1 and 2, SE¼NE¼, NE¼SE¼;
Sec. 11, NE¼, E½NW¼, N½SE¼, SE¼SE¼;
Sec. 12;
Sec. 13, N½, N½S½, SE¼SW¼, S½SE¼;
Sec. 24, NE¼, E½NW¼, NE¼SW¼, SE¼;
Sec. 25, NE¼NE¼.
T. 3 N., R. 95 W.,
Sec. 5, SW¼NW¼, W½SW¼;
Sec. 6, lots 8 to 12, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, NE¼, E½SE¼;
Sec. 8, W½, W½SE¼;
Sec. 16, lots 19 and 21;
Sec. 17, lots 2, 3, 6, and 7, W½NE¼, NW¼, NE¼SW¼, W½SE¼;
Sec. 20, E½NE¼;
Sec. 21, SW¼NE¼, NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 22, SW¼SW¼;
Sec. 27, SW¼NE¼, W½, W½SE¼, SE¼SE¼;
Sec. 28, NE¼, NE¼NW¼, N½SE¼, SE¼SE¼;
Sec. 33, NE¼NE¼;
Sec. 34, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 35, NW¼NW¼, S½SNW¼, SW¼, NW¼SE¼, S½SE¼.
T. 4 N., R. 95 W.,
Sec. 30, lots 7 to 9, inclusive;
Sec. 31, lots 5 to 12, inclusive, E½W½, W½SE¼.
T. 4 N., R. 96 W.,
Sec. 10, lots 7 to 12, inclusive, lots 14 to 17, inclusive;
Sec. 14, NW¼NW¼, S½NW¼, SW¼, W½SE¼;
Sec. 15, lots 1 to 4, inclusive, SE¼NE¼;
Sec. 23, NE¼, NE¼NW¼, E½SE¼;
Sec. 24, SW¼NW¼, SW¼, SW¼SE¼;
Sec. 25, lots 3 to 8, inclusive, W½NE¼, SE¼NE¼, NW¼, NE¼SW¼, N½SE¼;
Sec. 36, lots 1, 2, 10 and 12, inclusive, and lots 24 and 25.
T. 5 N., R. 96 W.,
Sec. 19, SE¼NE¼;
Sec. 20, NW¼SW¼, SE¼SW¼;
Sec. 28, SW¼SW¼;
Sec. 29, W½NE¼, NE¼NW¼, NE¼SE¼;
Sec. 33, SE¼NE¼, NE¼NW¼;
Sec. 34, SW¼NW¼, N½SW¼, NW¼SE¼, S½SE¼.

The area classified totals 15,997 acres, more or less, of which 586 acres are coal

land, and 15,411 acres are reclassified as coal land.

Dated: July 6, 1976.

W. A. RADLINSKI,
Acting Director.

[FR Doc.76-21815 Filed 7-27-76;8:45 am]

Office of the Secretary

ALVIN F. BAAL

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 1, 1976.

Dated: July 2, 1976.

ALVIN F. BAAL III.

[FR Doc.76-21816 Filed 7-27-76;8:45 am]

HARLEY L. COLLINS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 1, 1976.

Dated: June 21, 1976.

HARLEY L. COLLINS.

[FR Doc.76-21817 Filed 7-27-76;8:45 am]

WINSTON M. COOPER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 1, 1976.

Dated: June 16, 1976.

WINSTON M. COOPER.

[FR Doc.76-21818 Filed 7-27-76;8:45 am]

LESTER E. GARLINGHOUSE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) Sold Rio Grande Industries, Inc.
(2) Purchased The First National Dual Series Tax Exempt Bond Trust Series 3.
(3) Purchased Utah Bankcorporation.

This statement is made as of July 1, 1976.

Dated: June 21, 1976.

LESTER E. GARLINGHOUSE.

[FR Doc.76-21819 Filed 7-27-76;8:45 am]

BILL M. GUTHRIE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of June 28, 1976.

Dated: June 18, 1976.

BILL M. GUTHRIE.

[FR Doc.76-21820 Filed 7-27-76;8:45 am]

KENNETH M. HALE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) Please delete First National Bank of Golden and Rockwell International.
(3) No change.
(4) No change.

This statement is made as of July 1, 1976.

Dated: June 16, 1976.

KENNETH M. HALE.

[FR Doc.76-21821 Filed 7-27-76;8:45 am]

WILLIAM P. HENNE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 11, 1976.

Dated: June 16, 1976.

WILLIAM P. HENNE.

[FR Doc.76-21822 Filed 7-27-76;8:45 am]

BILL C. HULSEY

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 28, 1976.

Dated: June 16, 1976.

BILL C. HULSEY.

[FR Doc.76-21823 Filed 7-27-76;8:45 am]

MAURICE H. KENT

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 1, 1976.

Dated: June 16, 1976.

MAURICE H. KENT.

[FR Doc.76-21824 Filed 7-27-76;8:45 am]

LEON LOVELESS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 1, 1976.

Dated: June 17, 1976.

LEON LOVELESS.

[FR Doc.76-21825 Filed 7-27-76;8:45 am]

ROBERT J. MARCHETTI

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests durthe past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 1, 1976.

Dated: June 22, 1976.

ROBERT J. MARCETTI.

[FR Doc.76-21826 Filed 7-27-76;8:45 am]

JOHN A. MCMAHON

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 1, 1976.

Dated: June 29, 1976.

JOHN A. MCMAHON.

[FR Doc.76-21827 Filed 7-27-76;8:45 am]

KEITH E. SPENCER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 1, 1976.

Dated: June 21, 1976.

KEITH E. SPENCER.

[FR Doc.76-21828 Filed 7-27-76;8:45 am]

FRED M. TREFFINGER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 1, 1976.

Dated: June 23, 1976.

FRED TREFFINGER.

[FR Doc.76-21829 Filed 7-27-76;8:45 am]

CHARLES N. WHITMIRE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 28, 1976.

Dated: July 1, 1976.

CHARLES N. WHITMIRE.

[FR Doc.76-21830 Filed 7-27-76;8:45 am]

ROBERT W. WINFREE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 11, 1976.

Dated: June 16, 1976.

ROBERT N. WINFREE.

[FR Doc.76-21831 Filed 7-27-76;8:45 am]

Office of the Secretary

OUTER CONTINENTAL SHELF ADVISORY BOARD—NORTH ATLANTIC

Agenda for Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law No. 92-643, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A-63, Revised.

The North Atlantic Regional Board will meet during the period 10:00 a.m. to 3:00 p.m., August 12, in the Conference Room, 21st Floor, McCormack Building, 1 Ashbureton Place, Boston, Massachusetts.

The meeting will cover the following principal subjects:

1. Review of OCS leasing process.
2. OCS legislation.
3. Operating Orders for North Atlantic.
4. Draft Environmental Impact Statement on North Atlantic.
5. Nearshore/Onshore studies.
6. Recommendations for tract withdrawals and lease stipulations.
7. Other business.

This meeting is open to the public. Interested persons may make oral or

written presentations to the Board. Such requests should be made by August 6 to the North Atlantic Board Chairman:

Glenn Kumekawa,
Executive Assistant,
Policy and Program Review,
Office of the Governor,
Providence, Rhode Island 02903,
401/277-2072.

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 and C Streets, NW., Washington, D.C.

Dated: July 26, 1976.

ALAN D. POWERS,
Director, Office of OCS Program Coordination.

[FR Doc.76-21892 Filed 7-27-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

PASSAGE CANAL SALVAGE TIMBER SALE

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture has prepared a final environmental statement for the Passage Canal Salvage Timber Sale, USDA-FS-R10-FES(Adm) 76-03.

This environmental statement concerns a proposed timber sale involving the harvesting of 3,273 MBF (Million Board Feet) of timber.

This final environmental statement was transmitted to CEQ on July 19, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA—Forest Service, South Agriculture Building, Room 3231, 12th St. & Independence Avenue, SW., Washington, D.C. 20250.
USDA—Forest Service, Alaska Region, Federal Building, Juneau, Alaska 99802.
Forest Supervisor, Chugach National Forest, 121 W. Fireweed Lane, Suite 205, Anchorage, Alaska 99503.
Forest Supervisor, Chatham Area, Tongass National Forest, Federal Building, Sitka, Alaska 99835.
Forest Supervisor, Stikine Area, Tongass National Forest, Federal Building, Petersburg, Alaska 99833.
Forest Supervisor, Ketchikan Area, Tongass National Forest, Federal Building, Ketchikan, Alaska 99901.

A limited number of single copies are available upon request to Clay G. Beal, Forest Supervisor, Chugach National Forest, 121 W. Fireweed Lane, Anchorage, Alaska 99503.

Copies of the environmental statement have been sent to various Federal, State and local agencies as outlined in the CEQ guidelines.

Dated: July 19, 1976.

JOHN A. SANDOR,
Regional Forester, Alaska Region.

[FR Doc.76-21811 Filed 7-27-76;8:45 am]

DEPARTMENT OF COMMERCE

[Organization Order 25-2; Amendment 4]

MARITIME ADMINISTRATION

Organization and Functions

This order effective June 17, 1976 further amends the material appearing at 38 FR 30757 of November 7, 1973, 40 FR 16707 of April 14, 1975, 40 FR 31824 of July 29, 1975 and 40 FR 56707 of December 4, 1975. Department Organization Order 25-2, dated October 23, 1973, is hereby further amended, as shown below. The purpose of this amendment is to set up the Office of Maritime Manpower as an independent office reporting directly to the Assistant Secretary for Maritime Affairs.

1. A new Section 9. is added to read as follows:

"Section 9. Office of Maritime Manpower.

The Office of Maritime Manpower shall analyze and advise the Administration regarding labor management relations and problems as they apply to seamen, longshoremen and shipyard workers, including labor trends, potential areas of dispute, and the effects of technological changes and proposed legislation on labor; develop plans in cooperation with the Department of Labor to provide reserve maritime manpower for mobilization and other emergencies; obtain, analyze, and publish data for use of industry, labor, Government and the public concerning maritime employment, wages, hours, manning, working conditions, and manpower requirements; process nominations for appointment of midshipmen to the U.S. Merchant Marine Academy; administer a grant-in-aid program for the State Maritime Academies; determine need for and coordinate training programs for licensed and unlicensed personnel in maritime industries; coordinate technical maritime training assistance to foreign countries under international cooperative programs; and issue merchant marine decorations and awards."

2. *Section 12. Assistant Administrator for Maritime Aids.* In pen and ink in the introductory paragraph, delete the words "maritime manpower" and also delete paragraph .02 and renumber current paragraph .03 as .02.

3. Renumber current Sections 9.-14. as Sections 10.-15., respectively.

4. The organization chart attached to this amendment supersedes the organization chart dated June 2, 1975. A copy of the chart is on file with the original of this document with the Office of the FEDERAL REGISTER.

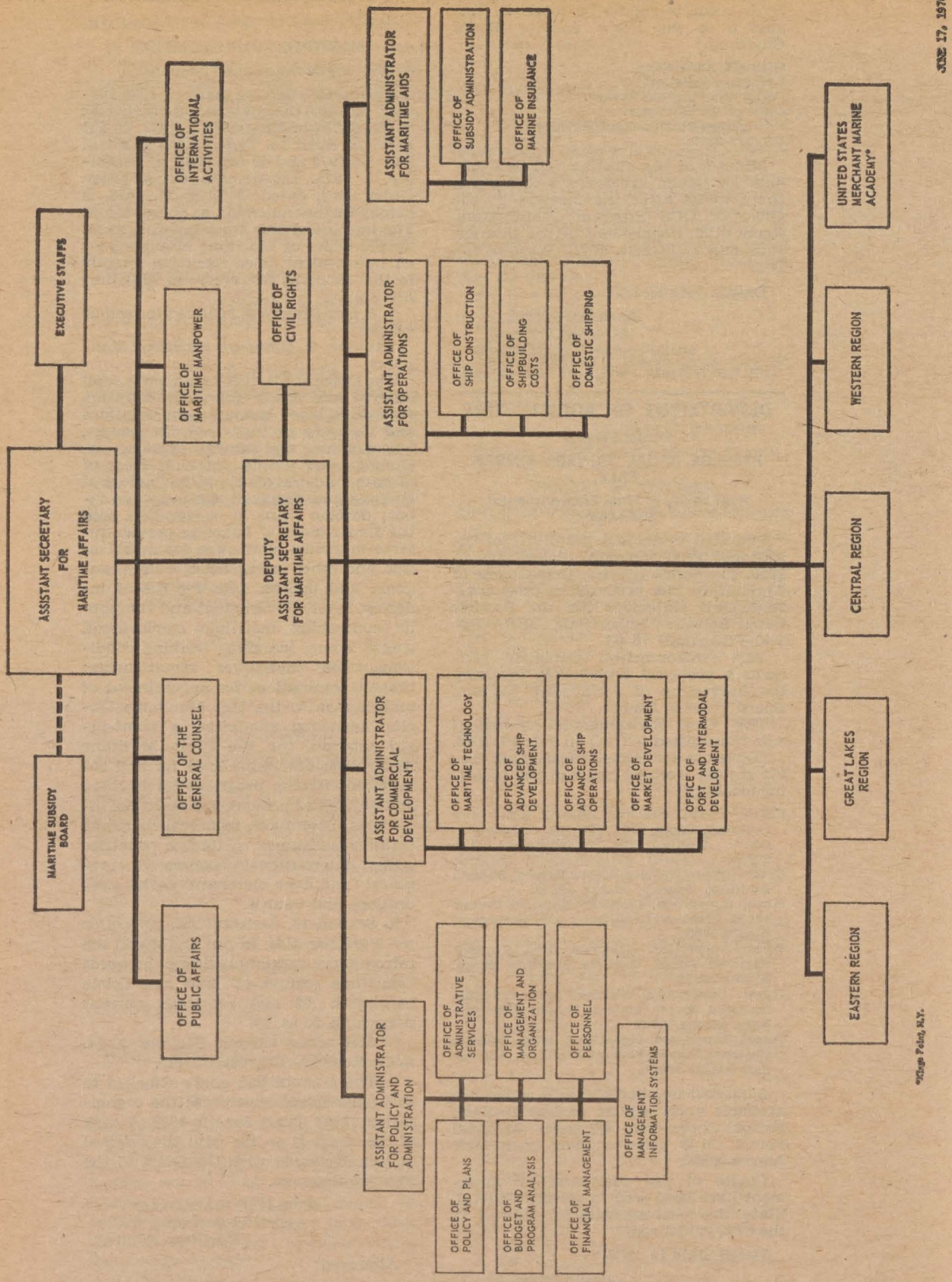
ROBERT J. BLACKWELL,
Assistant Secretary for Maritime Affairs.

Approved:

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

EXHIBIT I to DOO 25-2

U.S. DEPARTMENT OF COMMERCE
MARITIME ADMINISTRATION



JUNE 17, 1976

[FR Doc.76-21786 Filed 7-27-76;8:45 am]

[Organization Order 30–7B; Amendment 1]

NATIONAL TECHNICAL INFORMATION SERVICE

Organization and Functions

This order effective July 6, 1976 amends the material appearing at 40 FR 3627 of January 23, 1975. Department Organization Order 30–7B of December 31, 1974 is hereby amended as shown below. The purpise of this amendment is to provide a functional statement for the Financial Management Division newly established to carry out the combined functions of the former Accounting Control Division and the Budget Division and the added function of measuring and reporting on the validity of NTIS' objectives and the effectiveness of its policies.

1. *Section 7. Office of Administration.* In pen and ink delete the current paragraphs 7.01 and 7.02, renumber the current paragraph 7.03 as 7.02 and add a new paragraph 7.01 to read as follows:

".01 The *Financial Management Division* shall be responsible for providing technical direction, coordination, evaluation, and execution of financial management policies; establishing and maintaining an integrated budget including budget formulation and justification, revenue forecasts, expense and production budgets, cost standards, and programs for capital investment and financing; measuring performance against approved operating plans and standards; planning, developing, and implementing accounting procedures and systems; and, measuring and reporting on the validity of the objectives of NTIS and on the effectiveness of its policies, organization structure and procedures in attaining these objectives."

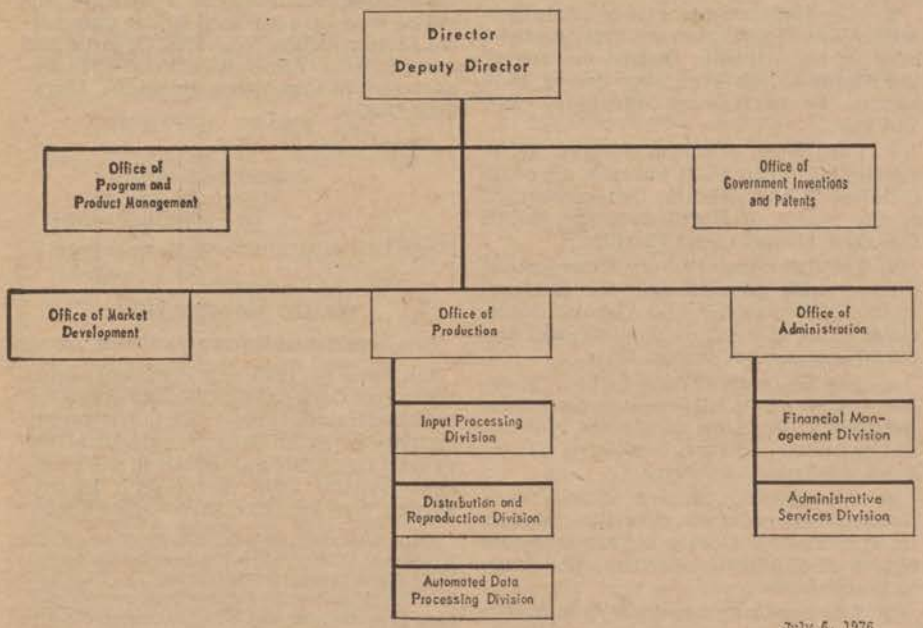
2. The attached organization chart supersedes the organization chart dated December 31, 1974. A copy of the chart is on file with the original of this document with the Office of the Federal Register.

WILLIAM T. KNOX,
Director, National Technical Information Service.
BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

Approved:
JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

ATTACHMENT TO DOO 30–7B

U.S. DEPARTMENT OF COMMERCE
National Technical Information Service



July 6, 1976

[FR Doc.76–21787 Filed 7–27–76;8:45 am]

[Organization Order 20–9]

OFFICE OF PUBLICATIONS

Organization and Functions

This order effective June 29, 1976 supersedes the materials appearing at 39 FR 27488 of July 29, 1974, 41 FR 6299 of February 12, 1976 and 41 FR 7972 of February 23, 1976.

Section 1. Purpose.

.01 This order prescribes the functions and organization of the Office of Publications.

.02 This revision incorporates the provisions of a previous amendment (paragraph 5.07), and provides for the transfer of responsibility for copying equipment to the Office of Publications from the Office of Administrative Services and Procurement (subparagraph 3.01e. and paragraph 5.05).

Section 2. Status and Line of Authority.

The Office of Publications, a Departmental Office, shall be headed by a Director, who shall report and be responsible to the Assistant Secretary for Administration.

Section 3. Functions.

.01 Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10–5 and subject to such policies and directives as the Assistant Secretary for Administration shall prescribe, the Office of Publications shall provide publications, printing (both conventional and microform), and related services to organizations of the Department. To carry out this responsibility, it shall perform the following functions:

a. Formulate policies on publishing, develop standards for the design and style of publications, and advise officials of the Department on these matters.

b. Provide printing and publications management services for organizations of the Department, which shall consist of performing design, graphics and photographic services, determining the method of printing for particular publications, printing (both conventional and cations, operating a central printing plant and a central micrographic service, managing the Working Capital Fund for printing and related activities, procuring all printing and related work, performing or overseeing publications mailing services, and undertaking sales promotion programs.

c. Review proposed and existing publications, including their pricing and distribution, and recommended elimination, consolidation, or other appropriate changes.

d. Conduct or coordinate, on behalf of all elements of the Department, all contacts with the Joint Committee on Printing and with the Government Printing Office, including the Superintendent of Documents, directly related to its authority as defined herein.

e. Review for approval all requests of elements of the Department for the purchase or rental of printing (conventional or microform), binding and related equipment, including copying machines.

.02 The publications, printing and related functions of the Office of Publications shall be construed to apply to all publications originally produced by elements of the Department and to all requisitions for printing from any organization of the Department.

Section 4. Specified Authority.

In addition to the authority implicit in and essential to carrying out the functions assigned the Office and related to the exercise of such functions, the Director, Office of Publications is hereby expressly delegated the authority to:

a. Approve or disapprove prices proposed by organizations of the Department for the sale of Commerce publications which are not sold through the Superintendent of Documents, except that the authority shall not apply to publications sold by the National Technical Information Service. (15 U.S.C. 1152 et seq.)

b. Determine for the Secretary whether the publication of a proposed periodical is necessary in the transaction of the public business required by law of the Department of Commerce and, when the Director so determines, certify to its necessity as required by Office of Management and Budget (OMB) Circular A–3; and submit over his signature requests to OMB for approval of any new or continuing periodicals of the Department, as further required by Circular A–3.

Section 5. Organization.

Under the direction and supervision of the Director, the functions of the Office shall be organized and carried out as provided below.

.01 *Office of Director.* The Director shall be the advisor to and serve as the representative of the Assistant Secretary for Administration on publishing, printing and related activities. In managing the Office, the Director shall be principally assisted by:

a. A *Deputy Director* who shall be the chief operating aide to the Director and shall perform the functions of the Director during the latter's absence.

b. An *Associate Director for Program Analysis* who shall be the principal staff aide to the Director and Deputy Director.

.02 The *Program Analysis and Support Staff* shall plan and direct the financial control operations related to the Department's central printing plant; develop guidelines for cost controls for all printing, binding and related activities; review and evaluate costs of printing, binding and related activities and develop uniform price schedules; and prepare required reports relating to the printing activities of the Office of Publications.

.03 The *Publications Standards and Development Division* shall review requests for new Commerce publications against policies and standards of the Department; advise organizations concerning publication possibilities; analyze the desirability of consolidation or elimination of existing publications; provide specialized guidance and editorial assistance to organizations of the Department on publications projects; review all publications material for conformance to publications policies and standards; and direct the Department's publications mailing and sales promotion programs.

.04 The *Design and Graphics Division* shall approve or provide central design, illustration, photographic, and graphics services and prepare or procure the necessary design, illustration, photographic and art work for all publications and other printed materials.

.05 The *Printing Division* shall procure or approve for procurement all printing and binding, and related services for all organizations of the Department; control and schedule all printing operations; operate the Department's central printing plant including its addressing and mailing services; manage a coordinated system of copying machine installations; and investigate and analyze new printing methods.

.06 The *Micrographic Division* shall operate the Department's central microform and related reproduction services facility.

.07 The *Composition Division* shall procure or authorize for procurement all composition and related services for all organizations of the Department; control and schedule all composition; provide planning and pre-planning services; operate the Department's computerized composition system and peripheral equipment; and investigate and evaluate all new composition systems.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.76–21785 Filed 7–27–76;8:45 am]

Office of the Secretary

EIGHT REGIONAL FISHERY MANAGEMENT COUNCILS

Establishment

Under the authority of, and as directed by Section 302 of the Fishery Conservation and Management Act of 1976 (the "Act"), Public Law 94–265, (6 U.S.C. 1852), eight Regional Fishery Management Councils have been established as follows:

1. *The New England Fishery Management Council* with purview over the fisheries in the Atlantic Ocean seaward of the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut.

2. *The Mid-Atlantic Fishery Management Council* with purview over the fisheries in the Atlantic Ocean seaward of the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, and Virginia.

3. *The South Atlantic Fishery Management Council* with purview over the fisheries in the Atlantic Ocean seaward of the States of North Carolina, South Carolina, Georgia, and Florida.

4. *The Caribbean Fishery Management Council* with purview over the fisheries in the Caribbean Sea and Atlantic Ocean seaward of the Virgin Islands and the Commonwealth of Puerto Rico.

5. *The Gulf of Mexico Fishery Management Council* with purview over the fisheries in the Gulf of Mexico seaward of the States of Texas, Louisiana, Mississippi, Alabama, and Florida.

6. *The Pacific Fishery Management Council* with purview over the fisheries in the Pacific Ocean seaward of the States of California, Oregon, Washington, and Idaho.

7. *The North Pacific Fishery Management Council* with purview over fisheries in the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska.

8. *The Western Pacific Fishery Management Council* with purview over the fisheries in the Pacific Ocean seaward of the State of Hawaii, American Samoa, and Guam.

The membership of each Council is prescribed in Section 302 of the Act. The objectives and duties of each Council shall include: the preparation and submission to the Secretary of Commerce, or his delegate, of a fishery management plan with respect to each fishery within its respective geographical area of authority; the preparation of comments on any application for foreign fishing transmitted to it under a governing international fishery agreement by the Secretary of State or his delegate, under the terms of the Act; the preparation of comments on any fishery management plan(s) or amendment(s) transmitted to it by the Secretary of Commerce or his delegate under subsection 304(c)(2) of the Act; the continuing review, and revision as appropriate, of the assessments and specifications contained in each fishery management plan for each fishery within its geographical area; the preparation and submission of certain reports to the Secretary of Commerce; and other duties and activities as prescribed by the Act.

Each Council shall publish and make available to the public a statement of its organization, practices, and procedures, which it has determined in accord with such uniform standards as the Secretary of Commerce or his designee may prescribe. Each Council shall operate within time frames prescribed by the Act; and the provisions of the Federal Advisory Committee Act shall also apply.

Copies of each Council's charter are being filed with committees of the Congress in accordance with the provisions of Section 9(c) of the Federal Advisory Committee Act. Inquiries regarding this notice may be addressed to the Committee Liaison Officer, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Maryland, 20852.

Dated: July 21, 1976.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.76–21784 Filed 7–27–76;8:45 am]

PUBLIC INFORMATION

Additional Material Available

On June 10, 1976, the President signed Executive Order 11920, "Establishing Executive Branch Procedures Solely for the Purpose of Facilitating Presidential Review of Decisions Submitted to the President by the Civil Aeronautic Board." Section 5 of this Executive Order states:

Departments and agencies outside of the Executive Office of the President which regularly make recommendations to the President in connection with Presidential review pursuant to section 801 shall, consistent with applicable law, including the provisions of Chapter 5 of Title 5 of the United States Code:

(a) Establish public dockets for all written communications (other than those requiring confidential treatment for defense or foreign policy reasons) between their officers and employees and private parties in connection with the preparation of such recommendations; and (b) prescribe such other procedures governing oral and written communications as they deem appropriate.

The U.S. Department of Commerce does make recommendations to the

President in section 801 cases and thus is required to establish the procedures called for by the Executive Order. Accordingly, the Department henceforth will make available to the public (1) all written communications described in subsection (a) above and (2) written summaries of the oral communications between representatives of the Department and private parties covered by subsection (b) above.

These materials, referred to as "DOC Non-Federal Communications Regarding CAB Decisions Proposed to the President," will be included in the Department's Freedom of Information Act Index of materials available to the public. Any interested person may have access to these materials by writing, calling, or appearing in person at the Central Reference and Records Inspection Facility, Room 7068, U.S. Department of Commerce, 14th Street between E Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone 377-5659. The rules and regulations governing the use of this facility are set forth in the Department's rules implementing the Freedom of Information Act, 15 CFR Part 4 (40 FR 11551-60, March 12, 1975).

Dated: July 23, 1976.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.76-21953 Filed 7-27-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

EMERGENCY SCHOOL AID

Closing Date for Receipt of Special Project Applications

A. *Closing date for receipt of applications.* The Commissioner hereby gives notice that, pursuant to section 708(a) of the Emergency School Aid Act ("ESAA"), 20 U.S.C. 1607(a), applications for Special Project grants are invited under that section, including applications from local educational agencies which adopted desegregation plans on or after June 1, 1976 for implementation during the 1976-77 school year. The Commissioner has determined that such agencies adopted plans too late to apply for ESAA assistance related to those plans in the most recent funding cycle and that grants to such agencies to meet needs incidental to the initial implementation of such plans will make substantial progress toward achieving the purposes of the statute.

Applications for assistance must be received by the U.S. Office of Education Application Control Center on or before August 30, 1976.

B. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Grants and Procurement Management Division, Application Control Center, 400 Maryland Avenue, SW., Washington 20202, Attention: 13:532B. An application sent by mail will be considered to have been received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than August 25, 1976 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Street, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m., Washington, D.C. time, on the closing date.

D. *Program information and forms.* Information and application forms may be obtained from the Bureau of School Systems, Equal Educational Opportunity Programs, Special Projects Branch, Room 2017, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

E. *Project periods.* Awards of assistance pursuant to this notice will be made for projects commencing on or after October 1, 1976, and terminating no later than June 30, 1977.

F. *Applicable regulations.* Awards of assistance pursuant to this notice will be subject to the regulations in 45 CFR Part 185, relating to the Emergency School Aid Act, and in particular to 45 CFR 185.94 through 185.94-4, relating to Other Special Projects. Further, except where inconsistent with Part 185, such awards will be subject to the Office of Education General Provisions Regulations in 45 CFR Parts 100 and 100a, relating to direct project assistance programs. In applying 45 CFR 185.94-3, relating to criteria for assistance, the Commissioner will take into account the particular need for assistance occasioned by the initial implementation of desegregation plans by local educational agencies.

(20 U.S.C. 1607(a), 1609(c))

(Catalog of Federal Domestic Assistance Number 13.532, Emergency School Aid—Special Projects)

Dated: July 21, 1976.

WILLIAM F. PIERCE,
(Acting) U.S. Commissioner of Education.

[FR Doc.76-21792 Filed 7-27-76;8:45 am]

Food and Drug Administration

[Docket No. 76N-0308]

COMPUTED TOMOGRAPHIC X-RAY SYSTEMS

Open Meeting

The Food and Drug Administration announces a meeting to be held August 11, 1976, to discuss the applicability of the diagnostic x-ray equipment performance standard to computed tomographic (CT) x-ray systems.

The current interest and activity in the area of CT x-ray systems were not envisioned during the promulgation of the diagnostic x-ray equipment performance standard in §§ 1020.30 to 1020.32 of Chapter I of Title 21 of the Code of Federal Regulations (21 CFR 1020.30 to 1020.32). The requirements of the diagnostic x-ray standard were designed primarily for equipment in which an image is formed by the direct conversion of the energy of an x-ray photon to a point on the image. CT x-ray systems, on the other hand, rely upon various reconstruction techniques to convert the detection of x-ray photons into an image.

One manufacturers' association has expressed concern that the present requirements of the diagnostic x-ray standard may not easily be applied to CT x-ray systems by virtue of their unique imaging systems. In particular, the field limitation and alignment provisions of the standard were identified by the association as possible problem areas, and a meeting with FDA was requested to discuss the applicability of the diagnostic x-ray standard to this type of equipment.

The Food and Drug Administration is currently examining the applicability of the diagnostic x-ray standard to CT x-ray systems. Hence, a meeting such as the one mentioned above would be useful both in interpreting the present requirements in relation to CT equipment and in formulating amendments to the standard; amendments would correct any deficiencies in the present requirements. Accordingly, an open meeting to discuss the subject will be held on August 11, 1976, at 9 a.m. in Rm. 400 of the Bureau of Radiological Health, 12720 Twinbrook Parkway, Rockville, MD 20852. Any person wishing to attend and/or participate in the meeting should contact Dr. Gregory Barone, Bureau of Radiological Health, (301) 443-3403.

A summary of the meeting will be prepared after the meeting and will be placed on display at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

Dated: July 26, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-22082 Filed 7-27-76;10:41 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[FDAA-516-DR; Docket No. NFD-349]

MISSOURI

Major Disaster and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on July 21, 1976, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Missouri resulting from severe storms and flooding beginning about July 2, 1976, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Missouri.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Francis X. Tobin, Regional Director of the Federal Disaster Assistance Administration, Region VII, to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Missouri to have been adversely affected by this declared major disaster;

The Counties of:

Barton
Jasper
Newton
Wayne

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administration.

Dated: July 21, 1976.

[FR Doc.76-21800 Filed 7-27-76;8:45 am]

[FDAA-515-DR; Docket No. NFD-350]

NEW YORK

Major Disaster and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on July 21, 1976, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of New York resulting from severe storms and flooding beginning about July 11, 1976, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of New York.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Thomas R. Casey, Regional Director of the Federal Disaster Assistance Administration, Region II, to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of New York to have been adversely affected by this declared major disaster:

The Counties of:

Broome
Oneida
Tioga
Tompkins
Warren

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: July 21, 1976.

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.76-21799 Filed 7-27-76;8:45 am]

[FDAA-3016-EM; Docket No. NFD-351]

NORTH DAKOTA

Emergency Declaration and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the Prseident under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on July 21, 1976, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of North Dakota is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of North Dakota. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Donald G. Eddy, Regional Director of the Federal Disaster Assistance Administration, Region VIII, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency;

The Counties of:

Dickey	McIntosh
Emmons	Ransom
La Moure	Richland
Logan	Sargent

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: July 21, 1976.

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.76-21799 Filed 7-27-76;8:45 am]

Office of the Secretary

[Docket No. D-76-451]

UNDER SECRETARY

Delegation of Authority

The Under Secretary of Housing and Urban Development, John B. Rhinelander, is hereby authorized to make such rules and regulations as may be necessary to carry out the functions, powers and duties of the Secretary of Housing and Urban Development.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d)).

Effective date: This delegation of authority shall be effective as of July 22, 1976.

CARLA A. HILLS,
Secretary of Housing and Urban Development.

[FR Doc.76-21845 Filed 7-27-76;8:45 am]

DELAWARE RIVER BASIN COMMISSION

DOW CHEMICAL COMPANY BULK CHEMICAL STORAGE FACILITY, BORDENTOWN TWP., N.J.

Notice of Intent

The Delaware River Basin Commission, in compliance with the National Environmental Policy Act of 1969 (PL 91-190) requiring Federal agencies to consider the probable environmental consequences of any major Federal action, has determined that for the following proposed action the Commission is the "lead agency" and will prepare the environmental impact statement required by law. The determination is based upon an environmental assessment by Commission staff.

The proposed action is the construction and operation by the Dow Chemical Co. of a bulk chemical storage and transfer facility on the Delaware River in Bordentown Township, New Jersey. Con-

struction will entail channel dredging, wetland filling and the building of 65 storage tanks and associated railroad and truck transfer facilities. Operation entails regular bulk delivery by special marine vessels, storage and transfer of more than 60 industrial chemicals, some of which are potentially hazardous.

A draft statement shall be prepared and made available to the public for review and comment as soon as practicable. Notification will be by mailings, the FEDERAL REGISTER, and other normal Commission methods.

The Commission would appreciate immediate knowledge of any other Federal agency engaged in the preparation of a statement on this proposed action or related action to avoid duplication.

A copy of the applicant's Environmental Report is available for use in the Commission's library by anyone interested in reviewing the project.

Those agencies, organizations and persons interested in receiving the draft environmental impact statement for this proposed action should advise the Commission's Environmental Unit.

Dated: July 22, 1976.

W. BRINTON WHITALL,
Secretary.

[FR Doc.76-21813 Filed 7-27-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 589-2]

ENVIRONMENTAL IMPACT STATEMENTS AND OTHER ACTIONS IMPACTING THE ENVIRONMENT

Availability of Agency Comments

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of June 1, 1976 and June 30, 1976.

Appendix I contains a listing of the draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number in title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classification of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV contains a listing of final environmental impact statements reviewed and not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, and the source of the EPA review as set forth in Appendix VI.

Appendix V contains a listing of proposed Federal agencies' regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. The listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of EPA reviews and comments listed in Appendices I, III, IV, and V.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions and EPA comments referenced herein may be obtained by writing the Public Information Reference Unit. (PM-213), Environmental Protection Agency, Room 2922, Waterside Mall, SW, Washington, DC 20460, telephone 202/755-2808. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: July 21, 1976.

JOE M. MCCABE,
Acting Director,
Office of Federal Activities.

APPENDIX I.—*Draft environmental impact statements for which comments were issued between June 1 and 30, 1976*

Identifying No.	Title	General nature of comments	Source for copies of comments
Corps of Engineers:			
DS-COE-A36164-OK	Wister Lake seasonal pool operation, Latimer County, Okla.	LO-1	G
DS-COE-A36350-MO	Stockton Lake, Sac River, proposed solution for downstream flooding, Cedar County, Mo.	ER-2	H
DS-COE-A36408-LA	Flood Control, Mississippi River and tributaries Tensas Basin, Red River backwater area, Tensas-Cocodrie pumping plant, La.	LO-2	G
DS-COE-A36433-PA	Tyrone flood protection project, PA-453 relocation and improvement, Little Juniata River and Bald Eagle Creek, Blair County, Pa.	ER-2	D
D-COE-B35003-RI	Proposed improvement dredging, Galilee Harbor, Point Judith Harbor and Pond, Narragansett, Washington County, R.I.	ER-2	B
D-COE-C36021-NY	Flood control, Tonawanda Creek watershed, N.Y.	LO-2	C
D-COE-E35025-GA	Military ocean terminal, dredging of turning basin and entrance channel, King Bay Cumberland Sound, Camden County, Ga.	ER-2	E
D-COE-E35026-MS	Vicksburg Harbor, Miss.	ER-2	E
D-COE-F05001-MI	Presque Isle generating station, units 7, 8, 9, Marquette County, Mich.	3	F
D-COE-F26001-MN	Reserve Mining Co. discharge structure permit, Lake County, Minn.	ER-2	F
D-COE-F36037-OH	Water Resource project, Logan and Nelsonville, Hocking River, Ohio.	LO-2	F
D-COE-G07008-OK	Oklahoma Gas & Electric Co. generating station, units 4 and 5, Muskogee County, Okla.	LO-2	G
D-COE-G34022-TX	Operation and maintenance programs, Town Bluff Dam, B. A. Steinhagen Lake, Sam Rayburn Dam and Reservoir, Neches-angelina Rivers basin, Tex.	LO-1	G
D-COE-G35001-TX	Sterling C. Robertson Dam and Limestone Lake, Navasota River, Leon, Limestone and Robertson Counties, Tex.	LO-2	G
DC-COE-G36002-TX	Burnett, Crystal and Scott Bays and vicinity, Baytown, Harris County, Tex.	LO-1	G
D-COE-H36028-00	Locks and Dam No. 26, Mississippi River (replacement), Alton, Ill.	ER-3	H
D-COE-K32010-HI	Oahu waterbourne commerce, proposed deep draft harbor, Barbers Point, Oahu, Hawaii.	LO-2	J
Department of Agriculture:			
D-AFS-E65011-MS	Timber management plan, Homochitto National Forest, Miss. (USDA-FS-R8-DES-ADM-76-12).	LO-2	E
D-AFS-G65014-AR	St. Francis unit plan, Ozark-St. Francis National Forest, Ark.	LO-2	G
D-AFS-J28001-UT	Proposed Long Park Reservoir, Daggett County, Utah (USDA-FS-DES (ADM)-R4-76-14).	LO-2	I
D-AFS-J65043-00	Land Use plan, North Slope planning unit, Wasatch National Forest, Utah and Wyo.	3	I
D-AFS-J65044-WY	Land use plan, Savage Run Unit, Medicine Bow National Forest, Carbon and Albany Counties, Wyo.	ER-2	I
D-SCS-F30036-IN	Rock Creek watershed, Cass and Carroll Counties, Ind. (USDA-SCS-EIS-WS-76-2(D)-IN).	LO-2	F
Department of Defense:			
D-UAF-G81008-OK	AWACS beddown, Tinker AFB, Oklahoma County, Okla.	ER-2	G
D-USA-A11054-00	Formation of U.S. Army Electronics Research and Development Command, N.J., Md. and Va.	LO-2	A
D-USA-J20005-CO	Carbon chloride disposition, Rocky Mountain Arsenal, Adams County, Colo.	LO-1	I
D-USN-J02000-WY	Development of Naval Petroleum Reserve No. 3, Teapot Dome Field, Matrona County, Wyo.	LO-2	I
Department of Interior:			
D-SFW-A82096-00	Use of avian stressing agent PA-14 for control of blackbirds and starlings at winter roosts.	ER-2	A
Department of Transportation:			
D-CGD-A52090-00	Seadock deepwater porg license application, construction and operation, 26 m off Freeport, Gulf of Mexico, Tex.	3	A
D-CGD-A52091-00	Loop deepwater port license application, construction and operation, 18 m off Grand Island, Gulf of Mexico, La.	ER-2	A

Identifying No.	Title	General nature of comments	Source for copies of comments
RD-CGD-A52092-00	Regulations for U.S. Tank vessels carrying oil in foreign trade and foreign trade vessels that enter the navigable waters of the United States.	LO-1	A
LD-DOT-A52089-00	Motor Carriers Reform Act (MCRA)	LO-2	A
D-FAA-E51015-TN	Henry County Airport, Paris, Tenn	LO-2	E
D-FHW-D40031-PA	L.R. 1078, Pilaski Highway, Philadelphia, Pa. (FHWA-PA-EIS-76-02-D).	EU-2	D
D-FHW-D40032-PA	L.R. 1010 section A,B,C, Mid-County Expressway, I-476, Delaware and Montgomery Counties, Pa.	ER-2	D
D-FHW-D40034-MD	Relocated MD-24, U.S. 1 to I-95, Bel Air, Harford County, Md.	ER-2	D
D-FHW-F40054-WI	WI-15, County Route "NN", WI-83, Waukesha County, Wis. (FHWA-EIS-WISC-74-16-D).	LO-2	F
D-FHW-F40058-MN	I-95, Washington County, Minn. (FHWA-MN-EIS-76-01-D).	LO-2	F
D-FHW-F40060-OH	OH-333 Relocation, U.S. 30 south to Relocation U.S. 62 north, Stark County, Ohio.	ER-2	F
D-FHW-F40061-IL	IL-412, Normal to La Salle, McLean, Woodford, Marshall and La Salle Counties, Ill. (FHWA-IL-EIS-76-02-D).	LO-1	F
D-FHW-F40062-MN	MN-43, Winnia County, Minn	ER-2	F
D-FHW-F40063-WI	Wausau-Wittenberg Rd., WI-29, Marathon and Shawano Counties, Wis.	LO-2	F
D-FHW-G40049-TX	I-20 and I-820, Tarrant and Parker Counties, Tex	LO-2	G
D-FHW-H40053-IA	IA-415, Polk County, Iowa	ER-2	H
D-FHW-H40054-IA	IA-44, Harlan, Shelby County, Iowa (FHWA-IOWA-EIS-76-03-D).	LO-1	H
D-FHW-J40019-UT	I-15, through Bear Valley, Box Elder County, Utah	LO-1	I
D-FHW-J40020-WY	Cheyanne Federal aid urban system, north portion, Laramie, County, Wyo.	LO-1	I
D-FHW-J40021-MT	U.D. 91 spur, Gallatin and Madison Counties, Mont. (FHWA-MT-EIS-76-01-D).	ER-2	I
D-FHW-J40022-ND	U.S. 2, Leeds to Church Ferry, Benson County, N. Dak.	ER-2	I
D-FHW-J40023-CO	CO-13, through Rifle Project F, Garfield County, Colo.	LO-1	I
D-UMT-F54001-MN	Bus storage and maintenance facility, Bloomington, Minn.	LO-1	F
Federal Power Commission:			
D-FPC-K05004-CA	Big Creek Project Nos. 67 and 120, installation of penstock and generating unit and limited recreation facilities, upper San Joaquin River Basin, Calif.	ER-2	J
Department of Housing and Urban Development:			
D-HUD-C25002-PR	Aquisition of 25 acres for solid waste disposal facilities (CDBG), Salinas, P.R.	ER-2	C
D-HUD-E28010-TN	Dekalb County rural potable water lines (CDBG), Smithville, Tenn.	ER-2	E
D-HUD-E85012-GA	Bedford Pine urban renewal area, Atlanta, Gulton County, Ga. (HUD-R04-EIS-75-06-D).	ER-2	E
D-HUD-F85010-OH	Construction of sewers on 617 acres for industrial economic development (CDBG), Cuyahoga County, Ohio.	LO-2	F
D-HUD-G85012-TX	Proposed Princeton Park subdivision, Rowlett, Dallas County, Tex.	LO-1	G
D-HUD-G85013-LA	Woodmere subdivision, Marrero, Jefferson Parish, La	LO-1	G
D-HUD-J85004-00	Stoney Creek, a planned development, Jefferson County, Colo.	ER-2	I
Department of Health, Education and Welfare:			
D-NIH-D81006-MD	Revised master plan, Bethesda Reservation, National Institutes of Health, Bethesda, Md.	ER-1	D
Nuclear Regulatory Commission:			
D-NRC-A0015-FL	Manufacture of floating nuclear power plants, offshore power systems, docket No. STN 50-437, Blount Island, Jacksonville, Fla.	3	A
D-NRC-F06001-IN	Marble Hill nuclear generating station, units 1 and 2, Jefferson County, docket Nos. STN 50-546, 50-547, Ind. (NUREG-0048).	ER-2	F
Veterans' Administration:			
D-VAD-F81003-WI	New wing addition, Veterans' Administration Hospital, Madison, Dane County, Wis.	LO-2	F

APPENDIX II

DEFINITIONS OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

Environmental impact of the action

LO—Lack of Objection

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the impact statement

Category 1—Adequate

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately an-

alyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

APPENDIX III.—*Final environmental impact statements for which comments were issued between June 1 and 30, 1976*

Identifying No.	Title	General nature of comments	Source for copies of comments
Corps of Engineers:			
F-COE-A32457-OO	Alabama and Coosa Rivers, operation and maintenance, Alabama and Georgia.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA requested the COE prepare a supplemental EIS to provide sufficient water quality data.	E
F-COE-C07001-VI	Proposal to construct a 200,000 BPCD refinery and marine platform terminal, Virgin Islands Refinery Corporation, St. Croix, V.I.	EPA's concerns were adequately addressed in the final EIS.	C
F-COE-C36010-NY	Flood control project, Saw Mill River Basin, Chappaqua, N.Y.	do	C
F-COE-E35017-SC	Amoco Chemicals Corp., application for permit, dredging Cooper River and adjacent waters, constructing a chemical plant and facilities, Berkeley County, S.C.	do	E
F-COE-F32023-OO	Operation and maintenance, pools 24, 25, and 26, Mississippi and Illinois rivers.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA reemphasized the need for greater flexibility in the handling and disposal of dredge spoil to reduce adverse environmental impacts. Also, additional expenditures are needed for longer pipelines, booster and pump-out equipment, and transport barges to increase the flexibility of O. & M. activities.	F
Department of Agriculture:			
F-AFS-J02003-MT	Oil and gas lease application exploration and development, Flathead National Forest, Flathead County, Mont.	EPA continues to have environmental reservations on the proposed project because the potential exists to damage the North and South Fork Areas. Also, EPA identified areas which need additional clarification such as secondary impacts and comprehensive management plans.	I
F-AFS-J65023-UT	Monticello planning unit, Manti-Lasal National Forest, San Juan County, Utah.	EPA's concerns were adequately addressed in The final EIS.	I
F-AFS-J65024-MT	Multiple-use plan, Dickey Sunday planning unit, Kootenai National Forest, Lincoln and Flathead Counties, Mont.	EPA continues to have environmental reservations on the proposed project.	I
F-REA-K07001-AZ	Arizona Electric Power Cooperative, Apache units 2, 3, and related transmission lines, Greenlee, Graham, and Pima Counties, Ariz.	Generally, EPA's concerns were adequately addressed in the final EIS.	J
F-SCS-D36014-OO	Upper Choptank River watershed, Delaware and Maryland.	EPA's concerns were adequately addressed in the final EIS.	D
F-SCS-F36030-IN	Lost River watershed, Dubois, Lawrence, Martin, Orange, and Washington Counties, Ind.	EPA's concerns were adequately addressed in the final EIS. Also, EPA recommended that appropriate State and local authorities implement proper land-use controls to protect the quality of water used for water supply by the city of Paoli.	F
F-SCS-F36034-OH	Watershed protection and flood protection, Beaver Creek, Hancock, Henry, Putnam and Wood Counties, Ohio.	EPA's concerns were adequately addressed in the final EIS.	F
Department of Defense:			
F-USA-D81004-VA	Fort Belvoir family housing project, Fairfax County, Va.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA made several comments concerning air and water quality.	D

Identifying No.	Title	General nature of comments	Source for copies of comments
Department of the Interior:			
F-BLM-A02087-OO.	Proposed 1976 Outer Continental Shelf (OCS), oil and gas lease sale No. 40, offshore the Mid-Atlantic Coast.	EPA restated its environmental concerns regarding vessel traffic shifting bottom sediments, exposed pipelines, and onshore effects. EPA recommended several protective measures and requested review of advance drafts of proposed lease stipulations.	A
F-BLM-J07001-UT..	Kaiparowits power project, Kaiparowits Plateau, Utah (FES 76-12).	EPA determined that the action as proposed in the final EIS would be unsatisfactory from the standpoint of environmental quality based on its belief that the department would violate its own substantive environmental requirements which relate to EPA's jurisdiction and expertise by not utilizing its statutory responsibilities to protect national parklands from degradation, and that the significant environmental degradation which could occur if the project were constructed could be mitigated by other feasible alternatives. Accordingly EPA referred the project to the Council on Environmental Quality and recommended to the Interior Department that no approval of the project should be made until the issues identified have been satisfactorily resolved, and that future EIA's prepared by Interior on coal-fired power projects in the Southwest consider regional and cumulative impacts. EPA's detailed comments focused on air quality impacts on parklands, visual quality, trace element emissions, mining emissions, mercury contamination in Lake Powell, energy conservation and demand, and other areas.	A
F-IBR-J34002-CO...	Narrows unit, Pick-Sloan Missouri Basin program, Morgan County, Colo.	EPA expressed environmental reservation over the construction of the Narrows Dam in northeastern Colorado. EPA's concerns included: (1) The lack of evidence supporting a contention that accelerated eutrophication would not occur; (2) recreation benefits claimed in light of the questionable bacteriological status of the South Platte River water flowing into the reservoir; (3) a potentially significant seepage problem; and (4) the substantial environmental and social disruption that would result from construction of the dam.	I
RF-IGS-A02074-OO.	Regulations pursuant to geological and geophysical explorations of the Outer Continental Shelf (OCS), (FES 76-23).	EPA's concerns were adequately addressed in the final EIS.	A
F-IGS-J01005-WY..	Plan of mining and reclamation by Sun Oil Co., Eastern Powder River Basin, Cordero Mine, Gillette, Campbell County, Wyo.	EPA's review of the final EIS concluded that the statement does not reflect sufficient environmental data to provide a basis upon which EPA can conclude that compliance with Federal and State regulations will be assured.	I
F-SFW-D84002-WV.	National Fish and Wildlife Health Research Laboratory, Leetown, W. Va. (FES 76-18).	EPA's concerns were adequately addressed in the final EIS.	D
Department of Transportation:			
F-DOT-A41355-MD.	I-70, east of Ijamsville Rd. to west of Montgomery River, Frederick County, Md.	do	D
F-FAA-E51003-FL..	Tallahassee Municipal Airport, Leon County, Fla.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA recommended a supplement to the impact statement to be issued delineating noise abatement measures.	E
F-FAA-F51003-IN..	Marion Municipal Airport, runway extension, Grant County, Ind.	EPA's concerns were adequately addressed in the final EIS.	F
F-FHW-A42124-VA.	I-66, Front Royal to Gainsville, Warren, Fauquier, and Prince William Counties, Va.	EPA's concerns were adequately addressed in the final EIS. However, EPA suggested that consideration might be given to the use of a noise barrier at a potentially noise sensitive area.	D
F-FHW-A50120-NY.	I-787, Hoosick Street Bridge, Albany and Rensalaer Counties, N.Y.	EPA's concerns were adequately addressed in the final EIS.	C
F-FHW-D40006-MD.	I-95, from I-395 to I-83, from Hanover St. to O'Donnell St., Fort McHenry crossing, Baltimore, Md. (FHWA-MD-EIS-74-01-F).	do	D
F-FHW-F40029-OH.	Appalachian corridor D, Albany through Athens, Athens County, Ohio.	EPA's review of the final EIS concluded the statement to be unresponsive to EPA's comments regarding noise impacts associated with the projects. If highway design cannot offer sufficient mitigation, residences that will experience an increase of 15 dBA or Greater over existing ambient noise levels should be compensated. EPA suggested that the opportunity for soundproofing, housing setback, or property acquisition be provided for residences based on their incompatibility with the highway development.	F

Identifying No.	Title	General nature of comments	Source for copies of comments
Energy Research and Development Administration:			
F-ERD-A00112-00	U.S. nuclear power export activities (ERDA-1542).	EPA continues to have environmental reservations on the proposed action. EPA recommended ERDA provide more information in the areas of: (1) major impacts which could result from reprocessing; (2) encouraging recipient nations to examine the environmental impacts of these actions in siting nuclear facilities and establishing a uniform language in all export agreements; and (3) the inclusion of alternative policies for influencing recipient nations to follow the United States lead in critical environmental protection and policy requirements.	A
Department of Housing and Urban Development:			
F-HUD-C85003-PR.	Brisas de Loiza Development, Canovanas, P.R.	EPA's concerns were adequately addressed in the final EIS.	C
F-HUD-D89016-PA.	University City Neighborhood development program, areas 3, 4, and 5, Philadelphia, Pa.	EPA's review of the final EIS concluded the statement to be unresponsive to EPA's comments on the draft EIS regarding air quality. EPA recommended a meeting with HUD to discuss and resolve these issues.	D
F-HUD-F85008-OH.	Depot St. improvement program (CDBG), Berea, Ohio.	EPA's concerns were adequately addressed in the final EIS.	F
F-HUD-K85002-CA.	Residential development, neighborhood 1, Hercules, Contra Costa County, Calif. (HUD-R09-EIS-76-F).	EPA's review of the final EIS indicates the statement to be unresponsive to EPA's comments on the draft EIS regarding air quality impacts of the proposed project. Furthermore, EPA continues to have environmental reservations and recommends resolution of these concerns before proceeding with the proposed action.	
F-NRC-A06149-NY	Jamesport nuclear power station, units 1 and 2, Long Island Lighting Co., dockets Nos. STN 50-516 and 517, Riverhead, N.Y.	EPA continues to have environmental reservations concerning the proposed Jamesport facility. Specifically, the effects of the condenser cooling system on the biota of Long Island sound and the transportation of radioactive imaterials through densely populated areas nas not been adequately addressed in the final EIS. In addition, EPA is concerned with the recently adopted practice of substituting radiological population dose assessments for individual dose calculation in EIS's nuclear facilities.	A

APPENDIX IV.—*Final environmental impact statements which were reviewed and not commented on between June 1 and 30, 1976*

Identifying No.	Title	Source of review
Corps of Engineers:		
F-COE-A30059-ME	Jonesport Harbor, navigation project, Jonesport, Maine	B
FS-COE-A32488-00	Locks and dam No. 26, Mississippi River, Mo. and Ill.	H
FS-COE-B35001-ME	Frenchboro Harbor, improvement dredging project, Long Island, Maine.	B
F-COE-E34002-00	Lake Seminole and Jim Woolruff Lock and Dam, operation and maintenance, Alabama, Florida, and Georgia.	E
F-COE-E60002-00	Little River development plan, Clark Hill Lake, Georgia and South Carolina.	E
F-COE-G34007-LA	Operation and maintenance, three navigation projects, Lake Borgne vicinity, La.	G
F-COE-G34013-NM	Operation and maintenance, implementation of master plan, Jemez Canyon Dam, Rio Grande, Sandoval County, N. Mex.	G
F-COE-G36034-OK	Joe Creek local protection project, Tulsa County, Okla.	G
F-COE-H32000-00	Mississippi River between the Ohio and Missouri Rivers, regulating works, Missouri and Illinois.	H
Department of Agriculture:		
F-AFS-B61004-NH	Kancamagus unit plan, White Mountain National Forest, Carroll and Gafton Counties, N.H. (USDA-FS-R9-FES-ADM-76-01).	B
F-AFS-J65018-CO	Timber management plan, San Juan National Forest, Colo.	I
F-SCS-B36002-NH	Indian Brook watershed, Coos County, N.H (USDA-SCS-EIS-WS-(ADM)-75-1-F-NH).	B
F-SCS-C36006-NY	Oak Orchard Creek watershed, Genessee and Orleans Counties, N.Y.	C
F-SCS-D36015-PA	Neshaminy Creek watershed, Bucks and Montgomery Counties, Pa. (USDA-SCS-EIS-WS-(ADM)-76-1-D-PA).	D
F-SCS-G36024-TX	Three Mile and Sulfur Draw watershed, Culberson and Hudspeth Counties, Tex.	G
F-SCS-G36038-AR	Cadron Creek watersheds, Cleburne, Conway, Faulkner, Van Buren and White Counties, Ark.	G
Department of Commerce:		
F-NOA-K90001-HI	Waimanu Valley proposed estuarine sanctuary, grant award, Hawaii County Hawaii.	I
Department of Defense:		
F-USN-A11047-00	Abrasive blasting of naval ship hulls	A
Department of Interior:		
F-BOR-E61017-NC	South Fork New River National wild and scenic river, Ashe and Alleghany Counties, N.C.	E
Department of Transportation:		
FA-DOT-A41101-KS	I-435, Johnson and Wyandotte Counties, Kan.	H
NF-FAA-E51013-KY	Madisonville Municipal Airport, Madisonville, Ky.	E
FS-FHW-A41199-KS	KS-7 from junction KS-12 north junction KS-10, Johnson County, Kans.	H

Identifying No.	Title	Source of review
F-FHW-A42158-CA	CA-985, south fork road mileposts 5 to 7, Six Rivers National Forest, Del Norte County, Calif. (FHWA-FPCA-EIS-74-02-F).	J
F-FHW-A42244-AL	Relocation U.S. 431, Wedowee to Hollis School, Tallapoosa River, Randolph and Cleburne Counties, Ala. (FHWA-ALA-EIS-74-04-F).	E
F-FHW-A42408-00	Pan American, Darien Gap, Toucmen, Panama to Rio Leon, Colombia (FHWA-PA/COL-EIS-76-1-F).	A
F-FHW-E40025-GA	Projects M-3059 (1) and SU-0761 (6), Bibb County, Ga. (FHWA-GA-EIS-74-03-F).	E
NF-FHW-E40066-NC	U.S. 52, Welcome to Lexington, Davidson County, N.C.	E
F-FHW-G40011-TX	U.S. 84, Roscoe, Nolan County, Tex.	G
F-FHW-G40043-TX	Metropolitan Highway 50, TX-50, Tarrant County, Tex.	G
F-FHW-H40040-NB	U.S. 83, North Platte south, Lincoln County, Nebr.	H
F-UMT-B54000-MA	South Quincy area transit station and related highway and parking facilities, South Quincy, Norfolk County, Mass.	B
Federal Power Commission:		
F-FPC-A03059-00	Texas Gas Transmission Corp., docket No. RP72-64, natural gas curtailment plan.	A
General Services Administration:		
F-GSA-E81008-AL	Federal Youth Center, Talladega, Ala.	E
Department of Housing and Urban Development:		
F-HUD-E85009-FL	Cannongate, title X, Palm Beach County, Fla. (HUD-R09-EIS-76-03-F).	E
F-HUD-H24000-IA	Guernsey's Orange View sanitary sewer outfall, city of Waterloo, Black Hawk County, Iowa.	H
F-HUD-K34003-CA	Brawley County water district, water and sewer project (CDBG), Imperial County, Calif.	J
F-HUD-K89012-CA	Santa Barbara east side storm drain, Rehabilitation and Restoration, Santa Barbara, Calif.	J
National Aeronautics and Space Administration:		
F-NAS-K12001-CA	Overland transport of NASA Space Shuttle, Palmdale to Edwards AFB, Los Angeles and Kern Counties, Calif.	J

APPENDIX V.—*Regulations, legislation, and other Federal agency actions for which comments were issued between June 1 and June 30, 1976*

Identifying No.	Title	General nature of comments	Source for copies of comments
Department of the Interior:			
R-BLM-A01036-00	43 CFR pt. 3500, federally owned mineral deposits, testing permits.	EPA expressed reservations concerning the proposed rules' failure to establish a relationship with the overall EMARS program. Other comments related to the confidentiality provisions, environmental reviews, and implementation.	A
A-IGS-A02091-00	OCS safety device inventory reporting, Gulf of Mexico.	EPA supported the proposed program, but indicated the need for public disclosure provisions.	A
A-IGS-A02095-00	Gulf of Mexico Outer Continental Shelf (OCS), safety device failure and activity reporting system, intent to develop.	EPA suggested that the system incorporate a direct informational flow to EPA regarding safety device failure information.	A
Department of Health, Education, and Welfare:			
R-FDA-A88013-00	21 CFR pt. 801, hearing aid devices, professional and patient labeling and conditions for sale, docket No. 76N-0019.	EPA generally endorsed the proposed rule and suggested several improvements in it.	A
Federal Energy Administration:			
R-FEA-A04052-00	10 CFR pt. 700, rationing contingency plan, establish contingency gasoline and diesel fuel rationing regulations.	EPA requested that FEA address the potential for firms to unnecessarily maintain or increase the vehicle-miles traveled by their automobile fleets in order to qualify for gasoline ration credits. Such a practice would effect an increase in air pollutant emissions and could have an adverse impact on the environment.	A
R-FEA-A04551-00	10 CFR pt. 212, 3d stage for implementation of the energy policy and conservation Act, additional incentives for domestic crude oil production.	EPA believes that negative environmental impacts may be generated by certain techniques used for the enhanced recovery of crude oil. The widespread development of steam displacement to recover low gravity crude oils could have a significant impact on air quality. EPA suggested the availability of a number of control technologies and strategies to mitigate the air quality impacts of an accelerated enhanced recovery program.	A
Department of State:			
R-STA-A86099-00	22 CFR pt. 216, environmental procedures, proposed addition.	EPA recommended the proposed regulation be specific with regard to procedures and criteria which are peculiar to aid procedures. EPA also suggested that the proposed procedures adopt a process for analyzing alternatives including the no action alternative.	A

APPENDIX VI

SOURCE FOR COPIES OF EPA COMMENTS

A. Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall, SW, Washington, D.C. 20460.

B. Director of Public Affairs, Region I, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

C. Director of Public Affairs, Region II, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.

D. Director of Public Affairs, Region III, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

E. Director of Public Affairs, Region IV, Environmental Protection Agency, 1421 Peachtree Street, NE, Atlanta, Georgia 30309.

F. Director of Public Affairs, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

G. Director of Public Affairs, Region VI, Environmental Protection Agency, 1600 Patterson Street, Dallas, Texas 75201.

H. Director of Public Affairs, Region VII, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.

I. Director of Public Affairs, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.

J. Director of Public Affairs, Region IX, Environmental Protection Agency, 100 California Street, San Francisco, California 94111.

K. Director of Public Affairs, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

[FR Doc.76-21746 Filed 7-27-76;8:45 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

[25636]

UNITY STATE BANK

Suspension of Trading

It appearing to the Federal Deposit Insurance Corporation that an extension of the suspension of trading in the common stock of Unity State Bank, Dayton, Ohio, being traded otherwise than on a national securities exchange, ordered by the Federal Deposit Insurance Corporation on July 6, 1976, is required in the public interest and for the protection of investors:

Therefore, pursuant to Sections 12(i) and 12(k) of the Securities Exchange Act of 1934, the suspension of trading in such securities otherwise than on a national securities exchange is extended for the period beginning at 9:00 a.m. (e.d.t.) on July 27, 1976 through August 5, 1976.

By order of the Board of Directors, July 23, 1976.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.76-21844 Filed 7-27-76;8:45 am]

FEDERAL MARITIME COMMISSION

[Agreements Nos. 10247, 10248]

FARRELL LINES, INC. ET AL.

Agreement Filed; Enlargement of Time for Comment

Notice of the filing of Agreements Nos. 10247 and 10248 was published in the FEDERAL REGISTER of July 7, 1976, (Vol. 41, No. 131, 41 FR 27872).

Time for filing comments on these agreements is hereby enlarged to and including August 3, 1976.

Dated: July 23, 1976.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-21835 Filed 7-27-76;8:45 am]

[Independent Ocean Freight Forwarder License No. 629-R]

JOHN A. CONKEY & CO.

Order of Revocation

By letter dated June 16, 1976, John A. Conkey & Company, 15 Broad Street, Boston, Mass. 02109, was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 629-R would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before July 16, 1976.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

John A. Conkey & Company has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) section 5.01(c) dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 629-R issued to John A. Conkey & Co., be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 629-R be and is hereby revoked effective July 16, 1976.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon John A. Conkey & Company.

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc.76-21837 Filed 7-27-76;8:45 am]

LAVINO SHIPPING CO. ET AL.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before August 17, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Francis A. Scanlan, Esquire, Deasey, Scanlan & Bender, Ltd., Suite 2900, Two Girard Plaza, Philadelphia, Pennsylvania 19102.

Agreement No. T-2695-4, between Lavino Shipping Company (Lavino) and Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines Ltd., Nippon Yusen Kaisha and Yamashita-Shinnihon Steamship Co., Ltd., (the Lines), modifies the basic agreement between the parties under which Lavino furnishes the Lines comprehensive container stevedoring, terminal, and LCL services at its Packer Avenue Marine Terminal, located in Philadelphia, Pennsylvania. The purpose of the modification is to extend the agreement for one year beyond October 1, 1977, thereafter, renewal will be on a year-to-year basis with the Lines giving notice to Lavino thirty days prior to the expiration of the current term.

Dated: July 23, 1976.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-21838 Filed 7-27-76;8:45 am]

VALLS, EVANS & NEWTON, INC. ET AL.

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Valls, Evans & Newton, Inc., Suite 505, Melrose Bldg., 1121 Walker Street, Houston, Texas 77002, Officers: Richard R. Walls, President/Director, Wyatt Jernigan, Jr., Vice Pres./Director, John W. Newton, Jr., Vice Pres./Director, A. O. Evans, III, Secretary/Treasurer.

James T. Valliere, d.b.a. Valco Forwarding Co., 3201 Redbluff, Suite 85H, Pasadena, TX 77503.

Lynne E. Majewski, d.b.a. Exports Limited, 24 Hunters Lane, R.R. #1, Barrington, IL 60010.

Thelma Quilliam, Paul Zavattero and Theresa Buck, a partnership d.b.a. Aeromarine Forwarding, 225 Harris Crt., So. San Francisco, CA 94080.

Dated: July 23, 1976.

By the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-21836 Filed 7-27-76;8:45 am]

FEDERAL POWER COMMISSION

[Rate Schedule Nos. 7, *et al*]

AZTEC OIL & GAS CO., ET AL.

Rate Change Filings Pursuant to Commission's Opinion No. 699-H

JULY 21, 1976.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increased rates to the application 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 August 2, 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.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Filing date	Producer	Rate schedule No.	Buyer	Area
June 29, 1976	Aztec Oil & Gas Co., 2000 First National Bank Bldg., Dallas, Tex. 75202.	7	Southern Union Gathering Co.	Rocky Mountain.
June 30, 1976	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	46	Cities Service Gas Co.	Hugoton-Anadarko.
July 6, 1976	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	371	United Gas Pipe Line Co.	
July 8, 1976	American Petrofina Co. of Texas, P.O. Box 2159, Dallas, Tex. 75221.	30	Trunkline Gas Co.	Texas gulf coast.
July 9, 1976	J. M. Huber Corp., 2000 West Loop South, Houston, Tex. 77027.	34	Natural Gas Pipeline Co. of America.	Hugoton-Anadarko.

[FR Doc.76-21748 Filed 7-27-76;8:45 am]

[Docket Nos. G-6342, *et al.*]

CONTINENTAL OIL CO., ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

JULY 20, 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 August 13, 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 to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-6342 6-14-76 [2]	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	El Paso Natural Gas Co., Lea County, N. Mex. (various fields).	19.560996	15.025
G-7115 C 6-7-76	Coastal States Gas Producing Co., 5 Greenway Plaza East, Houston, Tex. 77046.	Tennessee Gas Pipeline, a division of Tenneco, Inc., Cologne Field, Victoria County, Tex.	[2] [8] 10.808878 [3] [8] 10.88418 [4] [8] 14.78069 [5] [8] 14.83611 [6] [8] 18.781 [7] [8] 56.090	14.65 14.65 14.65 14.65 14.65 14.65
G-7115 C 5-17-76	Coastal States Gas Producing Co.	do	[9] 10.88418 [4] 14.78069 [5] 14.83611 [6] 18.781 [7] 56.090	14.65 14.65 14.65 14.65 14.65
G-14950 D 7-6-76	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Transwestern Pipeline Co., Worsham and Waha Fields, Reeves County, Tex.	[10]	
CI63-563 D 6-30 76	The California Co., a Division of Chevron Oil Co. (operator.), et al.	Southern Natural Gas Co., Knoxo Field, Marion and Walthall Counties, Miss.	[11]	
CI64-708 D 7-6-76	Gulf Oil Corp.	Transwestern Pipeline Co., Worsham Ellenburger Field, Reeves County, Tex.	[10]	

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI65-467 D 7-6-76	do	Transwestern Pipeline Co., Worsham Field, Reeves County, Tex.	(18)	
CI67-1455 B 6-28-76	W. R. Yinger, In the matter of, 950 National Foundation Life Bldg., Oklahoma City, Okla. 73102.	Burmah Oil & Gas Co., Northeast Lovedale, Woods, Okla.	(12)	
CI74-528 C 7-6-76	Exon Corp., P.O. Box 2180, Houston, Tex. 77001.	El Paso Natural Gas Co., Sand Hills Field, Crane County, Tex.	[4] 62.43	14.65
CI75-86 B 6-21-76	Signal Petroleum, 2800 North Loop West, Houston, Tex. 77092.	Transcontinental Gas Pipe Line Corp., Second Bayou Field, Cameron Parish, La.	(16)	
CI76-599 B 6-7-76	Oil Lease Operating Co., 2223 Westheimer, Houston, Tex. 77098.	Tennessee Gas Pipeline Co., Coldspring Field, San Jacinto County, Tex.	(20)	
CI76-608 B 6-9-76	Coastal States Gas Producing Co.	South Texas Natural Gas Gathering Co., Penitas Field, Hidalgo County, Tex.	(13)	
CI76-609 B 6-9-76	do	Transcontinental Gas Pipeline Corp., Jones Creek Field, Wharton County, Tex.	(17)	
CI76-614 B 6-15-76	Exxon Corp.	Skelly Oil Co., Cooper Jal Field, Lea County, N. Mex.	(14)	
CI76-616 A 6-15-76	Florida Gas Exploration Co., P.O. Box 44, Winter Park, Fla. 32789.	Transcontinental Gas Pipe Line Corp., block 246 Field, ship shoal area (south addition) offshore Louisiana.	[4] [15] [16] 55.0	15.025
CI76-629 A 6-21-76	Continental Oil Co.	Tennessee Gas Pipeline Co., West Cameron block 66, offshore Louisiana.	[4] 53.551418	15.025
CI76-631 C 6-23-76	Pennzoil Offshore Gas Operators, Inc., P.O. Box 2967, Houston, Tex. 77001.	United Gas Pipe Line Co., block 532, West Cameron area, south addition, offshore Louisiana.	[4] [17] $1.76225	15.025
CI76-632 C 6-23-76	Pennzoil Offshore Gas Operators, Inc.	United Gas Pipe Line Co., block 335, East Cameron area, south addition, offshore Louisiana.	[4] [17] $1.76225	15.025
CI76-634 C 6-23-76	Pennzoil Louisiana and Texas Offshore, Inc., P.O. Box 2967, Houston, Tex. 77001.	United Gas Pipe Line Co., block 533, West Cameron area, south addition, offshore Louisiana.	[4] [17] $1.76225	15.025
CI76-635 A 6-23-76	Pennzoil Louisiana and Texas Offshore, Inc.	United Gas Pipe Line Co., block 532, West Cameron area, south addition, offshore Louisiana.	[4] [17] $1.76225	15.025
CI76-636 A 6-23-76	Pennzoil Offshore Gas Operators, Inc.	United Gas Pipe Line Co., block 533, West Cameron area, south addition, offshore Louisiana.	$1.76225	15.025
CI76-638 B 6-24-76	Herman Geo. Kaiser, c/o Herbert J. Miller, 4120 East 51st St., Tulsa, Okla. 74135.	Northern Natural Gas Co., Farnsworth Field, Ochiltree County, Tex.	(19)	----------
CI76-640 B 6-22-76	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	Transcontinental Gas Pipe Line Corp., Various Fields, Starr County, Tex.	(21)	----------
CI76-641 A 6-24-76	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Tennessee Gas Pipeline Co., West Cameron block 66 field, Offshore Louisiana.	(2)	----------
CI76-642 (CS75-254) F 6-28-76	Western Petroleum Co., Inc. and Dundee Oil & Supply, Inc. (successor to Sun-Calvert Co.), 809 Philtower Bldg., Tulsa, Okla. 74103.	Arkansas Louisiana Gas Co., SE. Stigler Field, Haskell County, Okla.	17.27844	14.65
CI76-643 A 6-28-76	Gulf Oil Corp.	Natural Gas Pipeline Co. of America, Covington Federal "A" Lease N/2 of section 25-T22S-R32E Lea County, N. Mex.	[4] [15] 93.0826	14.65
CI76-654 A 7-2-76	MRT Exploration Co., 9900 Clayton Rd., St. Louis, Mo. 63124.	Mississippi River Transmission Corp., Mills Ranch (Hunton) Field, Wheeler County, Tex.	[4] 55.9109	14.65
CI76-655 B 7-1-76	Union Texas Petroleum, a Division of Allied Chemical Corporation, P.O. Box 2120, Houston, Tex. 77001.	Lone Star Gas Co., Velma Field, Stephens County, Okla.	(20)	----------
CI76-656 B 6-30-76	Atlantic Richfield Co.	Skelly Oil Co., Various Fields, Lea County, N. Mex.	(14)	----------
CI76-657 A 7-1-76	Shell Oil Co., P.O. Box 2463, Houston, Tex. 77001.	El Paso Natural Gas Co., Saber Area Field, Beckham County, Okla.	[4] 55.663	14.65
CI76-658 B 7-2-76	Yucca Petroleum Co., Attention: Mr. W. W. Carter, P.O. Box 2585, Amarillo, Tex. 79105.	Transwestern Pipeline Co., R. Paine Lease, section 944, block 43, H&TC Survey, Lipscomb County, Tex., (Kiowa Creek-Dougles Field).	(26)	
CI76-659 B 6-28-76	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp., Leleux, Vermilion and Acadia, La.	(20)	
CI76-660 (CI66-979) F 7-2-76	Paramore Oil Co. (successor to Burmah Oil and Gas Co.) P.O. Box 1182, Duncan, Okla. 73533.	Lone Star Gas Co., Dixie Field, Stephens County, Okla.	20.4	14.65
CI76-661 A 7-1-76	Getty Oil Co.	Tennessee Gas Pipeline Co., West Cameron block 66, offshore Louisiana.	[4] $1.75	15.025
CI76-663 A 7-6-76	ISCO, Inc., 3000 1 Shell Plaza, Houston, Tex. 77002.	Transcontinental Gas Pipe Line Corp., Block 246 Field, ship shoal area, offshore Louisiana.	[4] 55.6616	15.025
CI76-664 A 7-6-76	Texco Inc., P.O. Box 60252, New Orleans, La. 70160.	Michigan Wisconsin Pipe Line Co., Bayou Sale Field, St. Mary Parish, La.	[4] 132.0	15.025
CI76-665 B 7-6-76	Chevron Oil Co., Western Division, P.O. Box 599, Denver, Colo. 80201.	El Paso Natural Gas Co., Langlie-Mattix Field, Lea County, N. Mex.	(30)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI76-667..... B 7-6-76	Skelly Oil Co., P.O. Box 1650, Tulsa, Okla. 74102.	Panhandle Eastern Pipe Line Co., H&TC Survey, Hemphill County, Tex.	(21)	
CI76-668..... (CI62-825) F 7-6-76	Perry R. Bass (successor to Mobil Oil Corp.), Fort Worth National Bank Bldg., Forth Worth, Tex. 76102.	El Paso Natural Gas Co., Rojo Caballos Field, Pecos County, Tex.	[8] [22] 18	14.65
CI76-669..... A 7-6-76	Shell Oil Co.....	Southern Natural Gas Co., Bayou Long Field, St. Martin Parish, La.	[8] 64.21412	15.025
CI76-670..... A 7-6-76	Terra Resources, Inc., 5416 South Yale Ave., Tulsa, Okla. 74135.	United Gas Pipe Line Co., South Jennings Field, Jefferson Davis Parish, La.	[8] 52.02	15.025
CI76-671..... A 7-7-76	The California Co., a Division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, La. 70112.	Natural Gas Pipeline Co. of America, West Cameron block 534 field, offshore Louisiana.	[8] $1.75	15.025
CI76-677..... A 7-9-76	Texas Pacific Oil Co., Inc., 1700 1 Main Pl., Dallas, Tex. 75250.	El Paso Natural Gas Co., Penrose Federal No. 1 Well (Drinkard) Lea County, N. Mex.	[8] 76.5	14.73

[1] Amendatory application to include gas from a well reclassified from oil well to gas well by the State of New Mexico.
[2] Initial delivery, July 26, 1959.
[3] Aug. 19, 1965.
[4] Oct. 1, 1969.
[5] Aug. 27, 1972.
[6] Feb. 19, 1976.
[7] Present.
[8] Subject to upward and downward British thermal unit adjustment.
[9] Initial delivery, Aug. 19, 1965.
[10] Expiration of lease.
[11] Leases surrender.
[12] Purchaser ceased taking gas in the absence of modification to the Contract.
[13] Wells plugged and abandoned.
[14] Wells reclassified.
[15] For the period ending Dec. 31, 1975; each succeeding year, the price shall increase 1.5¢/M ft³. Tax reimbursement of the ¾ths of increases in production or severance taxes in excess of those in effect on date of contract.
[16] Applicant is willing to accept a certificate conditioned to limit the initial price to the effective nationwide new gas price as prescribed by sec. 2.56(a).
[17] Applicant is willing to accept a certificate at the national rate.
[18] Contract agreement met.
[19] Applicant is willing to accept a permanent certificate at an initial rate of 52.0¢/M ft³ at 14.73 psia, plus production taxes, subject to upward and downward British thermal unit adjustment from 1,000 Btu/ft³ in conformance with Opinion No. 699, as amended.
[20] Depleted.
[21] Acreage originally dedicated has now been released.
[22] Applicant is willing to accept permanent certification conditioned upon an initial rate equal to the national rate prescribed in Opinion No. 699-H, as such rate from time to time be modified by the Commission.

[FR Doc.76-21747 Filed 7-27-76;8:45 am]

[Docket Nos. ER76-586, ER76-669, ER76-670 and ER76-671]

FITCHBURG GAS AND ELECTRIC LIGHT CO. AND NEW ENGLAND POWER CO.

Order Accepting in Part and Rejecting in Part Proposed Rate Schedules, and Requiring Refunds

JULY 21, 1976.

On March 31, 1976, Fitchburg Gas and Electric Light Company (Fitchburg) tendered for filing at Docket No. ER76-586 as an initial rate schedule an Agreement with New England Power Company (NEPCO) providing for sales of electric generating capability between the two parties and for associated energy transactions from April 1, 1976 through October 31, 1977, including sales from Fitchburg's Combustion Turbine No. 7.

The March 31 filing in ER76-586 was found deficient by a Commission letter dated April 22, 1976. Part of the deficiency was cured on June 3, 1976 and the deficiency was completely cured on June 7, 1976. Waiver of the Commission's notice requirements was requested to permit the Agreement to become effective as an initial rate schedule as of April 1, 1976. We shall grant waiver of our notice requirements and accept for filing the Agreement between Fitchburg and NEPCO in Docket No. ER76-586.

On May 3, 1976, Fitchburg tendered for filing initial rate schedules and copies of the associated unit sales agreements providing for short term sales by Fitchburg to Bangor Hydro Electric, New England Power Company (NEPCO) and Montaup Electric Company in Docket Nos. ER76-669, ER76-670 and ER76-671, respectively. The agreements all of which have now expired, provide for sale of various amounts of contract capacity up to 22 megawatts from the Fitchburg Steam Unit No. 4 and Combustion Turbine No. 7 for short periods during 1973-1975. In all cases, Fitchburg requested waiver of notice requirements to permit various retroactive effective dates.[1] For the reasons discussed below, we shall grant waiver of the notice requirements and accept for filing certain rate schedules in Docket Nos. ER76-669 and ER76-670 as they apply to sales from the Fitchburg Steam Unit No. 4 and we shall deny waiver, reject the filings and require refunds in Docket Nos. ER76-669, ER76-670 and ER76-671 as they apply to sales from Combustion Turbine No. 7.

Notice of the ER76-586 filing was issued on April 7, 1976 with protests or petitions to intervene due on or before April 21, 1976. Notices of the filings in Docket Nos. ER76-669, ER76-670 and ER76-671 were issued on May 7, 1976 with protests or petitions due on or before May 20, 1976. No responses were received in any of the dockets.

[1] November 1, 1974 for the ER76-669 filing, of February 1, 1973 for the ER76-670 filing, and of January 1, 1974 for the ER76-671 filing.

Our review indicates that as to the sales from Combustion Turbine No. 7, differences in rates have resulted from the company's use of estimates in ER 76-669, ER76-670 and ER76-671, and of actual costs on the later sale to NEPCO in ER76-586, and that the three prior sales agreements do not have provisions for adjustment of the charges to reflect actual costs. It appears that such rates based on estimated costs may be excessive when compared with costs actually experienced during the relevant periods of such sales. We shall therefore reject th filings in Docket Nos. ER76-669, ER 76-670, and ER76-671 as to Combustion Turbine No. 7 capacity and require refunds of all amounts collected for sales of such capacity. However, we shall do so without prejudice to Fitchburg's right to refile the agreements within 14 days including rates based on data appropriately revised to reflect actual costs associated with Combustion Turbine No. 7 for the applicable periods.

Additionally, we shall grant waiver of the notice requirements and accept Docket Nos. ER76-669 and ER76-670 insofar as they apply to sales of capacity from Steam Unit No. 4, as shown on Appendix B hereto.

The Commission finds: (1) Good cause exists to grant waiver of the Commission's notice requirements and accept for filing the Agreement submitted in Docket No. ER76-586 to become effective April 1, 1976.

(2) Good cause exists to grant waiver of the Commission's notice requirements and accept for filing the Agreements submitted in Docket Nos. ER76-669 and ER 76-670 insofar as they apply to sales of capacity from Steam Unit No. 4.

(3) Good cause does not exist to grant waiver of notice requirements as to the filing in Docket No. ER76-671 and the filings in ER76-669 and ER76-670 insofar as they apply to sales of capacity from Combustion Turbine No. 7, and the above described filings should be rejected and refunds ordered of all amounts collected thereunder pursuant to Section 35.1(d) of the Commission's regulations.

The Commission orders: (A) Waiver of Section 35.11 notice requirements is hereby granted and the submittal in Docket No. ER76-586 is hereby accepted for filing to become effective April 1, 1976.[2]

(B) Waiver of Section 35.11 notice requirements is hereby granted and the submittals in Docket No. ER76-669 and ER76-670 accepted for filing insofar as they apply to sales of capacity from Steam Unit No. 4 as shown on Appendix B hereto, those in ER76-669 to become effective November 1, 1974 and those in ER76-670 to become effective February 1, 1973.

(C) The request for waiver of Section 35.11 notice requirements is hereby denied as to Docket No. ER76-671 and as to Docket Nos. ER76-669 and ER76-670 as they apply to sales of capacity from

[2] See Appendix A for designations.

Combustion Turbine No. 7, and those filings as described are rejected and all amounts collected thereunder are hereby ordered to be refunded pursuant to Section 35.1(d) of the Commission's Regulations.

(D) Within 14 days of the issuance of this order, Fitchburg shall refund all amounts collected under those rate schedules rejected in Ordering Paragraph (C) pursuant to Section 35.1(d) of the Commission's Regulations.

(E) Within 15 days after appropriate refunds have been made, Fitchburg shall file with the Commission a refund compliance report detailng the monthly billing determinants and revenues by customer.

(F) Ordering Paragraphs (C) (D) and (E) are without prejudice to Fitchburg's right to refile the agreements within 14 days of the issuance of this order including rates based on data appropriately revised to reflect actual costs associated with Combustion Turbine No. 7 for the applicable periods.

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

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

RATE SCHEDULE DESIGNATIONS

[Docket No. ER76-586]

Fitchburg Gas and Electric Light Company

Filed: June 7, 1976
Dated: March 30, 1976
Effective: April 1, 1976

Other party	*Designation*
New England Power Co..	(1) Rate Schedule FPC No. 18 (Sales Agreement). (2) Supplement No. 1 to Rate Schedule FPC No. 18 (Exhibit A).

New England Power Company

Other party	*Designation*
Fitchburg Gas & Electric Light Co.	Rate Schedule FPC No. 282 (Concurs in (1) and (2) above).

APPENDIX B.—*Rate Schedules Designations, Fitchburg Gas & Electric Light Co.,*[1] *Dockets Nos. ER76-699 and ER76-670*

New England Power Co....	May	3, 1976	Jan. 31, 1973	Feb. 1, 1973	(1) Rate schedule FPC No. 16 (steam unit No. 4 letter agreement).
	May	3, 1976	Feb. 7, 1973	Feb. 1, 1973	(2) Supplement No. 1 to rate schedule FPC No. 16 (letter agreement—scheduled and unscheduled outage service).
	May	3, 1976	Feb. 21, 1974	Feb. 13, 1974	(3) Supplement No. 2 to rate schedule FPC No. 16 (letter agreement—scheduled and unscheduled outage service).
Bangor Hydro Electric Co..	May	3, 1976	Nov. 1, 1974	Nov. 1, 1974	(1) Rate schedule FPC No. 15 (steam unit No. 4 agreement).

[1] The acceptance for filing of the above rate schedules and rate schedule supplements terminates these schedules effective June 3, 1976 (30 days after filing.)

[FR Doc.76-21749 Filed 7-27-76;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

WORK EXPERIENCE INTERNSHIP PROGRAM

Application Guidelines; Fiscal Year 1977

The following are guidelines for Fellowship Grants made under the Work Experience Internship Program of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the arts throughout the United States.

The Work Experience Internship Program Application Deadlines and Grant Calendar is included. Interested persons should contact Kathleen Bannon, Intern Program Officer, Work Experience Internship Program, National Endowment for the Arts, Mail Stop 557, Washington, D.C. 20506 (202) 634-6380, for further information and application forms.

Signed at Washington, D.C. on 21 July 1976.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

WORK EXPERIENCE INTERNSHIP PROGRAM

INTRODUCTION

The rapid growth of arts organizations, increased involvement of Americans in arts activities and the growing support of the arts by government on all levels, has enlarged the need for good administrators of arts programs. The Endowment believes that it is important that arts administrators understand the relationship between government and the arts and the operations of the National Endowment for the Arts. With this in mind, the Work Experience Internship Program was inaugurated in 1973 to bring arts administrators to the Endowment's offices in Washington, D.C. for 13-week periods. The success of initial sessions resulted in expansion of the program to include three 13-week sessions a year.

The program is desgined to acquaint participants with the policies, procedures and operations of the National Endowment and to give them an overview of arts activities in this country. Interns are given the opportunity to obtain detailed knowledge of the programs of the Endowment, including policy development, grantmaking procedures and administration. In addition to working as members of the Endowment's staff, interns attend a series of seminars and meetings with members of the Natioal Council on the Arts, Endowment panelists, artists, journalists, federal officials and other leading arts administrators.

Former interns are now working with state and municipal arts agencies, professional theatre, opera and dance companies, universities, cultural centers and museums. Participants in the Work Experience Internship Program are not eligible for immediate employment at the National Endowment for the Arts.

During Fiscal Year 1977 (October 1, 1976–September 30, 1977), three sessions of the Work Experience Internship Program are scheduled.

Application deadlines

Program session	Deadline	Announcement of acceptance or rejection
Spring 1977, February 7 to May 6.	Nov. 12, 1976	Dec. 17, 1976
Summer 1977, June 6 to September 2.	Mar. 4, 1977	Apr. 15, 1977
Fall 1977, September 19 to December 16.	June 17, 1977	July 29, 1977

We regret because of review procedures, application postmarked after the deadline date cannot be considered. Applicants are encouraged to mail early.

The National Endowment for the Arts is an independent agency of the Federal Government created in 1965 to encourage and assist the nation's cultural resources. The Endowment is advised by the 26 Presidentially-appointed members of the National Council on the Arts.

The Work Experience Internship Program is a special training program for arts administrators established in 1973. Information about the Endowment and its other Programs is contained in the Endowment's "Guide to Programs" which is available from the Program Information Office (Mail Stop 550), National Endowment for the Arts, Washington, D.C. 20506.

The Endowment also provides assistance to organizations such as state arts agencies, museums and university graduate programs that train arts administrators.

ELIGIBILITY

In order to apply each candidate must be sponsored by a college or university, state or local arts agency, or other non-profit tax-exempt arts organization.

Participants are generally selected on the basis of academic background and prior professional experience and have represented a wide variety of backgrounds. Generally two to three years of professional work experience or an advanced degree is recommended.

Representative biographies of previous interns are included on page 3.

INTERN ACTIVITIES

Each intern is assigned to one Endowment program division or office in Washington, D.C. throughout the 13-week program. In previous sessions, assignments have included the Chairman's Office, the Performing Arts and Public Media Programs, Museums, Education, Special Projects, Budget, Research, Architecture, Environmental Arts, Expansion Arts, Program Information and the Federal-State Partnership Program.

Interns spend approximately two-thirds of their time working as members of the professional staff to gain a functional view of the Endowment and to assist the program in daily operations. Activities include work with grant applications, panel review sessions, and special projects involving policy and grant reviews.

The remainder of the time involves "internship activities" including 45 guest speaker seminars, field trips, panel meetings and National Council on the Arts meetings.

GRANT AMOUNTS

An internship stipend and round-trip travel costs are paid by the National Endowment on a non-matching basis. Grants are made to the sponsoring organizations and are then disbursed by the organization to the intern.

Intern stipends are provided in the amount of $2,210.00 for 13 weeks. Travel costs should include round-trip air expenses to Washington, D.C., limited to coach fare. No indirect costs are allowed.

REPRESENTATIVE INTERNS

The following interns' biographies are representative of the range of interests, professional experience and academic backgrounds among interns selected in the past three years.

Chairman's Office/Press.—An intern assigned to the Chairman's Office/Press was sponsored by a university in the South. She held a Ph.D. in Humanities and a M.A. in Theatre, and was the Publicity Coordinator for the university arts center. She had hosted a weekly radio program, served as the performing arts critic for a TV program, and had held teaching and advising positions at several universities. She is currently an assistant professor at a university in the West and serves as an adviser to the dean for arts programming.

Dance.—An intern in the Dance Program was sponsored by a dance-related service organization. She had held administrative positions at a major music conservatory and had danced professionally with several ballet companies. She had also appeared in a number of television specials and commercials. After her internship, she returned to an administrative position at the conservatory, and is currently working as an arts consultant with the state's Arts Council.

Education.—An intern assigned to the Education Program was sponsored by a major Western university, where he is an Associate Professor in the Music Department. In addition to being an active performer, administrator, teacher and critic, he had earned a M.A. and a Ph.D. in ethnomusicology and had studied as a Fulbright scholar in Europe. After his internship he returned to teaching at his sponsoring university.

Federal-State Partnership.—An intern with the Federal-State Partnership Program was sponsored by a state arts agency in the far West. She had served as the Staff Coordinator for a Conference on the arts in her state, had been responsible for a state-wide effort to form a private Arts Foundation utilizing her extensive professional public relations and advertising experience. She is currently the Community Arts Specialist with another state arts agency in the West.

Folk Arts.—A Folk Arts intern was sponsored by a university in the South, where he had received an M.A. in Folklore and was active both as a teacher and as an album and book reviewer for several publications. He had produced a number of records related to folk music and culture, written the sleeve notes for a variety of recordings, and initiated a special series of Library of Congress recordings. Following his internship, he returned to teaching and arts consulting work.

Museums.—An intern with the Museum Program was sponsored by a museum service organization in the West, where she was the staff member responsible for developing and organizing the Children's Arts Collection. She had served as the Director of a Children's Art Center in California and had also taught in the U.S. and Europe. She holds undergraduate degrees in Art History and is presently the Director of Development for two western art museums.

Music.—An intern with the Music Program was sponsored by an opera company in the West. She had a B.M. in Voice and Opera Production and had worked with several professional opera companies for seven years. Prior to her internship, she was head of the Rehearsal Department of a midwestern opera company, had worked as Rehearsal Coordinator with an opera company in the East, and had been a publicity assistant with an American Embassy in Europe. She is currently on special assignment with the Public Relations Department of a major orchestra.

Performing Arts and Public Media.—An intern with the Office of Performing Arts and Public Media was sponsored by a major cultural center where he had served as the Operations Manager and a production assistant. He had graduated from a midwestern university where he had been responsible for its Artists Series and had worked as the Music Director of both a summer theater and an opera company in the midwest. He is now the Executive Director of a cultural center in the south.

Program Information.—An intern who was assigned to the Program Information Office was sponsored by a major service organization for cultural institutions in the East. He had earned an advanced degree in arts administration and an undergraduate degree in Journalism. At the time of his application, he was the Director of Financial Services for his sponsoring organization. Previous experience included serving for several years as a theatrical producer and manager for both a major museum and a theatre company, and as the comptroller for a number of national companies of a Broadway musical. He is currently the Director of the Bicentennial Festival in a major city in the East.

APPLICATION PROCEDURES

To apply, each candidate must be sponsored by a college or university, state or local arts agency, or other non-profit tax-exempt arts organization. Organizations may sponsor the application of one or two candidates.

All requirements for the sponsor and the candidate must be fulfilled before an application can be considered.

SPONSOR REQUIREMENTS

1. Please review the instructions on page 5 and complete and sign the forms entitled *Project Grant Application NEA-3 (Rev.)-Short Form*. Please note that only an original and one copy need by submitted for each candidate.

2. Complete the Assurance of Compliance Form on page 11.

3. Submit the completed Application form and one copy, the Assurance of Compliance Form, and your IRS Determination Letter of Tax-exempt status to: Grants Office (Mail Stop 500), National Endowment for the Arts, Washington, D.C. 20506.

4. Receive and administer fellowship stipend, if candidate is selected.

5. Submit a final expense report at the completion of the program.

CANDIDATE REQUIREMENTS

Please submit one copy of the following material:

1. resume;

2. academic transcript and/or description of current job responsibilities;

3. three or more letters of recommendation; and

4. an essay dealing with career plans and areas of interest within the Endowment.

Note: No application form need be submitted by candidates.

All supporting material should be sent directly to: Intern Program Officer, (Mail Stop 557), National Endowment for the Arts, Washington, D.C. 20506.

If not completed properly, the application will be returned to the sponsoring organization for corrections. The Endowment cannot accept responsibility for delays occasioned by the late arrival of applications or requests which have been improperly submitted.

If an application form is incomplete and/or if all required material has not been submitted, the application may be rejected due to insufficient information to review.

Applicants are urged to retain duplicates of any materials sent to the agency. Materials cannot be returned to the applicants.

APPLICATION REVIEW

After an application with all the necessary information has been received, the following procedure occurs:

The Endowment's Work Experience Internship Program Officer, an Executive Committee and the National Council on the Arts successively review the application.

The sponsor is then notified concerning final action taken by the Chairman of the Endowment.

Information regarding action taken on applications cannot be made available until after the groups listed above have made their recommendations and the Chairman of the Endowment has reached a final decision. Applicants are requested not to seek information on the status of their requests.

When a grant letter has been received, the sponsoring organization applies for full payment of the internship grant. The sponsor then disburses the stipend to the intern.

All inquiries related to the Work Experience Internship Program and application procedures for the internships should be directed to: Intern Program Officer, (Mail Stop 557), National Endowment for the Arts, Washington, D.C. 20506, 202/634-6380.

[FR Doc.76-21771 Filed 7-27-76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on July 22, 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

Plant Hangers—Purchasers' Questionnaire, single-time, retail outlets, Laverne V. Collins, 395-5867.

Plant Hangers—Importers Questionnaire, single-time, importers, Laverne V. Collins, 395–5867.

Plant Hangers—Producers' Questionnaire, single-time, producers, Laverne V. Collins, 395–5867.

REVISIONS

DEPARTMENT OF COMMERCE

Bureau of Census: Survey of Local Government Finances (School Systems), F–33, annually, state and local accounting officials, Kathy Wallman, 395–6140.

National Immunization Survey—Current Population Survey Supplement, CPS–1, annually, 41,000 interviewed households in September 76 CPS sample, Richard Eisinger, 395–6140.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Special Milk Program Application, FNS–826, on occasion, nonprofit child-care institutions, Human Resources Division, 395–3532.

Animal and Plant Health Inspection Service, Application for Inspection and Certification of Animal Byproducts, VS 16–24, on occasion, applicants, Marsha Traynham, 395–4529.

DEPARTMENT OF DEFENSE

Department of the Air Force:
(Military Affiliate Radio System) Mars Station Questionnaire, AFCS132, on occasion, licensed amateur radio operators, Warren Topelius.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76–21902 Filed 7–27–76;8:45 am]

POSTAL SERVICE

PRIVACY OF INFORMATION

Routine Uses of Systems of Records

The purpose of this document is to publish, as required by 5 U.S.C. 552a(e)(11), final notice of the establishment of a routine use of a Postal Service system of records. This document also proposes to expand a previously established routine use of this system.

FINAL NOTICE OF ROUTINE USE OF SYSTEM OF RECORDS

On May 12, 1976, the Postal Service published for comment in the FEDERAL REGISTER (41 FR 19384) a proposed routine use of a system of records maintained by the Postal Service. This system, USPS 050.020, Finance Records—Payroll System, contains general payroll information pertaining to postal employees. The Postal Service proposed to adopt an additional routine use for this system permitting the disclosure, to State and local government tax authorities, of pertinent records pertaining to individual employees. No adverse comment was received regarding the proposed change. Accordingly, after a review of the proposed text, the Postal Service has determined to make final, effective immediately, its previous published notice of the new routine use.

PROPOSED EXPANSION OF ROUTINE USE OF SYSTEM OF RECORDS

In addition, the Postal Service proposes to expand a previously established routine use of this system of records. At present, information may be furnished from system USPS 050.020 to financial organizations which receive salary payments or allotments at the election of the employee. The expanded routine use will enable the Postal Service to furnish pertinent information to groups other than financial organizations, such as charitable organizations, which receive salary allotments at the election of the employee. The proposed expanded use follows:

USPS 050.020

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Use—Change that portion to read, "5. To provide pertinent information to organizations receiving salary payments or allotments as elected by the employee."

This document constitutes initial notice of this proposed routine use.

PUBLIC COMMENTS SOLICITED

Public comment is solicited regarding the proposed expansion of the routine use of system USPS 050.020. Any person may submit written comments on or before August 28, 1976, to the Records Officer, U.S. Postal Service, Washington, DC 20260. Final notice regarding this proposed use will be given after the time for public comment has elapsed.

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.76–21804 Filed 7–27–76;8:45 am]

PRIVACY PROTECTION STUDY COMMISSION

HEARINGS

The Privacy Protection Study Commission by notice that appeared in the FEDERAL REGISTER on July 7, 1976 (Vol. 41, No. 131, p. 27878) announced that it would hold public hearings on the record-keeping practices of consumer and commercial reporting agencies and check-cashing and credit-card verification and authorization services between 10:00 a.m. and 5:30 p.m. on August 3, 1976 and between 9:00 a.m. and 5:30 p.m. on August 4 and 5, 1976 in Room 1318, Dirksen (New Senate Office) Building, Washington, D.C.

That notice is hereby revised to reflect that the hearings on August 3, 1976 will commence at 9:30 a.m. instead of 10:00 a.m. as originally announced.

CAROLE W. PARSONS,
Executive Director.

JULY 26, 1976.

[FR Doc.76–22001 Filed 7–27–76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–12633; File No. SR–MSE–76–11]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organization; Proposed Rule Change

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 (June 4, 1975), notice is hereby given that on June 22, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Midwest Stock Exchange Rules
Article VI, Rule 17

Accompaniment of proper assignment

A certificate of stock, a registered bond, or other registered security shall be accompanied by a proper assignment, executed either on the certificate itself or on a separate paper, in which latter case there shall be a separate assignment for each certificate or bond. *There may be more than one certificate accompanying each assignment if all certificates of the same issue have the identical registration and prior notice of delivery has been received in accordance with the policies of the Exchange.*

STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to allow acceptance of delivery of certificates where there may be more than one certificate accompanying each assignment.

The proposed rule change fosters cooperation and coordination between the Midwest Stock Exchange, Incorporated and other securities organizations in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities.

Comments have neither been solicited nor received.

The Midwest Stock Exchange, Incorporated believes that no burden has been placed on competition.

On or before September 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 and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying 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 August 18, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 16, 1976.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-21777 Filed 7-27-76;8:45 am]

[Release No. 34-12637; File No. SR-NYSE-76-39]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organization; Proposed Rule Change

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 July 13, 1976, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows: Statement of the Terms of Susbtance of the Proposed Rule Changes.

Proposed changes to Exchange Rule 100 would provide non-specialist odd-lot dealers with the same restrictions and requirements as now exist for specialist odd-lot dealers when offsetting odd-lot orders in the round-lot market, thus eliminating any potential anti-competitive effects upon them.

The purpose and effect of the proposed rule change are discusesd in greater detail below. The text of the proposed rule change is attached as Exhibit I.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

PURPOSE OF PROPOSED RULE CHANGES

At its April 1, 1976 meeting, the Board of Directors had approved changes in a number of rules to facilitate specialists acting as Add-Lot Dealers in the securities in which they are registered. These amendments—which became effective May 24—were implemented in order to provide specialists with the ability to perform properly and efficiently in a system where odd-lots were not physically sent, handled, or actually executed on the floor.

Rule 100, as amended, requires a Floor Official's approval for a transaction as principal in the round-lot market by a specialist odd-lot dealer when he has knowledge that a destabilizing purchase (sale) in the round-lot market would make him a seller (buyer) of stock "on balance" by an amount greater than one round-lot. No amendments were proposed in April to Paragraphs (a) and (b) of Rule 100 which pertain to non-specialist odd-lot dealers (other than to emphasize that they did not apply to specialist odd-lot dealers) because the immediate urgency related to specialist odd-lot dealers. These paragraphs require a non-specialist odd-lot dealer to give his round-lot order to the specialist or a member not associated with his firm, if it would establish the price of execution of the odd-lot orders he was holding and make him a buyer or seller "on balance" in odd-lots. This applies even if the "on balance" amounts to less than one round-lot and whether the round-lot transaction was stabilizing or destabilizing. Furthermore, there is no "knowledge" provision for non-specialist odd-lot dealers.

Thus, there are currently two different sets of requirements, one for specialist odd-lot dealers and one for non-specialist odd-lot dealers. While there are basic differences between the specialist and the non-specialist odd-lot dealers (especially the fact that only the specialist has market-making responsibilities), there seems to be no valid reasons why under the current competitive environment there should be different sets of rules with regard to "on balance" purchases or sales of odd-lots.

The purpose of the proposed changes is to eliminate the different standards applicable to specialist and non-specialist odd-lot dealers as set forth in Rule 100.

It is proposed to eliminate Paragraphs (a) and (b), and also (c) and (d) which directly relate to Paragraphs (a) and (b) and to subject the activity of the non-specialist odd-lot dealer to the same requirements as the specialist odd-lot dealer.

Similarly, it is proposed to eliminate Paragraph (f) of Rule 100 which deals with the election of stop orders in odd-lots and which currently applies only to non-specialist odd-lot dealers. The same limitations that exist for the specialist odd-lot dealer as a result of the current automated system of executing odd-lot orders will exist for the non-specialist odd-lot dealer. While in theory an odd-lot dealer may decide to actually handle and execute his odd-lot orders on the Floor of the Exchange and thus could have knowledge of all his odd-lot orders, this possibility is remote. In any event, even if there were such a dealer, Paragraph (f) would not seem to be justified in view of its minimal impact and the additional burden it would place on him, but not on his competition.

The existing Paragraph (e) has been relabeled Paragraphs (a), (b) and (c) for easier identification.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

The proposed changes to Rule 100 of the Exchange relate to Section 6(b)(5) of the Act insofar as that Section provides that the rules of a national securities exchange may not be "designed to permit unfair discrimination between customers, issuers, brokers, or dealers * * *" and Section 6(b)(8) of the Act in that the rules of the Exchange may not "impose any burden on competition not necessary or appropriate" in furtherance of the purpose of the Act. The proposed rule changes would eliminate existing disparities in requirements between specialists and non-specialist odd-lot dealers.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGES

The Exchange has not solicited comments regarding the proposed changes to Rule 100 and has received none.

BURDEN ON COMPETITION

The Exchange is of the opinion that the proposed changes to Rules 100 will not impose any burden on competition not consistent with the purposes of the Act.

On or before September 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 changes, or

(B) institute proceedings to determine whether the proposed rule changes 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 six 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 and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filings will also be available for inspection and copying 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 August 18, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 19, 1976.

GEORGE A. FITZSIMMONS,
Secretary.

EXHIBIT I—TEXT OF PROPOSED CHANGES TO RULE 100 OF THE EXCHANGE

RULE 100

(a) If an odd-lot dealer (including a specialist odd-lot dealer) anticipates selling a round-lot as principal at a price below the last different round-lot price (a minus or zero minus tick), and has knowledge that because of the amount of odd-lot sell orders he holds at that price, he would become a buyer of an amount greater than one round-lot on balance, prior approval to make such round-lot sale is required of a Floor Official.

(b) Similarly, if an odd-lot dealer (including a specialist odd-lot dealer) anticipates purchasing a round-lot as principal at a price above the last different round-lot price (a plus or zero plus tick), and has knowledge that because of the amount of odd-lot buy orders he holds at that price, he would become a seller of an amount greater than one round-lot on balance, prior approval to

make such round-lot purchase is required of a Floor Official.

(c) If unusual circumstances exist, such as unusual activity in a stock with a corresponding increase in the number of orders being received in the odd-lot and/or round-lot market, and the need for the odd-lot dealer to effect an unusual number of transactions for his own account, the odd-lot dealer may obtain in advance from a Floor Official an exemption from the provisions of this rule for all or part of any trading session. A record should be kept of these circumstances and of the Floor Official approval.

[FR Doc.76-21778 Filed 7-27-76;8:45 am]

[Release No. 34-12645; File No. SR-OCC-76-6]

OPTIONS CLEARING CORP.

Self-Regulatory Organizations; Proposed Rule Change

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 June 28, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change amends the definition of the term "series of options" in the OCC By-Laws to clarify that option contracts of the same class having the same exercise price and expiration date, but different units of trading, constitute different series of options for the purposes of OCC's By-Laws and Rules.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

Under Article VI, Section 11 of the OCC By-Laws, OCC may adjust the terms of outstanding option contracts to reflect stock dividends, stock splits, reorganizations and other similar events affecting underlying securities. Such adjustments may in appropriate cases consist of or include a change in the unit of trading for outstanding option contracts. Where the unit of trading for a particular series of options has been adjusted, and trading has subsequently been introduced in option contracts having the same exercise price and expiration date as the adjusted series, but a different unit of trading, OCC has treated the new contracts as comprising a separate series of options, for the purposes of its By-Laws and Rules. The purpose of the proposed rule change is to formalize that interpretation by incorporating it in the definition of "series of options" appearing in OCC's By-Laws.

The proposed rule change relates to the protection of investors and the public interest by ensuring that option contracts of the same class having the same exercise price and expiration date, but different units of trading, and therefore different market values, are treated as different series of options for margin and other purposes.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

OCC does not believe that the proposed rule change would impose any burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission may summarily abrogate sary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

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 and copying 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 August 18, 1976.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 20, 1976.

GEORGE A. FITZSIMMONS,
Secretary.

TEXT OF PROPOSED RULE CHANGE

(Brackets indicate deletions and italics indicate new material)

ARTICLE I, SECTION 1 OF BY-LAWS

Definitions

Section 1. Unless the context requires otherwise, the terms defined herein shall, for all purposes of these By-Laws and the Rules of the Corporation, have the meanings herein specified.

(a) through (11): [No change].

Series of Options

(mm) The term "series of options" means all option contracts of the same class with the same exercise price, [and] expiration date[.] *and unit of trading.*

(nn) through (mmm): [No change].

[FR Doc.76-21780 Filed 7-27-76;8:45 am]

[Rel. No. 9362; 812-3950]

ALASKA CONTINENTAL DEVELOPMENT CORP.

Application for Order of Temporary Exemption

JULY 21, 1976.

Notice is hereby given that Alaska Continental Development Corporation ("Applicant"), P.O. Box 66579, Seattle, Washington 98166, an Alaskan Corporation, has applied pursuant to Sections 6(c) and 6(e) of the Investment Company Act of 1940 ("Act") for an order of the Commission temporarily exempting it from the provisions of Section 7 of the Act. Applicant, in requesting such temporary exemption, has agreed that Applicant and other persons in their transactions and relations with it shall be subject to all other provisions of the Act and the respective Rules and Regulations promulgated under each of such provisions as though Applicant were a registered investment company, other than the following: Section 8; subsection (a) of Section 10; subsections (a)(2) and (a)(4) of Section 13; subsections (f)(g) and (h) of Section 17; Section 18, subsection (a) of Section 20; Section 23; Section 30 (except subsection (f) thereof); Section 31; and Section 32 of the Act and the Rules and Regulations thereunder. All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations, which are summarized below.

This request has been made in connection with an application filed by Applicant pursuant to Sections 3(b)(2) and 6(c) of the Act for an order of the Commission declaring that it is not an investment company or, in the alternative, declaring that it is exempt from all provisions of the Act. Section 3(b)(2) of the Act provides that the filing of an application thereunder shall exempt the applicant for a period of 60 days from all provisions of the Act applicable to investment companies as such. The 60-day period of exemption provided in Section 3(b)(2) has expired in Applicant's case on June 21, 1976. Applicant, which has not registered as an investment company under the Act, has asked that it be exempted, as requested, from June 21, 1976, until the Commission has acted upon the application under Sections 3(b)(2) and 6(c) of the Act.

Section 6(c) provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 6(e) provides that, if, in connection with any order under Section 6 exempting any investment company from Section 7, the Commission deems it necessary or appropriate in the public interest or for the protection of investors that certain specified provisions of the Act pertaining to registered investment companies shall be applicable in respect of such company, the provisions so specified shall apply to such company, and to other persons in their transactions and relations with such company, as though such company were a registered investment company.

Notice is further given that, in respect to the application pursuant to Sections 6(c) and 6(e) of the Act for an order of temporary exemption, any interested person may, not later than August 16, 1976 at 5:30 p.m., submit to the Commission in writing a request for a hear-

ing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant 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. At any time after said date, as provided by Rule O–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application for an order of temporary exemption will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–21781 Filed 7–27–76;8:45 am]

[Rel. No. 9363; 812–3978]

AMERICAN GENERAL SHARES, INC.

Application for an Order Exempting Proposed Exchange of Shares

JULY 21, 1976.

Notice is hereby given that American General Shares, Inc. ("Applicant" or "Income Fund"), 2777 Allen Parkway; Houston, Texas 77019, registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"), filed an Application pursuant to Section 6(c) of the Act on July 2, 1976, for an order of the Commission exempting from the provisions of Sections 22(c) and 22(d) of the Act and Rule 22c–1 thereunder a proposed transaction pursuant to which shares of American General Income Fund ("Income Fund"), one of two separate classes of stock of American General Shares, Inc., will be issued at a price other than the current public offering price in exchange for substantially all of the assets of Lang & Co. ("Lang"), a Washington corporation and a personal holding company, and at a price other than the price next determined after the receipt of an order to purchase its shares. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Lang entered into an Agreement and Plan of Reorganization ("Agreement") with American General Shares, Inc. dated as of April 2, 1976, which provides that American General Shares, Inc. will acquire substantially all of the securities owned by Lang (which securities had a market value of $5,704,068 on May 31, 1976) in exchange for voting shares of capital stock of Income Fund. The shares of Income Fund are to be sold at net asset value without a sales charge. Pursuant to the Agreement, Income Fund shares having an aggregate net asset value equal to the value of Lang's assets to be acquired shall be issued in exchange therefor (the number of shares to be determined by dividing the aggregate market value of Lang's assets to be acquired by the net asset value per share of Income Fund). The net asset value per share of Income Fund and the market value of the assets of Lang to be acquired by Income Fund will be determined as of the first Friday following satisfaction (or waiver) of the conditions set forth in the Agreement, or at such other date as may be mutually agreed upon. The actual exchange of Lang's assets for shares of Income Fund will be on the next business day after the valuation date. If the valuation under the Plan had taken place at the close of business on May 31, 1976, approximately 914,721 shares, having a net asset value of $6.24 each, of Income Fund would have been issued for substantially all of the assets of Lang, having an aggregate value of $5,704,068 as of that date. Income Fund has no present intention of selling any of the securities acquired from Lang following the acquisition, other than on the expiration of short-term instruments.

Applicant states that when received by Lang, the shares of Income Fund are to be distributed to Lang shareholders in complete liquidation of Lang, in proportion to their respective stock ownership in Lang. It is a condition to the obligations of Lang under the Agreement that, prior to the exchange of Lang's assets for Income Shares, Lang shall have received a written ruling from the Internal Revenue Service satisfactory to counsel for Lang in form and content, including rulings to the effect that the Plan of Reorganization, the acquisition of Lang's assets by American General Shares, Inc. and the receipt of Income Shares in exchange therefor and the distribution of such Income Shares to Lang's shareholders will not result in taxable gains either to Lang or to any of its shareholders, although such conditions may be waived by Lang's Board of Directors.

No adjustment is being made to the relative net asset values for purposes of the purchase and sale in that, at February 29, 1976, Income Fund had a capital loss carryover of $33,676,171, while Lang & Co. has no realized gains or losses which will be carried over. Income Fund had $726,124 of unrealized appreciation at such date, and as of May 31, 1976, Lang had $418,625, in unrealized appreciation but even if all of this were recognized, and augmented through normal investment activities, it is believed that the capital loss carryforward of Income Fund far exceeds its ability to use it and therefore there is no tax burden on Income Fund shareholders by reason of the acquisition of Lang & Co.'s assets.

The purchase and sale, as proposed, will be accounted for as a purchase transaction and Income Fund will record the market value of Lang's investments as its basis for cost, and thus will not recognize any unrealized appreciation or depreciation on the transaction. Applicant states that Income Fund will not recognize any capital loss carryovers from the transaction since Lang is considered a personal holding company for Federal income tax purposes and has utilized losses in obtaining tax benefits. Applicant further states that because of these factors, it is anticipated that the transaction will have no adverse impact on Income Fund.

American General Capital Management, Inc. ("Adviser"), investment adviser to Income Fund, has agreed, if the purchase and sale is consummated, to pay for all fees and expenses of carrying the purchase and sale into effect, except expenses in connection with the liquidation of Lang and the legal and accounting expenses of Lang in connection with the Agreement, which exprenses will be paid by Lang. Registration fees with respect to the shares of Income Fund issued in connection with the purchase and sale will be paid by American General Shares, Inc. Applicant states that if the purchase and sale is not consummated, Lang will pay fees and expenses attributable to it, and Adviser will pay the fees attributable to American General Shares, Inc., other than the fees mentioned above, and that all printing costs will be borne by Adviser in any event.

Applicant represents that no affiliation exists between Lang or its officers, directors or shareholders and Income Fund, its officers and directors, and that the proposed agreement was negotiated at arm's length by the two companies. Income Fund's Board of Directors approved the proposed Agreement as being beneficial to its shareholders because, among other things, Income Fund will be able to acquire at one time substantial additonal portfolio securities that will be compatible with its invesment policies and objectives, and without incurring brokerage commissions.

Section 22(c) of the Act and Rule 22c–1 thereunder taken together provide, in pertinent part, that a registered investment company may not issue its redeemable securities except at a price based on the current net asset value of such security which is next computed as of the close of trading on the New York Stock Exchange next following receipt of an order to purchase such security.

Section 22(d) of the Act provides, in pertinent part, that a registered investment company may sell redeemable securities issued by such company only at the current public offering price described in the prospectus. The current public offering price of the shares of

Income Fund as described in its prospectus is net asset value plus a sales charge.

Applicant states that without an exemption from Sections 22(c) and (22(d) of the Act and Rule 22c–1 thereunder, Income Fund would be prohibited from: (a) exchanging its shares at net asset value, without a sales charge, for substantially all of the assets of Lang; and (b) effecting the transaction on the exchange date based on the market value of the assets of Lang to be transferred and net asset value per share of Income Fund, both determined as of the valuation time which is the close of business on the last business day immediately preceeding the exchange date. Because the exchange date and the valuation time will be fixed in advance, and in view of the short time span involved Applicant argues that the possible abuses at which Rule 22c–1 is directed will not exist.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision under the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that in its opinion the terms of the exchange contemplated by the Agreement are fair and reasonable and in the best interest of Applicant and its shareholders; and that therefore granting of the requested exemptions is consistent with the general purposes of the Act, and 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 August 16, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application 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 should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–21782 Filed 7–27–76;8:45 am]

[Rel. No. 19619; 70–5756]

ARKANSAS-MISSOURI POWER CO. ASSOCIATED NATURAL GAS CO.

Proposal To Make Short-Term Borrowings From Banks; Exception From Competitive Bidding

JULY 21, 1976.

Notice is hereby given that Associated Natural Gas Company ("Associated"), 405 West Park Street, Blytheville, Arkansas 72315, a wholly-owned subsidiary of Arkansas-Missouri Power Company ("Arkansas-Missouri"), a wholly-owned subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a post-effective amendment to an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a) and 7 of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

Associated proposes to make unsecured short-term borrowings from 22 commercial banks from time to time for a period of one year from the effective date of this post-effective amendment in an aggregate amount not to exceed $2,750,000 at any one time outstanding. To effect such borrowings Associated proposes to issue and sell to the First National Bank, Sikeston, Missouri, for the account of participating banks, an unsecured promissory note payable not more than 270 days from the date of issuance and which may be renewed from time to time but to mature not later than one year from the effective date of the post-effective amendment. Except as stated above, the terms and conditions of these borrowings, including the form of the note to be issued by Associated, applicable interest rate, and right of prepayment, will be the same as those set forth in the application-declaration and the Commission's order of November 26, 1975 (HCAR No. 19264). The net proceeds of the borrowings will be applied to the payment at maturity of Associated's presently outstanding bank borrowings previously authorized by the Commission. Associated currently intends to repay the proposed borrowings from the proceeds of permanent financing or with funds that might otherwise become available to Associated.

It is stated that the issuance and sale of the note is exempted from the competitive bidding requirements of Rule 50 by reason of paragraph (a)(2) thereof. Associated states that no separate or special expenses are anticipated in connection with the proposed transaction. It is further 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 August 16, 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 the filing 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 applicants-declarants 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-declaration, as amended, or as it may be further amended, may be granted and 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 or 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.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–21779 Filed 7–27–76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Area #1264; Amendment #1]

KANSAS

Declaration of Disaster Loan Area

The above numbered Declaration (See 41 FR 29777) is amended in accordance with the President's declaration of July 13, 1976, to include Butler, Cherokee, Cowley, Crawford, Elk, Greenwood, Labette, Montgomery, Neosho and Wilson Counties, and adjacent counties, within the State of Kansas, and to extend the filing date for physical damage until close of business on September 13, 1976, and for economic injury until the close of business on April 13, 1977.

Dated: July 15, 1976.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.76–21772 Filed 7–27–76;8:45 am]

CONTINENTAL CAPITAL CORP.

[License No. 09/12-0002]

Conflict of Interest Transaction Between Associates; Filing of Application for Approval

Notice is hereby given that Continental Capital Corporation (CCC), 555 California Street, San Francisco, California 94104, a Federal licensee under the Small Business Investment Act of 1958, as amended (Act), has filed with the Small Business Administration (SBA) an application pursuant to Section 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1976)), for approval of a conflict of interest transaction.

CCC will purchase 1,667 shares of Beaver Insurance Company (Beaver) at $51 per share for a total investment of $85,017. The shares represent CCC's prorata interest in 5,000 shares of Beaver which are being sold by Transport Indemnity Company (Transport). The transaction falls within the purview of Section 107.1004(b)(1) of the Regulations and requires prior written approval by SBA because three associates of CCC, as defined in Section 107.3 of the Regulations, are also directors of Beaver. Two of the CCC associates are also shareholders of Beaver. Mr. Fred Parr Cox, Chairman of the Board of Directors of CCC and shareholder of CCC, owns 400 Beaver shares and is a Director of Beaver. Mr. D. Forrest Greene, a Director and shareholder of CCC, is a Director of Beaver. His children purchased 100 Beaver shares over a year ago. Mr. William C. Tait, who is Mr. Cox's father-in-law, recently sold his shares of Beaver to Mr. Cox. Mr. Tait is also a Director of Beaver. Neither Messrs. Cox, Greene, nor Tait will purchase any of the Beaver stock being sold by Transport. Beaver's management will purchase at least 1,000 of Transport's 5,000 shares and other shareholders will participate in the purchase.

Notice is hereby given that any person may, not later than 15 days from the date of this Notice, submit to SBA in writing, comments on the proposed transaction. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published by CCC in newspapers of general circulation in Los Angeles and San Francisco, California.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: July 19, 1976

GERALD L. FEIGEN,
Acting Deputy Associate Administrator for Investment.

[FR Doc.76-21773 Filed 7-27-76;8:45 am]

FIRST TEXAS INVESTMENT CO.

[License No. 06/10-0013]

Small Business Investment Company; Approval of Transfer of Control

On June 28, 1976, a notice was published in the FEDERAL REGISTER (41 F.R. 26625) stating that First Texas Investment Company, 13025 Champions Drive, Houston, Texas 77069, had filed an application with the Small Business Administration (SBA), pursuant to Section 107.701 of the Rules and Regulations governing small business investment companies (13 C.F.R. Section 107.701 (1976)), for the transfer of control of this company to Mr. Lynn D. Rowntree and Mr. Neal C. L. Sumner.

Interested parties were given to the close of business July 13, 1976, to submit their written comments to SBA.

Notice is hereby given that, having considered the application and all other pertinent information, SBA approved this application for transfer of control effective July 15, 1976.

Dated: July 19, 1976.

GERALD L. FEIGEN,
Acting Deputy Associate Administrator for Investment.

[FR Doc.76-21774 Filed 7-27-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 101]

ASSIGNMENT OF HEARINGS

JULY 23, 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.

No. 36380, General Increase July 1976, Sea Land Serivce, Inc., now being assigned October 4, 1976, (1 week) at Anchorage, Alaska, in a hearing room to be later designated.

FD 28143, Soo Line Railroad Co.; Chicago, Milwaukee, St. Paul and Pacific Railroad Co.; and Chicago & North Western Transportation Co—Control—Green Bay and Western Railroad Co. and Acquisition of Trackage Rights—By the Chicago, Milwaukee, St. Paul and Pacific Railroad Co., in the City of Green Bay, Wisconsin, and AB 57 Sub-3 AB 7 Sub-28, and AB 1 Sub-55, Soo Line Railroad Co.; Chicago, Milwaukee, St. Paul and Pacific Railroad Co.; & Chicago and North Western Transportation Co.—Abandonment Between (A) Arcadia and Wisconsin Rapids, in Tremepealeau, Jackson and Wood Counties, (C) New London and Seymour, in Outagamie County & (D) Green Bay, Brown County, Wisconsin, now being assigned August 23, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 140829 (Sub-No. 8), Cargo Contract Carrier Corp. now assigned October 14, 1976, at Omaha, Nebr. is canceled and application dismissed.

MC 114211 (Sub-No. 264), Warren Transport, Inc., and MC 123048 (Sub-No. 338), Diamond Transportation System, Inc., now being assigned October 19, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 110328 (Sub-No. 11), Roy A. Leiphart Trucking, Inc. now being assigned October 14, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-9082, Transcon Lines, A Corporation—Investigation and Revocation of Certificates, now assigned November 9, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 128155 (Sub-No. 4), R.C. Van Lines, Inc., now being assigned November 4, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 129387 (Sub-No. 21), Bill Payne, d.b.a. Bill Payne Trucking Company, now being assigned November 3, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 114211 (Sub-No. 265), Warren Transport, Inc., now being assigned for October 14, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-21875 Filed 7-27-76;8:45 am]

[AB 19; Sub-No. 10]

BUFFALO, ROCHESTER AND PITTSBURGH RAILWAY CO. AND BALTIMORE AND OHIO RAILROAD CO.

Abandonment Portion Indian Branch at Black Lick Junction, in Indiana County, Pennsylvania

JULY 15, 1976.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Environmental Affairs Staff to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.

Said comments, which were made by Kovalchick Salvage Company, have been responded to in addendum [1] to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423; telephone 202-275-7011.

[SEAL] ROBERT L. OSWALD,
Secretary.

[1] Filed as part of original document.

Following are the responses to comments received on the Threshold Assessment Survey (TAS) for the above-entitled proceeding which was made available for public inspection by order served April 9, 1976. The full text of the submissions follow with parenthetical numbers in their margins for ease of cross-referencing. To the extent practicable, responses to comments have been limited to the presence or absence of environmental impacts and reasonable alternatives.

KOVALCHICK SALVAGE COMPANY

Comment: Approval of the proposed abandonment would severely limit the movement of recyclable materials through this area of Pennsylvania. An order to mitigate the effect of a possible abandonment Kovalchick Salvage Company would be willing to buy the subject line so that railroad service could be maintained to an active connecting point. Toward this purpose Kovalchick has already acquired two locomotives.

Response: The interest of Kovalchick in acquiring the subject line for continued rail service was not known at the time the TAS was prepared. In view of the benefit of maintaining the status quo at least insofar as Kovalchick is concerned, the TAS has been modified to reflect this interest while the TAS recommends a condition which reflects the interest by state and local authorities for use of the right-of-way for recreation purposes, it is recommended that a new condition be considered by the Commission which reflects this new interest.

The Buffalo, Rochester and Pittsburgh Railway Company and Baltimore and Ohio Railroad Company shall not sell, lease, exchange, or otherwise dispose of the right-of-way or track, culverts, and bridges on the line for a period of 60 days following actual abandonment unless said property has first been offered, upon reasonable terms, to responsible public authorities or other responsible persons interested in acquiring a portion or all of said right-of-way for continued rail use. If, following the conclusion of said 60-day negotiating period, an agreement has not been reached, the Buffalo, Rochester and Pittsburgh Railway Company and Baltimore and Ohio Railroad Company shall not sell, lease, exchange, or otherwise dispose of the right-of-way underlying the tracks, and all bridges and culverts on the line for an additional period of 60 days unless said property has first been offered, upon reasonable terms, to responsible public authorities or other responsible persons interested in acquiring the property for public use.

The first negotiating period precludes salvaging operations on the line for 60 days, after which limited salvaging operations may be commenced. During both negotiating periods, all bridge structures and right-of-way underlying the track must be left intact.

[FR Doc.76-21871 Filed 7-27-76;8:45 am]

[Ex Parte No. 137]

PROTECTIVE SERVICES

Contracts

JULY 23, 1976.

Notice to the parties:

By order served June 29, 1976, and published on July 2, 1976, at 41 FR 7106, the informal conference among all parties to this proceeding was scheduled for August 9, 1976. However, to provide the parties with the benefit of both opening and reply statements for adequate preconference preparation, the date of the informal conference has been postponed to September 21, 1976, at the offices of the Interstate Commerce Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-21872 Filed 7-27-76;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

JULY 23, 1976.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination* Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before August 9, 1976. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 41406 (Sub-No. E118), filed November 13, 1975. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, Ind. 46323. Applicant's representative: E. Stephen Heisley, 606 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and Steel products*, from Cleveland, Ohio, to points in that part of Iowa on and east of a line beginning at the Iowa-Illinois State line and extending along U.S. Highway 218 to junction U.S. Highway 151, to junction Iowa Highway 13, thence along Iowa Highway 13 to the Iowa-Wisconsin State line. The purpose of this filing is to eliminate the gateway of Sturgis, Mich., and Gary, Ind.

No. MC 41406 (Sub-No. E119), filed November 13, 197[illegible]. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, Ind. 46323. Applicant's representative: E. Stephen Heisley, 606 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and steel products*, from Cleveland, Ohio, to points in Missouri (except points in Mississippi County and those in Scot and New Madrid Counties east of Interstate Highway 55). The purpose of this filing is to eliminate the gateways of Sturgis, Mich., points in the Chicago, Ill., commercial zone (Gary, Ind.), points in the Portage, Ind., commercial zone, (Gary, Ind.), and the plant site of Jones & Laughlin Steel Corporation located in Putnam County, Ill. (Hennepin, Ill.).

No. MC 41406 (Sub-No. E120), filed November 13, 1975. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hommand, Ind. 46323. Applicant's representative: E. Stephen Heisley, 606 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and steel products*, from Pittsburgh, Pa., and Youngstown, Ohio, and points within 50 miles of each located in Ohio, Pennsylvania, and West Virgina, to points in Missouri on, north and west of a line extending along U.S. Highway 54 from the Missouri-Illinois State line to the Missouri-Kansas State line. The purpose of this filing is to eliminate the gateways of Sturgis, Mich., points in the Chicago, Ill., commercial zone (Gary, Ind.), points in the Portage, Ind., commercial zone (Gary, Ind.), and the plant site of Jones & Laughlin Steel Corporation located in Putnam County, Ill. (Hennepin, Ill.).

No. MC 41406 (Sub-No. E121), filed November 13, 1975. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave, Hammond, Ind. 46323. Applicant's representative: E. Stephen Heisley, 606 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and steel products*, from Portsmouth, Ohio, to points in Indiana except those in Spencer, Perry, Crawford, Orange, Washington, Harrison, Floyd, Clark, Scott, Jefferson, Ripley, Dearborn, Ohio, and Switzerland Counties. The purpose of this filing is to eliminate the gateway of Middletown, Ohio.

No. MC 41406 (Sub-No. E122), filed November 13, 1975. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, Ind. 46323. Applicant's representative: E. Stephen Heisley, 606 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and steel products*, from Cambridge, Ohio to points in that part of Iowa on and east of a line beginning at the Iowa-Illinois State line and extending along U.S. Highway 218 to junction U.S. Highway 151 to junction Iowa Highway 13, thence along Iowa Highway 13 to the Iowa-Wisconsin State line. The purpose of this filing is to eliminate the gateway of Sturgis, Mich., and points in the Chicago, Ill. Commercial Zone.

No. MC 41406 (Sub-No. E123), filed November 13, 1975. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, Ind. 46323. Applicant's representative: E. Stephen Heisley, 606 Eleventh St., NW., Washington, D.C. 20001. Authority

sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and steel products*, from Mansfield, Ohio to points in Missouri on and west of a line beginning at the Missouri-Illinois State line and extending along U.S. Highway 54 to Missouri Highway 5 to junction Interstate Highway 44 (U.S. Highway 66), thence along U.S. Highway 65 to the Missouri-Arkansas State line. The purpose of this filing is to eliminate the gateway of Sturgis, Mich., points in Chicago, Ill., Commercial Zone, and plant site of Jones & Laughlin Steel Corporation located in Putnam County, Ill. (Hennepin, Ill.)

No. MC 41406 (Sub-No. E124), filed November 13, 1975. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, Ind. 46323. Applicant's representative: E. Stephen Heisley, 606 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and steel products*, from Pittsburgh, Pa., and Youngstown, Ohio and points within 50 miles of each located in Ohio, Pennsylvania and West Virginia to points in Porter, Lake, Newton, and Jasper Counties, Ind., and points in La Porte County on and west of Indiana Highway 39. The purpose of this filing is to eliminate the gateway of Sturgis, Mich., and Gary, Ind.

No. MC 41406 (Sub-No. E125), filed November 13, 1975. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, Ind. 46323. Applicant's representative: E. Stephen Heisley, 606 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and steel products*, from Chesterton, Portage, and Gary, Ind., to points in West Virginia except those in Marshall, Ohio, Brooke, and Hancock Counties. The purpose if this filing is to eliminate the gateway of Gary, Ind., and Middletown, Ohio.

No. MC 41406 (Sub-No. E126), filed November 13, 1975. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, Ind. 46323. Applicant's representative: E. Stephen Heisley, 606 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and steel products*, from Chesterton, Gary, and Portage, Ind., to points in Hancock, Brooke, Ohio, and Marshall Counties, W. Va. The purpose of this filing is to eliminate the gateway of Gary, Ind., and Monroe, Mich.

No. MC 92983 (Sub-No. E52) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER May 5, 1976, and republished, as corrected, this issue. Applicant: AMERICAN BULK TRANSPORT CO., P.O. Box 2508, Kansas City, Mo. 64142. Applicant's representative: H. B. Foster (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Such petroleum products* as are embraced within contractor's materials and supplies, in bulk, in tank vehicles; . . . (10) from points in Wisconsin located in and west of LaCrosse and Tremepealeau Counties and points located on and west of a line extending from the southern border of Eau Claire County along Wisconsin Highway 27 to the western border of Douglas County, thence along the western border to Lake Superior (except those points in Wisconsin described in (9) above to points in Illinois located on and north of U.S. Highway 24, except those points located east of a line extending from the Illinois-Wisconsin State line along Illinois Highway 78 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Illinois Highway 26, thence along Illinois Highway 26 to junction Illinois Highway 64, thence along Illinois Highway 64 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Illinois Highway 47, thence along Illinois Highway 47 to junction Illinois Highway 17, thence along Illinois Highway 17 to the Illinois-Indiana State line; . . . The purpose of this filing is to eliminate the gateways of: (A)(9)–(10) Guttenberg, Iowa; . . . The purpose of this correction is to correct a typographical error in Part (10) above. The remainder of the letter-notice remains as previously published.

No. MC 92983 (Sub-No. E56) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER April 28, 1976, and republished, as corrected, this issue. Applicant: AMERICAN BULK TRANSPORT CO., P.O. Box 2508, Kansas City, Mo. 64142. Applicant's representative: H. B. Foster (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (B) *Such petroleum and petroleum products* as described in Appendix XIII to Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 as are embraced within contractors' materials and supplies in bulk, in tank vehicles, (4) from the site of the Pipeline Terminal of the Oklahoma-Mississippi River Products Line, Inc., at or near West Memphis, Ark., to points in Minnesota, (E) *Acids and Chemicals* (except petroleum and petroleum products), in bulk, (11) from points in Arkansas located in and west of Boone, Newton, Pope, Yell, that portion of Perry on and west of Arkansas Highway 9, Garland, Hot Springs, Dallas, Calhoun, and Union Counties (except points located in Benton, Washington, Crawford, Sebastian and that part of Scott on and west of U.S. Highway 71, Polk, Howard, Sevier, Little River, and Miller Counties) to points in Illinois on and north of a line beginning at the Mississippi River and extending along the northern and western borders of Henderson, Warren, Knox, and Stark, to junction with the western border of Bureau County, thence along western and southern borders of Bureau County to junction with the southern border of Putnam County, thence along the southern and eastern borders of Putnam County to junction U.S. Highway 6, thence along U.S. Highway 6 to junction with the western border of Grundy County, thence along the western and northern border of Grundy County to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction with the eastern border of Will County, thence along the northern and eastern borders of Will County to the Ilinois-Indiana State line, (F) *Liquid Chemicals* (except petroleum and petroleum products) in bulk, in tank vehicles.

(2) From points in Arkansas located in and west of Boone, Newton, Pope, Yell, and Polk Counties (except those points in Arkansas described in (1) above) to points in New Jersey located on and north of a line beginning at the New Jersey-Pennsylvania State line and extending along Alternate U.S. Highway 22 to junction Interstate Highway 78, thence along Interstate Highway 78 to junction New Jersey Highway 28, thence along New Jersey Highway 28 to junction Interstate Highway 287, thence along Interstate Highway 287 to junction with the Garden State Parkway, thence along the Garden State Parkway to Monmouth County, thence along the north boundary of Monmouth County to Lower Bay, (H) *Chemicals* (except petroleum and petroleum products), in bulk, (3) points in Arkansas located in, north and east of Washington, Madison, that part of Franklin on and east of Arkansas Highway 23, that part of Logan County on and east of Arkansas Highway 309, that portion of Yell County on and east of a line beginning at the north boundary and extending along Arkansas Highway 309 to junction Arkansas Highway 10, thence along Arkansas Highway 10 to junction Arkansas Highway 27, thence along Arkansas Highway 27 to the south County Boundary, Garland, Hot Spring, Clark, Quachita, and Union Counties to points in Oregon located on, north, and west of a line beginning at the Oregon-California State line and extending along U.S. Highway 395 to junction unnumbered highway north of Wagontire, thence along unnumbered highway through Narrows to junction Oregon Highway 78, thence along Oregon Highway 78 to junction U.S. Highway 95, thence along U.S. Highway 95 to the Oregon-California State line.

(K) *Chemicals* (except petroleum chemicals), in bulk, in tank vehicles, (4) from points in Arkansas on and west of a line beginning at the Missouri-Arkansas State line and extending along U.S. Highway 71 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction with the western border of Franklin County, thence along the western border of Franklin and Logan Counties to junction U.S. Highway 71, thence along U.S. Highway 71 to junction with the northern border of Sevier County, thence along the northern and eastern

boundaries of Sevier, Little River, and Miller Counties to junction U.S. Highway 82, thence along U.S. Highway 82 to junction with the eastern border of Lafayette County, thence along the eastern border of Lafayette County to the Arkansas-Louisiana State line (except those points in Arkansas described in part (3) above) to points in Michigan located on and north of a line beginning at Muskegon on Lake Michigan and extending along Interstate Highway 95 to junction Michigan Highway 50, thence along Michigan Highway 50 to junction U.S. Highway 223, thence along U.S. Highway 223 to the Michigan-Ohio State line and to points in Wisconsin on and north of a line beginning at the Iowa-Wisconsin State line and extending along U.S. Highway 18 to junction U.S. Highway 151, thence along U.S. Highway 151 to Manitowoc on Lake Michigan, (o) *Acids and chemcials*, in bulk, (17) from points in Arkansas to points in Washington; restricted in (Q) (1) through (17) against the transportation of anhydrous ammonia, aqua ammonia, ethylene dibromide, nitric acid, nitrogen, fertilizer solution, and sulphuric acid from El Dorado, Ark., and liquid caustic soda and muriatic acid from Baldwin, Ark.;

The purpose of this filing is to eliminate the gateways of: (Q) (17), Kansas City, Mo.; . . . The purpose of this correction is to correct the territorial description. The remainder of the letter-notice remains as previously published.

No. MC 108449 (Sub-No. E7), filed May 16, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, except petroleum chemicals (but including naptha), as described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, in bulk, in tank vehicles from Chicago, Ill., to points in Wisconsin, on and west of a line beginning at Superior, and extending along Wisconsin Highway 35 to junction Wisconsin Highway 77, thence along Wisconsin Highway 77 to junction Wisconsin Highway 27, thence along Wisconsin Highway 178 to junction U.S. Highway 53, thence along U.S. Highway 53 to junction Wisconsin Highway 35, thence along Wisconsin Highway 35 to junction Wisconsin Highway 93, and thence along Wisconsin Highway 93 to the Minnesota-Wisconsin State line. The purpose of this filing is to eliminate the gateways of La Crosse, Wis. and Winona, MN.

No. MC 108449 (Sub-No. E8), filed May 14, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, except petroleum chemicals (but including naptha), as described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, in bulk, in tank vehicles, from Chicago, Ill., to points in Wisconsin on and west of a line beginning at Superior, Wis., and extending along Wisconsin Highway 35 to Danbur, Wis., on the Wisconsin-Minnesota State line. The purpose of this filing is to eliminate the gateways of La Crosse, Wis., and St. Paul, Minn.

No. MC 108449 (Sub-No. E136), filed May 24, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Mn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, from points in Vernon County, Wis., to points in South Dakota (except points in Lincoln, Union, and Clay Counties). The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 108449 (Sub-No. E154), filed May 24, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Mn. 55113. Applicant's representative: W. A. Hyllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from Duluth, Minn., and Superior, Wis., to points in Illinois. The purpose of this filing is to eliminate the gateway of La Crosse, Wis.

No. MC 108449 (Sub-No. E201), filed May 15, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products* (except petro-chemicals, asphalt, road oil, and tar), in bulk, in tank vehicles, from Lemont and Lockport, Ill., to points in the Upper Peninsula of Michigan. The purpose of this filing is to eliminate the gateway of Milwaukee, Wis.

No. MC 108449 (Sub-No. E216), filed May 25, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Mn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid caustic soda* and *phosporic acid*, in bulk, in tank vehicles, from St. Paul, Minn., to points in Illinois (except points in Jo Daviess County). The purpose of this filing is to eliminate the gateway of Clinton, Iowa.

No. MC 108449 (Sub-No. E227), filed May 29, 1974. Applicant: INDIANHEAD TRUCK LINES, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphoric acid* and *liquid caustic soda*, in bulk, in tank vehicles, from St. Paul, Minn., to points in Missouri on and east of a line beginning at the Missouri-Illinois State line at the Mississippi River and extending along Missouri Highway 6 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Missouri Highway 15, thence along Missouri Highway 15 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction U.S. Highway 65, thence along U.S. Highway 65, to the Missouri-Arkansas State line. The purpose of this filing is to eliminate the gateway of Clinton, Iowa.

No. MC 112070 (Sub-No. E7), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colorado 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Houshold goods* as defined by the Commission, between points in Berkeley and Jefferson Counties, W. Va., on the one hand, and on the other, points in Texas on and west of a line beginning at the Oklahoma-Texas State line and extending along U.S. Highway 287, to junction U.S. Highway 87, to junction Texas Highway 349, to junction U.S. Highway 385, to junction Texas Highway 170, to the International boundary line between the United States and Mexico. Easton, Pa., and points within 15 miles; Missouri; and Enid, Okla., and points within 90 miles.

No. MC 112070 (Sub-No. E8), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colorado 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Houshold goods* as defined by the Commission, between points in Berkeley and Jefferson Counties, W. Va., on the one hand, and on the other, points in San Juan County, N. Mexico. The purpose of this filing is to eliminate the gateway of Easton, Pa., and points within 15 miles, Illinois; Iowa; Denver, Colorado; and points within 10 miles.

No. MC 112070 (Sub-No. E9), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colorado 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Norfolk County, Va., on the one hand, and on the other, points in Texas on and west of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 385 to junction Interstate Highway 20; to junction Interstate Highway 10 to the International Boundary line between United States and Mexico. The purpose of this filing is to eliminate the gateway of Easton, Pa., and points within 15 miles; Illinois, Missouri; Enid, Okla., and points within 90 miles.

No. MC 113843 (Sub-No. E488) (Correction), filed May 19, 1974, published in the FEDERAL REGISTER June 13, 1975, and republished, as corrected, this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, between those points in Tioga County, Pa., on the one hand, and, on the other, points in Indiana; and between those points in Pennsylvania on, north and west of a line beginning at the Pennsylvania-New York State line and extending along Pennsylvania Highway 249 to junction Pennsylvania Highway 287, thence along Pennsylvania Highway 287 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line, and those points in Indiana on and west of a line beginning at the Indiana-Kentucky State line and extending along U.S. Highway 421 to junction Indiana Highway 3, thence along Indiana Highway 3 to junction Indiana Highway 14, thence along Indiana Highway 14 to the Indiana-Ohio State line. The purpose of this filing is to eliminate the gateway of Elmira, N.Y. The purpose of this correction is to correct "to" to read as "and" in territorial description.

No. MC 114552 (Sub-No. E3) (Correction), filed April 26, 1974, published in the FEDERAL REGISTER August 19, 1974, and republished, as corrected, this issue. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber* (except plywood and veneer), (A) from points in Alabama to points in Ohio, West Virginia, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Massachusetts, Vermont, New Hampshire, Maine, Connecticut, Rhode Island, and the District of Columbia. The purpose of this filing is to eliminate the following gateways: (A) Points in Greenwood County, S.C., points in Tennessee, or points in a described portion of Northwest Georgia for (1) above. The purpose of this correction is to correct the territorial description. The remainder of the letter-notice remains as previously published.

No. MC 114552 (Sub-No. E188), filed September 18, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Minnesota, on and west of a line beginning at the Minnesota-Wisconsin State line, and extending along U.S. Highway 12 to junction Interstate Highway 494, thence along Interstate Highway 494 to junction U.S. Highway 212, thence along U.S. Highway 212 to junction Minnesota Highway 23, thence along Minnesota Highway 23 to junction Interstate Highway 90, thence along Interstate Highway 90 to the Minnesota-South Dakota State line, to points in Florida, on and east of a line beginning at the Atlantic Ocean and extending along U.S. Highway 92 to junction Interstate Highway 4, thence along Interstate Highway 4 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Florida Highway 64, thence along Florida Highway 64 to the Gulf of Mexico.

The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C. and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E192), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Minnesota, on and north of a line beginning at the Minnesota-Wisconsin State line, and extending along U.S. Highway 10 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction Minnesota Highway 50, thence along Minnesota Highway 50 to junction Minnesota Highway 3, thence along Minnesota Highway 3 to junction Minnesota Highway 60, thence along Minnesota Highway 60 to junction Minnesota Highway 15, thence along Minnesota Highway 15 to the Minnesota-Iowa State line, to points in Virginia, on and south of a line, beginning at the Virginia-North Carolina State line, and extending along U.S. Highway 501 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 360, thence along U.S. Highway 360 to the Chesapeake Bay. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C. and, the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E193), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards*, (except commodities in bulk), from points in Kansas, to points in South Carolina, on and east of a line beginning at the North Carolina-South Carolina State line, and extending along U.S. Highway 52 to junction U.S. Highway 521, thence along U.S. Highway 521 to the Winyah Bay, and points in Virginia, on and south of a line beginning at the Virginia-North Carolina State line, and extending along U.S. Highway 501 to junction Virginia Highway 304, thence along Virginia Highway 304 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Virginia Highway 20, thence along Virginia Highway 20 to junction Virginia Highway 3, thence along Virginia Highway 3 to junction U.S. Highway 301, thence along U.S. Highway 301 to the Potomac River. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C. and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E196), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards*, (except commodities in bulk), from points in Iowa, on and west of U.S. Highway 71 to points in Virginia, on and east of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 501 to Junction Virginia Highway 304, thence along Virginia Highway 304 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction U.S. Highway 360, thence along U.S. Highway 360 to the Chesapeake Bay. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C., and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E197), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk) from points in Wisconsin, to points in Virginia, on and south of a line beginning at the Virginia-North Carolina State line and extending along Interstate Highway 95 to junction U.S. High-

way 301, thence along U.S. Highway 301 to junction Virginia Highway 40, thence along Virginia Highway 40 to junction Virginia Highway 10, thence along Virginia Highway 10 to juncton Virginia Highway 31, thence along Virginia Highway 31 to junction the Colonial National Historical Parkway, thence along the Colonial National Historical Parkway to the Chesapeake Bay, and points in South Carolina, on and east of a line beginning at the Norht Carolina-South Carolina State line and extending along U.S. Highway 52 to junction U.S. Highway 521, thence along U.S. Highway 521 to the Winyah Bay. The purpose of this filing is to eliminate the plant site and warehouse facilities of the gateways of Abitibi Corporation near Roaring River, N.C. and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E198), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards (except commodities in bulk), from points in Wisconsin, on and north of a line beginning at Lake Michigan and extending along U.S. Highway 68, thence along Wisconsin Highway 68 to junction Wisconsin Highway 33, thence along Wisconsin Highway 33 to the Wisconsin-Minnesota State line, to points in Florida, on and south of Florida Highway 84. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C., and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E199), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Michigan, to points in South Carolina, on and east of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 52 to junction U.S. Highway 521, thence along U.S. Highway 521 to the Winyah Bay.

The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C. and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E200), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Michigan, on and north of a line beginning at the Lake Huron and extending along Michigan Highway 53 to junction Michigan Highway 81, thence along Michigan Highway 81 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Michigan Highway 115, thence along Michigan Highway 115 to Lake Michigan, to points in Florida, on and south of Florida Highway 40. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C. and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E204), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk) from points in Oklahoma, on and south of a line beginning at the Oklahoma-Arkansas State line and extending along Oklahoma Highway 63 to junction U.S. Highway 271, thence along U.S. Highway 271 to junction Oklahoma Highway 144, thence along Oklahoma Highway 144 to junction Oklahoma Highway 3, thence along Oklahoma Highway 3 to junction U.S. Highway 75 to the Oklahoma-Texas State line, to points in Pennsylvania, on the east of a line beginning at the Pennsylvania-Maryland State line, and extending along U.S. Highway 11 to junction Pennsylvania Highway 34, thence along Pennsylvania Highway 34 to junction Pennsylvania Highway 279, thence along Pennsylvania Highway 279 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction U.S. Highway 220, thence along U.S. Highway 220 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C., and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E205), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk) from points in Texas, on and west of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 281 to junction U.S. Highway 277, thence along U.S. Highway 277 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction U.S. Highway 377, thence along U.S. Highway 377 to the Texas-Mexico line, to points in South Carolina, on and east of a line beginning at the South Carolina-North Carolina State line and extending along U.S. Highway 52 to junction U.S. Highway 521, thence along U.S. Highway 521 to the Winyah Bay. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C., and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E206), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk) from points in Texas, on and west of U.S. Highway 277, to points in Virginia, on and north of a line beginning at the Virginia-North Carolina State line, and extending along U.S. Highway 29, to junction with U.S. Highway 15, thence along U.S. Highway 15 to the Virginia-Maryland State line. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C., and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E207), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220 Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards*, (except commodities in bulk), from points in Texas, to points in Virginia, on and east of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 501 to junction Virginia High-

way 304, thence along Virginia Highway 304 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Virginia Highway 20, thence along Virginia Highway 20 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Virginia-Maryland State line. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C. and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E208), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29109. Applicant's representative : William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Virginia 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards*, (except commodities in bulk), from points in Texas, to points in the Disrtict of Columbia, points in Maryland, on and east of U.S. Highway 15, points in Delaware, and points in New Jersey. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C. and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E209), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Texas, on and south of a line beginning at the Gulf of Mexico and extending along U.S. Highway 75 to U.S. Highway 290, thence along junction U.S. highway 290 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction Interstate Highway 20, thence along Interstate Highway 20 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 180, thence along U.S. Highway 180 to the Texas-New Mexico State line, to points in Pennsylvania, on and east of a line beginning at the Pennsylvania-Maryland State line and extending along Interstate Highway 70 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Pennsylvania Highway 26, thence along Pennsylvania Highway 26 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 287, thence along Pennsylvania Highway 287 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C. and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E210), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Texas, on and south of U.S. Highway 82, to points in Pennsylvania, on and east of a line beginning at the Pennsylvania-Maryland State line, and extending along U.S. Highway 11 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Pennsylvania Highway 414, thence along Pennsylvania Highway 414 to junction Pennsylvania Highway 287, thence along Pennsylvania Highway 287 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C., and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E211), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Missouri, on and west of a line beginning at the Missouri-Illinois State line and extending along Interstate Highway 44 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Missouri-Arkansas State line, to points in South Carolina, on and east of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 52 to junction U.S. Highway 521, thence along U.S. Highway 521 to the Winyah Bay. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C. and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E214), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplied and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Arkansas, on and south of a line beginning at the Arkansas-Missouri State line, and extending along Arkansas Highway 25 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Interstate Highway 40, thence along Interstate Highway 40 to the Arkansas-Oklahoma State line, to points in Pennsylvania, on and east of a line beginning at the Pennsylvania-Maryland State line and extending along U.S. Highwy 22, to junction Pennsylvania Turnpike Extension, thence along the Pennsylvania Turnpike Extension to junction U.S. Highway 209, thence along U.S. Highway 209 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line. The purpose of this filing to to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C., and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. 215), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except in bulk), from points in Arkansas, on and west of a line beginning at the Arkansas-Louisiana State line and extending along Arkansas Highway 7 to junction Arkansas Highway 8, thence along Arkansas Highway 8 to the Arkansas-Oklahoma State line, to points in Pennsylvania, on and east of a line beginning at the Pennsylvania-Maryland State line and extending along U.S. Highway 11 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C. and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E216), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's

representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Arkansas, on and south of a line beginning at the Arkansas-Mississippi State line, extending along U.S. Highway 49 to U.S. Highway 79, thence along U.S. Highway 79 to the U.S. Highway 270, thence along U.S. Highway 270 to the Arkansas-Oklahoma State line, to points in Pennsylvania, on and east of a line beginning at the Pennsylvania-Maryland State line and extending along Interstate Highway 83 to junction Interstate Highway 81, thence along Interstate Highway 81 to junction U.S. Highway 209, to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C., and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E219), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William J. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Louisiana, to points in Pennsylvania, on and east of a line beginning at the Pennsylvania-Maryland State line and extending along U.S. Highway 11 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Pennsylvania Highway 414, thence along Pennsylvania Highway 414 to junction Pennsylvania Highway 287, thence along Pennsylvania Highway 287 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C., and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E222), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Mississippi, to points in Pennsylvania, on and east of a line beginning at the Pennsylvania-Maryland State line and extending along U.S. Highway 15 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 87, thence along Pennsylvania Highway 87 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 267, thence along Pennsylvania Highway 267 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C., and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E225), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Alabama, on and south of a line beginning at the Alabama-Georgia State line and extending along Interstate Highway 85 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Alabama-Mississippi State line, to points in Maryland, on and east of U.S. Highway 15. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C. and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E226), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Alabama, on and south of a line beginning at the Alabama-Georgia State line and extending along U.S. Highway 78 to junction Interstate Highway 20, thence along Interstate Highway 20 to junction U.S. Highway 82, thence along U.S. Highway 82 to the Alabama-Mississippi State line, to points in Pennsylvania, on and east of a line beginning at the Pennsylvania-Maryland State line and extending along Interstate Highway 83 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C., and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E228), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Tennessee, on and west of Interstate Highway 65, to points in Virginia, on and east of a line beginning at the Virginia-North Carolina State line and extending along Interstate Highway 85 to junction Virginia Highway 138, thence along Virginia Highway 138 to junction Virginia Highway 40, thence along Virginia Highway 40 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction U.S. Highway 360, thence along U.S. Highway 360 to the Chesapeake Bay. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C. and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E229), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Indiana, on and south of a line beginning at the Indiana-Ohio State line, and extending along Indiana Highway 38 to Junction Indiana Highway 32, thence along Indiana Highway 32 to junction Interstate Highway 74, thence along Interstate Highway 74 to the Indiana-Illinois State line, to points in Virginia, on and east of a line beginning at the Virginia-North Carolina State line, and extending along U.S. Highway 301 to junction Virginia Highway 40, thence along Virginia Highway 40 to junction Virginia Highway 646, thence along Virginia Highway 646 to the James River. The purpose of this filing is to eliminate the gateways of the plant site and ware house facilities of the Abitibi Corporation near Roaring River, N.C. and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E230), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority

sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Illinois, to points in Virginia, on and east of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 301 to junction Virginia Highway 40, thence along Virginia Highway 40 to junction Virginia Highway 646, thence along Virginia Highway 646 to the James River. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C. and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E231), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Illinois, on and south of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 460 to junction Illinois Highway 14, thence along Ilinois Highway 14 to junction Illinois Highway 183, thence along Illinois Highway 183 to junction Illinois Highway 154, thence along Illinois Highway 154 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction Illinois Highway 156, thence along Illinois Highway 156 to the Illinois-Missouri State line, to points in Virginia, on and east of a line beginning at the Virginia-North Carolina State line and extending along Interstate Highway 85 to junction Virginia Highway 138, thence along Virginia Highway 138 to junction Virginia Highway 40, thence along Virginia Highway 40 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction U.S. Highway 360, thence along U.S. Highway 360 to the Chesapeake Bay. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C. and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 114552 (Sub-No. E232), filed September 22, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 267, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such composition boards as are also supplies and accessories used in the manufacture and installation of composition boards* (except commodities in bulk), from points in Maine, Vermont, Massachusetts, and New Hampshire, to points in Florida, on and south of a line beginning at the Atlantic Ocean and extending over along U.S. Highway 90 to junction Florida Highway 247, thence along Florida Highway 247 to junction Florida Highway 349, thence along Florida Highway 349 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateways of the plant site and warehouse facilities of the Abitibi Corporation near Roaring River, N.C. and the plant site and warehouse facilities of the Celotex Corporation in Wayne County, N.C.

No. MC 115904 (Sub-No. E8), filed December 11, 1975. Applicant: GROVER TRUCKING CO., 1710 W. Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Irene Warr, 430 Judge Bldg., Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in California on, east and south of U.S. Highway 101 commencing at Santa Barbara, Calif., thence along U.S. Highway 101 to Ventura, Calif., thence along California Highway 33 to Maricopa, Calif., thence along California Highway 119 to the junction of California Highway 99, thence along U.S. Highway 99 to Bakersfield, Calif., thence along California Highway 58 to Barstow, Calif., thence along Interstate Highway 15 to the California-Nevada State line, to points in Washington on and east of U.S. Highway 395 commencing at the United States-Canada border near Laurier, Wash., thence along U.S. Highway 395 to Spokane, Wash., thence along U.S. Highway 195 to the Washington-Idaho State line. The purpose of this filing is to eliminate the gateway of Lemhi County, Idaho.

No. MC 121060 (Sub-No. E61) (Correction), filed May 28, 1975, published in the FEDERAL REGISTER July 22, 1975, and republished, as corrected, this issue. Applicant: ARROW TRUCK LINES, INC., 1220 West 3rd Street, Birmingham, Ala. 35201. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth St., N.W., Washington, D.C. 20006. Authority south to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ceiling systems, paint, plastic light diffusers, adhesives, furring, fasteners, lighting systems, moldings, steel shapes, steel rods, steel channels, steel ceiling beams, applicators, and roofing caps, and materials and supplies* used in the installation of any commodity named above (except in bulk) from points in Alabama, on and east of a line commencing at the Alabama-Georgia State line, thence extending along Alabama Highway 22 to its intersection with Interstate Highway 65, thence along Interstate Highway 65 to its intersection with U.S. Highway 31, thence along U.S. Highway 31 to its intersection with U.S. Highway 331, thence along U.S. Highway 331 to its intersection with Covington County, Ala., thence along the Covington, Coffee, Dale, and Henry County, Ala. lines to the Alabama-Georgia State line, to points in Oklahoma, on and west of a line commencing at the Oklahoma-Arkansas State line, thence extending along Oklahoma Highway 83 to its intersection with U.S. Highway 59, thence along U.S. Highway 59 to its intersection with U.S. Highway 270, thence along U.S. Highway 270 to its intersection with U.S. Highway 69, thence along U.S. Highway 69 to the Oklahoma-Texas State line. The purpose of this filing is to eliminate the gateway of the facilities of Litecraft-Luminous Ceilings, Division of the Celotex Corp., at or near Scottsboro, Alabama. The purpose of this correction is to correct the territorial description.

No. MC 121318 (Sub-No. E8) (Correction), filed May 14, 1974, published, in the FEDERAL REGISTER June 18, 1974, and republished, as corrected, this issue. Applicant: YOURGA TRUCKING, INC., P.O. Box 335, Wheatland, Pa. 16161. Applicant's representative: John H. Yourga (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products, and such raw materials, supplies, and equipment*, as are uesd in the manufacture of iron and steel products, between points in that part of West Virginia on and north of U.S. Highway 40, on the one hand, and, on the other, points in that part of Pennsylvania on and north of Interstate Highway 80. The purpose of this filing is to eliminate the gateway of Sharon, Pa. The purpose of this correction is to correct the territorial description.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-21876 Filed 7-27-76;8:45 am]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

[Notice No. 93]

JULY 23, 1976.

Important Notice: The following are notices of filing of applications for temporary 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 contem-

plated 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.

MOTOR CARRIERS OF PROPERTY

No. MC 83217 (Sub-No. 71TA), filed July 15, 1976. Applicant: DAKOTA EXPRESS, INC., 550 E. 5th St., South, St. Paul, Minn. 55075. Applicant's representative: Paul Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meats by-products*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the port of entry on the United States-Canada Boundary line at Noyes, Minn., to Great Bend, Kans., for 180 days. Supporting shipper: East-West Packers, Ltd., 346 Dupy Ave., Winnipeg, Manitoba, Canad R2J 0T4. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 104123 (Sub-No. 76TA), filed July 16, 1976. Applicant: JOHN SCHUTT, JR., INC., 655 River Road, Tonawanda, N.Y. 14120. Applicant's representative: Richard H. Stretter, 704 Southern Bldg., 15th & H Sts. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous aluminum chloride* (dry in bulk, in tank vehicles), from ports of entry on the United States-Canada Boundary Line located in Michigan and New York, to points in Texas, Louisiana, and Maryland, restricted to movements originating at the plantsite and facilities of Welland Chemical at Sarnia, Ontario, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Welland Chemical Ltd., 3068 Universal Drive, Mississauga, Ontario, Canada L4X 2C8. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 910 Federal Bldg., 111 West Huron St., Buffalo, N.Y. 14202.

No. MC 110563 (Sub-No. 185TA), filed July 15, 1976. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, 113 N. Ohio Ave., Ohio Bldg., Sidney, Ohio 45365. Applicant's representative: Victor J. Tambasica (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Compressed fireplace logs and related advertising materials and display racks*, in mixed loads with compressed fireplace logs; (a) from Marion, Ohio, to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; and (b) from Suffolk, Va., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Great Lakes Carbon Corporation, 299 Park Ave., New York, N.Y. 10017. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604.

No. MC 114211 (Sub-No. 276TA), filed July 13, 1976. Applicant: WARREN TRANSPORT, INC., 324 Manhard St., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Daniel Sullivan, 327 South La Salle, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic conduit, plastic and iron fittings and connections, valves, hydrants and gaskets and related commodities* used in the installation of plastic pipe and plastic conduit (except commodities as described in Mercer Extension-Oilfield Commodities, 74 M.C.C. 459), from Columbia, Mo., to points in Minnesota, North Dakota, and South Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Clow Corporation, 1211 W. 22nd St., Suite 1002, Oak Brook, Ill. 60521. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 115904 (Sub-No. 55TA), filed July 16, 1976. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, Idaho 84301. Applicant's representative: Irene Warr, 430 Judge Bldg., Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard, gypsum and gypsum products* used in the manufacture and distribution thereof; (1) from points in Big Horn County, Wyo., to (a) points in Washington; (b) the international ports of entry on the United States and Canada Boundary Line located at or near Roosville, Flathead, Port of Chief Mountain, Port of Piegan, Del Bonita, Sweetgrass, Whitlash, Simpson, North Havre, Treelon, Port of Morgan, Opheim, Port of Scobey, Whitetail, and Raymond, Mont.; and Fortuna, Ambrose, Noonan, Portal, Northgate, Sherwood, Antler, Westhop, Carbury, Dunseith, Rolla, Hansboro, Calvin, Hannah, Langdon, Maida, Walhalla, Neche, and Pembina, N. Dak.; restricted to commodities destined in foreign commerce; and (2) from Sevier County, Utah to points in California, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia-Pacific Corporation, 900 SW. Fifth Ave., Portland, Oreg. 97204. Send protests to: Barney L. Hardin, 550 W. Fort St., Box 07, Boise, Idaho 83724.

No. MC 117119 (Sub-No. 586TA), filed July 14, 1976. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nuts, edible, shelled* (except commodities in bulk), from Sacramento, Calif., to the facilities of Ludens, Inc., at Reading, Pa., for 180 days. Supporting Shipper: Luden's, Inc., 200 North 8th St., Reading, Pa. 19603. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 117119 (Sub-No. 587TA), filed July 14, 1976. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed edible flour* (except in bulk), from (1) the plantsite of Modern Maid Food Products at Vernon, Calif., to the plantsite of Modern Maid Food Products at Ponchatoula, La.; (2) from the plantsite of Modern Maid Food Products at Ponchatoula, La., to Brownsville and Amarillo, Tex., and (3) from the plantsite of Modern Maid Food Products at Ponchatoula, La., to Miami, Fla., for 180 days. Supporting shipper: Modern Maid Food Products of Louisiana, Inc., P.O. Box 186, Ponchatoula, La. 70454. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 117940 (Sub-No. 180TA), filed July 16, 1976. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Arlyn L. Westergren, Suite 530, Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Weed killing compounds* (except in bulk), from Des Moines, Iowa, and the Monsanto plantsite and warehouse facilities near Muscatine, Iowa, to ports of entry on the United States-Can-

ada boundary line at Portal, Northgate, and Fortuna, N. Dak. Applicant intends to join authority with authority issued by Saskatchewan Highway Traffic Board, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Monsanto Company, 800 North Lindbergh Blvd., St. Louis, Mo. 63166. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 119399 (Sub-No. 61TA), filed July 14, 1976. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Blvd., P.O. Box 1375, Joplin, Mo. 64801. Applicant's representative: David L. Sitton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Henryetta, Okla., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nebraska, Tennessee, and Texas, for 180 days. Supporting Shipper: Midland Glass Co., Inc., P.O. Box 557, Cliffwood, N.J. 07721. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 119399 (Sub-No. 62TA), filed July 14, 1976. Applicant: CONTRACT FREIGHTERS, INC., 2900 David Blvd., P.O. Box 1375, Joplin, Mo. 64801. Applicant's representative: David L. Sitton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt liquor beverages*, (except in bulk, *and related supplies and materials*, from San Antonio, Tex., to points in Missouri, for 180 days. Supporting shipper: Pearl Brewing Co., Inc., P.O. Box 1661, San Antonio, Tex. 78296. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 119934 (Sub-No. 206TA), filed July 16, 1976. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, Ind. 46040. Applicant's representative: Robert B. Ferrell (same address as applicant. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrochloric acid*, from Louisville, Ky., to Centerville, Cinncinnati, Dayton, Middletown, Piqua, and Troy, Ohio; Clinton, Indianapolis, Lafayette, South Bend, and Terre Haute, Ind.; Clay City, Decatur, Dwight, East St. Louis, Flora, and St. Elmo, Ill., and Festus and St. Louis, Mo., for 180 days. Supporting Shipper: Detrex Chemical Industries, Inc., P.O. Box 623, Ashtabula, Ohio 44004. Send protests to: William S. Ennis, Interstate Commerce Commission, Federal Bldg., & U.S. Courthouse, 46 East Ohio St., Room 429, Indianapolis, Ind. 46204.

No. MC 126461 (Sub-No. 4TA), filed July 16, 1976. Applicant: PACIFIC FREIGHTWAYS LTD., 8020 Enterprise St., Burnaby, B.C., Canada V5A 1V7. Applicant's representative: V. W. (Vern) Kross (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bulk quick lime*, from points on the International Boundary between Canada and the United States at or near Blaine and Lynden, Wash., to Everett and Longview, Wash., Lewiston, Idaho, and Gardner, Oreg., under a continuing contract with Texada Lime Ltd., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Texada Lime Ltd., 309 189 W. Hastings St., Vancouver, B.C. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

No. MC 126503 (Sub-No. 12TA), filed July 16, 1976. Applicant: COMMAND DELIVERIES, INC., 2515 Hesperus Drive, Columbia, Md. 21044. Applicant's representative: Steven L. Weiman, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Processed and unprocessed photographic film and photographic equipment, materials, and supplies*, between Washington, D.C., and its commercial zone, on the one hand, and, on the other, points in Chesterfield, Powhatan, Henrico, Dinwiddie, New Kent, and Prince George Counties, and Richmond, Va., under a continuing contract with District Photo, Inc., for 180 days. Supporting shipper: Ken Driscall, Senior Supervisor, District Photo, Inc., 10619 Baltimore Ave., Beltsville, Md. 20705. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814–B Federal Bldg., Baltimore, Md. 21201.

No. MC 128662 (Sub-No. 1TA), filed July 19, 1976. Applicant: STICKLEY'S GARAGE, INC., doing business as STICKLEY'S TRUCKING, Route 6, Winchester, Va. 22601. Applicant's representative: Edward N. Button, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruit*, between the plantsite, warehouse, receiving, and shipping facilities of the Zeropack Company, in Winchester, Va., on the one hand, and, on the other, points in Pennsylvania, Delaware, New Jersey, New York, Connecticut, Massachusetts, Rhode Island,, Maryland, the District of Columbia, North Carolina, South Carolina, Georgia, and Florida, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Zeropack Company, 560 North Cameron St., Winchester, Va. 22601. Send protests to: Interstate Commerce Commission, 12th & Constitution Ave. NW., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 129455 (Sub-No. 13TA), filed July 16, 1976. Applicant: CARRETTA TRUCKING, INC., 301 Mayhill St., Saddle Brook, N.J. 07662. Applicant's representative: Charles J. Williams, 1815 Front St., Scotch Plains, N.J. 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, toilet preparations, pet products, pet supplies, and pet accessories* (except in bulk), from Cranbury, N.J., to points in California, restricted to a transportation service to be performed under a continuing contract with Carter-Wallace, Inc., for 180 days. Supporting shipper: Carter-Wallace, Inc., Half Acre Road, Cranbury, N.J. 08512. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton St., Newark, N.J. 07102.

No. MC 134022 (Sub-No. 18TA), filed July 16, 1976. Applicant: RICHARD A. ZIMA, doing business as ZIPCO, P.O. Box 715, West Bend, Wis. 53095. Applicant's representative: Richard A Zima (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from St. Paul, Minn., to Milwaukee, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Tiffany Distributing, Inc., 3516 W. Pierce St., Milwaukee, Wis. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 134022 (Sub-No. 19TA), filed July 16, 1976. Applicant: RICHARD A. ZIMA, doing business as ZIPCO, P.O. Box 715, West Bend, Wis. 53095. Applicant's representative: Richard A. Zima (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese products*, in mechanically refrigerated vehicles *and return of rejected shipments and materials and supplies* used in the manufacture of cheese products, from the plantsite of Badger State Cheese Company, at Forestville and Luxemburg, Wis., to points in New Jersey, New Haven, Conn.; Philadelphia, Pa.; New York Commercial Zone, New York and Detroit, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Badger State Cheese Company, Box 308, Forestville, Wis. 54213. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 135183 (Sub-No. 7TA), filed July 15, 1976. Applicant: KERR CONTRACT CARRIAGE, INC., Route #4, Salem, Mo. 65560. Applicant's representative: B. W. La Tourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, Mo. 63105. Authority sought to operate as a *con-*

tract carrier, by motor vehicle, over irregular routes, transporting: (1) *Charcoal, charcoal briquettes, and charcoal lighter fluid*, from the plantsite of Floyd Charcoal Co., near Salem, Mo., to points in Iowa, South Carolina, Nebraska and Louisiana; (2) *Paper bags*, from Peoria, Ill.; Pensicola, Fla.; Indianapolis and Seymour, Ind.; Spartenburg, S.C.; Mobile, Ala.; West Monroe, La.; Bristol, Tenn.; Savannah, Ga.; and Omaha, Nebr., to the plantsite of Floyd Charcoal Co., near Salem, Mo.; and (3) *Sodium nitrate*, in bags, from Lake Charles, La., to the plantsite of Floyd Charcoal Co., near Salem, Mo., under a continuing contract with Floyd Charcoal Co. Applicant intends to tack its existing authority with MC 135183 (Sub-No. 2), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Floyd Charcoal Co., 7800 Bonhomme, Clayton, Mo. 63105. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 135425 (Sub-No. 19TA), filed July 15, 1976. Applicant: CYCLES LIMITED, P.O. Box 5715, Jackson, Miss. 39208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by a manufacturer of medical and surgical supplies (except in bulk), from East Greenwood, S.C., to Pico Rivera and City of Commerce, Calif.; Andover Industrial Park near Seattle, Wash.; and Dallas, Tex., under a continuing contract with Parke, Davis & Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Parke, Davis & Company, P.O. Box 118, Detroit, Mich 48232. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Bldg., Jackson, Miss. 39201.

No. MC 136746 (Sub-No. 3TA), filed July 15, 1976. Applicant: CONSOLIDATED PARCEL SERVICE, INC., 9847 Page St., St. Louis, Mo. 63132. Applicant's representative: Joseph E. Rebman, 314 N. Broadway, Room 1230, St. Louis, Mo. 63102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mechandise, equipment and supplies*, sold, used or distributed by a manufacturer of cosmetics, from St. Louis, Mo., to points in Perry, Ste. Genevieve, Ste. Francois, Cape Girardeau, Madison, Jefferson, Bollinger, Iron, Wayne, Boone and Cole Counties, Mo. (on shipments having a prior movement from beyond Missouri), under a continuing contract with Avon Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Avon Products, Inc., 6901 Golf Road, Morton Grove, Ill. 60053. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 136799 (Sub-No. 7TA), filed July 15, 1976. Applicant: JAYHAUK TRUCK LINES, INC., 321 S. Mosley, Wichita, Kans. 67202. Applicant's representative: Paul V. Dugan, 2707 West Douglas, Wichita, Kans. 67213. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aircraft tires and retread aircraft tires*, between the plantsite of Thompson Aircraft Tire Corp., at Salina, Kans., on the one hand, and, on the other, Bloomington, Minn.; Denver, Colo.; Dallas, Tex.; Tulsa, Okla.; Houston, Tex.; Bensonville, Ill.; Platte City, Mo., and St. Louis, Mo., under a continuing contract with Thompson Aircraft Tire Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Thompson Aircraft Tire Corp., 1733 Dewey St., Salina, Kans. 67401. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 135755 (Sub-No. 76TA) filed July 15, 1976. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles* distributed by meat packing houses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Farmland Industries, Inc., at or near Garden City, Kans., to points in Kentucky, Tennessee, Ohio, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, Connecticut, Rhode Island, Massachusetts, New York, Vermont, New Hampshire, Maine and the District of Columbia, for 180 days. Supporting shipper: Farmland Foods, Inc., P.O. Box 957, Garden City, Kans. 67846. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 139659 (Sub-No. 2TA), filed July 15, 1976. Applicant: BRIGHT TRUCKING, INC., 2411 Third St., Eau Claire, Wis. 54701. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat by-products and articles distributed by meat packing houses*, as described in Sections A and B of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from the facilities of Landy Packing Co., at St. Cloud, Minn., and the facilities of Landy of Wisconsin, at Eau Claire, Wis., to points in Alabama, Arkansas, Connecticut, Delaware, Louisiana, Maine, Mississippi, New Hampshire, North Carolina, Rhode Island, South Carolina, South Dakota, Vermont, Virginia, and West Virginia; and (2) *Materials, supplies and equipment* used in the manufacture, sale and distribution of the commodities in (1) above, from the destination territory in (1) above, to the facilities of Landy Packing Co., at St. Cloud, Minn., and the facilities of Landy of Wisconsin, at Eau Claire, Wis., restricted to a transportation service to be performed under a continuing contract with Landy Packing Co., and Landy of Wisconsin, for 180 days. Supporting shippers: Landy Packing Co.; Landy of Wisconsin, First Ave. & Sixteenth St., St. Cloud, Minn. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 141655 (Sub-No. 2TA), filed July 13, 1976. Applicant: TRANS-PHOS, INC., 410 Ware Blvd., Suite 713, Tampa, Fla. 33619. Applicant's representative: Richard L. Whitney (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphate, phosphate products*, in bulk, in read-end type vehicles only, from Fort Green and Pierce, Fla., to Big Bend, Fla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Agrico Chemical Company, National Bank of Tulsa Bldg., Tulsa, Okla. 74103. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Monterey Bldg., Suite 101, 8410 NW. 53rd Terrace, Miami, Fla. 33166.

No. MC 142181 (Sub-No. 1TA), filed July 15, 1976. Applicant: LIBERTY CONTRACT CARRIER, INC., P.O. Box 1104, 214 Hermitage Ave., Nashville, Tenn. 37202. Applicant's representative: David M. Schwartz, 1025 Connecticut Ave., NW., Suite 500, Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are sold or dealt in by discount department stores and (2) *equipment, materials and supplies* used in the conduct of such businesses, between the retail and wholesale stores, warehouses, and sources of supply of Dollar General Corp., located at points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia, such service to be performed under a continuing contract with Dollar General Corporation, for 180 days. Supporting shipper: Dollar General Corporation, P.O. Box 427, Scottsville, Ky. 42164. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate

Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 142186 (Sub-No. 1TA), filed July 15, 1976. Applicant: WHELLS WEST, INC., 612 159th Place SE., Bellevue, Wash. 98008. Applicant's representative: Henry C. Winters, 1100 IBM Bldg., Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts of mobile homes and utility trailers, automotive springs, suspensions and parts thereof, brake drums, brake assemblies and parts thereof, tailgate hoists and parts thereof, wheels and wheel attaching parts, and parts* for motor vehicle chassis and motor vehicle undercarriage, from Quincy, Ill.; Davenport, Iowa; Detroit and Muskegon, Mich.; Springfield, Mo.; Henderson, Ky.; Akron, Dayton, Frankfurt, Kalida and Kenton, Ohio and Erie, Pa., to Portland, Oreg., restricted to a transportation service to be performed under a continuing contract with Six Robblees', Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Six Robblees', Inc., 2445 SE. 8th Ave., Portland, Oreg. 97214. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

No. MC 142205 (Sub-No. 1TA), filed July 19, 1976. Applicant: LOUDOUN TRANSFER, INC., P.O. Box 703, Leesburg, Va. 22075. Applicant's representative: Thomas G. Jewell (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Custom molded expandable polystyrene packaging*, from the plantsite at Sterling, Va., to Norwich, Conn.; Allentown, Pa.; Columbia, Md.; Charles Town, W. Va., and Charlotte, N.C., under a continuing contract with Preferred Plastics, Inc. Applicant intends to tack, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Preferred Plastics, Inc., P.O. Box 58, State Route 634, Sterling, Va. 22170. Send protests to: Interstate Commerce Commission, 12th & Constitution Ave., NW., Room 1413, District Supervisor, W. C. Hersman, Washington, D.C. 20423.

By the Commission.

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

[FR Doc.76-21874 Filed 7-27-76;8:45 am]

[Notice No. 298]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

JULY 28, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312 (b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before August 17, 1976. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularily.

No. MC-FC-76381. By order of July 21, 1976 the Motor Carrier Board approved the transfer to ATSL, INC., Philadelphia, Pennsylvania, 19135, of the operating rights set forth in Certificate No. MC-35706, issued December 7, 1973 to General Distribution Industries, Inc., Philadelphia, Pa., authorizing the transportation of new furniture and home, hotel and retail store furnishings, from Philadelphia, Pa., and Pennsauken, N.J., to New York, N.Y., and points in Long Island, N.Y., and points in Delaware, Maryland, Pennsylvania, and the District of Columbia; new furniture, uncrated, between Philadelphia, Pa., on the one hand, and, on the other, points in Delaware, and specified points in Maryland; and household goods as defined by the Commission, and new furniture, between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey. Anthony C. Vance, Esq. Croft, Dail & Vance, Suite 501, 1111 E Street, NW., Washington, D.C., 20004, attorney for applicants.

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

[FR Doc.76-21873 Filed 7-27-76;8:45 am]

[Amendment No. 4]

OILFIELD HAULERS ASSOCIATION, INC.

Section 5a Application No. 35; Agreement

JULY 20, 1976.

Notice:

The Commission is in receipt of an application in the above-entitled proceeding for approval of an amendment to the agreement therein approved.

Filed July 11, 1976 by: James R. Boyd, P.O. Box 488, Austin, TX 78767, Attorney for Applicants.

The amendment involves: Provisions for final disposition of proposals within 120 days of the date received by the Association, to comply with Ex Parte No. 297, 351 I.C.C. 437.

The complete application may be inspected at the Office of the Commission in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 30 days from the date of publication of this notice in the Federal Register. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest and the position they intend to take with respeect to the Application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application, without further or formal hearing.

ROBERT L. OSWALD, *Secretary.*

[FR Doc.76-21877 Filed 7-27-76;8:45 am]

federal register

WEDNESDAY, JULY 28, 1976

PART II:

ENVIRONMENTAL PROTECTION AGENCY

■

CONTROL OF AIR POLLUTION FROM NEW MOTOR VECHICLES AND NEW MOTOR VECHICLE ENGINES

Selective Enforcement Auditing Procedures

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 587-2]

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Selective Enforcement Auditing Procedures

These regulations establish an emissions testing program for new automobiles coming off the assembly line in order to ensure that these vehicles conform to the pollution control requirements of the Clean Air Act. This program will be known as "Selective Enforcement Auditing" or "SEA."

Emission standards for new automobiles have been in effect since the 1968 model year. To date, however, testing to make sure those standards are met has largely been confined to preproduction prototypes, and many vehicles in actual use are not meeting the standards. Such failure to meet standards in use could be the result of inadequate prototype evaluation procedures, differences between prototypes and production vehicles, and/or lack of proper maintenance in use. The regulations approved today are one step toward correcting that situation.

I. The Rulemaking Proceeding

These regulations were published for comment in proposed form on December 31, 1974. 39 FR 45360. A comment period of sixty days was initially provided, but this was extended for another forty-five days at the request of the auto manufacturers to all more time for the preparation of detailed comments. 40 FR 5169 (Feb. 4, 1975). Two trade associations, two Federal agencies, and seventeen manufacturers submitted written comments on the proposal.

After the close of this initial comment period, informal meetings were held at the request of General Motors on May 7, 1975 and of Ford Motor Company on May 20, 1975 to discuss the objections of these two manufacturers to the proposed SEA program. No other requests for such a meeting were received.

After these meetings, in order to obtain more information on certain technical issues and to solicit comment on certain alternative ways of conducting the program, EPA in effect reopened the comment period. On June 19, 1975, it announced in the Federal Register that a public hearing would be held beginning July 22 to consider the SEA proposal. 40 FR 25851. The exact topics to be discussed were specifically listed in the hearing notice.

Five manufacturers—American Motors, Chrysler, Ford, General Motors and Volkswagen—participated in the hearing, which lasted two days. In response to manufacturers' requests, a thirty day period was provided after the hearing for submittal of additional information. Tr. I-137; II-196.[1] In addition, EPA agreed to accept and evaluate any additional data and argument that were submitted even after the close of this public comment period as long as it was received before the rules were put in final form. See letters to Ford Motor Company, dated August 8, 1975 and to General Motors, dated August 14, 1975. Manufacturers have in fact taken advantage of this opportunity. For example, a representative of Ford sought and received an appointment with the Administrator to discuss issues relating to this program.

Although the promulgation of SEA requirements is informal rulemaking not required to be based on a fixed record, EPA established an SEA docket in the Freedom of Information Center in Washington on April 4, 1975. Various documents, including the proposed rules themselves, hearing transcripts, all comments received, and contractor reports on technical and statistical questions were placed in the docket during the rulemaking. See Tr. I-15; GM Statement p. 12.

In addition, all parties to the rulemaking treated certain other information as a matter of public record, and presented analyses and arguments based on it even though it had not been formally included in the rulemaking docket. This information consisted of the EPA certification testing results for all manufacturers for recent years, and data from California's own assembly line testing program and whatever additional assembly line testing the manufacturers carried out of their own volition. This data is made freely available by the regulatory agencies for which it is prepared, and is widely known to and dealt with by the responsible staffs in the industry. See C. Comm. Appendix B, F. Comm. App. A-13, A-14, A-15; GM Comm. IV-I, Tr. I-179-80 (VW); II-90, 98 (Ford). Indeed, during the hearings on suspension of 1977 exhaust emissions standards, all the manufacturers' most recent California data as well as production vehicle emission data acquired through their own in-house testing programs had been subpoenaed by EPA specifically because of its potential relevance to this program. See 1977 Suspension Hearing Transcript pp. 125-29, 158-59 (Chrysler); 509-510 (GM). The record of those suspension proceedings was often referred to by participants in this rulemaking. C. Comm. p. 3, 4; Appendix A p. 1; F. Comm. III-3, App. A-2, GM Comm. IV-1, VIII-9.

II. The Outline of the Proposal

In developing the SEA proposal, EPA made several basic choices which have remained unchanged in the final version. Since to a large extent these choices have determined the form of the program, they are briefly described here.

1. Use of a Sampling Approach

Section 206(b) of the Clean Air Act explicitly authorizes EPA, in setting up an assembly line testing program, to form its judgments either by testing every car affected, or by picking a representative sample and testing that.

SEA is a sampling program. Only a small number of the cars potentially affected by a judgment that standards are not met will in fact be tested; the performance of the others will be determined by statistical inference from the performance of the sample.

There were several reasons for adopting this approach. The test currently used to measure emissions from motor vehicles takes about forty-five minutes per vehicle to perform. Overnight conditioning of the vehicle by keeping it at a given temperature is also required. In addition, some manufacturers believe that a vehicle that has just come off the assembly line may not give a representative performance on this test, and that it should be driven for a certain period before it is tested. These regulations give such manufacturers the right to accumulate mileage on test vehicles at their option.

For all these reasons, testing every vehicle coming off the line would be extremely expensive and time-consuming for both the manufacturer and for EPA. There is no way at present to shorten testing time, since the emission standards are defined in terms of the test procedure described above, and no other shorter test procedure has been established that correlates adequately with the first one.

Nor is testing every vehicle necessary to accomplish the goals of the program. SEA in its current form is meant simply as a check on the manufacturers' quality

[1] In this Preamble, the following abbreviated citations are used:

Tr.—The transcript of the public hearing held July 22 and 23, 1975, to consider the SEA proposal.

C. Comm.—Comments of Chrysler Corporation submitted April 17, 1975.

DB Comm.—Comments of Daimler-Benz submitted April 17, 1975.

F. Comm.—Comments of Ford Motor Company submitted April 17, 1975.

T. Comm.—Comments of Toyota Motor Sales, U.S.A., Inc. submitted April 17, 1975.

GM Comm.—Comments of General Motors Corporation submitted April 17, 1975.

N. Comm.—Comments of Nissan Motor Co. submitted April 12, 1975.

MVMA Comm.—Comments of the Motor Vehicle Manufacturers Association submitted April 17, 1975.

VW Comm.—Comments of Volkswagen, submitted March 27, 1975.

H. Comm.—Comments of Honda Motor Co. submitted April 11, 1975.

C. Statement—The statement of Chrysler Corporation prepared for delivery at the July 22 hearing.

F. Statement—The statement of Ford Motor Company prepared for delivery at the July 22 hearing.

GM Statement—The statement of General Motors Corporation submitted to EPA at the opening of the July 22 hearing.

F. Mem.—The post-hearing memorandum of Ford Motor Company dated August 22, 1975.

VW Mem.—The post-hearing submission by Volkswagen, dated August 26, 1975.

control procedures; it is not meant to specify what those procedures should be. To avoid undue interference with the manufacturers' efforts here, it is desirable to keep testing to a minimum. This can be done without damage to the beneficial effects of the program as long as EPA retains the right to make its tests on a random and unpredictable basis. In that case, the manufacturer will have an incentive to maintain a good quality control program for all its vehicle configuration, since it will not be able to anticipate exactly which ones will be in fact selected for testing. See Tr. I–18, I–20, II–62, II–192–93.

The concept of initiating testing by means of a test order is used in order to allow the Administrator to focus attention upon those vehicle configurations which EPA wants to assure are in compliance and at a time when the Agency feels it is appropriate to do so. Since testing will only be required of particular vehicle configurations, the testing load imposed on the manufacturers will be considerably less than would result from having to simultaneously test all configurations. Selective testing will enable EPA enforcement officials to closely monitor test vehicle selection, preparation, and testing thus providing greater assurance whether the configurations in question are or are not in compliance. In the event vehicles of a particular configuration are found not to be in compliance, the selective testing concept allows attention to be focused on other configurations of that same engine family. Thus, SEA will achieve the same ends as requiring all configurations to be tested without resulting in the large testing burden that such an approach entails.

2. THE DESIGN OF THE SAMPLING PROGRAM

Statistical sampling consists of taking a small number of objects from a population of objects, analyzing the extent to which the selected objects display certain characteristics, and then making a mathematical estimate about the probable extent to which the population as a whole will display the same characteristics as the sample. In SEA, for example, the objects at issue are motor vehicles, the characteristics to be measured are emissions of three specified pollutants, and the estimate to be made concerns the extent to which the emissions control performance of the sample will reflect the performance of the population as a whole.

Accordingly, the first step in designing any sampling program is to define the population whose characteristics are to be measured. For SEA, this was done by starting with the existing practice of dividing all motor vehicles subject to the Clean Air Act requirements into "engine families." Vehicles in different engine families might be expected to have different emission characteristics. For that reason, EPA has always required that prototype vehicles from each separate engine family be separately tested and pass the emissions test before vehicles of that family may be sold. Since certifying an engine family is expensive and time-consuming, the number of engine families that can be tested each year is necessarily limited. Since the purpose of certification is to gain demonstration of a manufacturer's emission design capability across the spectrum of his planned production, engine families are defined fairly broadly and to some extent each family includes different subclassifications of vehicles that may differ somewhat in emissions performance. Since the focus of SEA is more selective, the population to be tested for SEA purposes will be a "configuration," which is a subclass of an engine family selected on the basis of certain characteristics which may be expected to affect emissions, such as engine code, weight, type of transmission, drive ratio, and the like. Cars in a configuration can be expected to be more similar to each other mechanically, and thus in emissions performance, than cars in the engine family as a whole.

Once the population has been defined, the next step is to determine how to select the sample from it. The approach EPA adopted would work by first selecting a "batch" of vehicles in a configuration for testing. A batch would normally consist of all vehicles of that configuration produced at a plant during a shift. The purpose of using this flexible batch designation is to select batch sizes small enough to keep the number of vehicles to be tested at a reasonable level and yet be large enough to enable EPA to draw statistically valid conclusions about the emissions of all vehicles of that configuration produced at that plant. Samples of vehicles from the batch would be chosen and tested until a judgment could be reached about the state of compliance of the batch, and batches would be tested through this process until a judgment could be made about the state of compliance of the population.

Sequential batch sampling, because it relies on testing small samples in sequence rather than a single large sample all at once, allows judgments to be reached in clear cases more quickly than the latter approach. In addition, selecting vehicles over a short period of time will make it possible to test a number of assembly lines over the course of a year.

An alternative to drawing off small samples quickly, as in batch sampling, is known as "continuous sampling." This involves testing some fixed or variable percentage of all production vehicles of the selected configuration on a continuous basis. The batch testing concept embodied by SEA will be just as effective an enforcement tool as continuous testing and offers a number of advantages that continuous testing does not. Since testing will only be required on a short term basis, the testing load imposed on the manufacturers will be considerably less than would result from EPA-imposed continuous testing. SEA will achieve the same ends as continuous assembly line testing without imposing a government-selected full time testing requirement.

After the sample has been drawn, the next step is to choose the type of stateristic of the population that is being predict the characteristics of the parent population. In SEA, that choice is bound up with the choice of the exact characteristics of the population that is being measured, or, in more technical words, the choice between an "attributes" approach and a "variables" one.

An "attributes" approach divides all members of the sample into two classes depending on whether they do or do not exhibit a given characteristic. For SEA, the division is based on whether or not a vehicle will meet the emissions requirement for a given pollutant. The number of vehicles in the sample that meet the requirement can then be used to predict how many in the parent population will likewise meet it.

Unlike "attributes" sampling, which is based on putting a simple pass/fail label on each sampled vehicle, "variables" sampling asks about the extent to which a given characteristic is exhibited. For SEA, the question would be exactly how high the emissions from each vehicle in the sample were.

EPA has chosen an "attributes" approach for SEA. We believe that in the end, the Clean Air Act contemplates that the emission standards apply to individual vehicles. Accordingly, the question which attributes sampling asks, namely "Do these vehicles meet the standards or not?" is more directly relevant to the ultimate statutory purpose than the one generally asked by "variables" sampling "How high are the emissions from these vehicles?" See C. Comm. App. D p. 2 ("Inspection by attributes assumes * * * that the magnitude of passing or failing is not as meaningful as the characteristic of passing or failing").

However, where variables sampling can validly be applied, it is possible to use it also to draw conclusions about the percentage of the members of a population that will exceed a given standard. In addition, variables sampling, where it can validly be applied, maximizes the reliability with which conclusions can be drawn from a given number of sample tests. This would tend to make its use desirable where the test at issue is somewhat difficult or expensive to perform, as is the case where auto emissions are concerned. See C. Comm. App. D p. 2.

The basic problem with applying a variables approach to SEA is that "variables" sampling will not yield valid results for predicting what percentage of the population exhibits values below a certain level unless the distribution of the population's emissions is known. By contrast, "attributes" sampling will yield reliable predictions of the extent to which members of the population exceed a given value whatever the shape of the underlying distribution. See C. Comm. App. D pp. 1–2, App. E p. 1, Tr. I–69 (GM); Tr. II–125–26 (Ford). Considerable analysis of vehicle emission data by EPA indicates that no one type of distribution consistently describes emission data. If a distribution were assumed and a variables plan were to be used, EPA would have considerably reduced assurance about the statistical validity of any conclusions made about the compliance of the vehicles from

which samples are drawn. An improper conclusion could be to the detriment of either EPA or a manufacturer. If the results of the sampling plan indicated that vehicles were in compliance but in fact they were not, then EPA would unknowingly be permitting the manufacturer to distribute noncomplying vehicles into commerce. In the reverse situation, EPA would be stopping sale of the vehicles when they in fact were complying. Adopting a variables approach could therefore provide results of questionable statistical validity.

The final step in putting together the statistical framework for SEA was to determine the percentage of cars in a population that would have to meet the emission requirements in order to avoid possible suspension or revocation of the certificate of conformity for the particular configuration tested. In the proposal, EPA set that value at 90 percent, though clear notice was given that other, less stringent values would also be considered, particularly for the first few years of the program. This reflected EPA's view that the statute requires every car be warranted to meet the emissions standards, while allowing 10 percent for measurement error and inevitable quality abberations, total elimination of which is not practical at the assembly line. This choice was expressed by proposing that the "Acceptable Quality Level" (AQL), which is the percentage of vehicles in a population which will be allowed not to meet the emission requirement, be set at 10 percent.

With this choice made, it was possible by accepted statistical methods to draw up a sampling program that would conclude with given confidence that a population did or did not meet the criterion.

Although it is an inherent characteristic of sampling plans that the risk of drawing an incorrect conclusion can never be entirely eliminated when drawing conclusions about the characteristics of a population from the behavior of a sample, only sampling schemes that had a "producer's risk" for each pollutant (the chance of rejecting a population that in fact meets the 10 percent AQL for that pollutant) of less than five percent were considered by EPA. Accepting a five percent "producer's risk" is normal practice. C. Comm. App. D. p. 1. Selection of sampling plans also involves consideration of the "consumer's risk" (the chance of accepting a population that in fact exceeds the 10 percent AQL). Once the "producer's risk" is fixed, the "consumer's risk" is directly related to the sample size. That is, the larger the sample size, the smaller the "consumer's risk." Obviously, it is EPA's desire to keep the "consumer's risk" to a minimum. However, since this would require large samples, EPA has selected sampling plans which represent a compromise between sample size and "consumer's risk."

3. ADJUSTMENT FOR DETERIORATION

To run an effective assembly-line test program, it is not enough to have a valid sampling scheme. The assessment of the emissions performance of sample vehicles must also be meaningful.

To a large extent, the emission measurement techniques to be used were not in fact controversial. The Federal vehicle emission standard, like any other emission standard, is defined in terms of a given test procedure, the FTP, and that test procedure will be used for SEA. However, though the law requires all vehicles to be warranted to meet the standards for at least 50,000 miles, and though this mileage is actually accumulated in certification on prototypes of at least some of the cars, it would obviously be impracticable for all cars subject to SEA testing to be run for 50,000 miles. Indeed, in many cases to require the cars to be run even to the 4,000 mile point at which tests to determine compliance begin during certification would be burdensome to the manufacturer.

Yet at the same time there is considerable evidence that auto emission performance often deteriorates between 4,000 miles and 50,000 miles, and some evidence that it may deteriorate, ameliorate, or at least vary widely between 0 and 4,000 miles as well.

In the proposal, therefore, EPA required that this deterioration or potential deterioration be accounted for. This would be done by mathematically projecting what the emissions of each vehicle tested off the assembly line would have been at 50,000 miles had it been run that far. To account for the deterioration between 4,000 and 50,000 miles, the standards would be divided by the "deterioration factor" for that distance demonstrated by the appropriate certification car, and the resulting "low mileage emission target" would be compared to the test results. To account for deterioration or amelioration between the mileage at which the test was actually performed and the 4,000 mile point, an additional adjustment would be required which could be calculated by one of several alternative means. It could be estimated using data either from certification cars or from actual production vehicles, or the cars could be driven for 4,000 miles and the actual deterioration or amelioration measured.

4. THE MECHANICS OF THE PROPOSAL

The preamble to the SEA notice of proposed rulemaking contains a full account of the actual mechanics of the SEA program. Very briefly, it would provide for starting a given test sequence by issuing a "test order" to a manufacturer, covering vehicles of a particular configuration built at a particular plant. The order would specify batch size. The manufacturer would then have to randomly sample and test vehicles from a normal consecutive run of vehicles constituting the batch. Sampling and testing would continue, as specified in tables annexed to the proposal, until a definite decision to accept or to reject the batch could be made. In some cases, testing of additional batches by the same process might be required until a decision could be reached as to whether vehicles in the configuration as a whole met the emission standards in the required percentages. If they did not, the certificate that enables the vehicles to be legally sold could be revoked or suspended by EPA. The manufacturer would then be entitled to a full formal administrative hearing before the agency, with right of appeal to the courts, as to whether the tests had been properly conducted or any sampling methods had been properly applied.

III. COMMENTS RECEIVED AND THE FINAL VERSION OF THE REGULATION

1. "AVERAGING" AND THE 10 PERCENT AQL

Without doubt the most controversial aspect of the proposed regulations concerned EPA's proposal that no more than 10 percent of the vehicles coming off the assembly line should exceed the emission standards that applied in certification. The manufacturers attacked this proposal as both illegal and as economically disastrous. They claimed that, if implemented, it would result in loss of certification for the majority of their engine families, with consequent repercussions on employment and profitability, and that, even if it could be met, that could only be done by adding more emission control equipment, thus decreasing fuel economy and increasing sulfate emissions and price. C. Comm. 2–10, 15–19, 23–24, Appendix A; F. Comm. I–2–4, II–15–26, III–3–7, Appendix A; GM Comm. III–17–22, IV, V, VI; MVMA Comm. 14–30; Tr. I–10–12 (GM), II–100 (Ford).

The legal arguments on this point have been rejected on the advice of my General Counsel. Though EPA does not agree with the companies' averaging position as a matter of law, an AQL (40 percent) that approximates an averaging approach in terms of regulatory impact is being set in order to implement SEA in a manner not unreasonably burdensome to the auto companies. The 40 percent AQL represents a level in emissions performance which is currently being bettered by all but a few of the highest emitting engine families and therefore will not require any major extra control effort or shift in designs on the part of the auto companies.

If auto emissions were distributed through the population of cars exactly according to the familiar bell-shaped or "normal" distribution, as shown in Figure 1, "averaging" could be achieved by setting an AQL of 50 percent. At that level, the peak of the distribution would be just at the standard, and, since the shape is symmetrical, as many cars would be below the standard as above it, and to the same extent.

In actual fact, however, it is almost universally agreed that the distribution of auto emissions at today's low standards is not "normal." This was admitted by manufacturers both during the SEA rulemaking and during the proceedings for suspension of 1977 exhaust emission standards. C. Comm. App. A p. 1 (log-normal distribution); Tr. I–120–121 (GM). "[I]n almost every sample investigated, the distribution (of emission results) is skewed toward high emissions * * *. The log normal distribution has been found to provide the best fit

in many situations." GM Comm. IV-2; VW Mem. 5-6. Since it is progressively more difficult to achieve very low emission results, and since a few "unlucky" cars can have emissions many times in excess of the standards, while no car can have emissions less than zero, the distribution of emission results tends to be biased or "skewed" toward the high end of the range, as shown in Figure 2. As this figure indicates, when such a bias is present, an AQL of 50 percent will allow average emissions to exceed the standard, since the half of the cars which are over the standard will in general be farther over it than the cars which are under the standard will be under it. To partially counteract this effect, EPA did not pick an AQL of 50 percent, which would be appropriate if a strict normal distribution applied, but rather one of 40 percent.

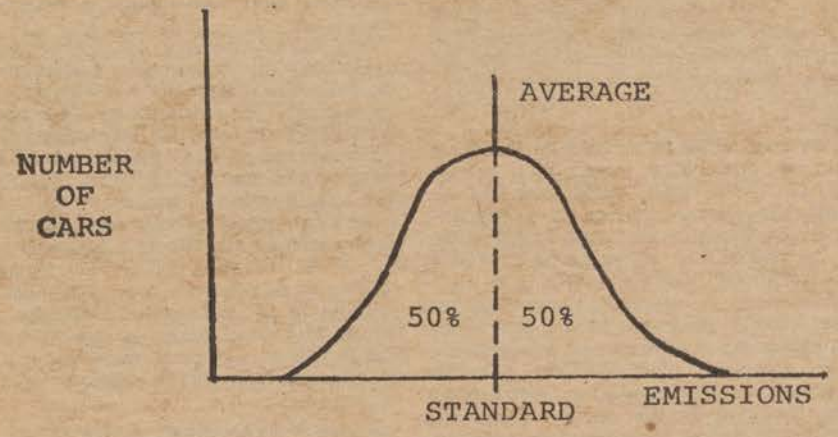


FIGURE 1. NORMAL DISTRIBUTION

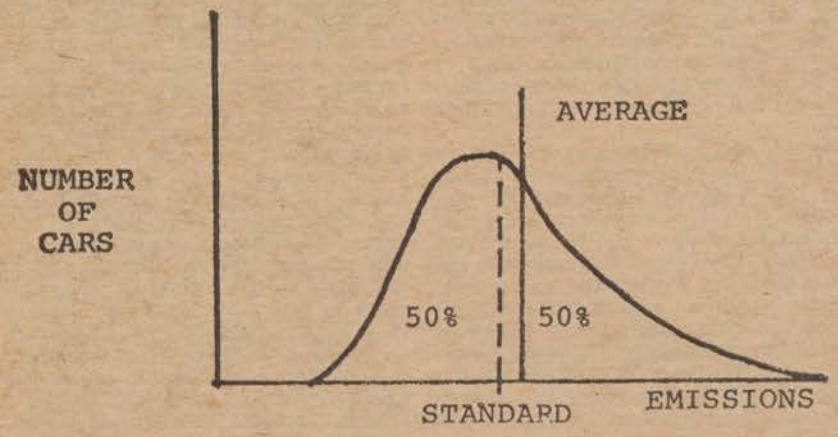


FIGURE 2. SKEWED DISTRIBUTION

Some manufacturers indicated in their comments that this AQL did indeed in their opinion approximate "averaging." C. Comm. App. D p. 4 ("[A] 40 percent AQL would correspond approximately to passing on the average"); H. Comm. 3; Tr. I-120 (GM), II-81 (AMC). See also GM Comm. IV-4 ("For skewed distributions like the log normal, the mean of the distribution is not at the 50th percentile; therefore, the mean could exceed the standard and still have more than 50 percent passing.") Table II of that comment indicates that a 40 percent AQL approximates averaging more closely than any other. See also GM Comm. V-7 (Table II), VI-A-1 (Table 1), VI-A-2 (Table ID. In making such a statement, these manufacturers also admitted that they could meet that level of control without too much difficulty, since they claimed that they built the average production vehicle to meet standards now.[2]

Though Ford stated that "50 percent would be the 'typical' AQL that would approximate quality for SEA and certification for Ford," F. Comm. pp. I-2, II-24, the analysis presented showed that what this meant was that at the level of the 1977 standards only for six of the possible 45 engine-family pollutant test combinations would a 50 percent AQL require Ford to do anything different than at present. Twenty-seven of those 45 combinations, according to the analysis, would when certified automatically comply with a 40 percent AQL even at present F. Comm. App. A-6, second table. Of course, it is not EPA's purpose to set an AQL exactly equal to "averaging" in every case as this approach seeks to, but rather to set one that is a reasonable approximation to current production and can be met without too much effort.

Finally, according to EPA's analysis of data submitted during this rulemaking, 29 out of 38 of the domestic light-duty vehicle engine families (representing 80 percent of production) for which manufacturers submitted data were complying in the 1975 model year with a 40 percent AQL. (See economic analysis, Table 4). For the 1976 model year, 48 out of 53 of the domestic light-duty vehicle families (representing 94 percent of production) are complying with a 40 percent AQL. Of course, the emission standards for 1977 are almost identical to those for 1975, which should allow manufacturers to improve their quality control even without the incentive of SEA.

Of the 53 1976 engine families for which data was provided, 24 are presently complying with a 10 percent AQL and are essentially in compliance with the law. In order to bring the noncomplying engine families into compliance, manufacturers would have to make significant improvements in quality control and in some cases lower the engineering design targets for their nonncomplying engine families. These kinds of changes could not be made on short notice and would require some reasonable period of time to institute.

Any change in the AQL will be made through the rulemaking process with full opportunity for public comment. The approach taken here, then, of not setting the AQL at 10 percent will provide manufacturers the time and flexibility to bring all their vehicles into conformance with the standards on a reasonable schedule. Such a schedule can be compatible with their parellel efforts to improve fuel economy and which does not expose them unduly to the risk of loss of certification while they are learning to bring their production vehicles into compliance with the law.

The AQL established by these regulations is intended to apply only to SEA

[2] Though Volkswagen did testify that a 40 percent AQL did represent a significant increased burden on them, the context makes clear that the technical burden of complying would not be great, but that any assembly-line testing program that might bar the sale of vehicles presented a significantly increased burden in their estimation. Tr. I-193. VW stated that a large safety factor would have to be built into their production emission distribution to guard against any possible failure of an audit. See also Tr. I-198 (all 1975 VW configurations would pass SEA).

and should not be construed as being applicable to other enforcement provisions established by the Clean Air Act.

2. REJECTION OF THE MANUFACTURERS SUGGESTED ALTERNATIVE PROGRAMS

All three major domestic manufacturers suggested alternative assembly line test programs to substitute for SEA. These programs have been rejected for two reasons.

First, most of the plans were designed specifically to determine whether the average emissions of a population of vehicles exceeds the standards.[3] This goal is inconsistent with our interpretation of the law.

The results of such an approach might not differ too much from SEA with a 40 percent AQL. In future years, however, if a change in the AQL is needed, a complete rewriting and rethinking of the manufacturers' plans would be needed to accomplish the same result. "(T)he Chrysler plan, in common with those of GM and Ford, is aimed at establishing 'compliance on the average.' If the criterion is to be compliance by each individual vehicle, all plans must go 'back to the drawing board.'" "Evaluation of Sampling Plans Developed by Automobile Manufacturers," report by Research Triangle Institute to EPA, September 1975, p. 22.

Second, all the manufacturers' plans depend on knowing the distribution of auto emissions throughout the population of cars as a whole. Chrysler and GM assume, contrary to logic and the general consensus, that this distribution is normal. Ford assumes that it is a type of skewed distribution known as a Weibull distribution.

EPA does not agree that any of the suggested distributions has been demonstrated to apply to all cases. Though each manufacturer might be willing to accept the errors associated with the kind of distribution it favors, even that is doubtful. Tr. I–72–73 (GM); I–175–180 (VW); II–65–66 (AMC). More important, as long as there is disagreement as to which distribution should properly be used, the better approach in setting up a program that will bind all manufacturers seems to be to use an approach that is valid whatever the underlying distribution is, as is the case with an attributes plan.[4]

[3] Plans submitted by Ford and Volkswagen, while not suffering from this defect, incorrectly, in EPA's opinion, assumed particular underlying distributions of emission data, and were therefore rejected. VW Comm. P. 20; F. Statement.

[4] Ford did claim that its variables plan would yield accurate results largely independent of the distribution of vehicle emissions. See, e.g., F. Mem. at 86. What is meant, however, is that the Ford plan predicts average emissions with relative insensitivity, not that it predicts AQL in this manner. Use of the Ford approach, therefore, requires prior acceptance of "averaging." See the labels on the horizontal axes of the two curves given on F. Mem. Attachment IV p. 1. Ford's alternative AQL plan, however, is sensitive to changes in the distribution of vehicle emissions.

3. REJECTION OF THE MANUFACTURERS' STATISTICAL CRITICISMS OF THE EPA SAMPLING PLAN

The manufacturers devoted relatively little effort to satistical criticisms of the EPA sampling plan, and particularly little to criticism of the revised version that was made available at the time the public hearing was announced. In addition, some of the criticisms, like Ford's comment that a 40 percent AQL approach will sometimes pass a vehicle class with lower average emissions than the one it fails, see Tr. II–128–29, are simply objections once again to EPA's failure to adopt an "averaging" approach.

Two comments here, however, deserve some response. The power of a sampling plan to draw valid conclusions about the characteristics of a population from those of a sample is described by its "operating characteristic" (OC) curve. The OC curve specifies how high the chances of rejecting a population that actually conforms to the test, or of accepting one that does not, are under a given sampling plan for any possible make-up of the population. OC curves were included in the revised sampling plan made available by EPA. No serious criticism of the accuracy of the OC curves has been received. Some manufacturers pointed out, however, that the OC curves differed with differing batch size. Generally, the smaller the batch, the more unfavorable the OC curve was to EPA.

This is a characteristic of the final plan that EPA is willing to accept. Since in all cases the "producers risks" of rejecting an acceptable vehicle configuration will be below the customary limit of five percent, no prejudice to the manufacturers will result from varying sample sizes.

Second, General Motors objected to the use of the "hypergeometric" rather than the "binomial" approach to calculating the significance of what the sample tests showed for the population as a whole. The "binomial" approach assumes that the population from which samples are drawn is infinite in size while the "hypergeometric" approach requires no assumptions about the population size. If the population is not infinite but is large relative to the sample size, then the "binomial" approach will result in only a small amount of error in drawing conclusions about the population. However, if the population is small, which is the case for SEA when small batch sizes are used, than the "binomial" approach can result in appreciable error. Since the "hypergeometric" approach does not result in any error when the population size is small, this is the approach EPA has selected.

The sampling plans in the final regulations require fewer vehicles to be tested than those in the proposed regulations and thus reduce the time required to make a decision regarding whether the vehicles are complying with the AQL. As the sampling plans appeared in the proposed regulations, a manufacturer was required to inspect four to six additional batches if the required number of batches was not accepted initially. The sampling plans in the final regulations call for inspection of two consecutive batches at a time so that at any point in the sampling procedure, it is possible that only two additional batches must be inspected before sampling can be terminated. The net effect is a reduction in the expected number of batches inspected over the original sampling plans.

Two other changes to the proposed sampling plans result in a reduction of the expected number of vehicles requiring testing. The sampling plan for batch size C (16 to 25 vehicles) originally called for sampling of two vehicles at a time up to a maximum of fourteen. The final plan specifies two samples of sizes three. In the proposed regulations, sampling plans are included for batch sizes E (51–90), F (91 to 150), and G (151 to 280), which call respectively for multiple sampling of up to 21, 23, and 56 vehicles per batch. The final plans go up to batch size D (26 or more vehicles) for which the maximum multiple sample size is 6 per batch.

4. OTHER STATISTICAL COMMENTS AND CHANGES

A variety of other comments on the statistical aspects of the program were offered by the manufacturers. Some of these have been accepted, and others have not. The exact comments, and the changes made, are set out below.

1. *"Home plant" testing.* Under SEA as proposed, EPA would be able to test cars at any assembly plant selected. General Motors objected to this approach, which they said would put them to the expense of either installing testing equipment at each plant or of transporting cars to be tested from a plant without equipment to one which did have it. GM. Comm. IX–2–4; Tr. I–88–91. They asserted that complete random selection was unnecessary, since there is such a degree of common origin to the parts used at the different plants, and such similarity in the assembly process, that there is no reason to expect that cars of a given configuration assembled at one plant will differ in emissions from cars of that configuration assembled at another. Chrysler appeared to agree with General Motors. Tr. II–217–18. As an alternative, they suggested that they be allowed to designate the plant at which testing of a given configuration would take place.

Ford, by contrast, accepted the idea of testing at every plant and, as a corollary, objected to extrapolating the results of testing a configuration at one plant to any other plant producing that configuration. F. Comm. II–41–42.

Given the degree of product homogeneity that the auto industry constantly strives to achieve, there seems no a priori reason to assume that cars of the same configuration produced at different plants will differ significantly in their ability to meet emissions standards. Ford presented no data to indicate the con-

trary. Accordingly, GM's position on this point has been accepted. It is a necessary consequence of this position that if cars at the test plant fail SEA, cars of the same configuration produced at other plants may also be deemed to fail it. See Tr. I–82–83, 86–97 (GM). This position has been written into the final regulations.

That judgment is discretionary, however. In an appropriate case it will be open to a manufacturer to attempt to convince EPA that there are indeed significant differences in emission performance between vehicles of the same configuration produced at different plants. By the same token, the regulations also provide that where EPA has reason to believe that cars of a given configuration produced at the "home plant" are not representative of cars of that configuration produced at other locations, testing at those other locations may also be required.

ii. *Random selection.* The original SEA proposal required vehicles for testing to be selected from each batch by statistical methods designed to ensure randomness. The manufacturers objected to this approach, arguing that the normal process of assembly has a sufficient randomizing effect on vehicle production, and that any additional measures would be costly and unnecessary. F. Comm. I–8, II–12–14; GM. Comm. IX 5–9.

This comment has been accepted, and the regulations have been amended accordingly. However, EPA retains the right to require true statistical random selection procedures where it has reason to suspect that the assembly process alone does not have sufficient randomizing influence.

iii. *"Continuous" sampling v. "batch" sampling.* It is a premise of "batch" sampling as proposed for use in SEA that cars produced during any one period of time are representative of cars produced at other periods of time, so that results obtained from testing vehicles at the time the sample is taken may be legitimately extrapolated to predict the performance of vehicles to be produced later in the model year.

Initially, most major domestic manufacturers supported this assumption. Tr. I–71 (GM); Tr. II–50–51 (AMC); C. Comm. 19, App. D pp. 2–3 (objecting to batch sampling on grounds other than statistical validity). See also GM. Comm. IX–9. Chrysler at the hearing later stated that production runs were not homogeneous and that continuous sampling was therefore required. C. Statement pp. 2–3. Tr. II–205. Ford, in its proposed sampling plan, adopted batch sampling, necessarily assuming homogeniety. F. Comm. App. D.

Such a record provides no firm basis for concluding that auto production is not homogeneous. In view of the much smaller expense of batch sampling for the same enforcement benefit, that approach has accordingly been retained.

iv. *Retests.* A certain degree of variation in results is inherent in the current emission testing procedure. For this reason, and also because of a belief on the part of some manufacturers that the first emission test performed on a relatively new vehicle may give results biased toward the high side, the manufacturers requested a right to retest vehicles in the SEA sample that failed the emissions test.

Allowing only failing vehicles to be retested would obviously bias the results of the total test program. However, there seems to be no objection to allowing retests if all vehicles in the sample are retested. The final regulations have been amended to permit that. In order to preclude statistical bias when retests are conducted, the individual test results for each vehicle will be averaged. See Tr. I–108, (GM) II–69 (AMC); II–104–105 (Ford).

5. TESTING PROCEDURES

i. *The use of deterioration factors.* As noted above, the SEA proposal provided that the anticipated deterioration in emission control performance between the test mileage and the statutory vehicle "useful life" of 50,000 miles would be accounted for by adjusting the standards. This would be done by applying two deterioration factors, one for the deterioration up to 4,000 miles, which would be calculated specially for SEA, and the other for the deterioration between 4,000 and 50,000 miles, which would simply be the deterioration factor demonstrated by the most closely related certification cars over that distance.

The manufacturers in their comments by and large attacked the use of any deterioration factor at all. Their suggestions regarding the 0–4,000 mile deterioration factor have been almost completely accepted; their objections to the use of the certification deterioration factor between 4,000 and 50,000 miles have not.

a. *The 0–4,000 mile deterioration factor.* Manufacturers objected to this adjustment on several grounds. They asserted that not enough data would be available in advance to calculate it meaningfully; that a large number of extra vehicles would have to be tested to determine what it was, since emission test results on relatively new cars tend to fluctuate widely; and that one alternative suggested by EPA—running the actual vehicles being tested to 4,000 miles and thus eliminating the need for any estimate of deterioration over that distance—was unacceptable because it would take too long, cost too much, and make it impossible to sell the vehicles concerned as new cars. The manufacturers also questioned whether there really was any deterioration in emission control performance over this distance. C. Comm. 12–13; F. Comm. I–4–5, II–30–3, App. C.; GM Comm. VII–A, VII–B, Tr. II–18–20, 34, 38 (AMC).

As an alternative to EPA's proposal, the manufacturers all made basically the same suggestion—that they be allowed to accumulate on the cars selected for testing as many miles as they thought necessary to stabilize emissions, and that the results so measured be treated as the 4,000 mile results. See GM Comm. VIII, Tr. II–36–32, 42 (AMC); Tr. II–94 (Ford); Tr. II–215–216 (Chrysler). This suggestion necessarily assumes that there will not be any significant change in emission control performance between the point at which the manufacturer tests the car, which all those addressing the point said they would try to hold to under 50 miles, and the 4,000 mile point.

In response to these comments, EPA has continued its evaluation of the performance of cars between 0 and 4,000 miles, using public data obtained during the comment period. On the basis of that analysis, the Agency has been unable to conclude that there is a statistically significant difference between zero mile and 4000 miles emissions. Therefore, the 0–4,000 mile deterioration factor has been eliminated. See report by Research Triangle Institute, January 1975.

The original proposal also permitted (though it did not require) manufacturers to accumulate mileage on their vehicles before testing. However, it required this mileage to be put on each car at a minimum rate of 500 miles per day, and only by use of the driving cycle used in certification durability testing.

Volkswagen objected to these requirements as unrealistic for many assembly plants, since the personnel to drive the cars long hours may not be available and the roads in the vicinity of the plant may make it difficult to follow the durability cycle exactly. Tr. I–172; I–207–211. See also N. Comm. p. 1; GM Comm. § 85.609 pp. 6–7.

These comments have merit, particularly since, with the abandonment of a 0–4,000 mile deterioration adjustment, cars will be driven only for purposes of stabilizing the engine. Corresponding changes have therefore been made to the final version of the regulations.

b. *The 4,000–50,000 mile deterioration factor.* All manufacturers that took a major part in the rulemaking, except Ford, also objected to the use of the deterioration factor derived from certification cars for use in SEA. They argued that one certification car run for 50,000 miles was too small a sample to be statistically meaningful, and that certification mileage accumulation, which because of time constraints must take place in a few months of continuous summer driving with specified fuel composition over a relatively small range of road conditions, might not reflect the actual use of production vehicles closely enough to make the deterioration factors comparable. C. Comm. 11–12, 14, Appendix B; GM Comm. III–13–17, III–23, VII–A; Tr. I–21 (GM); Tr. I–168–69 (VW); Tr. II–6 (AMC); DB, Comm. 4–6.

Ford, however, believed that the certification deterioration factor could be used for SEA, if two changes were made to it in the interest of technical accuracy. These were the use of an "additive" deterioration factor and the acceptance at face value of deterioration factors less than one. F. Comm. pp. I–5, II–32–33.

These criticisms have some validity. Nevertheless, the use of certification deterioration factors in SEA is being retained for several reasons.

First, no manufacturer denied that cars may well deteriorate in emission control performance over their first 50,000 miles, particularly for catalyst equipped vehicles, which are becoming increasingly prevalent. Tr. I–22 (GM); Tr. II–9–10 (AMC), II–105–106 (Ford), II–222 (Chrysler). When asked for an estimate of how to account for this deterioration in SEA, other than by using the certification deterioration factor, no satisfactory answer could be given. Tr. I–24–27 (GM); I–90 (VW); Tr. II–9–14 (AMC).[5]

Second, certification durability testing, though necessarily imperfect, is the best way we have of approximating how vehicles will perform in use. The driving cycle used has been deliberately set up to approximate actual in-use conditions as closely as possible. Until vehicles have actually been in customer use for several years, and their performance measured, the certification deterioration factor is the closest approximation to behavior in actual use that is available. See F. Comm. p. II–16; Tr. II–114 (Ford).

Finally, the statistical reliability of the deterioration factor generated in certification can always be improved to any desired extent at the manufacturer's option. The applicable regulations, see 40 CFR 86.077–24(c)(1)(ii), allow any number of indentical cars that the manufacturer wishes to be used to generate the 4–50,000 mile deterioration factor for each engine family. Accordingly, it is in the manufacturers' power to reduce the chances of statistical error based on testing a small number of vehicles to any extent chosen.

Although these regulations do not offer any alternatives to using certification DF's, it is the Agency's intention to give further consideration to this issue. In this respect, EPA encourages manufacturers to continue examining methods for taking deterioration into account when conducting assembly line testing to assure that vehicles continue to comply with the emission standards in use. At such time as manufacturers are able to present to EPA acceptable alternatives, EPA will consider amending these regulations to incorporate them.

With regard to additive deterioration factors, they are presently being considered for use in the certification regulations. At such time as the certification regulations are amended to permit their use, they will be considered for use with SEA.

ii. *Other comments regarding testing procedures*—a. *Separate publication.* In the SEA proposal, no test procedure especially intended for use in SEA was published. Instead, the test procedure by which the standards are defined, and which is used in certification, was cross-referenced, and it was stated that this would be used.

No serious objection was raised to the use of this test procedure. Several manufacturers commented, however, that these procedures should be published separately for application to SEA, since all the details of their application in certification might not be appropriate in this different context. GM Comm. III–23–26, Tr. I–93–94, 94–98 (GM); Tr. T–171, (VW); Tr. II–101, 162 (Ford). Lists were submitted to indicate the portions that, in the manufacturers' judgment, might be dropped or amended.

This comment has been adopted. Though the test procedures to be used are basically those that apply in certification, a number of the manufacturers' suggestions for detailed changes have been accepted.

b. *Lack of correlation.* A number of manufacturers objected to the provision in the proposed regulations which would allow the Administrator to suspend a certificate of conformity if a determination was made that a lack of correlation exists between the manufacturer's test equipment and the test equipment used by the Administrator. This provision is deleted in the final regulations. However, the term lack of correlation has been changed to lack of agreement to emphasize that differences in test results between EPA and a manufacturer may be the basis for suspension if EPA's testing results indicate the configuration in question is not in compliance. The two sets of data could correlate perfectly in the mathematical sense, yet one could be a multiple of the other, for example, and the data would not agree.

c. *Miscellaneous changes.* Since vehicles will normally receive predelivery checks prior to delivery to the user, permitting such checks for SEA would not make them unrepresentative of vehicles to be driven in actual use. Therefore, the final regulations permit predelivery checks.

Those comments dealing with the daily testing requirement centered around the problem of SEA testing conflicting with other testing requirements. Where a manufacturer believes that he cannot comply with the daily testing requirement because of other commitments, a mechanism has been provided in the regulations for dealing with this problem. A manufacturer may apply to the Administrator for an exception to the testing requirement prior to or after receipt of a test order.

6. OTHER CHANGES FROM THE PROPOSAL.

1. *Suspension of certificate of conformity for vehicles belonging to a rejected batch.* The proposal stated that "The certificate of conformity is suspended with respect to those vehicles which belong to a rejected batch and are still in the hands of the manufacturer * * *". This provision has been deleted because there is no sound statistical basis for doing this. The determination as to whether the configuration being audited meets the 40 percent AQL cannot be made until the batch sequence has either been accepted or rejected. Rejection of an individual batch does not necessarily mean that more than 40 percent of the vehicles are not complying.

ii. *Suspension of certificate of conformity when batch sequence is not accepted.* In order to emphasize that the Administrator has discretion in determining whether a certificate should be suspended in the event a manufacturer fails an audit, the language in this provision has been changed from that in the proposal to indicate that the Administrator may suspend the certificate rather than will suspend the certificate. This change has been made to make it clear that failure of an audit will not automatically result in suspension of the certificate.

iii. *Procedures for approving SEA-related engineering changes.* When a vehicle configuration fails to comply with SEA, and permission to sell it is therefore suspended or revoked, the manufacturer may have to make engineering changes to the vehicle to bring it back into conformity. The current EPA procedure for approving such changes (called "running changes") can be time-consuming. Up to now such delays have not had drastic consequences, since the manufacturer has been free to manufacture and sell vehicles of the previous design prior to approval of the changes. Under SEA, however, the assembly of the configuration affected may be discontinued until the change is approved.

The certification regulations require that a manufacturer notify EPA of any intended changes to a vehicle covered by certification where the manufacturer believes that the changes will require testing to demonstrate that the vehicle is still in conformance with the conditions for issuance of a certificate of conformity. Prior to approval of the changes, EPA may require the manufacturer to perform appropriate testing. Since by definition any engineering change made to a vehicle configuration subsequent to revocation of the certificate is one that will require conformity testing, the manufacturer must notify EPA prior to implementing the change. These regulations state that the testing performed in connection with the post-failure SEA audit fulfills all "running change" testing requirements provided that the change is one that will not affect durability of the emission control system. This provision has been included in the regulations because EPA has determined that testing performed for the audit would provide adequate information to determine the compliance of the configuration in question. GM Comm. IX–14–15; Tr. 112–115 (GM); Tr. I–173, 1–203–07 (VW); Tr. II–101–2, 195–6 (Ford). Changes affect-

[5] At the July hearing, Chrysler suggested that a more reliable deterioration factor could be developed by averaging deterioration factors across engine families with similar control systems. Tr. II–225. Ford rejected this approach, arguing that differences in emission performance between engine families are significant enough that it is not appropriate to average deterioration factors. Tr. II–119. An investigation by the Agency indicates that the factor which may have the greatest effect on different deterioration rates, catalyst size, varies widely between the different engine families of a given manufacturer. Therefore, averaging deterioration factors may mask true differences, rather than focusing in on an actual underlying deterioration rate.

ing durability will be handled through the usual "running change" procedure.

iv. *Limiting test orders.* One of the characteristics of the proposed SEA program most strongly objected to by the manufacturers was the lack of any limit on the number of test orders that could be issued to a given auto company. This, it was claimed, made the ultimate administrative and economic burden imposed by the program impossible to predict. C. Comm. 22–23; Appendices C and F; Tr. I–14 (GM); II–5 (AMC).

In response to this concern, and prompted by a suggestion made by Ford in its initial comments, F. Comm. I–7; II–5–6 (see also T. Comm. 10), EPA at the hearing raised the question whether setting an upper limit based on production volume to the number of test orders to be issued to each manufacturer would be an acceptable approach. Numbers approximating those yielded by a rate of one test order per 300,000 cars annual production, with a minimum of one, were mentioned. The general response was that both the approach and the specific number suggested were not open to serious objection. Tr. I–78–79 (GM); II–60–62, 79 (AMC); II–175, 194–95 (Ford).

This approach has been adopted in the final regulations, with two qualifications. First, test orders that result in a determination that a given configuration is not meeting the AQL will not be counted against the ceiling. The purpose of SEA is to provide an incentive to manufacturers to meet the AQL. As long as that incentive is working only limited testing will be necessary. But if it is not, further examination may be required, both to provide an inducement to the manufacturer to tighten up quality control and to determine the exact extent of the nonconformities. See Tr. II–202–203.

Second, the ceiling may be exceeded by EPA in cases where all test orders for a given manufacturer have been used up and the Agency has received information indicating that a violation of AQL limits is probably occurring. In such cases, an additional test order could be issued.

This second exception from the ceiling is intended to be used hopefully only in rare cases, where evidence in EPA's possession gives definite cause for concern.

It should be noted, however, that no such "probable cause" requirement applies to EPA issuance of orders within the testing limit. As discussed above, the effectiveness of SEA depends in part on the auto companies being unable to predict which of their configurations will be selected for testing. It is intended, therefore, that within that limit EPA have the maximum discretion allowed by law in the issuance of these orders.

A closely related point concerns the effect to be given a manufacturer's own quality control program in implementing SEA. It is a key part of the philosophy of SEA to encourage manufacturers to develop their own adequate quality control and monitoring programs. SEA will serve simply as a spot check on how well those programs are working. To the extent that a manufacturer's program is confirmed by SEA to be yielding vehicles which meet emission standards by comfortable margins, it may be possible to reduce the number of SEA orders accordingly.

In their comments, manufacturers asked to be told the exact type of quality control system that would be acceptable to EPA so as to eliminate or minimize the issuance of SEA test orders. GM Comm. III–27–28, IX 12–14; Tr. II–92 (Ford). SEA is not intended to be a quality control measure but rather is an audit tool used to determine whether the manufacturer has an effective production system. As can be seen by the approaches taken by GM, Ford and Chrysler (each presented radically different approaches with significantly different costs in their submissions to the SEA rulemaking record), each manufacturer has a different idea as to what may be appropriate to assure the performance quality of his vehicles. It is EPA's judgment that the manufacturer is in the best position to know the quality assurance system he should use and that EPA should use a uniform and economical method to audit the effectiveness of such systems. This is what SEA is intended to do.

Accordingly, EPA will not specify any guidelines for manufacturers' programs. Instead, these programs will be evaluated on an ad hoc basis in the course of deciding whether or not to issue individual test orders at least for the present.

v. *Administrative.* The proposed regulations required manufacturers to make daily telephone reports and submit daily written reports of test results. These requirements have been deleted from the final regulations because it has been determined that the final report provides all of the information needed by the Administrator to determine whether a manufacturer has complied with all of the provisions of this subpart and the test order.

Several foreign manufacturers proposed that EPA provide thirty to sixty days notice of issuance of a test order. EPA maintains that in order for SEA to be an effective deterrent to producing noncomplying vehicles, it must be able to require that production vehicles be tested with little or no notice. This will assure that representative samples of vehicles are selected for testing. EPA concurs with a number of manufacturers who recommended that test orders be issued to the authorized representative who signs the Application for Certification and the Agency has changed the regulations accordingly.

A provision has been added to the final regulations which would permit a manufacturer to reintroduce into commerce, prior to full reinstatement of the certificate, a configuration which has had its certificate suspended or revoked. This may be permitted when the manufacturer has developed a quality control or engineering change and is ready to implement it and conduct an audit to demonstrate that the configuration is in compliance. The purpose of this provision is to preclude manufacturers having to store entire batches of vehicles while conducting a subsequent audit. Otherwise this would be necessary while a certificate remained suspended or revoked until such time as the vehicle configuration being tested passed the audit.

vi. *Effective date.* The proposed regulations would have gone into full effect in the 1976 model year. All the manufacturers claimed that such early implementation was flatly impossible. C. Comm. I–6–7, Tr. I–136 (GM). In part, this position was based on the stringency of the 10 percent AQL originally proposed, but the auto companies maintained that position even after the possibility of a more lenient AQL was suggested to them at the hearing.

On the other hand, several of the companies did express their willingness to conduct SEA in 1976 on a "pilot" basis, meaning that only a limited number of test orders would be issued and no penalties for audit failure would be imposed. Tr. I–137 (GM); II–73 (AMC). This approach has been adopted in the final regulations.

Three manufacturers suggested 1978 as the earliest possible date for full-scale implementation of SEA, Tr. II–257 (Chrysler) and two thought that it could take place in 1977. Tr. 1–140; (GM indicates no technical objection to 1977 effective date) Tr. I–214 (VW), Tr. II–67 (AMC) Tr. II–102 (Ford). A 1977 deadline has been set for full implementation of SEA. Since the 40 percent AQL closely approximates "averaging," and since all the auto companies claimed that they met standards already if "averaging" were permitted, there seems no reason to delay institution of a program designed to confirm that fact longer than is needed to set up and test the administrative machinery. In fact, according to EPA's analysis of the data submitted during this rulemaking, engine families representing approximately 94 percent of the 1976 vehicles for which manufacturers have provided data were complying in the 1976 model year with a 40 percent AQL. Of course, the emission standards for 1977 are almost identical (the only change being for NOx, from 3.1 to 2.0 grams/mile) to those for 1976.

IV. Economic Impact

Though all manufacturers addressing the point claimed that implementing SEA at the 10 percent AQL originally proposed would have severe adverse effects on price and fuel economy, and hence on auto sales and employment, there is no reason to believe that a 40 percent AQL will have any major adverse effects. A study prepared by EPA's Office of Planning and Evaluation demonstrates that point. "Economic Analysis of the Selective Enforcement Auditing (SEA) Regulations," Office of Planning and Evaluation, Environmental Protection Agency, December 22, 1975.

According to that study, which accepts virtually at face value the collective assertions of the manufacturers, no loss in fuel economy will result from a

40 percent AQL at the level of these standards. The average sticker price increase will be $11, or two-tenths of one percent. See "Economic Analysis," Table 5. The resulting reduction in auto sales is estimated at 9,000 cars in 1977, or less than one-tenth of one percent. "Economic Analysis," Table 24.

Analysis of the 1976 model year emission data submitted by manufacturers after preparation of the above economic analysis, which shows a significant improvement over 1975 emissions performance, has resulted in a considerable downgrading of the expected cost increase due to a 40 percent AQL. EPA's latest estimate for the average increase in sticker price now ranges from $.17 to $.70.

The administrative cost to the manufacturers of carrying out the program will be similarly low. Only one manufacturer—Ford—estimated that any additional capital investment would be required if EPA were to accept a ceiling on the number of test orders to be issued annually. "Economic Analysis," Table 12. Additional operating costs will of course be incurred as the manufacturers carry out the additional emission testing that SEA will require, but even at the extreme this cost will not exceed about one and a half million dollars a year, and half a million is a more likely high estimate. "Economic Analysis," Table 14. Total domestic sales of the domestic auto companies are in the neighborhood of fifty billion dollars a year. "Economic Analysis," Table 21.

It is conceivable that the altogether negligible impact of SEA at the level of the 1977 standards will increase in future model years as the standards are tightened, but since the manufacturers did not provide any data on that point, no detailed analysis of it could be made. Several points, however, are worth noting.

First, as long as a 40 percent AQL continues to approximate "averaging," no extra burden over and above either certification or what the auto companies concede is justified for an assembly line test will be imposed by SEA. The only reason why a 40 percent AQL might not continue to approximate "averaging" at lower emission levels is that the shape of the distribution of emission results might change. However, since lower standards will increase the forces "skewing" the distribution to the high side, the only likely change in shape is to a distribution even more "skewed" to the high side than at present. As discussed above, the more "skewed" the distribution, the lower the AQL must be to approximate "averaging." There is some reason to believe, therefore, that as long as the 40 percent AQL is not changed, SEA will be more lenient than "averaging" in future model years.

Second, it is generally agreed that the emissions test to be used in SEA suffers from some variability in results from test to test. As standards become lower, the relative influence of this random error on each individual emission measurement will increase. Two factors, however, will greatly diminish its impact on the final determination whether a configuration is in compliance with SEA or not. The first is the provision for retesting vehicles at the manufacturer's option that has been inserted into the regulations at their request. The second is the 40 percent AQL itself. Since this AQL allows almost half the cars to exceed the standards, and since the variation in emission measurements from test to test is essentially random (see Society of Automotive Engineers Paper No. 741035, p. 2), testing errors that cause vehicles to fail which would otherwise have passed will tend to be offset by errors that cause vehicles to pass which would otherwise have failed.

Finally, it is worth noting that some data exists to show that at the level of the current California standards, SEA will not impose much more of a burden than it will at the current Federal level. At present, 79 percent of California cars would meet SEA at a 40 percent AQL, as compared to 80 percent of Federal cars. "Economic Analysis," Table 7. Although the level of auto emission standards after 1977 has of course not been determined yet, the current version of the House bill would not require control more stringent than the current California standards until 1980, while the current version of the Senate bill would continue the 1977 national standards until 1980. It appears, then, that until the 1980 model year at the earliest, the economic burdens associated with SEA at the 40 percent AQL will be minimal.

V. Legal Aspects

The manufacturers challenged, in several respects, EPA's legal authority to promulgate the SEA regulations. These comments fall into four categories: The concept of averaging, the potential need for reproposal, hearing procedures, and enforcement provisions.

1. "AVERAGING"

The most pervasive legal question raised in the course of this rulemaking was whether the Clean Air Act contemplates that each vehicle coming off the assembly line will meet the same emission standards that applied in certification, or whether it is only necessary for those standards to be attained on the average basis by a population of production vehicles. Manufacturers who expressed an opinion unanimously supported the averaging position. However, that position is, as I am advised by my General Counsel, inconsistent with the requirement of the Act that every vehicle be warranted to meet the emission standards.

Under the current testing plan, with the AQL for a class of vehicles set at 40 percent, the practical differences between these two approaches may not be that great. It was generally agreed during the rulemaking that SEA with a 40 percent AQL and "averaging" pure and simple will be very similar in their immediate effects on the manufacturers Tr. 1–120 (GM); II–81 (AMC). Any future change of the AQL will depend on a need for such change as demonstrated by assembly line data to be acquired under this program.

2. THE ASSERTED NEED FOR REPROPOSAL

Several manufacturers claimed that if EPA were to make any significant changes from the proposed version of the regulations, it would have to propose them again for comment.

The law is otherwise. The Administrative Procedure Act does not require precise notice of the terms of the final rule to be given in the proposal. It requires instead that notice of "either the terms or substance of the proposed rule notice of "either the terms or substance of the proposed rule or a description of the subjects and issues involved" shall be given. 5 U.S.C. 553(b)(3). The legislative history adds that the notice "must be sufficient to fairly apprise interested parties of the issues involved, so that they may present responsive data or arguments relating thereto." "Administrative Procedure Act—Legislative History," S. Doc. No. 248, 79th Cong. 2d. Sess. 200 (quoting from Senate Report). See also id. at 258 (quoting from House Report) (1946). The decisions on this point are to much the same effect. They also add the principle that an agency may change its proposed rule in response to comments received, since otherwise the comment period required by the statute would be of no practical effect.

The record of this rulemaking indicates that EPA fully complied with these legal requirements. Eleven of the thirteen changes (other than minor technical or drafting changes) made to the final version of the regulations were made in response to specific comments of the automobile manufacturers who made up the only class of interested persons to participate in the rulemaking in any significant way. These were the deletion of the requirement for taking account of deterioration between 0 and 4,000 miles, an expedited procedure for approving engineering changes related to SEA, a change in the effective date of the program, specific adaptation to SEA of the certification test procedures, allowing retests on cars in SEA samples, relaxing the procedures for mileage accumulation on cars in SEA samples, setting a limit to the number of test orders to be issued to a given manufacturer in any given model year, allowing the manufacturer to specify the assembly plant at which vehicles of a given configuration should be tested, relaxation of the requirements that sample cars be selected by random methods from designated batches, and deletion from the hearing regulations of any provision for third-party intervention. Specific notice was given in the hearing announcement on June that the first four of these items might be changed, and possible changes to all but the last two were discussed at the hearing. All these changes, it will be evident, concerned somewhat technical details of the implementation of the program.

The only two changes which could be called significant by any stretch of the

imagination which were made to the final version of the regulations other than at the specific request of a party commenting are the adoption of a revised sampling plan and the adjustment of the AQL from 10 percent to 40 percent.

The revised sampling plan, however, was made publicly available prior to the announcement of the July hearing and comments on it were received for thirty days after the hearing closed, for a total of sixty days comment in all. Detailed comments on it were in fact received.

As for the change in the AQL, the possibility that this might be done was clearly announced at the time of proposal in these words:

> [G]iven that the program proposed here is new, it may be desirable to initiate the program with a higher AQL (than 10 percent), to be reduced to the goal of 10 percent in future years after some experience with the program is gained * * *. Comment is specifically solicited on the level of the initial AQL and the schedule for meeting the ultimate goal of 10 percent. 39 FR 45363 (Dec. 31, 1974).

By any normal standards, this statement would be sufficient to give notice that a considerably higher AQL than ten percent might be adopted in the final promulgation.[10]

In addition, in the hearing notice EPA renewed its call for comment on alternative AQL's, and the question of a 40 percent AQL was specifically raised repeatedly at the hearing. Tr. I–119, 126, 147 (GM); I–193, 212, 222 (VW); II–81 (AMC); II–167 (Ford); II–239 (Chrysler). Indeed, the same question was discussed in January 1975, in EPA's hearing on suspension of the 1977 auto emission standards. See 1977 Suspension Hearing Transcript, p. 159.

Beyond these specifics, the auto manufacturers had every reason based on the logic of their position to give their opinion of an AQL in the neighborhood of 40 percent. As discussed above, it was their position that "averaging" was required for assembly line testing for both legal and practical reasons. Given the force with which they pushed that point, they certainly might have envisioned that EPA would take account of their comments in the most direct way, by adjusting the AQL upward.

In fact, a significant amount of data and opinion concerning a 40 percent AQL did emerge in the course of this rulemaking, enough to amply support the conclusions EPA has drawn concerning it. That data has been discussed above. A fair reading of the record will suggest that the absence of more detailed comment on this obvious potential modification to the proposed scheme stems from a tactical judgment on the part of the auto companies. Rather than suggest ways in which the AQL in the proposal could be modified to become more acceptable, they concentrated in attacking the whole AQL approach, which they perceived to be inconsistent with the "averaging" position to which they were committed. This was, of course, their right. But their choice of this approach does not point to any deficiency in the rulemaking. The APA requires that a fair opportunity for comment be given; it does not require that opportunity to be exercised. The choice whether to exercise it or not is up to the persons potentially affected.

[10] Indeed, even prior to any SEA proposal, when alternative programs were being discussed informally between EPA and the industry, Ford submitted a detailed analysis of the potential consequences of a 40 percent AQL. "Selective Enforcement Auditing Discussion Ford-EPA, November 12, 1974" (discussion book prepared by Ford Motor Company). Exhibits II and IV.

3. HEARING PROCEDURES

The manufacturers challenged provisions of § 85.614(d) of the proposed regulations which permitted the Agency to deny a manufacturer's request for a hearing if it appeared that "there is no genuine and substantial question of fact" with respect to the relevant issues. The manufacturers argue that this provision is inconsistent with the mandatory language of section 206(b)(1)(B)(i) of the Act to the effect that "[t]he Administrator *shall* grant such manufacturer a hearing * * *" [Emphasis added.] As noted in the preamble to the proposed SEA regulations, the concept of an administrative summary judgment, even in the face of statutory language as above, is now well established. See, e.g., *"Weinberger* v. *Hynson, Westcott and Dunning Inc."* 412 U.S. 609 (1973). It is true, however, that this line of cases requires that the relevant issues for the hearing be specified clearly in advance in the regulations. Although section 206(b)(2)(B)(i) of the Act already narrows the issues for SEA enforcement hearings, the final rules further clarify the issues by providing that the validity of previously promulgated testing and sampling regulations will not be an issue in such hearings, where preenforcement judicial review of the rules is available.

The hearing procedures were shortened by the deletion of provisions for intervention contained in the proposal. Even the short delay contemplated by the proposal could cause substantial injury to the affected manufacturer and his employees. Furthermore, the benefits gained by permitting intervention in such hearings seem marginal at best. It seems highly improbable that any potential intervenor would be able to make a meaningful contribution to the narrow issues of the actual conduct of testing and sampling. The unlikelihood that anyone with a genuine interest not adequately represented by existing parties would seek intervenor status must be balanced against the injury to the manufacturer, his employees, and the public, resulting from each day's delay. We conclude that providing a time period for submission of intervenor petitions is unjustified.

Rules of other Federal agencies limit the right to intervene in agency proceedings in circumstances similar to SEA hearings. See e.g., 14 CFR 302.15, 16 CFR 3.4, 18 CFR 1.8, 47 CFR 1.223 (1974 ed.). The Administrative Conference of the United States has recommended that

> [p]ublic participation in enforcement proceedings, license revocations or other adjudications where the issue is whether the charged respondent has violated a settled law or policy should be permitted only after close scrutiny of the effect of intervention or other participation on existing parties.[11]

Similarly, the provision for interlocutory appeals to the Administrator were deleted. Due to the anticipated brevity of the hearings themselves, they would likely be completed prior to the decision on an interlocutory appeal. For hearings on non-test-related suspensions where the certificate remains in effect prior to the decision at the hearing, interlocutory appeals could be used as a delaying tactic. The main purpose of interlocutory appeals, expediting the ultimate resolution of a dispute, is not served by allowing such appeals in the context of SEA enforcement hearings.

The procedures were further shortened by a general reduction of most time periods. The time periods for nontest-related suspension hearings were shortened to make them more consistent with the hearings on test-related suspensions. Under the proposed rules, a decision in the former type of hearings could well be delayed past the end of a model year, thus mooting the case.

4. ENFORCEMENT PROVISIONS

The manufacturers deny EPA's right to prevent counsel from representing more than one person in an SEA investigation. Without deciding the matter, the Agency has concluded that the American Bar Association Code of Professional Responsibility (DR 5–105(A), 1974 Amendments) adequately protects against the abuses which the regulation was designed to prevent. Therefore, the provision was deleted.

General Motors argues that EPA lacks the legal authority to compel manufacturers to conduct SEA testing. They base this contention on the language of section 206(b)(1) of the Act, which provides that testing of new production vehicles "may be conducted by the Administrator directly or, in accordance with conditions specified by the Administrator, by the manufacturer." General Motors interprets the word "may' to mean that the manufacturer can conduct tests at his option. The Acts legislative history, however, believes this interpretation. The Conference Report states that the Administrator "may test (or prescribe test to be performed by the manufacturer) all or a sample of vehicles or engines on the assembly line" to determine compliance. H.R. Rep. No. 91–1783, 91st Cong. 2d Sess. 50–51 (1970). See also 116 Cong. Rec. H5355 (June 10, 1970), where Congressman Jarman, discussing the same language in House bill H.R.

[11] For two studies discussing and supporting this point of view, see Cramton, "The Why, Where and How of Broadened Public Participation in the Administrative Process," 60 Geo. L.J. 525 (1972); Geilhorn, "Public Participation in Administrative Proceedings," 81 Yale L.J. 159 (1972).

17255, stated that the Administrator "is authorized and directed to test, or require to be tested in such manner as he deems appropriate, any new motor vehicle * * *." EPA concludes, therefore, that the word "may" was used to grant the Administrator discretion to either conduct tests himself or to have the manufacturer test for him.

The issue of whether EPA has the authority to conduct unannounced, warrantless inspections was discussed previously in the preamble to the February 27, 1974, amendments to the motor vehicle certification procedures published in 39 FR 7545. That discussion is applicable to SEA as well.

Similarly, the manufacturers' arguments challenging EPA's right of access to records and facilities relating to emission testing and performance and disputing EPA's authority to revoke certificates for reasons other than failing emission tests were discussed in the February 27, 1974, preamble, and no further discussion is necessary here. These provisions were retained.

The proposed rules provided that a certificate of conformity could be revoked if a manufacturer "renders inaccurate or invalid any test data * * * or otherwise circumvents the intent of the Act or of this subpart * * *." The manufacturers objected to this provision on the grounds that it was unnecessary and unduly vague. Since it appears that the "or invalid" and "circumvention" language is duplicative of other language in the rules, those phrases were deleted. Nevertheless, it remains the Agency's position that certificates may be suspended or revoked if a manufacturer intentionally invalidates test data or equipment or employs any scheme designed to mask the true emissions performance of the vehicles he offers for sale. The remedies under section 113(c)(2) would be applicable for any knowing violations of these provisions.

VI. Environmental Impact Statement Requirements

No voluntary environmental impact statement has been prepared pursuant to EPA guidelines set forth in 39 FR 37419. SEA is primarily directed at light duty vehicles, whose emission standards are specifically exempted from the EIS requirements. Section 1(c)(1)(E). Furthermore, SEA is neither an "emission standard under section 202" of the Clean Air Act, nor a change in measuring technique for those standards. Section 1(a)(2). Nevertheless, the only conceivable adverse environmental effect resulting from implementation of SEA, increased sulfate emissions, is expected to be minimal. For the reasons set forth in the economic analysis previously referred to, the 40 percent AQL will not force many vehicle configurations across a hardware threshold which would produce additional sulfates, particularly as the standards themselves and demand for fuel economy improvements result in nearly universal use of catalysts.

These regulations are issued under authority of the following sections of the Clean Air Act, as amended: 206 Sec. 206. 79 Stat. 994, as amended by section 8(a), 84 Stat. 1694 (42 U.S.C. 1857f–5); 208 sec. 208, 79 Stat. 994, 42 U.S.C. 1857f–6; and 301(a) sec. 301(a), 81 Stat. 504, as amended by sec. 15(c), 84 Stat. 1713 (42 U.S.C. 1857g(a)). The regulations implement section 206(b) and section 208 of the Clean Air Act.

RUSSELL E. TRAIN,
Administrator.

JULY 20, 1976.

Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

1. Paragraph (b) of § 86.077–2 of Part 86 is amended by the addition of:

§ 86.077–2 Definitions.

* * * * *

(b) * * *

"Configuration" means a subclassification of an engine-system combination on the basis of engine code, inertia weight class, transmission type and gear ratios, rear axle ratio, and other parameters which may be designated by the Administrator.

(Secs. 206, 208 301(a), Clean Air Act, as amended (42 U.S.C. 1857f–5, 1857f–6, and 1857g(a)).)

2. Paragraph (a)(2) of § 86.077–30 of Part 86 is amended by changing the last sentence to read as follows, and paragraph (d) is added as follows:

§ 86.077–30 Certification.

(a)(1) * * *

(2) * * * It is also a term of this certificate that this certificate may be revoked or suspended for the other reasons stated in § 86.077–30 (c) or (d).

* * * * *

(d)(1) Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.603; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.603; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirements of § 86.609; or

(iv) The manufacturer renders inaccurate any test data which he submits pursuant to § 86.609; or

(v) Any EPA Enforcement Officer is denied access to a facility on the terms specified in § 86.606.

(vi) Any EPA Enforcement Officer is denied the opportunity on the terms specified in § 86.606 to

(A) Monitor vehicle selection pursuant to § 86.607,

(B) Select vehicles for testing pursuant to § 86.607, or

(C) Monitor vehicle testing performed to satisfy any of the requirements of this part; or

(vii) Any EPA Enforcement Officer is denied "reasonable assistance" as defined in § 86.606 is examining any of the items listed in that section; or

(viii) The manufacturer refuses to comply with the requirements of §§ 86.604(a), 86.605, 86.607, 86.608, 86.610, or 86.611.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (d)(1) (i), (ii) or (viii) of this section where such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanctions of suspending a certificate may be imposed for the reasons in paragraphs (d)(1) (iii), (iv), (v), (vi), (vii) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.606 in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to a degree that would warrant suspension of certification under either paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (d)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.613 hereof and

(ii) Not apply to vehicles no longer in the hands of the manufacturer.

(Secs. 206, 208, 301(a), Clean Air Act, as amended (42 U.S.C. 1857f–5, 1857f–6, 1857g(a)).)

§ 86.077–7 [Amended]

3. The last sentence of paragraph (c)(7)(iv) of § 86.077–7 of Part 86 is deleted.

4. Paragraph (c)(1)(ii) of § 86.077–30 of Part 86 is revised to read as follows:

§ 86.077–30 Certification.

* * * * *

(c) * * *

(1) * * *

(ii) The manufacturer renders inaccurate any test data which he submits pertaining thereto.

5. Part 86 is amended by adding a new Subpart G as follows:

Subpart G—Selective Enforcement Auditing of New Gasoline Fueled and Diesel Light-Duty Vehicles and New Gasoline-Fueled and Diesel Light-Duty Trucks

Sec.

AUTHORITY: Secs. 206, 208, 301(a), Clean Air Act, as amended (42 U.S.C. 1857f–5, 1857f–6, 1857g(a)).

Subpart G—Selective Enforcement Auditing of New Gasoline-Fueled and Diesel Light-Duty Vehicles and New Gasoline-Fueled and Diesel Light-Duty Trucks

§ 86.601 Applicability.

For 1977 model year vehicles produced before January 1, 1977, the provisions of this subpart with the exception of §§ 86.612 and 86.613 are applicable to new gasoline-fueled light-duty motor vehicles, new diesel light-duty vehicles, new gasoline-fueled light-duty trucks, and new diesel light-duty trucks. For 1977 vehicles produced beginning January 1, 1977 and later model year vehicles, all provisions of this subpart are applicable.

§ 86.602 Definitions.

(a) As used in this subpart, all terms not defined herein or in Subpart A or B of this part shall have the meaning given them in the Act:

(1) "Acceptable Quality Level" (AQL) means the maximum percentage of failing vehicles that, for purposes of sampling inspection, can be considered satisfactory as a process average.

(2) "Batch" means the collection of vehicles of the same configuration, as designated by the Administrator in a test order, from which a batch sample is to be drawn and inspected to determine conformance with the acceptability criteria.

(3) "Batch Size" means the number, as designated by the Administrator in the test order, of vehicles of the same configuration in a batch.

(4) "Batch Sample" means the collection of vehicles of the same configuration which are drawn from a batch from which test samples are drawn.

(5) "Batch Sample Size" means the number of vehicles of the same configuration in a batch sample.

(6) "Test Sample" means the collection of vehicles of the same configuration which are drawn from the batch sample and which will receive exhaust emission tests.

(7) "Test Sample Size" means the number of vehicles of the same configuration in a test sample.

(8) "Inspection Criteria" means the acceptance and rejection numbers associated with a particular sampling plan.

(9) "Acceptance of a Batch" means that the number of noncomplying vehicles in the batch sample is less than or equal to the acceptance number as determined by the appropriate sampling plan.

(10) "Rejection of a Batch" means that the number of noncomplying vehicles in the batch sample is greater than or equal to the rejection number as determined by the appropriate sampling plan.

(11) "Acceptance of a Batch Sequence" means that the number of rejected batches in the sequence is less than or equal to the sequence acceptance number as determined by the appropriate sampling plan.

(12) "Rejection of a Batch Sequence" means that the number of rejected batches is equal to or greater than the sequence rejection number as determined by the appropriate sampling plan.

§ 86.603 Test orders.

(a) The Administrator will require any testing under this subpart by means of a test order addressed to the manufacturer.

(b) The test order will be signed by the Assistant Administrator for Enforcement or his designee. The test order will be delivered by an EPA Enforcement Officer or sent by registered mail, return receipt requested, to the authorized company representative of the manufacturer who signs the Application for Certification submitted by the manufacturer pursuant to the requirements of the applicable sections of Subpart A of this part.

(c) The test order will specify the vehicle configuration selected for testing, the manufacturer's plant or storage facility from which the vehicles must be selected, the time and location at which vehicles must be selected, the batch size and the manner in which vehicles must be selected from the batch. The test order may include an alternative configuration selected for testing in the event that vehicles of the first specified configuration are not available for testing because such vehicles are not being manufactured at the specified plant, not being manufactured during the specified time or not being stored at the specified plant or storage facility. In addition, the test order may include other directions or information essential to the administration of the required testing.

(d) A manufacturer may indicate preferred assembly plants for the various engine families produced by the manufacturer for selection of vehicles in response to a test order. This shall be accomplished by submitting a list of engine families and the corresponding assembly plants from which the manufacturer desires to have vehicles selected to the Administrator. In order that a manufacturer's preferred location for issuance of a test order for a configuration of a particular engine family be considered, the list must be submitted prior to issuance of the test order. Notwithstanding the fact that a manufacturer has submitted the above list, the Administrator may, upon making the determination that evidence exists indicating noncompliance at other than the manufacturer's preferred plant, order testing at such other plant where vehicles of the configuration specified in the test order are assembled.

(e) A manufacturer shall upon receipt of a test order proceed in accordance with the provisions of this subpart.

(f) The Administrator will not issue to a manufacturer during a given model year more test orders than an annual limit determined by dividing the projected sales for that year, as made by the manufacturer in his Application for Certification, by 300,000 and rounding to the nearest whole number unless the projected sales are less than 150,000 in which case the annual limit is one: Except, That the Administrator may issue one additional test order beyond the annual limit for each configuration for which the batch sequence is rejected in accordance with § 86.611 and when the annual limit, increased by such additional test orders, has been met, additional test orders may be issued for configurations for which evidence exists indicating noncompliance.

(g) Any test order under which testing is not completed will not be counted against the annual limit established in paragraph (f) of this section.

§ 86.604 Testing by the Administrator.

(a) The Administrator may require by test order that vehicles of a specified configuration be selected in a manner designated by him and submitted to him at such place as he may designate for the purpose of conducting emission tests. Such tests shall be conducted in accordance with § 86.608 of these regulations to determine whether vehicles manufactured by the manufacturer conform with the regulations with respect to which the certificate of conformity was issued.

(b)(1) Whenever the Administrator conducts a test on a test vehicle or the Administrator and manufacturer each conduct a test on the same test vehicle, the results of the Administrator's test shall comprise the official data for that vehicle.

(2) Whenever the manufacturer conducts all tests on a test vehicle, the manufacturer's test data will be accepted as the official data: *Provided*, That if the Administrator makes a determination based on testing under paragraph (a)

of this section that there is a substantial lack of agreement between the manufacturer's test results and the Administrator's test results, no manufacturer's test data from the manufacturer's test facility will be accepted for purposes of this subpart.

(c) In the event that testing conducted under paragraph (a) of this section demonstrates a lack of agreement under paragraph (b)(2), of this section, the Administrator will:

(1) Notify the manufacturer in writing of his determination that the test facility is inappropriate for conducting the tests required by this subpart and the reasons therefor, and

(2) Reinstate any manufacturer's data upon a showing by the maufacturer that the data acquired under paragraph (a) of this section was erroneous and the manufacturer's data was correct.

(d) The manufacturer may request in writing that the Administrator reconsider his determination in paragraph (b)(2) of this section based on data or information which indicates that changes have been made to the test facility and such changes have resolved the reasons for disqualification.

§ 86.605 Maintenance of records; submittal of information.

(a) The manufacturer of any new motor vehicle subject to any of the standards or procedures prescribed in this part shall establish, maintain and retain the following adequately organized and indexed records:

(1) *General records.* (i) (A) Identification and description of all vehicles tested pursuant to a test order issued under this part. (B) A description of all emission control systems which are installed on or incorporated in each test vehicle. (C) A description of all procedures used to test each of such vehicles. (ii) A properly filed application for certification, following the format prescribed by the EPA for the apropriate model year, fulfills each of the requirements of this paragraph (a)(1)(i) of this section.

(iii) Test equipment description, including:

(A) Dynamometer.

(*1*) Inertia loading.

(*2*) Road load power absorption at 50 m.p.h.

(*3*) Manufacturer, model and serial number.

(B) Constant Volume Sampler.

(*1*) Pressure of the mixture of exhaust and dilution air entering the positive displacement pump, pressure increase across the pump, and the temperature set point of the temperature control system.

(*2*) Number of revolutions of the positive displacement pump accumulated while test is in progress and exhaust samples are being collected.

(*3*) Humidity of dilution air.

(*4*) Manufacturer, model, type and serial number.

(C) Instrumentation.

(*1*) Manufacturer, model and serial number for each analyzer.

(*2*) Pertinent information such as tuning, gain, ranges and calibration data.

(*3*) Identification of zero, span, exhaust gas and dilution air sample traces.

(*4*) Temperature set point of heated sample line and heated hydrocarbon detector temperature control system (for diesel vehicles only).

(D) Test cell.

(*1*) Barometric pressure, ambient temperature and humidity.

(*2*) Date and time of day.

(iv) In lieu of recording test equipment information, reference to a vehicle test cell number may be used, with the advance approval of the Administrator: *Provided,* The test cell records show the pertinent information.

(2) *Individual records.* (i) A complete record of all emission tests performed pursuant to this subpart (except tests performed by EPA directly), including all individual worksheets and/or other documentation relating to each such test, or exact copies thereof; the date, time, purpose, and location of each test; the number of miles accumulated on the vehicle when the test began and ended; and the names of supervisory personnel responsible for the conduct of the test.

(ii) A record and description of any repairs performed prior to and/or subsequent to approval by the Administrator, giving the date and time of the repair, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the conduct of the repair.

(iii) The dates when the vehicle was shipped from the assembly plant or storage facility, and when it was received by the testing facility.

(iv) A brief description of any significant events, commencing with the batch sample selection process, but not described by an entry under one of the previous headings, including such extraordinary events as vehicle accident.

(v) The actual curb weight, inertia weight class, and drive wheel tire pressure for each test vehicle.

(b) All records required to be maintained under this subpart shall be retained by the manufacturer for a period of one (1) year after completion of all testing in response to a test order. Records may be retained as hard copy or reduced to microfilm, punch cards, etc., depending upon the record retention procedures of the manufacturer; *Provided,* That in every case all the information contained in the hard copy shall be retained.

(c) The manufacturer shall, pursuant to a request made by the Administrator, submit to the Administrator the following information with regard to vehicle production:

(1) Number of vehicles, by configuration and assembly plant, scheduled for production for the time period designated in the request.

(2) Number of vehicles, by configuration and assembly plant, produced during the time period designated in the request which are complete for introduction into commerce.

(d) Nothing in this section shall limit the Administrator's discretion to require the manufacturer to retain additional records or submit information not specifically required by this section.

(e) All reports, submissions, notifications and requests for approvals made under this subpart shall be addressed to:

Director, Mobile Source Enforcement Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, SW, Washing, D.C. 20460.

§ 86.606 Entry and access.

(a) In order to allow the Administrator to determine whether a manufacturer is complying with the provisions of a test order and the provisions of this subpart, a manufacturer shall admit any EPA Enforcement Officer during operating hours upon demand and upon presentation of credentials to any of the following:

(1) Any facility where any vehicle to be introduced into commerce is manufactured, assembled, or stored;

(2) Any facility where any tests conducted pursuant to a test order or any procedures or activities connected with such tests are or were performed;

(3) Any facility where any vehicle which is being, was, or is to be tested is present; and

(4) Any facility where any record or other document relating to any of the above is located.

(b) Upon admission to any facility referred to in paragraph (a) of this section, any EPA Enforcement Officer shall be allowed:

(1) To inspect and monitor any part or aspect of such procedures, activities, manufacturing, assembly, storage and testing facilities, including, but not limited to, monitoring vehicle selection, preparation, preconditioning, mileage accumulation, emission tests, maintenance, and vehicle soak and storage procedures; and to verify calibration of test equipment;

(2) To inspect and monitor any aspects of vehicle manufacture, assembly or storage and other procedures;

(3) To inspect and make copies of any records or documents, related to the selection and testing of a vehicle in compliance with a test order;

(4) To inspect and photograph any part or aspect of any such vehicle and any component used in the assembly thereof that is reasonably related to the purpose of his entry.

(c) Any EPA Enforcement Officer shall be furnished by those in charge of a facility being inspected with such reasonable assistance as he may request to help him discharge any function listed in this subpart. A recipient of a test order is required to cause those in charge of a facility operated for his benefit to furnish such reasonable assistance without charge to EPA whether or not the recipient controls the facility.

(d) The duty to admit or cause to be admitted any EPA Enforcement Officer applies whether or not the recipient owns or controls the facility in question and applies both to domestic and to foreign manufacturers and facilities. EPA will not attempt to make any inspections which it has been informed that local foreign law forbids. However, if local for-

eign law makes it impossible to do what is necessary to ensure the accuracy of data generated at a facility, no informed judgment can be made that the new motor vehicles being manufactured by the manufacturer do, in fact, conform to the regulations with respect to which the certificate of conformity was issued. It is the responsibility of the manufacturer to locate its testing and manufacturing facilities in jurisdictions where this situation will not arise.

(e) For purposes of this section:

(1) "Presentation of Credentials" shall mean display of the document designating a person as an EPA Enforcement Officer.

(2) Where vehicle storage areas or facilities are concerned, "operating hours" shall mean all times during which personnel other than custodial personnel are at work in the vicinity of the area or facility and have access to it.

(3) Where facilities or areas other than those covered by paragraph (e)(2) of this section are concerned, "operating hours" shall mean all times during which an assembly line is in operation, or vehicle assembly is taking place, or all times during which testing, repair, mileage accumulation, production or compilation of records, or any other procedure or activity related to testing, or to vehicle manufacture or assembly is being carried out in a facility.

(4) "Reasonable assistance" includes, but is not limited to, clerical, copying, interpreting and translating services, and the making available on request of personnel of the facility being inspected during their working hours to inform the EPA Enforcement Officer of how the facility operates and to answer his questions. A manufacturer may be compelled to cause the personal appearance of any employee at such a facility before an EPA Enforcement Officer by written request for his appearance, signed by the Assistant Administrator for Enforceforcement, served on the manufacturer. Any such employee who has been instructed by the manufacturer to appear will be entitled to be accompanied, represented and advised by counsel.

(5) Any entry without 24 hours prior written or oral notification to the affected manufacturer shall be authorized in writing by the Assistant Administrator for Enforcement.

§ 86.607 Sample selection.

(a) Vehicles comprising a batch sample which are required to be tested, pursuant to a test order in accordance with this subpart, will be selected in the manner specified in the test order from a batch of vehicles of the configuration specified in the test order. The manufacturer will select test vehicles in the specified manner from the final vehicle inspection point or storage facility as specified in the test order. If the test order specifies that vehicles comprising the batch sample must be selected randomly, the random sampling will be obtained by consecutively numbering each of the vehicles in the batch at the final vehicle inspection point or at the storage facility and then using a table of random numbers to select the number of vehicles as specified in paragraph (c) of this section based on the batch size designated by the Administrator in the test order. An alternative random sampling plan may be employed: *Provided*, That the manufacturer requests approval of such a plan in advance of receipt of a test order and that the Administrator approves such a plan. If the test order does not specify that test vehicles must be randomly selected, the manufacturer shall select test vehicles consecutively. Any vehicles in the batch designated as special order may be exempted from the test vehicle selection in a manner prescribed in the test order.

(b) For 1976 and later model years the designated Acceptable Quality Level is 40 percent. The appropriate sampling plans associated with the designated AQL are contained in Appendix VIII, Tables II and III.

(c) The appropriate batch sample size will be determined by reference to Appendix VIII, Tables I and II. A code letter is obtained from Table I based on the batch size designated by the Administrator in the test order. The batch sample size will be equal to the maximum cumulative test sample size for the appropriate code letter obtained from Table I plus an additional 10 percent rounded off to the next highest number.

(d) If the test order specifies that vehicles comprising the batch sample must be selected randomly, individual vehicles comprising the test sample will be randomly selected from the batch sample using the same random selection plan as in paragraph (a) of this section. Test sample size will be determined by entering Table II in Appendix VIII at the code letter obtained from Table I.

(e) The test vehicles of the configuration selected for testing shall have been assembled by the manufacturer for distribution in commerce using his normal mass production processes.

(f) No quality control, testing, assembly or selection procedures shall be used on the completed vehicle or any portion thereof, including parts and subassemblies, that will not be used during the production and assembly of all other vehicles of that configuration which will be distributed in commerce.

(g) Unless otherwise indicated in the test order, the manufacturer shall begin selection of test vehicles from the production batch of the configuration specified in the test order next scheduled after receipt of the test order.

(h) The test order may specify that EPA Enforcement Officers, rather than the manufacturer, will select the test vehicles according to the method described in paragraph (a) of this section.

(i) The manufacturer shall keep on hand all vehicles in the batch sample until such time as the batch is accepted or rejected in accordance with § 86.610.

§ 86.608 Test procedures.

(a) The prescribed test procedure is contained in Appendix IX.

(b) The manufacturer shall not adjust, repair, prepare or modify the vehicles selected for testing and shall not perform any emission tests on vehicles selected for testing pursuant to the test order unless such adjustment, repair, preparation, modification and/or tests are part of the manufacturer's prescribed end-of-line inspection procedures and are documented in the manufacturer's vehicle assembly and inspection procedures or unless such adjustments and/or tests are required or permitted under this subpart or are approved in advance by the Administrator. The manufacturer may perform adjustment, repair, preparation, modification and/or tests normally performed by his dealer or predelivery center to prepare the vehicle for delivery to a customer or the adjustment, repair, preparation, modification and/or tests normally performed at the port-of-entry by the manufacturer to prepare the vehicle for delivery to a dealer or customer: *Provided*, That such adjustment, repair, preparation, modification and/or tests are documented in written instructions or are approved by the Administrator in advance of their performance.

(c) The manufacturer may accumulate up to 4,000 miles on each selected vehicle prior to performing exhaust emission testing.

(1) Mileage accumulation may be performed in any manner the manufacturer desires. The same amount of mileage within ±10 miles shall be accumulated on all test vehicles.

(2) The manufacturer shall accumlate mileage at a minimum rate of 300 miles during each 24 hour period, unless otherwise provided by the Administrator.

(3) Mileage accumulation shall be performed on a sufficient number of test vehicles during each 24 hour period to assure that the number of vehicles tested per day fulfills the requirements of paragraph (e) of this section.

(d) No maintenance will be performed on test vehicles after a batch sample is selected for testing nor will any test vehicle substitution or replacement be allowed, unless requested of the Administrator by the manufacturer and approved by the Administrator in advance of the performance of any maintenance or vehicle substitution.

(e) The manufacturer will be allowed 24 hours to ship test vehicles from the assembly plant or storage facility to the test facility if the test facility is not located at the plant or storage facility or in close proximity to the plant or storage facility: Except, That the Administrator may approve more time based upon a request by the manufacturer accompanied by a satisfactory justification.

(f) In the event a vehicle is incapable of completing the mileage accumulation or completing the emission tests because of vehicle malfunction, the manufacturer may request that the Administrator authorize him to repair or replace the vehicle. Any replacement vehicles will be slected from the batch sample in a manner prescribed in the test order.

(g) The manufacturer shall notify the Administrator, within one working day of receipt of the test order, which test facility will be used to comply with the test order and the number of available cells at that facility. If no test cells are available at the desired facility, the manufacturer must provide alternate testing capability satisfactory to the Administrator. The manufacturer shall complete emission testing on a minimum of four vehicles per 24 hour period including voided tests for each available test cell at his testing facility: Except, That the Administrator may approve a longer period based upon a request by the manufacturer accompanied by satisfactory justification.

(h) The manufacturer shall perform test vehicle selection, preparation, mileage accumulation, shipping, and testing in such a manner as to assure that the audit is performed in an expeditious manner.

(i) The manufacturer will be permitted to retest any test vehicle: *Provided*, That all vehicles selected for testing are tested the same number of times and that not more than three tests per vehicle are performed. The manufacturer may accumulate additional mileage before conducting a retest: *Provided*, That the same additional mileage is accumulated on all test vehicles to be retested within a range of ±10 miles.

§ 86.609 Calculation and reporting of test results and low-mileage emissions targets.

(a) Initial test results shall be calculated following the method prescribed in Appendix IX of this part.

(b) Final test results for each test vehicle shall be calculated by summing the individual test results for each test vehicle and dividing by the number of tests conducted on the vehicle. Before any final test result is compared to the applicable low-mileage emissions target as calculated in paragraph (c) of this section, it shall be rounded, in accordance with ASTM E 29–67, to two significant figures.

(c) The low-mileage emissions target for each pollutant shall be computed by dividing the appropriate emission standard by the deterioration factor for the engine family to which the selected configuration belongs derived from the certification process for the current model year. The result shall be rounded, in accordance with ASTM E 29–67, to two significant figures.

(d) Within five working days after completion of testing of all vehicles in a batch sequence, the manufacturer shall submit to the Administrator a report which shall include the following:

(1) The location and description of the manufacturer's exhaust emission test facilities which meet the specifications of Subpart A, B, C, or D of Part 85 for 1976 model year vehicles and Subpart B of this Part 86 for 1977 and later model years as applicable, and were utilized to conduct testing reported pursuant to this section.

(2) A description of the vehicle selection method used, referencing any tables of random numbers that were used if the vehicles were randomly selected, and the name of the person in charge of the random number selection.

(3) Deterioration factors and low-mileage emission targets for the selected configuration.

(4) For each test conducted,

(i) Test vehicle description including:

(A) Configuration and engine family identification.

(B) Year, make, build date, and model of vehicle.

(C) Vehicle Identification Number.

(D) Miles accumulated on vehicle.

(ii) Location where mileage accumulation was conducted and description of accumulation schedule.

(iii) Test number and measured emissions, for all exhaust emission tests for each valid test and for each invalid test, and the reason for invalidation and the date of each test.

(iv) A complete description of any modification, repair, preparation, maintenance and/or testing which was performed on the test vehicle and (A) has not been reported pursuant to any other paragraph of this subpart and (B) will not be performed on all other production vehicles.

(v) Where a replacement vehicle was authorized by the Administrator, the reason for the replacement and, if any, the final test results for the replaced vehicle.

(vi) Any other information the Administrator may request relevant to the determination as to whether the new motor vehicles being manufactured by the manufacturer do in fact conform with the regulations with respect to which the certificate of conformity was issued.

(5) The following statement and endorsement:

This report is submitted pursuant to section 206 and section 208 of the Clean Air Act. All testing for which data is reported herein was conducted in strict conformance with applicable regulations under 40 CFR Part 86 et seq. All the data reported herein is a true and accurate representation of such testing. All other information reported herein is, to the best of

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(Company name)

knowledge, true and accurate. I am aware of the penalties associated with violations of the Clean Air Act and the regulations thereunder.

(Authorized Company Representative)

§ 86.610 Acceptance and rejection of batches.

(a) A failed vehicle is one whose final test results, for one or more of the three exhaust pollutants, when compared to the applicable low-mileage emissions target for that pollutant, exceeds that target.

(b) The batch from which a batch sample is selected will be accepted or rejected for each pollutant based upon the number of test vehicles in the batch sample with measured emissions exceeding the applicable low-mileage emissions target as calculated in § 86.609. A sufficient number of test samples of size determined by entering Appendix VIII, Table II at the appropriate code letter will be drawn from the batch sample and the test vehicles tested until the cumulative number of vehicles exceeding the low-mileage emissions target for each pollutant is less than or equal to the acceptance number or greater than or equal to the rejection number appropriate for the cumulative number of vehicles tested. The acceptance and rejection numbers at the appropriate code letter in Appendix VIII, Table II will be used in determining whether the acceptance or rejection of a batch has occurred. Once a batch is accepted or rejected for a particular pollutant, the number of vehicles exceeding the low-mileage emissions target for that pollutant shall not be considered any further for the purposes of the audit of that batch.

(c) Test samples from the batch sample shall continue to be drawn until a decision of acceptance or rejection can be made with regard to each pollutant.

(d) Acceptance or rejection of a batch takes place when testing is completed on the last vehicle required to make a decision under paragraph (b) of this section.

§ 86.611 Acceptance and rejection of batch sequence.

(a) The manufacturer shall continue to inspect consecutive batches until the batch sequence is accepted for all pollutants or rejected for any one pollutant. A sufficient number of consecutive batches will be inspected until the cumulative number of rejected batches for each pollutant is less than or equal to the sequence acceptance number or the cumulative number of rejected batches for any one pollutant is greater than or equal to the sequence rejection number appropriate for the cumulative number of batches inspected. The number of batches required to be inspected and the batch sequence acceptance and rejection numbers shall be determined by entering Appendix VIII, Table III at the appropriate code letter.

(b) Acceptance or rejection of a batch sequence takes place when the decision is made on the last vehicle required to make a decision under paragraph (a) of this section.

(c) If the batch sequence is accepted for all three pollutants, the manufacturer will not be required to perform any additional testing of vehicles from subsequent batches pursuant to the initiating test order.

(d) The Administrator may terminate testing earlier than required in paragraph (a) of this section.

§ 86.612 Suspension and revocation of certificates of conformity.

(a) The certificate of conformity is suspended with respect to any vehicles failing pursuant to § 86.610(a), effective from the time the testing is completed.

(b) If the batch sequence is not accepted in accordance with § 86.611, batch sample selection and testing will no

longer be required and the Administrator may suspend the certificate of conformity with respect to that vehicle configuration for those vehicles produced at that plant. Such suspension shall not occur before ten days after failure to accept the batch sequence.

(c) If the results of vehicle testing pursuant to these regulations indicate the vehicles of a particular configuration produced at more than one plant do not conform to the regulations with respect to which the certificate of conformity was issued, the Administrator may suspend the certificate of conformity with respect to that configuration for vehicles manufactured by the manufacturer in other plants of the manufacturer.

(d) The Administrator will notify the manufacturer in writing of any suspension or revocation of a certificate of conformity in whole or in part: Except, That the certificate of conformity is immediately suspended with respect to any vehicle failing pursuant to § 86.610(a) and as provided for in paragraph (a) of this section.

(e) The Administrator may revoke a certificate of conformity when the certificate has been suspended pursuant to paragraph (b) or (c) of this section if the proposed remedy for the nonconformity is one requiring a design change or changes to the engine and/or emission control system as described in the Application for Certification of the affected configuration.

(f) Once a certificate has been suspended for a failed vehicle as provided for in paragraph (a) of this section, the manufacturer must take the following actions:

(1) Before the certificate is reinstated for that failed vehicle,

(i) Remedy the nonconformity, and

(ii) Demonstrate that the vehicle conforms to the applicable low-mileage emissions target by retesting the vehicle in accordance with these regulations.

(2) Submit a written report to the Administrator which contains a description of the remedy and test results for each vehicle in addition to other information that may be required by this regulation.

(g) Once a certificate has been suspended pursuant to paragraph (b) or (c) of this section, the manufacturer must take the following actions before the Administrator will consider reinstating such certificate:

(1) Submit a written report to the Administrator which identifies the reason for the noncompliance of the vehicles, describes the proposed remedy, including a description of any proposed quality control and/or quality assurance measures to be taken by the manufacturer to prevent the future occurrence of the problem, and states the date on which the remedies will be implemented, and

(2) Demonstrate that the vehicle configuration for which the certificate of conformity has been suspended does in fact comply with these regulations by testing vehicles from consecutively produced batches of that vehicle configuration at the plant or plants specified by the Administrator in accordance with §§ 86.610 and 86.611 and the conditions specified in the initial test order: Except, That if the manufacturer elects to continue testing individual vehicles after suspension of a certificate, the certificate is reinstated for any vehicle actually determined to be in conformance with the applicable low-mileage emissions targets through testing in accordance with the applicable test procedures: *Provided*, That the Administrator has not revoked the certificate pursuant to paragraph (e) of this section.

(h) Once a certificate has been revoked for a configuration and the manufacturer desires to continue introduction into commerce of such configuration, the following action will be taken before the Administrator will consider reissuing such certificate:

(1) If the Administrator determines that the proposed change or changes in vehicle design may have an effect on emission performance deterioration, he will so notify the manufacturer within five working days after receipt of the report in paragraph (g) of this section whether subsequent testing under this subpart will be sufficient to evaluate the proposed change or whether additional testing will be required.

(2) After implementing the change or changes intended to remedy the nonconformity, demonstrate that the vehicle configuration for which the certificate of conformity was revoked does in fact comply with these regulations by testing vehicles from consecutively produced batches of that vehicle configuration in accordance with §§ 86.610 and 86.611 and the conditions specified in the initial test order. This testing will be considered by the Administrator to satisfy the testing requirements of § 86.077–32 or § 86.077–33 if the Administrator has so notified the manufacturer. If the subsequent audit results in acceptance of the batch sequence, the Administrator will reissue the certificate or amend the certificate to include that configuration as the case may be: *Provided*, That the manufacturer has satisfied any of the testing requirements pursuant to paragraph (h)(1) of this section. If the subsequent audit results in rejection of the batch sequence, the revocation shall remain in effect. Any design change approvals under this subpart shall be limited to the configuration affected by the test order.

(i) A manufacturer may at any time subsequent to an initial suspension of a certificate of conformity with respect to a test vehicle pursuant to paragraph (a) of this section, but not later than fifteen (15) days or such other period as may be allowed by the Administrator after notification of the Administrator's decision to suspend or revoke a certificate of conformity in whole or in part pursuant to paragraphs (b), (c) or (e) of this section, request that the Administrator grant such manufacturer a hearing as to whether the tests have been properly conducted or any sampling methods have been properly applied.

(j) If, after the Administrator suspends or revokes a certificate of conformity pursuant to this section or notifies a manufacturer of his intent to do so under § 86.077–30(d), and prior to the commencement of a hearing under § 86.613, the manufacturer demonstrates to the Administrator's satisfaction that the decision to suspend or revoke the certificate was based on erroneous information, the Administrator will reinstate such certificate.

(l) To permit a manufacturer to avoid storing non-test vehicles when conducting an audit of a configuration subsequent to suspension or revocation of the certificate of conformity for that configuration resulting from failure of the initial audit of that configuration, he may request that the Administrator conditionally reinstate the certificate for that configuration. The Administrator may reinstate the certificate subject to the condition that the manufacturer consents to recall all vehicles of that configuration produced from the time the certificate is reinstated if the configuration fails the subsequent audit and to remedy any nonconformity at no expense to the owner.

§ 86.613 Hearings on suspension and revocations of certificates of conformity.

(a) *Applicability.* The procedures prescribed by this section shall apply whenever a manufacturer requests a hearing pursuant to §§ 86.077–30(d)(6)(i), 86.612(i).

(b) *Definitions.* The following definitions shall be applicable to this section:

(1) "Hearing Clerk" shall mean the Hearing Clerk of the Environmental Protection Agency.

(2) "Manufacturer" refers to a manufacturer contesting a suspension or revocation order directed at the manufacturer.

(3) "Party" shall include the Agency, the manufacturer, and other interested parties, if any.

(4) "Presiding Officer" shall mean an Administrative Law Judge appointed pursuant to 5 U.S.C. 3105 (see also 5 CFR Part 930 as amended).

(5) "Judicial Officer" shall mean an officer or employee of the Agency appointed as a Judicial Officer by the Administrator pursuant to this section who shall meet the qualifications and perform functions as follows:

(i) Officer—there may be designated for the purposes of this section one or more Judicial Officers. As work requires, there may be a Judicial Officer designated to act for the purposes of a particular case.

(ii) Qualifications—A Judicial Officer may be a permanent or temporary employee of the Agency who performs other duties for the Agency. Such Judicial Officer shall not be employed by the Office of Enforcement or have any connection with the preparation or presentation of evidence for a hearing held pursuant to this subpart.

(iii) Functions—the Administrator may consult with a Judicial Officer or delegate all or part of his authority to act in a given case under this section to a Judicial Officer: *Provided*, That this

delegation shall not preclude the Judicial Officer from referring any motion or case to the Administrator when the Judicial Officer determines such referral to be appropriate.

(c) *Request for public hearing.* (1) If the manufacturer disagrees with the Administrator's decision to suspend or revoke a certificate or disputes the basis for an automatic suspension pursuant to § 86.612(a), he may request a public hearing as described in this section. Requests for such a hearing shall be filed with the Administrator not later than 15 days after the Administrator's notification of his decision to suspend or revoke unless otherwise specified by the Administrator. Two copies of such request shall simultaneously be served upon the Director of the Mobile Source Enforcement Division and two copies filed with the Hearing Clerk. Failure of the manufacturer to request a hearing within the time provided shall constitute a waiver of his right to such a hearing. Subsequent to the expiration of the period for requesting a hearing as of right, the Administrator may, in his discretion and for good cause shown, grant the manufacturer a hearing to contest the suspension or revocation.

(2) The request for a public hearing shall contain:

(i) A statement as to which vehicle configurations or engine families are to be the subject of the hearing;

(ii) A concise statement of the issues to be raised by the manufacturer at the hearing for each vehicle configuration or engine family or vehicle for which the manufacturer has requested the hearing. *Provided, however,* That in the case of the hearing requested under § 86.612(i), the hearing shall be restricted to the following issues:

(A) Whether tests were conducted in accordance with applicable regulations under this part;

(B) Whether test equipment was properly calibrated and functioning;

(C) Whether sampling procedures specified in Appendix VIII of this part were followed; and

(D) Whether there exists a basis for distinguishing vehicles produced at plants other than the one from which vehicles were tested which would invalidate the Administrator's decision under § 86.612(c);

(iii) A statement specifying reasons the manufacturer believes he will prevail on the merits on each of the issues so raised; and

(iv) A summary of the evidence which supports the manufacturer's position on each of the issues so raised.

(3) A copy of all requests for public hearings shall be kept on file in the Office of the Hearing Clerk and shall be made available to the public during Agency business hours.

(d) *Summary decision.* (1) In the case of a hearing requested under § 86.612(i), when it clearly appears from the data and other information contained in the request for a hearing that there is no genuine and substantial question of fact with respect to the issues specified in § 86.613(c)(2)(ii), the Administrator will enter an order denying the request for a hearing, and reaffirming the original decision to suspend or revoke a certificate of conformity, if such decision has been made pursuant to § 86.612(d) at any time prior to the decision to deny the request for a hearing.

(2) In the case of a hearing requested under § 86.077–30(d)(6)(i), to challenge a proposed suspension of a certificate of conformity for the reasons specified in § 86.077–30 (d)(1)(i) or (d)(1)(ii) when it clearly appears from the data and other information contained in the request for a hearing that there is no genuine and substantial question of fact with respect to the issue of whether the refusal to comply with the provisions of a test order or any other requirement of § 86.603 was caused by conditions and circumstances outside the control of the manufacturer, the Administrator will enter an order denying the request for a hearing, and suspending the certificate of conformity.

(3) Any order issued under paragraphs (d)(1) or (2) of this section shall have the force and effect of a final decision of the Administrator, as issued pursuant to paragraph (w)(4) of this section.

(4) If the Administrator determines that a genuine and substantial question of fact does exist with respect to any of the issues referred to in paragraphs (d)(1) and (2) of this section, he shall grant the request for a hearing and publish a notice of public hearing in accordance with paragraph (h) of this section.

(e) *Filing and service.* (1) An original and two copies of all documents or papers required or permitted to be filed pursuant to this section shall be filed with the Hearing Clerk. Filing shall be deemed timely if mailed, as determined by the postmark, to the Hearing Clerk within the time allowed by this section. If filing is to be accomplished by mailing, the documents shall be sent to the address set forth in the notice of public hearing as described in paragraph (h) of this section.

(2) To the maximum extent possible, testimony shall be presented in written form. Copies of written testimony shall be served upon all parties as soon as practicable prior to the start of the hearing. A certificate of service shall be provided on or accompany each document or paper filed with the Hearing Clerk. Documents to be served upon the Director of the Mobile Source Enforcement Division shall be sent by registered mail to: Director, Mobile Source Enforcement Division, U.S. Environmental Protection Agency (EN–340), 401 M Street, SW., WSM, Washington, D.C. 20460. Service by registered mail is complete upon mailing.

(f) *Time.* (1) In computing any period of time prescribed or allowed by this section, except as otherwise provided, the day of the act or event from which the designated period of time begins to run shall not be included. Saturdays, Sundays, and Federal legal holidays shall be included in computing any such period allowed for the filing of any document or paper, except that when such period expires on a Saturday, Sunday, or Federal legal holiday, such period shall be extended to include the next following business day.

(2) A prescribed period of time within which a party is required or permitted to do an act shall be computed from the time of service, except that when service is accomplished by mail, three days shall be added to the prescribed period.

(g) *Consolidation.* The Administrator or the Presiding Officer in his discretion may consolidate two or more proceedings to be held under this section for the purpose of resolving one or more issues whenever it appears that such consolilation will expedite or simplify consideration of such issues. Consolidation shall not affect the right of any party to raise issues that could have such consolidation will expedite or simoccurred.

(h) *Notice of public hearings.* (1) Notice of a public hearing under this section shall be given by publication in the FEDERAL REGISTER and by such other means as the Administrator finds appropriate to provide notice to the public. To the extent possible hearings under this section shall be scheduled to commence within 14 days of receipt of the application in paragraph (c).

(i) *Amicus curiae.* Persons not parties to the proceeding wishing to file briefs may do so by leave of the Presiding Officer granted on motion. A motion for leave shall identify the interest of the applicant and shall state the reasons why the proposed amicus brief is desirable.

(j) *Presiding Officer.* The Presiding officer shall have the duty to conduct a fair and impartial hearing in accordance with 5 U.S.C. sections 554, 556 and 557 and to take all necessary action to avoid delay in the disposition of the proceedings and to maintain order. He shall have all power consistent with Agency rule and with the Administrative Procedure Act necessary to this end, including the following:

(1) To administer oaths and affirmations;

(2) To rule upon offers of proof and exclude irrelevant or repetitious material;

(3) To regulate the course of the hearings and the conduct of the parties and their counsel therein;

(4) To hold conferences for simplification of the issues or any other proper purpose;

(5) To consider and rule upon all procedural and other motions appropriate in such proceedings;

(6) To require the submission of direct testimony in written form with or without affidavit whenever, in the opinion of the Presiding Officer, oral testimony is not necessary for full and true disclosure of the facts;

(7) To enforce agreements and orders requiring access as authorized by law;

(8) To require the filing of briefs on any matter on which he is required to rule;

(9) To require any party or any witness, during the course of the hearing, to state his position on any issue;

(10) To take or cause depositions to be taken whenever the ends of justice would be served thereby;

(11) To make decisions or recommend decisions to resolve the disputed issues on the record of the hearing;

(12) To issue, upon good cause shown, protective orders as described in paragraph (n) of this section.

(k) *Conferences.* (1) At the discretion of the Presiding Officer, conferences may be held prior to or during any hearing. The Presiding Officer shall direct the Hearing Clerk to notify all parties of the time and location of any such conference. At the discretion of the Presiding Officer, persons other than parties may attend. At a conference the Presiding Officer may:

(i) Obtain stipulations and admissions, receive requests and order depositions to be taken, identify disputed issues of fact and law, and require or allow the submission of written testimony from any witness or party;

(ii) Set a hearing schedule for as many of the following as are deemed necessary by the Presiding Officer:

(A) Oral and written statements;

(B) Submission of written direct testimony as required or authorized by the Presiding Officer;

(C) Oral direct and cross-examination of a witness where necessary as prescribed in paragraph (p) of this section; and

(D) Oral argument, if appropriate.

(iii) Identify matters of which official notice may be taken;

(iv) Consider limitation of the number of expert and other witnesses;

(v) Consider the procedure to be followed at the hearing; and

(vi) Consider any other matter that may expedite the hearing or aid in the disposition of the issue.

(2) The results of any conference including all stipulations shall, if not transcribed, be summarized in writing by the Presiding Officer and made part of the record.

(l) *Primary discovery* (exchange of witness lists and documents). (1) At a prehearing conference or within some reasonable time set by the Presiding Officer prior to the hearing, each party shall make available to the other parties the names of the expert and other witnesses the party expects to call, together with a brief summary of their expected testimony and a list of all documents and exhibits which the party expects to introduce into evidence. Thereafter, witnesses, documents, or exhibits may be added and summaries of expected testimony amended upon motion by a party.

(2) The Presiding Officer, may, upon motion by a party or other person, and for good cause shown, by order (i) restrict or defer disclosure by a party of the name of a witness or a narrative summary of the expected testimony of a witness, and (ii) prescribe other appropriate measures to protect a witness. Any party affected by any such action shall have an adequate opportunity, once he learns the name of a witness and obtains the narrative summary of his expected testimony, to prepare for the presentation of his case.

(m) *Other discovery.* (1) Except as so provided by paragraph (1) of this section, further discovery, under this paragraph, shall be permitted only upon determination by the Presiding Officer:

(i) That such discovery will not in any way unreasonably delay the proceeding;

(ii) That the information to be obtained is not obtainable voluntarily; and

(iii) That such information has significant probative value. The Presiding Officer shall be guided by the procedures set forth in the Federal Rules of Civil Procedure, where practicable, and the precedents thereunder, except that no discovery shall be undertaken except upon order of the Presiding Officer or upon agreement of the parties.

(2) The Presiding Officer shall order depositions upon oral questions only upon a showing of good cause and upon a finding that:

(i) The information sought cannot be obtained by alternative methods; or

(ii) There is a substantial reason to believe that relevant and probative evidence may otherwise not be preserved for presentation by a witness at the hearing.

(3) Any party to the proceeding desiring an order of discovery shall make a motion or motions therefor. Such a motion shall set forth:

(i) The circumstances warranting the taking of the discovery;

(ii) The nature of the information expected to be discovered; and

(iii) The proposed time and place where it will be taken.

If the Presiding Officer determines the motion should be granted, he shall issue an order for the taking of such discovery together with the conditions and terms thereof.

(4) Failure to comply with an order issued pursuant to this paragraph may lead to the inference that the information to be discovered would be adverse to the person or party from whom the information was sought.

(n) *Protective orders, in camera proceedings.* (1) Upon motion by a party or by the person from whom discovery is sought, and upon a showing by the movant that the disclosure of the information to be discovered, or a particular part thereof, (other than emission data) would result in methods or processes entitled to protection as trade secrets of such person being divulged, the Presiding Officer may enter a protective order with respect to such material. Any protective order shall contain such terms governing the treatment of the information as may be appropriate under the circumstances to prevent disclosure outside the hearing: *Provided,* That the order shall state that the material shall be filed separately from other evidence and exhibits in the hearing. Disclosure shall be limited to parties to the hearing, their counsel and relevant technical consultants, and authorized representatives of the United States concerned with carrying out the Act. Except in the case of the government, disclosure may be limited to counsel for parties who shall not disclose such information to the parties themselves. Except in the case of the government, disclosure to a party or his counsel shall be conditioned on execution of a sworn statement that no disclosure of the information will be made to persons not entitled to receive it under the terms of the protective order. (No such provision is necessary where government employees are concerned because disclosure by them is subject to the terms of 18 U.S.C. 1905.)

(2)(i) A party or person seeking a protective order may be permitted to make all or part of the required showing in camera. A record shall be made of such in camera proceedings. If the Presiding Officer enters a protective order following a showing in camera, the record of such showing shall be sealed and preserved and made available to the agency or court in the event of appeal. (ii) Attendance at any in camera proceeding may be limited to the Presiding Officer, the agency, and the person or party seeking the protective order.

(3) Any party, subject to the terms and conditions of any protective order issued pursuant to paragraph (n)(1) of this section, desiring for the presentation of his case to make use of any in camera documents or testimony shall make application to the Presiding Officer by motion setting forth the justification therefor. The Presiding Officer, in granting any such motion, shall enter an order protecting the rights of the affected persons and parties and preventing unnecessary disclosure of such information, including the presentation of such information and oral testimony and cross-examination concerning it in executive session, as in his discretion is necessary and practicable.

(4) In the submittal of proposed findings, briefs, or other papers, counsel for all parties shall make a good faith attempt to refrain from disclosing the specific details of in camera documents and testimony. This shall not preclude references in such proposed findings, briefs, or other papers to such documents or testimony including generalized statements based on their contents. To the extent that counsel considers it necessary to include specific details in their the hearing, shall be in writing and shall presentations, such data shall be incorporated in separate proposed findings, briefs, or other papers marked "confidential," which shall become part of the in camera record.

(o) *Motions.* (1) All motions, except those made orally during the course of the hearing, shall be writing and shall state with particularity the grounds therefore, shall set forth the relief or order sought, and shall be filed with the Hearing Clerk and served upon all parties.

(2) Within such time as may be fixed by the Administrator, the judicial officer,

or the Presiding Officer, as appropriate, any party may serve and file an answer to the motion. The movant shall, if requested by the Administrator, the judicial officer, or the Presiding Officer, as appropriate, serve and file reply papers, within the time set by the request.

(3) The Presiding Officer shall rule upon all motions filed or made prior to the filing of his decision or accelerated decision, as appropriate. The Administrator or the judicial officer, as appropriate, shall rule upon all motions filed prior to the appointment of a Presiding Officer and all motions filed after the filing of the decision of the Presiding Officer or accelerated decision. Oral argument of motions will be permitted only if the Presiding Officer, the Administrator or the judicial officer, as appropriate, deems it necessary.

(p) *Evidence.* (1) The official transcripts and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record. Immaterial or irrelevant parts of an admissible document shall be segregated and excluded so far as practicable. Documents or parts thereof subject to a protective order under paragraph (n) of this section shall be segregated. Evidence may be received at the hearing even though inadmissible under the rules of evidence applicable to judicial proceedings. The weight to be given evidence shall be determined by its reliability and probative value.

(2) The Presiding Officer shall allow the parties to examine and cross-examine a witness to the extent that such examination and cross-examination is necessary for a full and true disclosure of the facts.

(3) Rulings of the Presiding Officer on the admissibility of evidence, the propriety of examination and cross-examination and other procedural matters shall appear in the record.

(4) Parties shall automatically be presumed to have taken exception to an adverse ruling.

(q) *Record.* (1) Hearings shall be stenographically reported and transcribed and the original transcripts shall be part of the record and the sole official transcript. Copies of the record shall be filed with the Hearing Clerk and made available during Agency business hours for public inspection. Any person desiring a copy of the record of the hearing or any part thereof, except as provided in paragraph (n) of this section, shall be entitled to the same upon payment of the cost thereof.

(2) The official transcripts and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record.

(r) *Proposed findings, conclusions.* (1) Within 4 days of the close of the reception of evidence, or within such longer time as may be fixed by the Presiding Officer, any party may submit for the consideration of the Presiding Officer proposed findings of fact, conclusions of law, and a proposed order, together with reasons therefor and briefs in support thereof. Such proposals shall be in writing, shall be served upon all parties, and shall contain adequate references to the record and authorities relied upon.

(2) The record shall show the Presiding Officer's ruling on the proposed findings and conclusions except when his order disposing of the proceeding otherwise informs the parties of the action taken by him thereon.

(s) *Decision of the Presiding Officer.* (1) Unless extended by the Administrator, the Presiding Officer shall issue and file with the Hearing Clerk his decision within 14 days (or within 7 days in the case of a hearing requested under § 86.612(i)) after the period for filing proposed findings as provided for in paragraph (r) of this section has expired.

(2) The Presiding Officer's decision shall become the decision of the Administrator (i) when no notice of intention to appeal as described in paragraphs (t) and (u) of this section is filed, 10 days after issuance thereof, unless in the interim the Administrator shall have taken action to review or stay the effective date of the decision; or (ii) when a notice of intention to appeal is filed but the appeal is not perfected as required by paragraph (t) or (u) of this section, 5 days after the period allowed for perfection of an appeal has expired unless within that 5 day period, the Administrator shall have taken action to review or stay the effective date of the decision;

(3) The Presiding Officer's decision shall include a statement of findings and conclusions, as well as the reasons or basis therefore, upon all the material issues of fact or law presented on the record and an appropriate rule or order. Such decision shall be supported by substantial evidence and based upon a consideration of the whole record.

(4) At any time prior to the issuance of his decision, the Presiding Officer may reopen the proceeding for the reception of further evidence. Except for the correction of clerical errors, the jurisdication of the Presiding Officer is terminated upon the issuance of his decision.

(t) *Appeal from the decision of the Presiding Officer.* (1) Any party to a proceeding may appeal the Presiding Officer's decision to the Administrator: *Provided,* That within 10 days after issuance of the Presiding Officer's decision such party files a notice of intention to appeal and an appeal brief within 20 days of such decision.

(2) When an appeal is taken from the decision of the Presiding Officer, any party may file a brief with respect to such appeal. The brief shall be filed within 15 days of the date of the filing of the appellant's brief.

(3) Any brief filed pursuant to this paragraph shall contain in the order indicated, the following:

(i) A subject index of the matter in the brief, with page references, and a table of cases (alphabetically arranged) textbooks, statutes, and other material cited, with page references thereto;

(ii) A specification of the issues intended to be urged: *Provided, however,* That in the case of a hearing requested under § 85.612(i), the brief shall be restricted to the issues specified in paragraph (c)(2)(ii) of this section;

(iii) The argument presenting clearly the points of fact and law relied upon in support of the position taken on each issue, with specific page references to the record and the legal or other material relied upon; and

(iv) A proposed order for the Administrator's consideration if different from the order contained in the Presiding Officer's decision.

(4) No brief in excess of 40 pages shall be filed without leave of the Administrator.

(5) Oral argument will be allowed only in the discretion of the Administrator.

(u) *Summary appeal.* (1) In the case of a hearing requested under § 86.612(i), any appeal taken from the decision of the Presiding Officer shall be conducted under this paragraph.

(2) Any party to the proceeding may appeal the Presiding Officer's decision to the Administrator by filing a notice of appeal within 10 days.

(3) The notice appeal shall be in the form of a brief, and shall conform to the requirements of paragraph (t)(3) of this section.

(4) Within 10 days after a notice of appeal from the decision of the Presiding Officer is filed under this paragraph, any party may file a brief with respect to such appeal.

(5) No brief in excess of 15 pages shall be filed without leave of the Administrator.

(v) *Review of the Presiding Officer's decision in absence of appeal.* (1) If, after the expiration of the period for taking an appeal as provided for by paragraphs (t) or (u) of this section, no notice of intention to appeal the decision of the Presiding Officer has been filed, or if filed, not perfected, the Hearing Clerk shall so notify the Administrator.

(2) The Administrator, upon receipt of notice from the Hearing Clerk that no notice of intention to appeal has been filed, or if filed, not perfected pursuant to paragraphs (t) or (u) of this section, may, on his own motion, within the time limits specified in paragraph (s)(2) of this section, review the decision of the Presiding Officer. Notice of the intention of the Administrator to review the decision of the Presiding Officer shall be given to all parties and shall set forth the scope of such review and the issues which shall be considered and shall make provision for filing of briefs.

(w) *Decision of appeal or review.* (1) Upon appeal from or review of the Presiding Officer's decision, the Administrator shall consider such parts of the record as are cited or as may be necessary to resolve the issues presented and in addition shall, to the extent necessary or desirable, exercise all the powers which he could have exercised if he had presided at the hearing.

(2) In rendering his decision, the Administrator shall adopt, modify or set aside the findings, conclusions, and order contained in the decision of the Presiding Officer and shall set forth in his decision a statement of the reasons or bases for his action.

(3) In those cases where the Administrator believes that he should have further information or additional views of the parties as to the form and content of the rule or order to be issued, the Administrator, in his discretion, may withhold final action pending the receipt of such additional information or views, or may remand the case to the Presiding Officer.

(4) Any decision rendered under this paragraph which completes disposition of a case shall be a final decision of the Administrator.

(x) *Reconsideration.* Within twenty (20) days after issuance of the Administrator's decision, any party may file with the Administrator a petition for reconsideration of such decision, setting forth the relief desired and the grounds in support thereof. Any petition filed under this subsection must be confined to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before the Presiding Officer or the Administrator: *Provided, however,* That in the case of a hearing requested under § 86.612(i) such new questions shall be limited to the issues specified in paragraph (c)(2)(ii) of this section. Any party desiring to oppose such a petition shall file an answer thereto within ten (10) days after the filing of the petition. The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order or to toll the running of any statutory time period affecting such decision or order unless specifically so ordered by the Administrator.

(y) *Accelerated decision, dismissal.* (1) The Presiding Officer, upon motion of any party or sua sponte, may at any time render an accelerated decision in favor of the Agency or the manufacturer as to all or any part of the proceeding, without further hearing or upon such limited additional evidence such as affidavits as he may require, or dismiss any party with prejudice, for any of the following reasons:

(i) Failure to state a claim upon which relief can be granted, or direct or collateral estoppel;

(ii) The lack of any genuine issue of material fact, causing a party to be entitled to judgment as a matter of law; or

(iii) Such other and further reasons as are just, including specifically failure to obey a procedural order of the Presiding Officer.

(2) If under this paragraph an accelerated decision is issued as to all the issues and claims joined in the proceeding, the decision shall be treated for the purposes of these procedures as the decision of the Presiding Officer as provided in paragraph (s) of this section.

(3) If under this paragraph, judgment is rendered on less than all issues or claims in the proceeding, the Presiding Officer shall determine what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. He shall thereupon issue an order specifying the facts which appear without substantial controversy, and the issues and claims upon which the hearing will proceed.

(z) *Conclusion of hearing.* (1) If, after the expiration of the period for taking an appeal as provided for by paragraphs (t) and (u) of this section, no appeal has been taken from the Presiding Officer's decision, and after the expiration of the period for review by the Administrator on his own motion as provided for by paragraph (v) of this section, the Administrator does not move to review such decision, the hearing will be deemed to have ended at the expiration of all periods allowed for such appeal and review.

(2) If an appeal of the Presiding Officer's decision is taken pursuant to paragraphs (t) and (u) of this section, or if, in the absence of such appeal the Administrator moves to review the decision of the Presiding Officer pursuant to paragraph (v) of this section, the hearing will be deemed to have ended upon rendering of a final decision by the Administrator.

(aa) *Judicial review.* (1) The Administrator hereby designates the General Counsel, Environmental Protection Agency as the officer upon whom copy of any petition for judicial review shall be served. Such officer shall be responsible for filing in the court the record on which the order of the Administrator is based.

(2) Before forwarding the record to the court, the Agency shall advise the petitioner of costs of preparing it and as soon as payment to cover fees is made, shall forward the record to the court.

6. Part 86 is amended by adding Appendix VIII as follows:

APPENDIX VIII—SAMPLING PLANS FOR SELECTIVE ENFORCEMENT AUDITING

TABLE I.—SAMPLE SIZE CODE LETTERS

Batch size	*Code letter*
4 to 8	A
9 to 15	B
16 to 25	C
26 and larger	D

TABLE II. - Sampling Plans for Inspecting Batches (40% AQL)

Sample size code letter	Test Sample	Test Sample Size	Cumulative Test Sample Size	Batch inspection criteria	
				Acceptance No.	Rejection No.
A	1st	3	3	1	2
B	1st	4	4	2	3
C	1st	3	3	0	3
	2nd	3	6	3	4
D	1st	2	2	0	(1)
	2nd	2	4	2	4
	3rd	2	6	3	4

1 Batch rejection not permitted at this sample size.

TABLE III. - Batch Sequence Plans (40% AQL)

Sample size code letter	No. Batches	Cumulative no. batches	Sequence Inspection Criteria	
			Acceptance No.	Rejection No.
A	2	2	0	(1)
	2	4	2	4
	2	6	4	5
B	2	2	0	2
	2	4	1	3
	2	6	2	3
C	2	2	0	2
	2	4	1	3
	2	6	2	4
	2	8	3	4
D	2	2	(2)	2
	2	4	0	3
	2	6	1	3
	2	8	2	4
	2	10	3	4

1/ Batch sequence rejection not permitted for this number of batches.

2/ Batch sequence acceptance not permitted for this number of batches.

7. Part 86 is amended by adding Appendix IX as follows:

APPENDIX IX—SELECTIVE ENFORCEMENT AUDITING TEST PROCEDURES

This appendix describes the test procedures which shall be used to determine conformity of test vehicles with the requirements of Subpart G of 40 CFR Part 86.

I. *Test procedures.* Vehicles shall be tested for conformity with following procedures:

(1) *Gasoline-fueled vehicles.* (i) The test consists of prescribed sequences of fueling, parking, and operating conditions. The exhaust gases generated during vehicle operation are diluted with air and sampled continuously for subsequent analysis of specific components by prescribed analytical techniques. The test applies to vehicles equipped with catalytic or direct-flame afterburners, induction system modifications, or other systems or to uncontrolled vehicles and engines.

(ii) The exhaust emission test is designed to determine hydrocarbon, carbon monoxide, and oxides of nitrogen mass emissions while simulating an average trip of 7.5 miles in an urban area. The test consists of engine startups and vehicle operation on a chassis dynamometer through a specified driving schedule, as described in Appendix I to 40 CFR Part 86. A proportional part of the diluted exhaust emissions is collected continuously, for subsequent analysis, using a constant volume (variable dilution) sampler.

(iii) Except in cases of component malfunction or failure, all emission control systems installed on or incorporated in a new motor vehicle shall be functioning during all procedures in this appendix.

(2) *Diesel vehicles.* (i) The test consists of prescribed sequences of fueling, parking, and operating conditions. The exhaust gases generated during vehicle operation are diluted with air and sampled continuously for analysis of Diesel exhaust hydrocarbons and subsequent analysis of other specific components by prescribed techniques. The test applies to vehicles equipped with catalytic or direct flame afterburners, other control systems or to uncontrolled vehicles and engines. All test phases are conducted within an ambient temperature range of 68° to 86° F.

(ii) The exhaust emission test is designed to determine hydrocarbon, carbon monoxide, and oxides of nitrogen mass emissions while simulating an average trip of 7.5 miles in an urban area. The test consists of engine startups and vehicle operation on a chassis dynamometer through a specified driving schedule, as described in Appendix I to 40 CFR Part 86. Using a constant volume (variable dilution) sampler, a proportional part of the diluted exhaust gas is analyzed continuously for hydrocarbons and an additional proportional part of the diluted exhaust gas is collected in bags for subsequent analysis of the other components.

(iii) Except for component malfunction or failure, all emission control systems installed on or incorporated in a new motor vehicle shall be functioning during all procedures in this subpart.

II. *Fuel specifications*—(a) *Gasoline.* (1) Gasoline having the following specifications will be used by the Administrator in exhaust emission testing.

Gasoline having the following specifications or substantially equivalent specifications approved by the Administrator, shall be used by the manufacturer in testing.

Item designation	ASTM	Leaded	Unleaded
Octane, research, minimum	D1656	100	96
Pb. (organic), grams/U.S. gallon		1.1.4	0.00-0.05
Distillation range:			
IBP[1], °F	D86	75-95	75-95
10 percent point, °F	D86	120-135	120-135
50 percent point, °F	D86	200-230	200-230
90 percent point, °F	D86	300-325	300-325
EP, F (maximum)	D86	415	415
Sulphur, weight percent, maximum	D1266	0.10	.10
Phosphorus, grams/U.S. gallon, maximum		.01	.005
RVP[2], pounds	D323	8.0-9.2	8.0-9.2
Hydrocarbon composition			
Olefins, percent, maximum	D1319	10	10
Aromatics, percent, maximum	D1319	35	35
Saturates	D1319	Remainder	Remainder

1/ For testing at altitudes above 1,219 meters (4,000) the specified range is 75-105.

2/ For testing at altitudes above 1,219 meters (4,000 feet) the specified range is 7.9-9.2.

(2) Gasoline representative of commercial gasoline which will be generally available through retail outlets shall be used in mileage accumulation. For unleaded gasoline the minimum lead content shall be 0.02 grams per U.S. gallon and the minimum phosphorus content shall be 0.002 grams per U.S. gallon. For leaded gasoline, the minimum lead content shall be 1.4 grams per U.S. gallon, except that where the Administrator determines that vehicles represented by a test vehicle will be operated using gasoline of different lead content than that prescribed in this paragraph, he may consent in writing to use of a gasoline with a different lead content. The octane rating of the gasoline used shall be no higher than 4.0 research octane numbers above the minimum recommended by the manufacturer. The Reid Vapor Pressure of the gasoline used shall be characteristic of the motor fuel during the season which the mileage accumulation takes place.

(3) The specification range of the gasoline used under paragraph (a)(2) of this section shall be recorded.

(b) *Diesel fuel.* (1) The diesel fuels employed for testing shall be clean and bright, with pour and cloud points adequate for operability. The diesel fuel may contain nonmetallic additives as follows: Cetane improver, metal deactivator, antioxidant, dehazer, antitrust, pour depressant, dye, and dispersant.

(2) Diesel fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emissions testing: The grade of diesel fuel recommended by the engine manufacturer commercially designated as "Type 1-D" or "Type 2-D", shall be used.

(3) Other petroleum distillation fuel specifications:

(i) Other petroleum distillate fuels may be used for testing and service accumulation provided they are commercially available, and

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service, and

(iii) Use of a fuel listed under paragraphs (b)(1) and (b)(2) of this section would have a detrimental effect on emissions or durability, and

(iv) Written approval from the Administrator of the fuel specifications was provided prior to the start of testing.

(4) The specification range of the fuels used under paragraphs (b)(1), (b)(2), and (b)(3) of this section shall be recorded.

III. *Gasoline-fueled vehicle preparation.* Gasoline-fueled vehicles to be tested in accordance with this appendix shall be prepared as follows:

(1)(i) Inspect the fuel system carefully to insure the absence of any leaks to the atmosphere of either liquid or vapor which might affect the accuracy of the test or the performance of the control system. Such inspection shall include the application of a pressure of 14.5 inches of water (plus or minus 0.5 inches of water) to the fuel system. The pressure should be applied and alowed to stabilize and the fuel system isolated from the pressure source. The fuel system may not lose more than 2.0 inches of water in five minutes beginning with the isolation of the fuel system. Corrective action, if required, shall be performed in accordance with § 86.608(e) and be reported with the final test report under § 86.609(e).

(ii) Care should be exercised, in the application of any pressure tests, neither to purge nor load the evaporative emission control system.

IV. *Vehicle preconditioning.* (a) Gasoline-fueled vehicles to be tested in accordance with this appendix shall be preconditioned as follows:

(1)(i) The fuel tank(s) shall be drained and filled with the specified test fuel (II.(a)(1)) to 40 percent of nominal capacity, rounded to the nearest whole U.S. gallon; or,

(ii) The fuel line from the tank(s) shall be clamped and disconnected from the fuel pump. A line from a "slave" tank, filled with specified test fuel, shall be connected to the fuel pump. If the fuel pump is equipped with a fuel return line, it shall be disconnected from the vehicle tank(s) and connected to the "slave" tank. The "slave" tank shall deliver fuel to the fuel pump at approximately neutral pressure. The vehicle fuel tank(s) shall be filled with either test fuel or fuel used during mileage accumulation to 40 percent of nominal capacity, rounded to the nearest whole U.S. gallon. Except as modified by this section, all connections within the evaporative emissions control system shall remain intact.

(2) The fuel added to the vehicle tank(s) or in the "slave" tank shall have an initial temperature of no more than 86° F. The evaporative emission control system or device shall not be abnormally purged or loaded as a result of draining or filling the tank(s) or connecting the "slave" tank.

(3) The test vehicle shall be placed on the dynamometer and operated over a simulated trip, according to the requirements of Sections V through XIII of this appendix. The engine need not be cold when starting the run on the dynamometer and a single trip of 7.5 miles shall be made. Longer preconditioning may be permitted with advance approval of the Administrator. The test vehicle shall not be used to set dynamometer horsepower. During this operation the ambient temperature shall be between 68° F and 86° F.

(4) The engine and cooling fan shall be stopped upon completion of the dynamometer operation and the vehicle permitted to soak either on or off the dynamometer stand at an ambient temperature between 76° F and 86° F for a period of not less than one hour.

(5) The test vehicle shall then be allowed to soak in an area where the ambient temperature is maintained between 60° F and 86° F for a period of not less than 11 (eleven) hours prior to the dynamometer operation prescribed in sections V through XIII of this appendix.

(b) Diesel vehicles to be tested in accordance with this appendix shall be preconditioned as follows:

(1)(i) The fuel tank(s) of each test vehicle shall be filled with specified test fuel (II.(b)(1)) to 40 percent of nominal capacity, rounded to the nearest whole U.S. gallon; or,

(ii) The fuel line from the tank(s) shall be clamped and disconnected from the fuel pump. A line from a "slave" tank, filled with specified test fuel, shall be connected to the fuel pump. If the fuel pump is equipped with a fuel return line, it shall be disconnected from the vehicle tank(s) and connected to the "slave" tank. The "slave" tank shall deliver fuel to the fuel pump at approximately neutral pressure. The vehicle fuel tank(s) shall be filled with specified test fuel to 40 percent of nominal capacity, rounded to the nearest whole U.S. gallon.

(2) The test vehicle shall be placed on the dynamometer and operated over a simulated trip, according to the requirements of Sections V through XIII of this appendix. The engine need not be cold when starting the run on the dynamometer and a single trip of 7.5 miles shall be made. The test vehicle shall not be used to set dynamometer horsepower.

(3) The engine and cooling fan shall be stopped upon completion of the dynamometer operation and the vehicle permitted to soak either on or off the dynamometer stand for a period of not less than 12 hours prior to the dynamometer test.

V. *Dynamometer driving schedule.* (a) The dynamometer driving schedule to be followed consists of a nonrepetitive series of idle, acceleration, cruise, and deceleration modes

of various time sequences and rates. The driving schedule is defined by a smooth transition through the speed vs. time relationships listed in Appendix I of 40 CFR Part 86. The time sequence begins upon starting the vehicle according to the startup procedure described in Section X of this appendix.

(b) The speed tolerance at any given time on the dynamometer driving schedule prescribed in Appendix I or as plotted on a driver's aid chart approved by the Administrator, when conducted to meet the requirements of Section VI of this appendix, is defined by upper and lower limits. The upper limit is 2 m.p.h. higher than the highest point on the trace within 1 second of the given time. The lower limit is 2 m.p.h. lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the tolerances (such as occur when shifting manual transmission vehicles) are acceptable provided they occur for less than 2 seconds on any one occasion. Speeds lower than those prescribed are acceptable provided the vehicle is operated at maximum available power during such occurrences. Further, speed deviations from those prescribed due to stalling are acceptable provided the provisions of Section X(d) are adhered to. When conducted to meet the requirements of Section IV, the speed tolerance shall be as specified above, except that the upper and lower limits shall be 4 m.p.h.

VI. *Dynamometer procedure.* (a) The dynamometer run consists of two tests, a "cold" start test after a minimum 12-hour soak (according to the provisions of Section IV of this appendix) and a "hot" start test with a 10-minute soak between the two tests. Engine startup (with all accessories turned off), operation over the driving schedule, and engine shutdown make a complete cold start test. Engine startup and operation over the first 505 seconds of the driving schedule complete the hot start test. The exhaust emissions are diluted with air to a constant volume and a portion is sampled continuously during each test. (Diesel hydrocarbons are analyzed continuously.) The composite (flow integrated) samples collected in bags are analyzed for hydrocarbons (except Diesel), carbon monoxide, carbon dioxide, and oxides of nitrogen. A parallel sample of the dilution air is similarly analyzed for hydrocarbon, carbon monoxide, and oxides of nitrogen.

(b) During dynamometer operation, a fixed speed cooling fan shall be positioned so as to direct cooling air to the vehicle in an appropriate manner with the engine compartment cover open. The fan capacity shall normally not exceed 5,300 c.f.m. If, however, the manufacturer can show that during field operation the vehicle receives additional cooling, the fan capacity may be increased or additional fans used if approved in advance by the Administrator. In the case of vehicles with front engine compartments, the fan(s) shall be squarely positioned between 8 and 12 inches in front of the cooling air inlets (grill). In the case of vehicels with rear engine compartments (or if special designs make the above impractical), the cooling fan(s) shall be placed in a position to provide sufficient air to maintain engine cooling.

(c) The vehicle shall be nearly level when tested in order to prevent abnormal fuel distribution.

(d) Flywheels, electrical or other means of simulating inertia as shown in the following table shall be used. If the equivalent inertia specified is not available on the dynamometer being used, the next higher equivalent inertia (not to exceed 250 lbs.) available shall be used.

Loaded vehicle weight, pounds	Equivalent interia weight, pounds	Road load power at 50 m.p.h., horsepower
Up to 1,125	1,000	5.9
1,126 to 1,375	1,250	6.5
1,376 to 1,625	1,500	7.1
1,626 to 1,875	1,750	7.7
1,876 to 2,125	2,000	8.3
2,126 to 2,375	2,250	8.8
2,376 to 2,625	2,500	9.4
2,626 to 2,875	2,750	9.9
2,876 to 3,250	3,000	10.3
3,251 to 3,750	3,500	11.2
3,751 to 4,250	4,000	12.0
4,251 to 4,750	4,500	12.7
4,751 to 5,250	5,000	13.4
5,251 to 5,750	5,500	13.9
5,751 to above	5,500	14.4

(e) Power absorption unit adjustment.

(1) The power absorption unit shall be adjusted to reproduce road load power at 50 m.p.h. true speed. The indicated road load power setting shall take into account the dynamometer friction.

The relationship between road load (absorbed) power and indicated road load power for a particular dynamometer shall be determined by the procedure outlined in Appendix II of 40 CFR Part 86 or other suitable means.

(2) The road load power listed in the table above shall be used or the vehicle manufacturer may determine the road load power by an alternate procedure requested by the manufacturer and approved in advance by the Administrator, or the vehicle manufacturer may determine the road load power by the following procedure and request its use:

(i) *Gasoline-fuel vehicles.* (A) Measuring the absolute manifold pressure of a representative vehicle, of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 m.p.h., and

(B) Noting the dynamometer indicated road load horsepower setting required to reproduce that manifold pressure when the same vehicle is operated on the dynamometer at a true speed of 50 m.p.h. The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute (usually barometric), i.e., within ±5 mm. Hg.

(ii) *Diesel vehicles.* (A) Measuring the fuel flow rate of a representative vehicle of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 m.p.h., and

(B) Noting the dynamometer indicated road load horsepower setting required to reproduce that fuel flow rate when the same vehicle is operated on the dynamometer at a true speed of 50 m.p.h. The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e. within ±5 mm. Hg.

(3) The road load power shall be adjusted according to the following if applicable:

(i) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with air conditioning, the road load power listed above or as determined in paragraph (e)(2) of this section shall be increased by 10 percent for testing all test vehicles representing such engine family if those vehicles are intended to be offered with air conditioning in production.

(f) The vehicle speed (m.p.h.) as measured from the dynamometer rolls shall be used for all conditions. A speed vs. time recording, as evidence of dynamometer test validity, shall be supplied on request of the Administrator.

(g) Practice runs over the prescribed driving schedule may be performed at test points, provided an emission sample is not taken, for the purpose of finding the minimum accelerator pedal action to maintain the proper speed-time relationship, or to permit sampling system adjustments to comply with Section XI(a)(2)(ii) or Section XI(b)(2)(ii).

NOTE.—When using two-roll dynamometers a truer speed-time trace may be obtained by minimizing the rocking of the vehicle in the rolls. The rocking of the vehicle changes the tire rolling radius on each roll. The rocking may be minimized by restraining the vehicle horizontally (or nearly so) by using a cable and winch.

(h) The drive wheel tires may be inflated up to 45 p.s.i.g. in order to prevent tire damage. Slave tires may be substituted for the drive wheel tires with which the vehicle is equipped provided they are the same size. The drive wheel tire pressure shall be recorded.

(i) If the dynamometer has not been operated during the 2-hour period immediately preceding the test it shall be warmed up for 15 minutes by operating it at 30 m.p.h. using a nontest vehicle.

(j) If the dynamometer horsepower must be adjusted manually, it shall be set within 1 hour prior to the exhaust emissions test. The test vehicle shall not be used to make this adjustment. Dynamometers using automatic control of preselectable power settings may be set anytime prior to the beginning of the test.

VII. *Three-speed manual transmissions.* (a) All test conditions except as noted shall be run in highest gear.

(b) Cars equipped with free wheeling or overdrive units shall be tested with this unit (free wheeling or overdrive) locked out of operation.

(c) Idle shall be run with transmission in gear and with clutch disengaged (except first idle; see Section X).

(d) The vehicle shall be driven with minimum accelerator pedal movement to maintain the desired speed.

(e) Acceleration modes shall be driven smoothly with the shift speeds as recommended by the manufacturer. If the manufacturer does not recommend shift speeds, the vehicle shall be shifted from first to second gear at 15 m.p.h. and from second to third gear at 25 m.p.h. The operator shall release the accelerator pedal during the shift, and accomplish the shift with minimum closed throttle time. If the vehicle cannot accelerate at the specified rates, the vehicle shall be operated with accelerator pedal fully depressed until the vehicle speed reaches the speed at which it should be at that time during the test.

(f) The deceleration modes shall be run with clutch engaged and without shifting gears from the previous mode, using brakes or accelerator pedal as necessary to maintain the desired speed. For those modes which decelerate to zero, the clutch shall be depressed when the speed drops below 15 m.p.h., when engine roughness is evident, or when engine stalling is imminent.

(g) Downshifting is allowed at the beginning of or during a power mode if recommended by the manufacturer or if the engine obviously is lugging.

VIII. *Four-speed and five-speed manual transmissions.* (a) Use the same procedure as for three-speed manual transmissions for shifting from first to second gear and from second to third gear. If the manufacturer does not recommend shift speeds, the vehicle shall be shifted from third to fourth gear at 40 m.p.h. Fifth gear may be used at the manufacturer's option.

(b) If transmission ratio in first gear exceeds 5:1, follow the procedure for three- or four-speed manual transmission vehicles as if the first gear did not exist.

IX. *Automatic transmissions.* (a) All test conditions shall be run with the transmission in "Drive" (highest gear). Automatic stick-shift transmissions may be shifted as manual transmissions at the option of the manufacturer.

(b) Idle modes shall be run with the transmission in "Drive" and the wheels braked (except first idle; see Section X).

(c) The vehicle shall be driven with minimum accelerator pedal movement to maintain the desired speed.

(d) Acceleration modes shall be driven smoothly allowing the transmission to shift automatically through the normal sequence of gears. If the vehicle cannot accelerate at the specified rates, the vehicle shall be operated with accelerator pedal fully depressed until the vehicle speed reaches the speed at which it should be at that time during the driving schedule.

(e) The deceleration modes shall be run in gear using brakes or accelerator pedal as necessary to maintain the desired speed.

X. *Engine starting and restarting*—(a) *Gasoline-fueled vehicles.* (1) The engine shall be started according to the manufacturer's recommended starting procedures. The initial 20-second idle period shall begin when the engine starts.

(2) *Choke operation.* (i) Vehicles equipped with automatic chokes shall be operated according to the instructions which will be included in the manufacturer's operating instructions or owner's manual including choke setting and "kick-down" from cold fast idle. The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

(ii) Vehicles equipped with manual chokes shall be operated according to the manufacturer's operating instructions or owner's manual.

(3) The operator may use the choke, accelerator pedal, etc. where necessary to keep the engine running.

(4) If the manufacturer's operating or owner's manual does not specify a warm engine starting procedure, the engine (automatic and manual choke engines) shall be started by depressing the accelerator pedal about half way and cranking the engine until it starts.

(b) *Diesel vehicles.* (1) The engine shall be started according to the manufacturer's recommended starting procedures. The initial 20-second idle period shall begin when the engine starts. The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

(c) If the vehicle does not start after 10 seconds of cranking, cranking shall cease and the reason for failure to start shall be determined. The revolution counter on the constant volume sampler (and the hydrocarbon integrator when testing Diesel vehicles, see Section XIII), shall be turned off and the sample solenoid valves placed in the "dump" position during this diagnostic period. In addition, either the positive displacement pump should be turned off or the exhaust tube disconnected from the tailpipe during the diagnostic period. If failure to start is an operational error, the vehicle shall be rescheduled for testing from a cold start. If failure to start is caused by vehicle malfunction, corrective action of less than 30 minutes duration may be taken and the test continued. The sampling system shall be reactivated at the same time cranking is started. When the engine starts, the driving schedule timing sequence shall begin. If failure to start is caused by vehicle malfunction and the vehicle cannot be started, the test shall be voided, corrective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

(d) If the engine "false starts", the operator shall repeat the recommended starting procedure (such as resetting the choke, etc.)

(e) Stalling:

(f) If the engine stalls during an idle period, the engine shall be restarted immediately and the test continued. If the engine cannot be started soon enough to allow the vehicle to follow the next acceleration as prescribed, the driving schedule indicator shall be stopped. When the vehicle restarts the driving schedule indicator shall be reactivated.

(2) If the engine stalls during some operating mode other than idle, the driving schedule indicator shall be stopped, the vehicle restarted, accelerated to the speed required at that point in the driving schedule and the test continued.

(3) If the vehicle will not restart within 1 minute, the test shall be voided, corrective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

XI. *Sampling and analytical system (exhaust emissions)*—(a) *Gasoline-fueled vehicles.* The sampling and analytical systems for gasoline-fueled vehicles shall comply with paragraph (a) of this section:

(1) *Schematic drawings.* The following figures (Figs. 1 and 2) are schematic drawings of the exhaust gas sampling and analytical systems which will be used for testing under the regulations in this part. Since various configurations of the required components can produce accurate results, these schematic drawings are not to be interpreted literally and exact conformance is not mandatory. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

(2) *Component description (exhaust gas sampling system).* The following components will be used in the exhaust gas sampling systems for testing under the regulations in this subpart. See figure 1. Other types of constant volume samplers may be used if shown to yield equivalent results and if approved in advance by the Administrator.

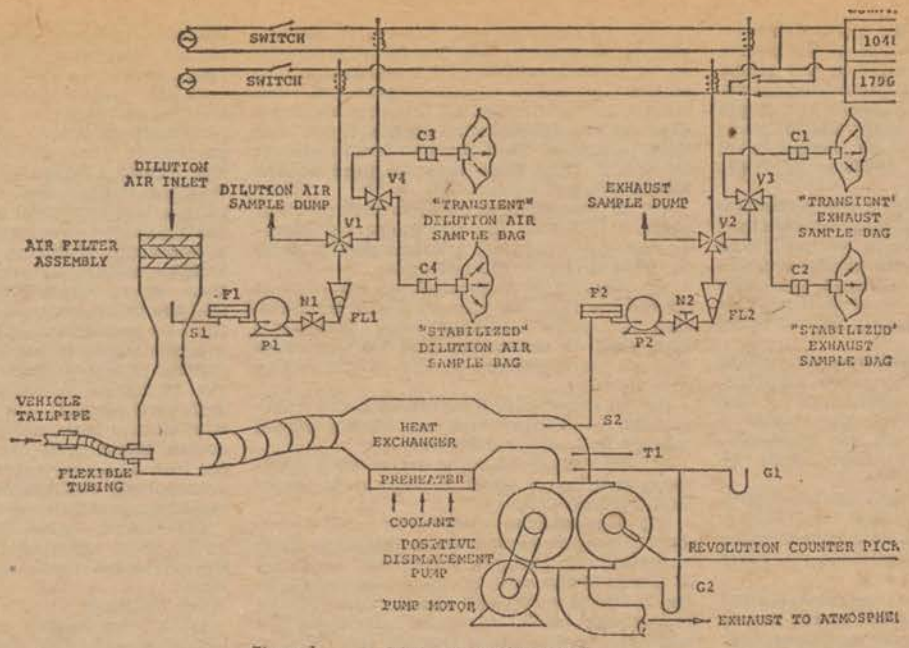


Figure 1 - Exhaust Gas Sampling System

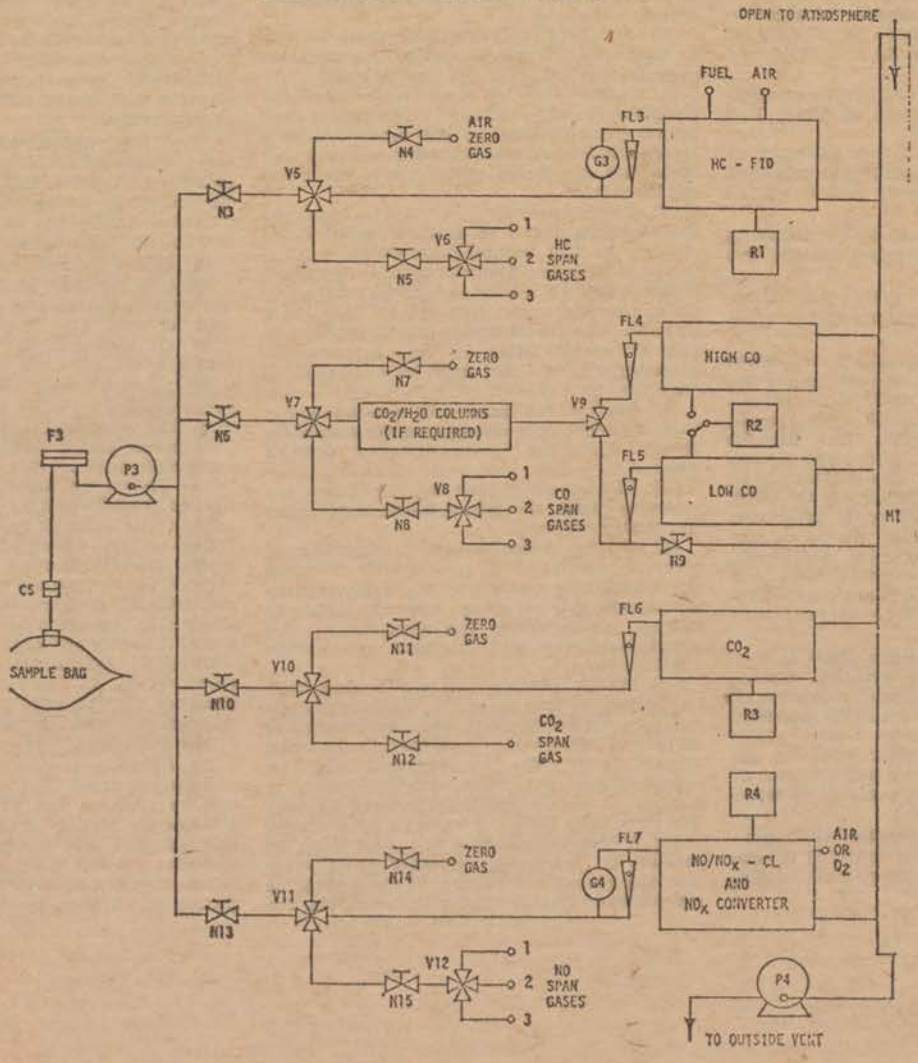


Figure 2 Exhaust Gas Analytical System

(i) A dilution air filter assembly consisting of a particulate (paper) filter to remove solid matter from the dilution air and thus increase the life of the charcoal filter; a charcoal filter to reduce and stabilize the background hydrocarbon level; and a second particulate filter to remove charcoal particles from the air stream.

(ii) A leak-tight connector and tube to the vehicle tailpipe. The tubing shall be sized and connected in such a manner that the static pressure variations in the vehicle tailpipe(s) remain within ±5 inches of water of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s). Sampling systems capable of tolerances of ±1 inch of water will be used by the Administrator if a written request by the manufacturer substantiates the need for this closer tolerance.

(iii) A heating system to preheat exchanger to within ±10° F of its operating temperature before the test begins.

(iv) A heat exchanger capable of limiting the gas mixture temperature variation during the entire test to ±10° F as measured at a point immediately ahead of the positive displacement pump.

(v) A positive displacement pump to pump the dilute exhaust mixture. The pump capacity (300 to 350 c.f.m. is sufficient for testing most vehicles) shall be large enough to virtually eliminate water condensation in the system. (See Appendix III of 40 CFR Part 86 for one flow calibration technique.) Other suitable caliberation techniques may be used if approved in advance by the Administrator.

(vi) Temperature sensor (T1) with an accuracy of ±2° F to allow continuous recording of the temperature of the dilute exhaust mixture entering the positive displacement pump.

(vii) Gauge (G1) with an accuracy of ±3 mm. Hg to measure the pressure depression of the dilute exhaust mixture entering the positive displacement pump, relative to atmospheric pressure.

(viii) Gauge (G2) with an accuracy of ±3 mm. Hg to measure the pressure increase across the positive displacement pump.

(ix) Sample probes (S1 and S2) pointed upstream to collect samples from the dilution airstream and the dilute exhaust mixture.

(x) Filters (F1 and F2) to remove particulate matter from dilution air and dilute exhaust samples.

(xi) Pumps (P1 and P2) to pump the dilution air and dilute exhaust into their respective sample collection bags.

(xii) Flow control valves (N1 and N2) to regulate flows to sample collection bags, at constant flow rates. The minimum sample flow rate shall be 10 c.f.h.

(xiii) Flowmeters (FL1 and FL2) to insure, by visual observation, that constant flow rates are maintained throughout the test.

(xiv) Three-ways solenoid valves (V1, V2, V3, and V4) to direct sample streams to either their respective bags or overboard.

(xv) Quick-connect, leak-tight fittings (C1, C2, C3, and C4) with automatic shutoff on bag side to attach sample bags to sample system.

(xvi) Sample collection bags for dilution air and exhaust samples of sufficient capacity so as not to impede sample flow.

(xvii) Revolution counters to count the revolutions of the positive displacement pump while each test phase is in progress and samples are being collected.

(3) Component description (exhaust gas analytical system). The following components will be used in the exhaust gas analtical system for testing under the regulations in this part. The analytical system provides for the determination of hydrocarbon concentrations by flame ionization detector (FID) analysis, the determination of carbon monoxide and carbon dioxide concentrations by nondispersive infrared (NDIR) analysis and the determination of oxides of nitrogen concentrations by chemiluminescence (CL) analysis in dilute exhaust samples. The chemiluminescence method of analysis requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. (See Appendix V of 40 CFR Part 86.) Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator. (See Figure 2.)

(i) Quick-connect leak-tight fittig (C5) to attach sample bags to analytical system.

(ii) Filter (F3) to remove any residual particulate matter from the collected sample.

(iii) Pump (P3) to transfer samples from the sample bags to the analyzers.

(iv) Selector valves (V5, V6, V7, V8, V9, V10, V11, and V12) for directing samples, span gases or zeroing gases to the analyzers.

(v) Flow control valves (N3, N4, N5, N6, N7, N8, N9, N10, N11, N12, N13, N14, and N15) to regulate the gas flow rates.

(vi) Flowmeters (FL3, FL4, FL5, FL6, and FL7) to indicate gas flow rates.

(vii) Pressure gauges (G3 and G4) to facilitate greater precision in setting and reading flow rates.

(viii) Manifold (M1) to collect the expelled gases from the analyzers.

(ix) Pump (P4) to transfer expelled gases from the collection manifold to a vent external to the test room (optional).

(x) Analyzers to determine hydrocarbon, carbon monoxide, carbon dioxide and oxides of nitrogen concentrations. (See Section XII (a).)

(xi) Sample conditioning column containing $CaSO_4$ or indicating silica gel to remove water vapor and containing ascarite to remove carbon dioxide from the CO analysis stream.

NOTE.—If CO instruments which are essentially free of CO_2 and water vapor interference are used, the use of the conditioning column may be deleted.

A CO instrument will be considered to be essentially free of CO_2 and water vapor interference if its response to a mixture of 3 percent CO_2 and N_2, which has been bubbled through water at room temperature (68°–86° F), produces an equivalent CO response, as measured on the most sensitive CO range, which is less than 1 percent of full scale CO concentration on instrument ranges above 300 ppm CO or less than 3 ppm on instrument ranges below 300 ppm CO.

(xii) Recorders (R1, R2, R3, and R4) or digital printers to provide permanent records of calibration, spanning and sample measurements; or in those facilities where computerized data acquisition systems are incorporated, the computer facility printout may be used.

(b) *Diesel vehicles*—(1) *Schematic drawings.* The following figures 3, 4, and 5 are schematic drawings of the exhaust gas sampling and analytical systems which will be used for testing under the regulations in this part. Since various configurations of the required components can produce accurate results, these schematic drawings are not to be interpreted literally and exact conformance is not mandatory. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

(2) Component description (exhaust gas sampling system). The following components will be used in the exhaust gas sampling system for testing under the regulations in this part. (See Figure 3.) Other types of constant volume samplers may be used if shown to yield equivalent results, and if approved in advance by the Administrator.

(i) A dilution air filter assembly consisting of a particulate (paper) filter to remove solid matter from the dilution air and thus increase the life of the charcoal filter; a charcoal filter to reduce and stabilize the background hydrocarbon level; and a second particulate filter to remove charcoal particles from the air stream.

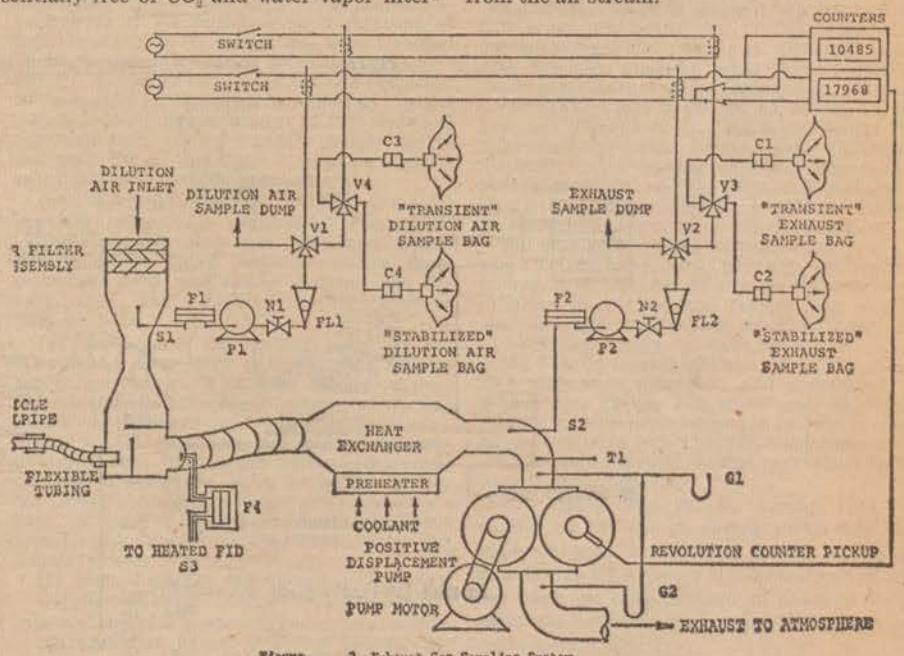


Figure 3 Exhaust Gas Sampling System

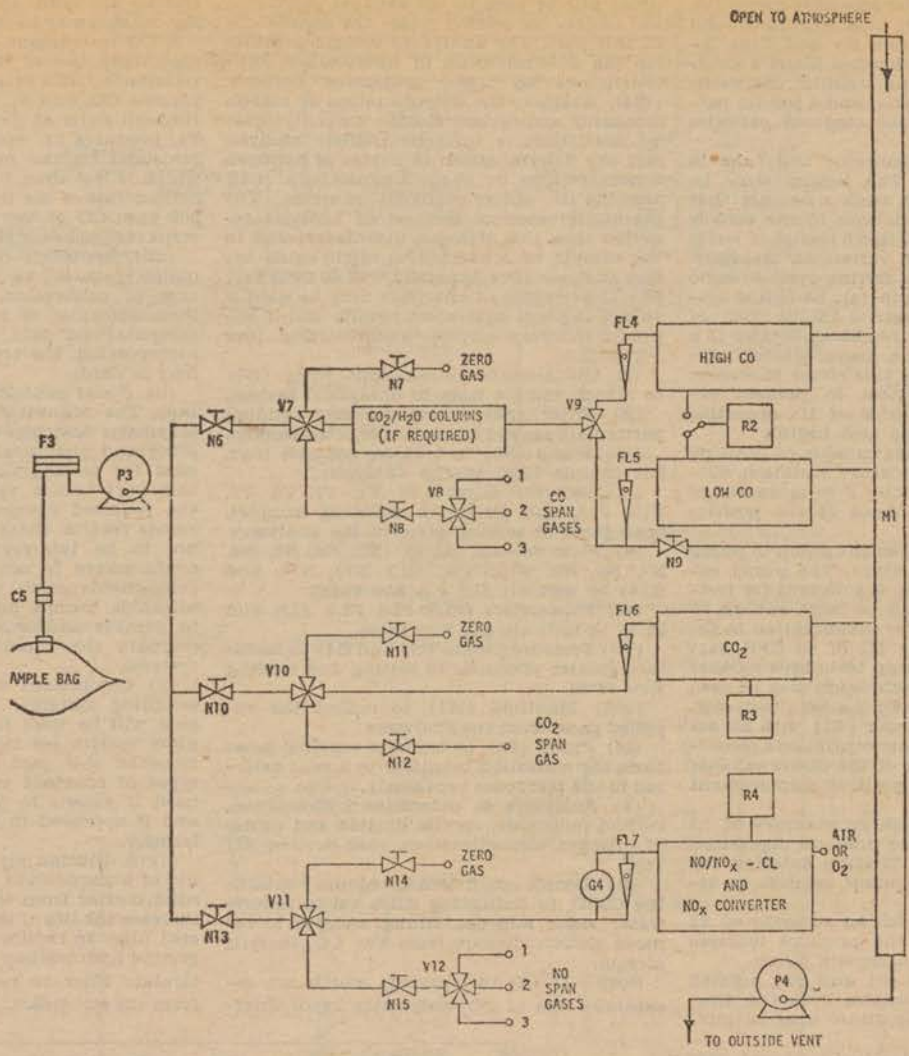


Figure 4 Exhaust Gas Analytical System

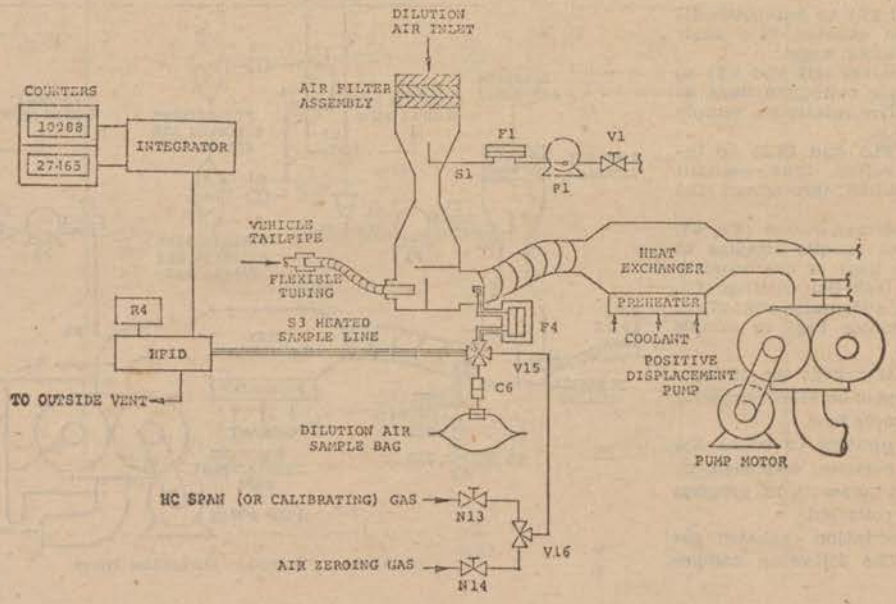


Figure 5 Diesel Hydrocarbon Continuous Analysis System

(ii) A leak-tight connector and tube to the vehicle tailpipe. The tubing shall be sized and connected in such a manner that the static pressure variations in the vehicle tailpipe(s) remain within ±5 inches of water of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s). Sampling systems capable of tolerances of ±1 inch of water will be used by the Administrator if a written request by the manufacturer substantiates the need for this closer tolerance.

(iii) A heating system to preheat the heat exchanger to within ±10° F of its operating temperature before the test begins.

(iv) A heat exchanger capable of limiting the gas mixture temperature variation during the entire test to ±10° F as measured at a point immediately ahead of the positive displacement pump.

(v) A positive displacement pump to pump dilute exhaust mixture. The pump capacity (300 to 350 c.f.m. is sufficient for testing most vehicles) shall be large enough to virtually eliminate water condensation in the system. See Appendix III to 40 CFR 86 for one flow calibration technique. Other suitable calibration techniques may be used if approved in advance by the Administrator.

(vi) Temperature sensor (T1) with an accuracy of ±2° F to allow continuous recording of the temperature of the dilute exhaust mixture entering positive displacement pump.

(vii) Gage (G1) with an accuracy of ±3 mm. Hg to measure the pressure depression of the dilute exhaust mixture entering the positive displacement pump, relative to atmospheric pressure.

(viii) Gage (G2) with an accuracy of ±3 mm. Hg to measure the pressure increase across the positive displacement pump.

(ix) Sample probes (S1, S2, and S3) pointed upstream to collect samples from the dilution air steam and the dilute exhaust mixture. Additional sample probes may be used, for example, to obtain continuous concentration traces of the dilute exhaust stream. In such case the sample flow rate, in standard cubic feet per test phase, must be added to the calculated dilute exhaust volume. The position of the sample probes in Figure 3 is pictorial only. The heated sample line (S3) between the sampling point and the analyzer shall be as short as possible.

(x) Filters (F1 and F2) to remove particulate matter from dilution air and dilute exhaust samples.

(xi) Pumps (P1 and P2) to pump the dilution air and dilute exhaust into their respective sample collection bags.

(xii) Flow control valves (N1 and N2) to regulate flows to sample collection bags, at constant flow rates. The minimum sample flow rate shall be 10 c.f.h.

(xiii) Flowmeters (FL1 and FL2) to insure, by visual observation, that constant flow rates are maintained throughout the test.

(xiv) Three-way solenoid valves (V1, V2, V3, and V4) to direct sample streams to either their respective bags or overboard.

(xv) Quick-connect, leak-tight fittings (C1, C2, C3, and C4) with automatic shutoff on bag side to attach sample bags to sample system.

(xvi) Sample collection bags for dilution air and exhaust samples of sufficient capacity so as not to impede sample flow.

(xvii) Revolution counters to count the revolutions of the positive displacement pump while each test phase is in progress and samples are being collected.

(3) Component description (exhaust gas batch analytical system). The following components will be used in the exhaust gas batch analytical system for testing under the regulations in this part. The analytical system provides for the determination of carbon monoxide and carbon dioxide concentrations by nondispersive infrared (NDIR) analysis and the determination of oxides of nitrogen concentrations by chemiluminescence (CL) analysis in dilute exhaust samples. The chemiluminescence method of analysis requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator. (See Figure 4.)

(i) Quick-connect, leak-tight fitting (C5) to attach sample bags to analytical system.

(ii) Filter (F3) to remove any residual particulate matter from the collected sample.

(iii) Pump (P3) to transfer samples from the sample bags to the analyzers.

(iv) Selector valves (V7, V8, V9, V10, V11, and V12) for directing samples, span gases or zeroing gases to the analyzers.

(v) Flow control valves (N6, N7, N8, N9, N10, N11, N12, N13, N14, and N15) to regulate the gas flow rates.

(vi) Flowmeters (FL4, FL5, FL6, and FL7) to indicate gas flow rates.

(vii) Pressure gauge (G4) to facilitate greater precision in setting and reading flow rate.

(viii) Manifold (M1) to collect the expelled gases from the analyzers.

(ix) Pump (P4) to transfer expelled gases from the collection manifold to a vent external to the testroom (optional).

(x) Analyzers to determine carbon monoxide, carbon dioxide and oxides of nitrogen concentrations.

(xi) Sample conditioning column containing $CaSO_4$, or indicating silica gel to remove water vapor and containing ascraite to remove carbon dioxide from the CO analyses stream.

NOTE.—If CO instruments which are essentially free of CO_2 and water vapor interference are used, the use of the conditioning column may be deleted.

A CO instrument will be considered to be essentially free of CO_2 and water vapor interference if its response to a mixture of 3 percent CO_2 in N_2, which has been bubbled through water at room temperature (68°–86° F), produces an equivalent CO response, as measured on the most sensitive CO range, which is less than 1 percent of full scale CO concentration on instrument ranges above 300 ppm CO or less than 3 ppm on instrument ranges below 300 ppm CO.

(xii) Recorders (R1, R2, and R3) or digital printers to provide permanent records of calibration, spanning and sample measurements; or in those facilities where computerized data acquisition systems are incorporated, the computer facility printout may be used.

(4) Component description (exhaust gas continuous analytical system). The following components will be used in the exhaust gas continuous analytical system for testing under the regulations in this part. This analytical system provides for the continuous determination of exhaust hydrocarbon concentration by heated flame ionization detector (HFID) analysis. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator (See Figure 5.)

(i) Heated continuous sampling line (S3).

(ii) Heated filter (F4) to remove particulate matter from heated hydrocarbon sample.

(iii) Selector valves (V5 and V6) for directing the continuous dilute exhaust sample, dilution air bag sample, span or zeroing gases to the analyzers.

(iv) Quick-connect, leak-tight fitting (C6) to attach dilution air sample bag to analytical system.

(v) Heated hydrocarbon analyzer (HFID) complete with heated pump, filter, and flow control system. The response time of this instrument shall be less than 1 second for 90 percent of full scale response. Sample transport time from sampling point to inlet of instrument shall be less than 4 seconds.

(vi) Chart recorder (R1) and analog integrator with two readouts, or chart recorder (R1) and on-line digital computer for manual or electronic integration of analyzer output signal during the three operating phases of the test.

(vii) Flow control valves (N4 and N5) to regulate the gas flow rates.

XII. *Analytical system calibration and sample handling.* (a) Calibrate the analytical assembly at least once every 30 days. Use the same flow rate as when analyzing samples.

(1) Adjust analyzers to optimize performance. For Diesel vehicles, operate the heated hydrocarbon analyzer, sampling line and filter to ±10° F in the temperature range of 300° to 390° F.

(2) Zero the hydrocarbon analyzer with zero grade air and the carbon monoxide, carbon dioxide, and oxides of nitrogen analyzers with zero grade air or zero grade nitrogen. The allowable zero gas impurity concentrations should not exceed 1 p.p.m. equivalent carbon response, 1 p.p.m. carbon monoxide, 400 p.p.m. (0.04 mole percent) carbon dioxide and 0.1 p.p.m. nitric oxide.

(3) Set the CO and CO_2 analyzer gains to give the desired ranges. Select the desired attenuation scale of the HC analyzer, set the sample capillary flow rate by adjusting the back pressure regulator, and adjust the electronic gain control, if provided, to give the desired range. Select the desired scale of the NOx analyzer and adjust the phototube high voltage supply or amplifier gain to give the desired range.

(4) Calibrate the HC analyzer with propane (air diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. Calibrate the CO analyzer with carbon monoxide (nitrogen diluent) gases and the CO_2 analyzer with carbon dioxide (nitrogen diluent) gases having nominal concentrations equal to 10, 25, 40, 50, 60, 70, 85, and 100 percent of full scale. Calibrate the NOx analyzer with nitric oxide (nitrogen diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. The actual concentrations should be known to within ±2 percent of the true values.

(5) Compare values obtained on the CO and CO_2 analyzers with previous calibration curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curves for data reduction.

(6) NOx converter efficiency determination. The apparatus described and illustrated in Figure 6 or Figure 7 is to be used to determine the conversion efficiency of devices that convert NOx to NO. The following procedure is to be used for determining the values to be used in Equation (A).

(i) Attach the NO/N_2 supply (150-250 p.p.m.) at C2, the O_2 supply at C1 and the analyzer inlet connection to the efficiency detector at C3. If lower concentrations of NO are used, air may be used in place of O_2 to facilitate better control of the NO_2 generated during step (iv).

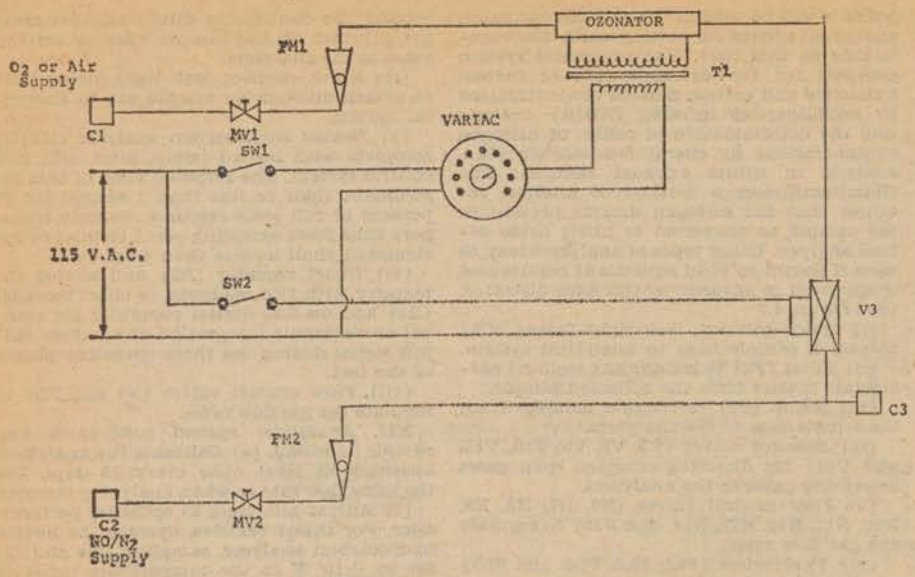


Figure 6 - NOx Converter Efficiency Detector

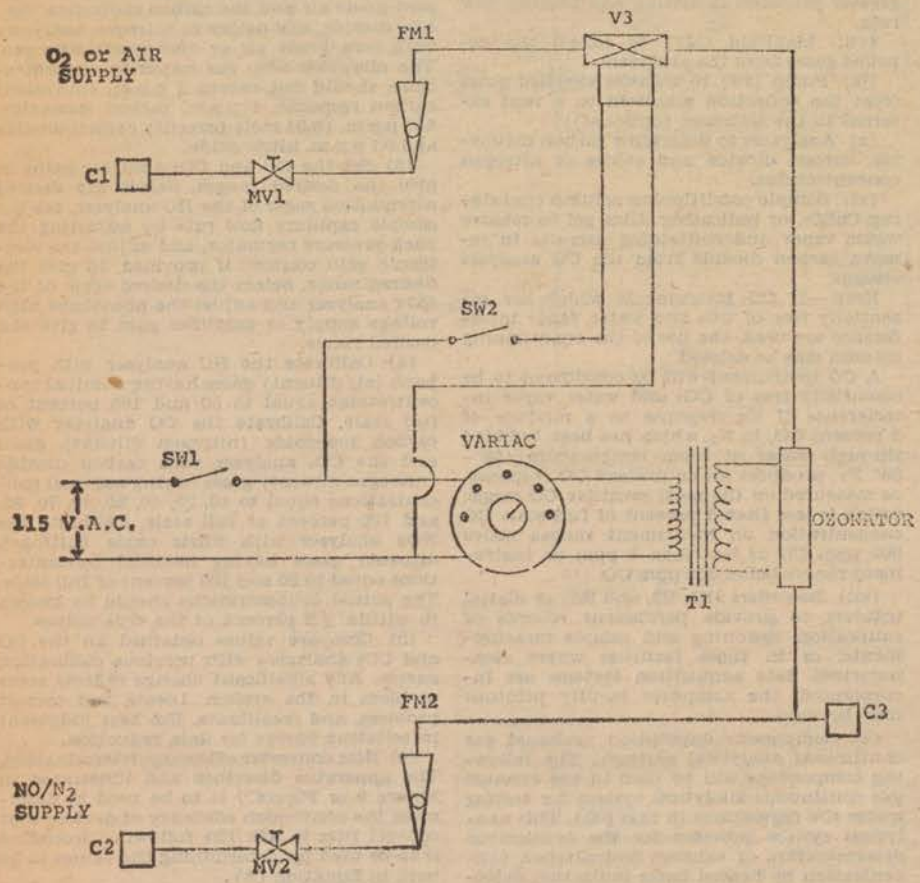


Figure 7 - NOx Converter Efficiency Detector

(ii) With the efficiency detector variac off, place the NOx converter in bypass mode and close valve V3. Open valve MV2 until sufficient flow and stable readings are obtained at the analyzer. Zero and span the analyzer output to indicate the value of the NO concentration being used. Record this concentration.

(iii) Open valve V3 (on/off flow control solenoid valve for O_2) and adjust valve MV1 (O_2 supply metering valve) to blend enough O_2 to lower the NO concentration (ii) about 10 percent. Record this concentration.

(iv) Turn on the ozonator and increase its supply voltage until the NO concentration of (iii) is reduced to about 20 percent of (ii). NO_2 is now being formed from the $NO+O_2$ reaction. There must always be at least 10 percent unreacted NO at this point. Record this concentration.

(v) When a stable reading has been obtained from (iv), place the NOx converter in the convert mode. The analyzer will now indicate the total NOx concentration. Record this concentration.

(vi) Turn off the ozonator and allow the analyzer reading to stabilize. The mixture $NO+O_2$ is still passing through the converter. This reading is the total NO_x concentration of the dilute NO span gas used at Step (iii). Record this concentration.

(vii) Close valve V3. The NO concentration should be equal to or greater than the reading of (ii) indicating whether the NO contains any NO_2. Calculate the efficiency of the NOx converter by substituting the concentrations obtained during the test into Equation (A).

$$\% \text{ Eff.} = (v) - (iv) / (vi) - (iv) \times 100 \text{ percent} \quad (A)$$

The efficiency of the converter should be greater than 90 percent. Adjustment of the converter temperature may be needed to maximize the efficiency. Efficiency checks should be made on each analyzer range using an NO span gas concentration appropriate to the instrument range. See alternate procedure in paragraph (a)(6)(viii).

(viii) Alternative to paragraph (a)(6)(vii): Close valve V3. The NO concentration should be equal to or greater than the reading of (ii) indicating whether the NO contains any NO_2.

Calculate the efficiency of the NO converter by substituting the concentrations obtained during the test into Equation (B).

$$\% \text{ Eff.} = 1 + (v - vi) / (iii - iv) \times 100 \text{ percent} \quad (B)$$

The efficiency of the converter should be greater than 90 percent. Adjusting the converter temperature may be needed to maximize the efficiency. Although steps (ii) and (vii) are not used in the calculations, their values should be recorded to complete the data set for the test sequence. This procedure does not depend on the amount of NO_2 in the span gas nor the equivalence of flows in the bypass and converter modes; however, to be consistent with good operating practice, flows should be nominally the same, and the NO_2 concentration. Efficiency checks should be made at a frequency (daily to weekly) consistent with good quality assurance provisions.

(7) Check the efficiency of the sample conditioning system, if used, by the following procedure:

(i) Zero and span the CO instrument on its most sensitive scale.

(ii) Recheck zero.

(iii) Bubble a mixture of 3% CO_2 in N_2 through water at room temperature (68°-

86° F), through the conditioning column into the CO instrument. If the response meets the criteria of Section XI(a)(3)(xi) or Section XI(b)(3)(xi) as applicable, then the conditioning column is functioning acceptably. If the response is higher than the specified limit, a new conditioning column should be installed and the test repeated.

(iv) Sample conditioning systems should be checked at a frequency consistent with observed column life or when the indicator of the column packing begins to show deterioration.

(b) HC, CO, CO_2, and NOx measurements: (When testing Diesel vehicles allow the HC analyzer sample line and filter to heat to a set point ±10° F between 300° and 390° F.) Allow a minimum of 20 minutes warmup for the HC analyzer and 2 hours for the CO, CO_2, and NOx analyzers. (Power is normally left on infrared and chemiluminescence analyzers; but when not in use, the chopper motors of the infrared analyzers are turned off and the phototube high voltage supply of the chemiluminescence analyzer is placed in the standby position.) The following sequences of operations should be performed in conjunction with each series of measurements:

(1) Zero the analyzers. Obtain a stable zero on each amplifier meter and recorder. Recheck after tests.

(2) Introduce span gases and set the CO and CO_2 analyzer gains, the HC analyzer sample capillary flow rate and the NOx analyzer high voltage supply or amplifier gain to match the calibration curves. In order to avoid corrections, span and calibrate at the same flow rates used to analyze the test samples. Span gases should have concentrations equal to approximately 80 percent of full scale. If gain has shifted significantly on the CO or CO_2 analyzers, check tuning. If necessary, check calibration. Recheck after test. Show actual concentrations on chart.

(3) Check zeros; repeat the procedure in paragraphs (b)(1) and (2) of this section if required.

(4) Check flow rates and pressures.

(5) For Diesel vehicles continuously record (and integrate electronically, if desired) dilute hydrocarbon emission levels during test.

(6) Measure CO, CO_2, and NOx concentrations of samples, also HC for gasoline-fueled vehicles. Care should be exercised to prevent moisture from condensing in the sample collection bag.

(7) Check zero and span points.

(c) For the purposes of this section, the term "zero grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

XIII. *Dynamometer test runs.* (a) The vehicle shall be allowed to stand with the engine turned off for a period of not less than 12 hours before the cold start exhaust emission test (gasoline-fueled vehicles shall be stored at an ambient temperature specified in Section IV of this appendix). The vehicle shall be stored prior to the emission tests in such a manner that precipitation (e.g. rain or dew) does not occur on the vehicle. The complete dynamometer test consists of a cold start drive of 7.5 miles and simulates a hot start drive of 7.5 miles. The vehicle is allowed to stand on the dynamometer during the 10-minute time period between the cold and hot start tests. The cold start test is divided into two periods. The first period, representing the cold start "transient" phase, terminates at the end of the deceleration which is scheduled to occur at 505 seconds of the driving schedule. The second period, representing the "stabilized" phase, consists of the remainder of driving schedule including engine shutdown. The hot start test similarly consists of two periods. The first period, representing the hot start "transient" phase, terminates at the same point in the driving schedule as the first phase of the cold start test. The second period of the hot start test, "stabilized" phase, is assumed to be identical to the second period of the cold start test. Therefore, the hot start test terminates after the first period (505 seconds) is run. During the tests the ambient temperature shall be between 68° F and 86° F.

(b) The following steps shall be taken for each test:

(1) Place drive wheels of vehicle on dynamometer without starting engine.

(2) Open the vehicle engine compartment cover and start the cooling fan.

(3) With the sample solenoid valves in the "dump" position connect evacuated sample collection bags to the two dilute exhaust sample connectors and to the two dilution air sample line connectors.

(4) Start the positive displacement pump (if not already on), the sample pumps, heated hydrocarbon analysis recorder (Diesel only) and the temperature recorder. (The heat exchanger of the constant volume sampler, the Diesel hydrocarbon analyzer continuous sample line and filter (if applicable) should be preheated to their respective operating temperatures before the test begins.)

(5) Adjust the sample flow rates to the desired flow rate (minimum of 10 c.f.h.) and set the revolution counters to zero. Also set Diesel hydrocarbon integrator counters to zero, if applicable.

(6) Attach the flexible exhaust tube to the vehicle tailpipe(s).

(7) Simultaneously start the revolution counter for the positive displacement pump, position the sample solenoid valves to direct the sample flow into the "transient" exhaust sample bag and the "transient" dilution air sample bag (turn on the Diesel hydrocarbon analyzer system integrator and mark the recorder chart, if applicable), and start cranking the engine.

(8) Fifteen seconds after the engine starts, place the transmission in gear.

(9) Twenty seconds after the engine starts, begin the initial vehicle acceleration of the driving schedule.

(10) Operate the vehicle according to the dynamometer driving schedule (Section V).

(11) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously switch the sample flows from the "transient" bags to the "stabilized" bags, switch off revolution counter No. 1 (and the Diesel hydrocarbon integrator No. 1, mark the Diesel hydrocarbon recorder chart) and start counter No. 2 (and the Diesel hydrocarbon integrator No. 2). As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the "transient" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to Section XII.

(12) Turn the engine off 2 seconds after the end of the last deceleration (at 1,369 seconds).

(13) Five seconds after the engine stops running, simultaneously turn off revolution counter No. 2 (and the Diesel hydrocarbon integrator No. 2, mark the hydrocarbon recorder chart, if applicable) and position the sample solenoid valves to the "dump" position. As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the "stabilized" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to Section XII.

(14) Immediately after the end of the sample period turn off the cooling fan and close the engine compartment cover.

(15) Turn off the positive displacement pump or disconnect the exhaust tube from the tailpipe(s) of the vehicle.

(16) Repeat the steps in paragraphs (b)(2) through (10) of this section for the hot start test except only one evacuated sample bag is required for sampling exhaust gas and one for dilution air. The step in paragraph (b)(7) of this section shall begin between 9 and 11 minutes after the end of the sample period for the cold start test.

(17) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously turn off the No. 1 revolution counter (and Diesel hydrocarbon integrator No. 1, mark the Diesel hydrocarbon recorder chart, if applicable) and position the sample solenoid valve to the "dump" position. (Engine shutdown is not part of the hot start test sample period.)

(18) As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the hot start "transient" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to Section XII.

(19) Disconnect the exhaust tube from the vehicle tailpipe(s) and the vehicle may be removed from the dynamometer.

(20) The positive displacement pump may be turned off, if desired.

XIV. *Chart reading.* (a) Gasoline-fueled light duty vehicles and light duty trucks:

(1) Determine the HC, CO, CO_2, and NOx concentrations of the dilution air and dilute exhaust sample bags from the instrument deflections or recordings making use of appropriate calibration charts.

(2) Determine the average dilute exhaust mixture temperatures from the temperature recorder trace if the recorder is used.

(b) Diesel light duty vehicles and light duty trucks:

(1) Determine the HC, CO, CO_2, and NOx concentrations of the dilution air and the CO, CO_2, and NOx concentration of the dilute exhaust sample bags from the instrument deflections, computer printout, or recordings making use of appropriate calibration charts.

(2) Record integrated HC results, or manually integrate continuous chart. This chart provides a permanent record and can be graphically integrated if verification of the results of electronic integration is required.

(3) Determine the average dilute exhaust mixture temperatures from the temperature recorder trace if a recorder is used.

XV. *Calculations.* The individual reported test results shall be computed by use of the following formula:

(a) For light duty vehicles and light duty trucks:

$$Ywm = (0.43\ Yct + 0.57\ Yht + Ys)/7.5$$

Where:

Ywm = Weighted mass emissions of each pollutant, i.e. HC, CO, or NOx, in grams per vehicle mile.

Yct = Mass emissions as calculated from the "transient" phase of the cold start test, in grams per test phase.

Yht = Mass emissions as calculated from the "transient" phase of the hot start test, in grams per test phase.

Ys = Mass emissions as calculated from the "stabilized" phase of the cold start test, in grams per test phase.

(b) The mass of each pollutant for each phase of both the cold start test and hot start test is determined from the following:

(1) Hydrocarbon Mass:

$HCmass = Vmix \times DensityHC \times HCconc/1{,}000{,}000$

(2) Oxides of nitrogen Mass:

$NOxmass = Vmix \times DensityNO_2 \times (NOxconc/1{,}000{,}000) \times KH$

(3) Carbon monoxide Mass:

$COmass = Vmix \times DensityCO \times COconc/1{,}000{,}000$

(c) Meaning of symbols:

HCmass = Hydrocarbon emissions, in grams per test phase.

DensityHC = Density of hydrocarbons in the exhaust gas, assuming an average carbon to hydrogen ratio of 1:1.85, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (16.33 gm./cu. ft.).

HCconc = Hydorcarbon concentration of the dilute exhaust sample corrected for background, in p.p.m. carbon equivalent, i.e. equivalent propane × 3.

$HCconc = HCe - HCd(1 - 1/DF)$

Where:

HCe = Average hydrocarbon concentrations of the dilute exhaust sample as measured from the sample bag or as calculated from the integrated HC traces, in p.p.m. carbon equivalent.

HCd = Hydrocarbon concentration of the dilution air as measured in p.p.m. carbon equivalent.

NOxmass = Oxides of nitrogen emissions, in grams per test phase.

$DensityNO_2$ = Density of oxides of nitrogen in the exhaust gas, assuming they are in the form of nitrogen dioxide, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (54.16 gm./cu. ft.).

NOxconc = Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in p.p.m.

$NOxconc = NOxe - NOxd(1 - 1/DF)$

Where:

NOxe = Oxides of nitrogen concentration of the dilute exhaust sample as measured, in p.p.m.

NOxd = Oxides of nitrogen concentration of the dilution air as measured, in p.p.m.

COmass = Carbon monoxide emissions, in grams per test phase.

DensityCO = Density of carbon monoxide in grams per cubic foot at 68° F. and 760 mm. Hg pressure (32.97 gm./cu. ft.).

COconc = Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor and CO_2 extraction, in p.p.m.

$COconc = COe - COd\ (1 - 1/DF)$

Where:

COe = Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in p.p.m. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

$COe = (1 - 0.01925\ CO_2e - 0.000323R)\ COem$

Where:

COem = Carbon monoxide concentration of the dilute exhaust sample as measured in p.p.m.

CO_2e = Carbon dioxide concentration of the dilute exhaust sample, in mole percent.

R = Relative humidity of the dilution air, in percent.

COd = Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in p.p.m.

$COd = (1 - 0.000323R)\ COdm$

Where:

COdm = Carbon monoxide concentration of the dilution air sample as measured, in p.p.m.

NOTE.—If a CO instrument which meets the criteria specified in Section XI(a)(3)(xi) or Section XI(b)(3)(xi) is used and the conditioning column has been deleted, COem can be substituted directly for COe and COdm can be substituted directly for COd.

$$DF = \frac{13.4}{CO_{2e} + (HC_e + CO_e) \times 10^{-4}}$$

Vmix = Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528° R and 760 mm. Hg).

$$Vmix = Vo \times N \frac{(P_B - P_4)\ (528°\ R)}{(760\ mm.\ Hg)\ (Tp)}$$

Where:

Vo = Volume of gas pumped by the positive displacement pump, in cubic feet per revolution. This volume is dependent on the pressure differential across the positive displacement pump. (See calibration techniques in Appendix III to 40 CFR 86.)

N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

PB = Barometric pressure in mm. Hg.

P4 = Pressure depression below atmospheric measured at the inlet to the positive displacement pump.

Tp = Average temperature of dilute exhaust entering positive displacement pump during test while samples are being collected, in degrees Rankine.

KH = Humidity correction factor.

$$KH = 1/1 - 0.0047(H - 75)$$

NOTE.—The constant 0.0047 will be updated to reflect any data which becomes available on Light-Duty Diesel engine tests.

Where:

H = Absolute humidity in grains of water per pound of dry air.

$$H = ((43.478)\ Ra \times Pd)/(PB - (Pd \times Ra/100))$$

Ra = Relative humidity of the ambient air, in percent.

Pd = Saturated vapor pressure, in mm. Hg. at the ambient dry bulb temperature.

(d) Example calculation of mass emissions values:

(1) For the "transient" phase of the cold start test assume Vo = 0.29344 cu. ft. per revolution; N = 10,485; R = 48.0 percent; Ra = 48.2 percent; PB = 762 mm. Hg; Pd = 22.225 mm. Hg; P4 = 70 mm. Hg; Tp = 570° R; HCe = 105.8 p.p.m. carbon equivalent; NOxe = 11.2 p.p.m.; COem = 306.6 p.p.m.; CO_2e = 1.43 percent; HCd = 12.1 p.p.m.; NOxd = 0.8 p.p.m.; COdm = 15.3 p.p.m. Then:

Vmix = (0.29344) (10,485) (762–70) (528) / (760) (570) = 2595.0 cu. ft. per test phase.

H = (43.478) (48.2) (22.225) /762 − (22.225 × 48.2/100).

Kh = 1/1 − 0.0047(62–75) = .9424.

COe = (1 − 0.01925(1.43) − 0.000323(48)) 306.0 = 293.4 p.p.m.

COd = (1 − 0.000323(48)) 15.3 = 15.1 p.p.m.

DF = 13.4/1.43 + (105.8 + 293.4) × 10 − 4 = 9.116.

HCconc = 105.8 − 12.1(1 − 1/9.116) = 95.03.

HCmass = (2595) (16.33) (95.03/1,000,000) = 4.027 grams per test phase.

NOxconc = 11.2 − 0.8(1 − 1/9.116) = 10.49.

NOxmass = (2595) (54.16) (10.49/1,000,000) (0.9424) = 1.389 grams per test phase.

COconc = 293.4 − 15.1(1 − 1/9.116) = 280.

COmass = (2595) (32.97) (280.1,000,000) = 23.96 grams per test phase.

(2) For the "stabilized" portion of the cold start test assume that similar calculations resulted in HCmass = 0.62 grams per test phase; NOxmass = 1.27 grams per test phase; and COmass = 5.98 grams per test phase.

(3) For the "transient" portion of the hot start test assume that similar calculations resulted in HCmass = 0.51 grams per test phase; NOxmass = 1.38 grams per test phase; and COmass = 5.01 grams per test phase.

(4) Results:

HCwm = ((0.43) (4.027) + (0.57) (0.51) + 0.62) /7.5 = 0.352 grams per vehicle mile.

NOxwm = ((0.43) (1.389) + (0.57) (1.38) + 1.27) /7.5 = 0.354 grams per vehicle mile.

COwm = ((0.43) (23.96) + (0.57) (5.01) + 5.98) /7.5 = 2.55 grams per vehicle mile.

[FR Doc.76-21433 Filed 7-27-76;8:45 am]

federal register

WEDNESDAY, JULY 28, 1976

PART III:

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

■

RANGE MANAGEMENT AND TECHNICAL SERVICES

Grazing Administration and Trespass Regulations

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Parts 4100, 4200, 4300, 4700, 9230]

RANGE MANAGEMENT AND TECHNICAL SERVICES

Grazing Administration and Trespass

The purpose of this revision is to modernize the regulations for administering grazing on the public lands, exclusive of Alaska, to meet present-day needs for more intensive management of these lands. Present regulations were adopted at a time when major objectives were to adjudicate livestock use allowances and to designate grazing allotments. These objectives were essentially accomplished by the mid-1960's. With intensified multiple-use demands being made on the public lands, those regulations have become outdated. The revision places emphasis on environmental and multiple-use considerations as well as sustaining forage yield and stabilization of the livestock industry.

All the lands under the jurisdiction of the Bureau of Land Management, exclusive of Alaska, will be subject to this revision. In the revised regulations, 43 CFR Parts 4110 and 4120 and 43 CFR Sections 9239.3–1 and 9239.3–2 are combined in Part 4100.

The allocation of grazing preference, which is the amount of grazing use for which a permittee or lessee is authorized on the public land, and the issuance of grazing permits or leases will be based on existing records in local offices of the Bureau of Land Management.

The regulations provide for retention of land and water base property but eliminate commensurability requirements. This gives increased operational flexibility and retains industry stability through base property control. The administrative workload will be reduced by simplifying procedures for transferring a grazing preference, assignments of range improvements, and recording of base property.

The regulations provide for intensified management to achieve multiple-use and environmental objectives identified through the Bureau's planning system. Two kinds of grazing areas will be designated, i.e., management areas where intensive livestock management is needed, and custodial areas where the effect of livestock grazing on other resource values and the environment are minimal. Grazing systems will be implemented on the management areas based on the biological needs of specific plant species. These systems prescribe the pattern of livestock use that will help achieve the multiple-use and environmental objectives.

Under the present regulations, grazing is authorized under licenses, permits, and leases. The revised grazing regulations provide for issuing three kinds of grazing permits or leases. Management and custodial permits or leases may be issued for a period of not more than 10 years and are renewable. Regular permits or leases will be issued for periods up to 3 years, and are also renewable.

No change in the grazing fee formula is proposed. As required under the present regulations, grazing fees must be paid prior to making grazing use of the public lands. The only exception is where a management permit or lease has been issued. If such a permit or lease has been issued, a fee notice based on actual use reported may be issued after the grazing season. A $25 service charge will be made for each transfer of preference and for each supplemental or revised billing. Presently, there is no charge for these actions.

Unless provided otherwise in a allotment management plan, a request to change the grazing use authorized by a grazing permit or lease must be made in writing and approved prior to making such a change.

In addition to existing terms and conditions, the violation of which can result in penalty action, the revised regulations have added as prohibited acts: Spraying or otherwise destroying vegetation on the public lands without authorization, and placing feed or mineral supplements for livestock on the public lands without authorization. Permittees and lessees are also subject to penalty action upon conviction of a violation of wildlife or conservation laws and regulations when such violations are related to their grazing operation on the public lands.

The means of coping with livestock grazing trespass have been strengthened. Instead of using a $2 nonwillful and a $4 willful trespass fee, settlement for unauthorized grazing use will include a charge for the cash rental value of the forage consumed plus costs arising from damage to the public land and property. The revised regulations provide for impoundment and sale of trespass livestock. The expenses incurred in gathering, impounding, caring for, and disposing of livestock may also be included in the settlement.

The revised regulations do not include rules pertaining to local associations of stockmen. The regulations covering associations will be placed in Subpart 1789 of 43 CFR.

An environmental impact statement (EIS) for livestock grazing management on national resource lands, released on January 22, 1975, was prepared in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The revised regulations will facilitate implementation of the proposed grazing program discussed in this statement. Implementation of the proposed action will be completed through the preparation of EIS's, which discuss livestock grazing activities on localized areas of public lands, in compliance with the U.S. District Court order of June 18, 1975, in Natural Resources Defense Council, et al., vs. Morton, et al., and through the application of sound grazing management principles on these lands.

The grazing administration regulations for Alaska are being recodified because of the change in coding for the grazing administration regulations, exclusive of Alaska.

Title 43 CFR Group 4200 is being deleted because these regulations are no longer applicable.

In accordance with the Department's policy on public participation in rulemaking (36 FR 8336), interested parties may submit written comments, suggestions, or objections with respect to the proposed rules to the Director (210), Bureau of Land Management, Washington, D.C. 20240, until October 1, 1976.

Copies of comments, suggestions, or objections made pursuant to this notice will be available for public inspection in the Division of Legislation and Regulatory Management (210), Bureau of Land Management, Room 5555, Interior Building, Washington, D.C., during regular business hours (7:45 a.m.–4:15 p.m.).

It is proposed to revise and amend Chapter II, Title 43 of the Code of Federal Regulations as follows:

1. The regulations on grazing administration, 43 CFR Parts 4110–4120, and grazing trespass, 43 CFR 9239.3–1 and 9239.3–2, are revised to read as follows:

SUBCHAPTER D—RANGE MANAGEMENT (4000)

Group 4100—Grazing Administration; Exclusive of Alaska

PART 4100—GRAZING ADMINISTRATION; EXCLUSIVE OF ALASKA

Subpart 4100—Grazing Administration; Exclusive of Alaska; General

Sec.

Subpart 4100—Allocation of Grazing Use

Subpart 4120—Grazing Management

Subpart 4130—Authorizing Grazing Use

Subpart 4140—Prohibited Acts

Subpart 4150—Livestock Trespass

Subpart 4160—Administrative Remedies

Subpart 4170—Penalties

Subpart 4100—Grazing Administration; Exclusive of Alaska; General

§ 4100.0–1 Purpose.

To provide for the uniform administration and management of livestock grazing on the public lands, exclusive of Alaska.

§ 4100.0–2 Objectives.

To manage livestock grazing on publice lands, to preserve the land and its resources from destruction or unnecessary injury, and to provide for the orderly use, improvement, and development of the public lands for livestock grazing consistent with multiple-use, environmental, economic, and other objectives stated in Subpart 1725 of this chapter.

§ 4100.0–3 Authority.

(a) The Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a–315r), authorizes the Secretary of the Interior to establish grazing districts and to make provisions for their protection, administration, regulation, and improvement. It also authorizes the Secretary to lease lands outside of such districts for grazing purposes upon such terms and conditions as he may prescribe.

(b) Executive orders transferring land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937 (7 U.S.C. 1010–1013a), to the Secretary for administration under the Taylor Grazing Act.

(c) Section 4 of the Act of August 28, 1937 (43 U.S.C. 1181d) (O. and C. Act), which authorizes the Secretary, at his discretion, to lease for grazing purposes any revested Oregon and California Railroad or Reconveyed Coos Bay Wagon Road grant lands in the State of Oregon, hereafter referred to as O. and C. lands, which may be so used without interfering with the production of timber or other purposes specified in section 1 of this Act.

(d) Public land orders, Executive orders, or agreements which authorize the Secretary to administer livestock grazing on specified lands in accordance with the Taylor Grazing Act or other authority as specified.

§ 4100.0–5 Definitions.

Whenever used in this part, unless the context otherwise requires, the following definitions apply:

(a) The "Act" means the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a–315r).

(b) "Additional livestock forage" means forage which is available for livestock grazing over and above the recognized preference allocation as provided by § 4110.2–2 after all nonlivestock uses within a grazing area have been considered and accommodated to the extent practicable.

(c) "Allotment management plan (AMP)" means a livestock grazing plan stating the conditions under and the manner in which livestock grazing use will be conducted in order to reach specified management objectives on specific areas of public lands. When implemented, it is attached to, and becomes part of, the permit or lease.

(d) "Animal unit month (AUM)" means the amount of forage necessary for the sustenance of one cow or its equivalent for a period of 1 month. One horse, one burro, five sheep, or five goats shall be considered equivalent to one cow.

(e) "Authorized officer" means any person authorized by the Secretary to administer regulations in this part.

(f) "Base property" means privately owned or controlled land or water which the authorized officer determines is a proper basis for a preference allocation under these regulations. (See § 4110.2–1.)

(g) "Contiguous land" means land that borders upon or corners upon public land.

(h) "District" means the specific area of public lands administered by a District Manager.

(i) "Fee year" means the fiscal year March 1 to the last day of February.

(j) "Grazing area" or "allotment" means a specific area of public lands within which grazing use is authorized under the terms of this part.

(k) "Grazing district" means the specific area within which the public lands are administered under section 3 of the Act. Public lands outside grazing district boundaries are administered under Section 15 of the Act or other applicable authority.

(l) "Grazing lease" means either a management, custodial, or regular lease authorizing livestock grazing on the public lands outside grazing districts under section 15 of the Act or other applicable authority.

(m) "Grazing permit" means either a management, custodial or regular permit authorizing livestock grazing on the public lands within grazing districts under section 3 of the Act.

(n) "Grazing preference" means the permittee's or lessee's grazing use—active use, nonuse, suspended nonuse—attached to base property and authorized on public lands.

(o) "Grazing system" means a specified sequence of livestock grazing by designated area to accomplish specific management objectives.

(p) "Livestock" means cattle, sheep, horses, burros, and goats.

(q) "Public lands" means any federally owned or controlled land administered by the Bureau of Land Management outside of Alaska.

(r) "Range improvement" means a structure, development, or treatment used to facilitate management of livestock grazing or to improve range condition.

(s) "Secretary" means the Secretary of the Interior or his authorized officer.

§ 4100.0–7 Cross-reference.

The regulations in Part 1784 of this chapter govern advisory boards and the regulations in Part 1789 of this chapter govern livestock associations.

Subpart 4110—Allocation of Grazing Use

§ 4110.1 Mandatory qualifications.

An applicant for grazing use on the public lands is qualified if:

(a) He is a citizen of the United States or has properly filed a valid declaration of intention to become a citizen or a valid petition for naturalization; or

(b) It is a group or association authorized to conduct business in the State in which the grazing use is sought, all members of which are qualified under paragraph (a) of this section; or

(c) It is a corporation authorized to conduct business in the State in which the grazing use is sought, and in which the controlling interest is vested in persons qualified under paragraph (a) of this section.

§ 4110.2 Grazing preference.

§ 4110.2–1 Base property qualifications.

The authorized officer shall find land or water owned or controlled by an applicant to be base property (see § 4110.0–5(f)) if (a) it is used in conjunction with a livestock operation which utilizes public land and is entitled to a preference under section 3 of the Act; or (b) it is contiguous land entitled to a preference under section 15 of the Act.

§ 4110.2–2 Preference allocation.

(a) Preference for grazing use on public lands shall be given to applicants who own or control base property in or near the public land area which is used to support their livestock operation provided that they remain qualified under the regulations of this part.

(b) Applicants who own or control base property contiguous to public land outside of a grazing district where such public land consists of an isolated or disconnected tract embracing 760 acres or less shall have a preference right to lease the whole tract.

§ 4110.2–3 Transfer of grazing preference.

(a) A transfer of grazing preference in whole or in part may be approved by the authorized officer if all of the following conditions are met:

(1) The transferee can qualify for a grazing preference under the regulations of this part.

(2) The transfer will not disrupt the stability of the livestock industry in the general area within which the public lands involved are located.

(3) The transferee accepts the terms and conditions of the existing grazing permit or lease (see § 4130.2) and any cooperative agreements or range improvement permits (see § 4120.6–3) with such modifications as are necessary to achieve the objectives of this part.

(4) Within 60 days from the date of transfer, the transferee furnishes a properly executed transfer document to the authorized officer. The executed document must evidence (a) the concurrence of any lien holder, and (b) the consent of the owner(s) of the base property from which the transfer is to be made, unless the transferee is a lessee of the base property without whose livestock operation a grazing preference would not have been established, in which case the consent of the owner of the base property is not required.

(5) The transferee files along with the transfer document an application for a grazing permit or lease to the extent of the transferred preference.

(b) As of the date of transfer, any existing permit or lease shall terminate automatically and without notice to the extent of the transfer.

(c) If an unqualified transferee acquires rights in base property through operation of law or testamentary disposition, such transfer will not affect the grazing preference or any outstanding permit or lease, or preclude the issuance or renewal of a permit or lease based on such property for a period of 2 years after the transfer. However, such a transferee must qualify under paragraph (a) of this section within the 2-year period or the grazing preference shall be subject to cancellation.

(d) Failure of the transferee to comply with the regulations of this section may result in the termination of the grazing preference.

§ 4110.2–4 Relinquishment of grazing preference.

Upon written request, the authorized officer may accept the relinquishment of a grazing preference in whole or in part. No such relinquishment will be accepted without the written consent of the owner(s) of the base property to which the preference is attached, unless the applicant is a lessee of the base property without whose livestock operation a grazing preference would not have been established.

§ 4110.3 Changes in available forage.

§ 4110.3–1 Additional forage.

Additional forage available for livestock grazing may be allocated to qualified applicants at the discretion of the authorized officer if such use is consistent with the objectives of this part.

(a) Additional forage temporarily available, including forage which is temporarily available within a grazing area because of a change in grazing use under § 4130.5, may be allocated on a nonrenewable basis.

(b) Additional forage permanently available shall first be allocated in satisfaction of grazing preferences to the permittee(s) or lessee(s) authorized to graze in the grazing area in which the forage is available.

(c) Additional forage permanently available over and above the preference(s) of the permittee(s) or lessee(s) in a grazing area may be allocated to:

(1) Permittee(s) or lessee(s) in proportion to their preferences or in proportion to the permittee's or lessee's contribution or efforts which resulted in increased forage production; or

(2) Other qualified applicants.

§ 4110.3–2 Decrease in forage.

When authorized grazing use exceeds the livestock forage available within a grazing area or where reduced grazing use is necessary to facilitate multiple-use management objectives or protection of the environment, authorized grazing use and grazing preferences may be adjusted accordingly. Such adjustments will be equitably apportioned by the authorized officer or as agreed to among authorized users and the authorized officer.

§ 4110.4 Changes in public land acreage.

§ 4110.4–1 Additional land.

When land outside designated grazing areas becomes available for grazing administration by the Bureau of Land Management, the livestock forage determined to exist may be allocated to qualified applicants if such use is consistent with the objectives of this part.

If there are regularly authorized permittees or lessees in the area or applicants previously authorized to make grazing use of the lands, they shall have a preference to grazing use of such additional lands. If there are no existing regularly authorized users, grazing use may be allocated to any qualified applicants at the discretion of the authorized officer.

§ 4110.4–2 Decrease in land.

Where there is a decrease in public land acreage available for livestock grazing use within a grazing area, authorized grazing use and grazing preferences will be adjusted accordingly. Such adjustments will be equitably apportioned by the authorized officer or as agreed to among authorized users and the authorized officer.

§ 4110.5 Conflicting applications.

When more than one qualified applicant applies for grazing use of the same public land, the authorized officer may allocate grazing use of such land or forage on the basis of any or all of the following factors:

(a) Historical use of the public land;

(b) Proper range management and use of water for livestock;

(c) General needs of the applicants' livestock operations;

(d) Public ingress and egress across base property to public lands;

(e) Topography;

(f) Other land use requirements, including multiple-use management objectives and protection of the environment.

§ 4110.6 Interest of Member of Congress.

Title 18 U.S.C. 431–433 (1970) generally prohibits a Member of or Delegate to Congress from entering into any contract or agreement with the United States. Title 41 U.S.C. 22 (1970) generally provides that in every contract or agreement to be made or entered into, or accepted by or on behalf of the United States, there shall be inserted on express condition that no Member of or Delegate to Congress shall be admitted to any share or part of such contract or agreement, or to any benefit to arise thereupon. The provisions of these laws are incorporated herein by reference and apply to all permits, leases, and agreements issued under these regulations.

Subpart 4120—Grazing Management

§ 4120.1 Grazing areas.

Consistent with the management objectives identified through multiple-use planning, the authorized officer shall designate livestock grazing areas as management or custodial areas.

(a) Management areas will be designated where intensive grazing management is necessary to achieve multiple-use and environmental objectives.

(b) Custodial areas will be designated where the effect of livestock grazing on other resource values and the environment are minimal and where limited management stipulations are necessary to achieve multiple-use objectives and protection of the environment.

§ 4120.2 Management practices.

§ 4120.2–1 General management conditions.

The authorized officer shall specify the class, breed, and kind of livestock (cat-

tle, sheep, horses, burros, or goats), the number of livestock, the seasons of use, and the grazing areas to be used. The authorized livestock grazing use shall not exceed the livestock grazing capacity and shall be limited or excluded to the extent necessary to achieve the management objectives established for the area.

§ 4120.2–2 Intensive grazing management.

Intensive grazing management shall be applied on management areas through the development and implementation of allotment management plans.

(a) An allotment management plan shall be cooperatively developed and agreed to by the permittee or lessee and the authoraized officer. The allotment management plan shall prescribe a grazing system designed to meet specific management objectives. The plan shall include the limits of flexibility within which the permittee or lessee may adjust his operation. The plan shall provide for studies that will be used to evaluate the effectiveness of the grazing system in achieving the specific objectives. The plan shall also contain provisions to permit modification when necessary.

(b) Upon failure of a permittee or lessee to agree to a proposed allotment management plan, the authorized officer shall implement a grazing system on the area.

(c) Upon failure of a permittee or lessee to comply with the conditions of an implemented allotment management plan, the authorized officer may revoke any outstanding permit or lease under § 4140.2(a) and Subpart 4160 and shall implement a grazing system on the area.

§ 4120.2–3 Custodial grazing management.

Grazing management applied on the custodial areas shall include appropriate stipulations as necessary under § 4120.–2–1.

§ 4120.2–4 Interim grazing management.

Grazing management on grazing areas which have not been designated as management or custodial areas shall include stipulations as appropriate under § 4120.2–1.

§ 4120.3 Closure to livestock.

Where conservation of the public lands or forage and other resources thereon requires it, a grazing area may be closed to grazing by the authorized officer for any class of livestock and for any period of time to be specified in a notice of closure. The notice shall be published in a local newspaper and shall be posted at the county courthouse and at a post office near the public land area involved. Written notification shall be delivered personally or by certified mail to those who are authorized to graze livestock on the grazing areas affected. The notice of closure constitutes a final decision and shall require all owners of livestock affected thereby to remove such livestock in accordance with the provisions of the notice. The authorized officer may proceed to impound, remove, and dispose of any livestock found in violation of the closing notice after the closure date specified in the notice in accordance with § 4150.5.

§ 4120.4 Ownership and identification of livestock.

(a) The permittee or lessee must own or control the livestock which graze the public lands under a permit or lease.

(b) All cattle, horses, and burros over 6 months of age must carry a brand which has been filed with the authorized officer. All sheep and goats over 6 months of age must be identified with an earmark, paint brand, or other marking that has been filed with the authorized officer.

(c) The authorized officer may exempt certain livestock from the minimum requirements under paragraph (b) of this section. An alternative method of identifying the livestock satisfactory to the authorized officer shall be used in such instances.

(d) The authorized officer may require additional or special marking or tagging of the authorized livestock in order to control trespass or in order to otherwise promote the orderly administration of the public lands.

§ 4120.5 State livestock requirements.

Authorized users shall comply with the requirements of the State in which the public lands are located relating to: Branding of livestock; breed, grade, and number of bulls; sanitary requirements; and any other provision of State law relating to livestock.

§ 4120.6 Range improvements.

§ 4120.6–1 Cooperative agreements.

Any permittee or lessee may enter into a cooperative agreement with the Bureau of Land Management for the development, construction, and/or maintenance of range improvements needed to achieve management objectives within his designated grazing area. The United States shall have title to range improvements authorized under cooperative agreements.

§ 4120.6–2 Range improvement permits.

Any permittee or lessee may apply for a range improvement permit to develop, construct, or maintain range improvements that are needed to achieve management objectives within his designated grazing area. The permittee or lessee must agree to provide total funding. The permittee or lessee must have a range improvement permit prior to developing, constructing, or maintaining any range improvements. The range improvement permits are issued at the discretion of the authorized officer. The permittee or lessee shall have title to range improvements authorized under range improvement permits.

§ 4120.6–3 Assignment of range improvements.

(a) If a grazing preference is transferred under § 4110.2–3 or granted to another permittee or lessee by the authorized officer, the interest and obligations to any range improvements under cooperative agreements and range improvement permits shall be assigned to the transferee or grantee at the discretion of the authorized officer.

(b) The authorized officer shall not approve the transfer of a grazing preference under § 4110.2–3 nor approve use by the transferee or grantee of any existing improvements, unless the transferee or grantee has agreed to compensate the transferor or grantor for his residual interest in the authorized improvements within the grazing area.

§ 4120.6–4 Standards and design.

Range improvement cooperative agreements and permits shall specify the standards and design for the range improvement and will contain conditions and construction criteria deemed necessary by the authorized officer to achieve the objectives of this part. Where an existing range improvement is significantly inconsistent with these objectives, the authorization for the improvement may be modified by the authorized officer to reflect needed changes. Upon failure of the permittee or lessee to comply with the standards and design specified by the authorized officer or failure to comply with the authorized officer's order to modify an existing range improvement, authorization for the improvement may be cancelled. A period of 180 days from the date of cancellation will be allowed to salvage material owned by the permittee or lessee and to perform such rehabilitation measures as are deemed necessary by the authorized officer.

§ 4120.6–5 Removal and compensation for loss of range improvements.

(a) If for any reason a grazing permit, grazing lease, or grazing preference is cancelled on public lands upon which authorized range improvements have been placed permanently and title to the public lands is retained by the United States, a period of 180 days from the date of cancellation under § 4110.4–2 will be allowed to salvage material owned by the permittee or lessee. If not salvaged within 180 days, such range improvements shall become the property of the United States.

(b)(1) When a land disposal action covers public land upon which authorized range improvements have been placed by the United States or under a cooperative agreement, the authorized officer will determine whether or not the grantee must compensate for the loss of the improvements. If compensation is required, the grantee must separately compensate the United States and the cooperators.

(2) When a land disposal action covers public land upon which authorized range improvements have been placed under a range improvement permit, the owner thereof may be required to remove the improvements or the grantee may be required to compensate the owner for his residual interest in the improvements. If the parties are unable to agree as to the amount or manner of compensation, the matter shall be resolved by the authorized officer.

(3) Failure of the grantee to compensate the United States or cooperators

or to comply with the conditions fixed by the authorized officer under paragraphs (1) and (2) of this section shall be cause for cancellation of any right or interest in the land acquired.

§ 4120.6–6 Contributions.

The authorized officer may accept contributions of labor, material, equipment, or money for the administration, protection, and improvement of the public lands necessary to achieve the objectives of this part.

§ 4120.7 Special rules.

Whenever it appears to a State Director that local conditions within his administrative jurisdiction require a special rule to achieve improved administration consistent with the objectives of this part, he may recommend such a rule for approval by the Director. Special rules which are approved shall become effective when published in the FEDERAL REGISTER. Special rules shall be published in a newspaper within the local area. Copies of the rule shall be sent to those who are authorized to graze livestock in the area where the special rule is applicable.

Subpart 4130—Authorizing Grazing Use

§ 4130.1 Applications.

Applications for grazing use will be filed with the authorized officer at the local Bureau of Land Management office.

§ 4130.2 Grazing permits or leases.

Grazing permits or leases authorizing grazing use on the public lands will be issued to applicants having a grazing preference to the extent the preference exists. The permit or lease shall specify the grazing area(s) to be used, livestock numbers and class, percentage and seasons of use, and the public land livestock forage (AUM's) to which the permittee or lessee is entitled. Grazing permits or leases shall contain such terms and conditions as may be deemed necessary by the authorizd officer to achieve the objective of this part.

§ 4130.2–1 Management permits or leases.

Management permits or leases shall be issued to authorize grazing use on management areas when an allotment management plan has been implemented. Management permits or leases may be issued for a period of not more than 10 years and shall provide for renewal thereafter if grazing use is continued under the regulations in this part.

§ 4130.2–2 Custodial permits or leases.

Custodial permits or leases shall be issued to authorize grazing use on custodial areas. Custodial permits or leases may be issued for a period of not more than 10 years and shall provide for renewal thereafter if grazing use is continued under the regulations of this part.

§ 4130.2–3 Regular permits or leases.

Regular permits or leases shall be issued to authorize grazing use on those grazing areas not under a management or custodial permit or lease. Regular permits or leases shall be issued for periods up to 3 years and shall provide for renewal thereafter if grazing use is continued under the regulations of this part.

§ 4130.3 Special permits.

Special permits may be issued at the discretion of the authorized officer. Special permits cannot be transferred or assigned.

§ 4130.3–1 Free-use permits.

A free-use permit for grazing on the public lands within a statutory grazing district shall be issued to any applicant whose residence is adjacent to such public lands. The permit shall authorize grazing use for only those domestic livestock owned by the applicant whose products or services are used directly and exclusively by the applicant and his family. The permit may be issued for a period of not more than 10 years and shall provide for renewal thereafter if grazing use is continued under the regulations of this part.

§ 4130.3–2 Crossing permits.

Any applicant showing the necessity for crossing the public lands with livestock for proper and lawful purposes may be issued a crossing permit upon such terms and conditions deemed necessary by the authorized officer to achieve the objectives of this part.

§ 4130.3–3 Exchange-of-use permits.

An exchange-of-use permit may be issued to any permittee or lessee who owns or controls land within the exterior boundaries of the grazing area covered by his permit or lease. An exchange-of-use permit may be issued authorizing use of public land within the grazing area to the extent of the livestock grazing capacity of the permittee's or lessee's land within the grazing area. No fee shall be charged for this grazing use. The exchange-of-use permit may be issued for periods up to 10 years. The expiration date of the exchange-of-use permit shall correspond with the expiration date of the grazing permit or lease issued on the grazing area in which the land offered in exchange is located. During the term of the exchange-of-use permit, the Bureau of Land Management shall have management control of such private land for grazing purposes under the provisions of this part.

§ 4130.3–4 Nonrenewable permits.

Nonrenewable permits may be issued to qualified applicants for any period for additional forage which is temporarily available, provided the additional use does not interfere with existing operations and is in conformance with the objectives of this part.

§ 4130.4 Fees and bills.

§ 4130.4–1 Fees.

(a) The grazing fees for each year shall be published in the FEDERAL REGISTER.

(b) Fees shall be charged for all livestock grazing upon or crossing the public lands at a specified rate per animal unit month except that no fee shall be charged for free-use or exchange-of-use permits. The grazing fee for any fee year shall consist of a grazing use fee and a range improvement fee with a minimum charge of $10 per permit or lease. The Secretary shall establish the grazing fee based on the fair market value of the forage. Fair market value is that value established by the Western Livestock Grazing Survey of 1966 or as determined by a similar study which may be conducted periodically to update the fee base. Annual adjustments may be made for any fee year to reflect current market values. The range improvement fee shall be at least 50 percent of the total grazing fees charged or as otherwise provided by law. Other special range improvement fees may vary in accordance with the character or requirements of the various Districts or portions thereof.

(c) Fees are due upon issuance of the billing notice and must be paid in full prior to grazing use except where a management permit or lease has been issued. If such a permit or lease has been issued, a billing notice based on actual use may be issued at the end of the grazing season or year or a billing notice based on the normal operation may be issued prior to the grazing season or year followed by an adjusted billing based on actual use after grazing use has been completed.

Each permittee or lessee operating under a management permit or lease shall submit within 15 days after the end of his authorized grazing period, or as otherwise agreed upon in the allotment management plan, a report of the actual livestock grazing use made. Upon failure or refusal to submit an actual use report, a billing notice, reflecting charges for grazing use at the upper limit of flexibility as determined in the allotment management plan, shall be issued and is immediately due and payable.

(d) For fee purposes, all livestock that reach the age of 6 months at any time during the grazing period shall be considered as a part of the total number for which a permit or lease has been issued. No fees shall be charged for livestock under 6 months of age.

§ 4130.4–2 Refunds.

No refunds shall be made for failure to make grazing use, except during periods of range depletion due to severe drought, fire, or other natural causes or general epidemic of disease that occurs during the term of a permit or lease. During these periods of range depletion, the authorized officer may reduce, credit, or refund fees in whole or in part, or fee payment may be postponed for as long as the emergency exists.

§ 4130.4–3 Service charge.

Except for actions initiated by the authorized officer, a service charge of $25 will be made for each transfer of a preference and for each supplemental or revised billing issued under § 4130.5.

§ 4130.5 Changes in grazing use.

(a) Permittees and lessees shall file with the authorized officer a basic graz-

ing schedule which outlines their annual livestock grazing use on the public lands, including areas of use, livestock numbers and class, seasons of use, and AUM's of use. Permittees and lessees shall be billed in accordance with the basic grazing schedule unless a change in use has been requested.

(b) Requests for grazing use different than the basic grazing schedule should be filed with the authorized officer no later than 30 days before the grazing season or year. Requests for change of use filed later than 30 days before the grazing season or year, or after the start of the grazing season or year, shall be subject to a service charge under § 4130.4–3.

(c) A request for change in use may be granted at the discretion of the authorized officer if the request is compatible with existing operations and consistent with the management objectives for the grazing area. Even if a change in use is allowed, it does not preclude the possibility of a failure-to-use violation pursuant to § 4140.2(b).

§ 4130.6 Pledge of permit or lease as security for loan.

The authorized officer shall renew a permit or lease that has been pledged as security for a loan from a lending agency for a period of not to exceed 10 years if the loan is for the purpose of furthering the permittee's or lessee's livestock operation, provided that the permittee or lessee has complied with the rules and regulations of this part and that such renewal will be in accordance with other applicable laws and regulations.

Subpart 4140—Prohibited Acts

§ 4140.1 Acts prohibited on public lands.

The following acts by permittees, lessees, or any other person are prohibited on public lands:

(a) Allowing livestock on the public lands without authorization;

(b) Molesting or driving livestock lawfully grazing thereon;

(c) Placing feed or mineral supplements for livestock on public lands without authorization;

(d) Constructing or maintaining range improvements without authorizaiton;

(e) Cutting, burning, spraying, destroying, or removing vegetation without authorization;

(f) Damaging or removing United States property without authorizaiton;

(g) Littering;

(h) Violating any provision of Part 4700 of this subchapter concerning the protection and management of wild free-roaming horses and burros;

(i) Violating any Federal or State law or regulation concerning the conservation or protection of natural and cultural resources or the environment including, but not limited to, those relating to air and water quality, protection of fish and wildlife, and the use of chemical toxicants;

(j) Interfering with lawful uses or users.

§ 4140.2 Acts by permittees or lessees prohibited on public lands.

In addition to the act prohibited under § 4140.1, the following acts by permittees or lessees are prohibited on the public lands:

(a) Violating the terms and conditions of a grazing permit or lease, or special permit;

(b) Failing to make grazing use as authorized for 2 consecutive fee years;

(c) Failing to comply with the terms of a range improvement cooperative agreement or range improvement permit;

(d) Refusing to finance individually, or to share proportionately with other permittees or lessees, the cost for the construction and/or maintenance of range improvements when so directed by the authorized officer if such permittee or lessee will benefit in substantial measure or should reasonably be responsible for such costs.

Subpart 4150—Livestock Trespass

§ 4150.1 Unauthorized grazing prohibited.

Allowing livestock on public lands without proper authorization is prohibited and constitutes trespass. See § 4140.1(a). Trespassers will be liable in damages to the United States for the forage consumed by their livestock and for injury to Federal property caused by their trespassing livestock, and may be subject to civil penalties or criminal sanction for such unlawful acts.

§ 4150.2 Notice and order to remove.

(a) Whenever it appears that a violation exists and the owner of the unauthorized livestock or his agent is known, written notice shall be served upon the alleged violator and upon any known lien holder. The notice shall set forth the act or omission constituting the violation and refer to the specific term, condition, or regulatory provision alleged to have been violated. It shall also order the alleged violator to remove the livestock within a specified time. The notice shall allow a specified time from receipt of notice for the alleged violator to show that there has been no violation or to make settlement under § 4150.3. If the alleged violator fails to comply with the notice, the authorized officer may proceed to impound the livestock under § 4150.5.

(b) When neither the owner of the unauthorized livestock nor his representative is known, the authorized officer may proceed to impound the livestock under § 4150.5.

(c) A notice alleging unauthorized horse or burro use in areas with wild free-roaming horses or burros will specify that the unauthorized horses or burros can be claimed and gathered only in accordance with the procedures of Part 4700 of this subchapter.

§ 4150.3 Settlement.

(a) All trespassers shall pay to the United States the following amounts to be determined by the authorized officer in settlement for unauthorized grazing use:

(1) The value of forage consumed as determined by the average monthly rate for pasturing livestock on privately owned land for the 11 Western States as published annually by the Department of Agriculture;

(2) The full value for all damages to the lands or other property of the United States;

(3) All expenses incurred by the United States in gathering, impounding, caring for, and disposing of livestock in cases which necessitate impoundment under § 4150.5.

(b) Payment made under this section does not relieve the alleged violator of any criminal responsibility under Federal or State law.

§ 4150.4 Demand for payment.

Where the livestock have been removed, but satisfactory settlement has not been made within the time allowed under § 4150.2, a certified letter demanding payment will be sent or personally delivered to the owner or his agent and to any known lien holder which allows not more than 15 days from date of receipt to settle the obligation.

§ 4150.5 Impoundment and disposal.

Unauthorized livestock remaining on the public lands after the date set forth in the notice and order to remove sent pursuant to § 4150.2 of this subpart may be impounded and disposed of by the authorized officer as provided herein.

§ 4150.5–1 Notice of intent to impound.

(a) A written notice of intent to impound will be sent by certified mail or personally delivered to the owner or his agent and to any known lien holder. Five days after delivery of the notice, livestock may be imopunded.

(b) Where the owner or agent is unknown, or a known owner or agent refuses to accept delivery, a notice of intent to impound will be published in a local newspaper and posted at the county courthouse and at a post office near the public land involved. Any time after 5 days of the posting of such notice, the unauthorized livestock may be impounded.

(c) Unauthorized livestock may be impounded without further notice any time within the 12-month period following the effective date of a notice given under this provision.

§ 4150.5–2 Notice of public sale.

Following the impoundment of livestock under this subpart by the authorized officer, a notice of sale will be published in a local newspaper and posted at the county courthouse and at a post office near the public land involved. The notice will describe the livestock and specify the date, time, and place of sale. The sale date shall be at least 5 days after the publication and posting of the notice. Any known owners or agents and known lien holders will be notified in writing by certified mail or by personal delivery of the sale and the procedure by

which the impounded livestock may be redeemed prior to the sale.

§ 4150.5–3 Redemption.

Any owner or known lien holder of the impounded livetstock may redeem them in accordance with State law, prior to the time of sale upon settlement with the United States under § 4150.3 or adequate showing that there has been no violation.

§ 4150.5–4 Sale.

If the livestock are not redeemed on or before the date and time fixed for their sale, they shall be offered at public sale to the highest bidder, provided the bid is not less than the minimum sale price set by the authorized officer. If a satisfactory bid is not received, the livetstock may be reoffered for sale, released to the State agency responsible for disposition in accordance with State law, condemned and destroyed, or otherwise disposed of. When livestock are sold pursuant to this regulation, the authorized officer making the sale shall furnish the purchaser a bill of sale or other written instrument evidencing the sale.

Subpart 4160—Administrative Remedies

§ 4160.1 Proposed decisions.

§ 4160.1–1 Decisions on applications for permits or leases.

The authorized officer shall serve a proposed decision on applications for permits or leases by certified mail or personal delivery upon any applicant, permittee, lessee, or known lien holder who is adversely affected by the proposed action. The proposed decision shall state the reasons for the action, including reference to the pertinent provisions of the regulations, and shall provide for a period of 15 days after receipt for the filing of a protest.

§ 4160.1–2 Decisions on alleged violations.

If the authorized officer determines that a permittee or lessee appears to have violated any provision of Subpart 4140, the authorized officer will notify the permittee or lessee or his agent and any known lien holder of his proposed decision by certified mail or personal delivery. The notice shall fully state the alleged violation and refer to the specific term, condition, or regulatory provision alleged to have been violated and the reasons for the proposed decision. In the case of a trespass, the notice shall state the amount due under §4150.3. The notice shall provide for a period of 15 days after receipt for the filing of a protest.

§ 4160.2 Protests.

Any applicant, permittee, lessee, or known lien holder adversely affected by a proposed decision of the authorized officer, or such party's representative may protest the decision in person or in writing to the authorized officer within the time allowed for protest in the proposed decision.

§ 4160.3 Final decisions.

(a) In the absence of a protest, the proposed decision shall become the final decision of the authorized officer without further notice.

(b) Upon the timely filing of a protest, the authorized officer will reconsider his decision in light of the protestant's statement of reasons for protest. At the conclusion of his review of the protest, the authorized officer will issue a final decision which shall be served by certified mail or personal delivery on the protestant and any other known interested individuals.

(c) The final decision shall provide for a period of 30 days after receipt for filing of an appeal. An appeal shall suspend the effect of the final decision from which it is taken pending final action on the appeal unless the authorized officer provides in the final decision that it shall be in full force and effect pending decision on appeal therefrom. Final decisions shall be in full force and effect only if required for the orderly administration of the range or for the protection of other resource values. See § 4.477 of this title.

§ 4160.4 Appeals.

Appeals from any final decision of the authorized officer under this part shall be made to an administrative law judge under § 4.470 of this title and in accordance with the Department's Hearings and Appeals Procedures contained in Part 4 of this title.

Subpart 4170—Penalties

§ 4170.1 Penalty for violations by permittees or lessees.

Grazing use authorized under a permit or lease or the grazing preference may be suspended, reduced, or revoked under Subpart 4160 for violation of any of the provisions of this part.

§ 4170.1–1 Failure to use.

Failing to make grazing use as authorized for 2 consecutive fee years may result in the reduction or revocation of the grazing preference only to the extent of failure to use. (See § 4140.2(b).)

§ 4170.1–2 Conservation and protection of resources.

Violation of § 4140.1(i) may result in suspension, reduction, or revocation of a permit, lease, or grazing preference where:

(a) Public land administered by the Bureau of Land Management is involved or affected;

(b) Such violation is related to grazing use authorized by permit or lease; and

(c) The permittee or lessee has been found to have violated any such laws by a court or other body of competent jurisdiction.

§ 4170.2 Penalty for violations by nonpermittees and nonlessees.

Whenever a nonpermittee or nonlessee violates any provision of § 4140.1 or has not made satisfactory settlement under § 4150.3, the authorized officer shall refer the matter to proper authorities for appropriate legal action by the United States against the violator.

§ 4170.3 Penal provisions.

Under Section 2 of the Act, any willful violation of the provisions of the Act or of this part or of approved special rules and regulations is punishable by a fine of not more than $500.

2. Title 43 CFR Part 4130 is recodified into two parts. This recodification contains some editorial corrections but no substantive changes. As recodified, the parts read as follows:

Group 4200—Grazing Administration; Alaska; Livestock

PART 4200—GRAZING ADMINISTRATION; ALASKA; LIVESTOCK

Subpart 4200—Grazing Administration; Alaska; Livestock; General

Sec.

Subpart 4210—Conditions

Subpart 4220—Procedures

Subpart 4230—Disposition of Leased Lands

Subpart 4240—Protests, Hearings and Appeals

Subpart 4200—Grazing Administration; Alaska; Livestock; General

§ 4200.0–2 Objectives.

The beneficial utilization of the public lands in Alaska for the purpose of livestock grazing shall be conducted in such manner as may be considered necessary and consistent with the purposes of the act but shall be subordinated to the development of their mineral resources, to their use for agriculture, to the protection, development and utilization of their forests, and to the protection, development and utilization of such other resources as may be of greater benefit to the public.

§ 4200.0–3 Authority.

The act of March 4, 1927, as amended (43 U.S.C. 316, 316a–316o), authorizes the Secretary of the Interior to establish grazing districts upon any public lands in Alaska, surveyed or unsurveyed, outside of the Aleutian Islands Reservation, outside of national forests and other reservations administered by the

Secretary of Agriculture and outside of national parks and monuments, and to lease such lands for the grazing of livestock thereon. Section 316f provides that a lease may be made for such term as the Secretary deems reasonable, but not to exceed 55 years, taking into consideration all factors that are relevant to the exercise of the grazing privileges.

§ 4200.0–5 Definitions.

As used in this subpart:

(a) "Secretary" means Secretary of the Interior;

(b) "Director" means Director, Bureau of Land Management;

(c) "Authorized officer" or "manager" means the designated official of the Bureau of Land Management, in whose district the lands involved are situated, who has been delegated the authority to issue grazing leases;

(d) "The act" means the act of March 4, 1927, as amended (43 U.S.C. 316, 316a–316o);

(e) "Person" means individual, partnership, corporation or association;

(f) "Native" means any member of the aboriginal races inhabiting Alaska, of whole or not less than half blood;

(g) "District" means any grazing district established under the act.

(h) "Animal unit month" means the forage consumed or grazing privileges represented by the grazing of one cow or its equivalent for one month. For the purpose of this definition, one cow shall be considered the equivalent of one horse, or five sheep or five goats.

Subpart 4210—Conditions

§ 4210.1 Grazing districts.

(a) *Establishment.* Pursuant to the act, grazing districts are hereby established, the boundaries of which shall be co-extensive with the boundaries of the public land districts in Alaska.

(b) *Leases on acreage basis.* Grazing leases will be granted only for such areas as may be deemed adequate and usable according to the needs of the lessee. Leases will provide for grazing on a definite area, and on an acreage basis, except where peculiar local conditions or the difficulties of administration make more practicable a lease based on the number of livestock to be grazed.

§ 4210.2 Lands subject to lease.

Vacant, unreserved, and unappropriated public lands are subject to lease. Where these lands are embraced within the natural grazing grounds or routes of migration of animals such as caribou or moose, or have other important values for wildlife, the lands may be leased, in the discretion of the manager, subject to such special terms and conditions as may be determined. Except as to those reservations described in § 4200.0–3 public lands within the boundaries of a grazing district which have been withdrawn for any purpose may be leased with the prior consent of the Department or agency having administrative jurisdiction thereof and subject to such additional terms and conditions as such Department or agency may impose.

§ 4210.3 Qualifications of applicants.

An applicant for a grazing lease is qualified if the applicant:

(a) Is a citizen of the United States, or

(b) Has on file before a court of competent jurisdiction a valid declaration of intention to become a citizen, or a valid petition for naturalization, or

(c) Is a group, association, or corporation organized under the laws of the United States or of any State or Territory thereof, authorized to conduct business in Alaska, and the controlling interest in which is vested in persons who would be qualified under either paragraph (a) or (b) of this section.

§ 4210.4 No right acquired by applicant prior to lease.

The filing of an application will not segregate the land applied for from application by other persons for a grazing lease, or from other disposition under the public land laws. As the issuance of a lease is discretionary, the filing of an application for a lease will not in any way create any right in the applicant to a lease, or to the use of the lands applied for pending the issuance of a lease. Any such unauthorized use constitutes a trespass.[*]

Subpart 4220—Procedures

§ 4220.1 Applicants.

(a) *Classes of applicants and preference.* Applicants for grazing leases shall be given preference in the following order:

(1) Natives.

(2) Bona fide settlers.

(3) Other qualified applicants.

(b) *Assertion of preference rights.* Any person claiming a preference right to a lease under paragraph (a) of this section must furnish with the application required under § 4220.2(a) a statement setting forth the facts on which such claim is made.

§ 4220.2 Application for lease.

(a) *Form used.* An application for grazing lease must be executed in duplicate on a form approved by the Director, and filed with the manager.

(b) *Schedule of operations.* The application must be accompanied by a schedule of the applicant's proposed annual program to develop and increase the number of livestock which will be grazed on the land, and showing the applicant's need for all the land applied for, to provide forage for the maximum number of livestock which the applicant intends to graze thereon.

(c) *Financial responsibility.* The applicant, upon request by the manager, must also furnish evidence of his financial responsibility consisting of a showing that he has the financial means or has made arrangements with an established financial institution to provide the capital necessary to commence and maintain his proposed schedule of operations.

§ 4220.3 Maximum number of stock.

The lease will indicate the maximum number of stock which may be grazed on the leased area, based on the condition of the range and its accessibility for summer and winter feeding. The manager may adjust the maximum number from time to time as the condition of the range may warrant.

§ 4220.4 Annual rental.

(a) *Amount.* Unless otherwise provided, each lessee shall pay to the Bureau of Land Management such rental per acre, per head, or per animal unit month, as may be determined to be a fair charge for grazing of livestock on the leased land. The rental under any grazing lease may be adjusted every 3 years. The date for making the annual payment will be specified in the lease. If the rental is to be paid according to the number of animals grazed, no charge will be made for the natural increase of grazing animals until the beginning of the following lease year.

(b) *Adjustment or waiver.* The manager, if he determines such action to be in the public interest by reason of (1) depletion or destruction of the range by any cause beyond the control of the lessee, or (2) calamity or disease causing wholesale destruction of or injury to livestock, may grant an extension of time for making payment, or reduce or waive the grazing fee under a lease so affected. An application for the desired relief should be filed with the manager and should state all pertinent details and itemize the losses sustained.

(c) *Payment.* The first rental payment required and the return of the proposed lease duly executed by the prospective lessee shall be made within 30 days of receipt of the lease form by the prospective lessee; if the rental is not paid or the lease is not returned within the prescribed time, the offer shall be null and void and of no effect, and all rights of the prospective lessee thereunder or under the application upon which it is based shall be considered as terminated. Subsequent rental payments for succeeding lease periods are payable in advance. In the event such payment is not received in the proper office by the last day of the current lease period or within the time prescribed in the billing notice whichever is the later, the case shall be considered canceled and all rights terminated thereunder as of the end of such current lease period; except the lease shall not terminate if the lessee submits payment to the proper office within a grace period of sixty days following the last day of the current lease period together with a showing satisfactory to the authorized office that the delay in rental payment was for unavoidable reasons and that termination of the lease would cause undue hardship to the lessee.

[*] It is unlawful for any person to graze any class of livestock on the public lands in grazing districts in Alaska, except under authority of a lease or permit granted under the act. Any person who wilfully grazes livestock in such areas without such authority shall, upon conviction, be punished by a fine of not more than $500. (Sec. 12, act of March 4, 1927; 43 U.S.C. 316k, and notice approved March 7, 1929.)

§ 4220.5 Reduction in excessive leased area.

Whenever, in the opinion of the manager, the leased land is excessive for the number of livestock to be grazed by the lessee, the manager may, after 30 days' notice to the lessee, reduce the lease area to the extent necessary, and the annual rental, if on an acreage basis, shall be reduced proportionately, effective at the beginning of the next lease year.

§ 4220.6 Free grazing permits.

Any person may file application in duplicate on a form approved by the Director, for a permit to graze, free of charge, not to exceed the number of livestock whose products are consumed or whose work is directly and exclusively used by the applicant or his family, for a term of not more than one year.

§ 4220.7 Leases.

(a) *Issuance of lease.* If the application is complete and it is determined that a lease should be issued, the manager will prepare a proposed lease, with necessary copies, on a form approved by the Director, for execution by the applicant. The forms, signed by the applicant, must be forwarded promptly to the manager, together with any required rental payment. The lease will be dated as of January 1 of the year in which it is issued, and the required rental for the first year will be adjusted on a pro rata monthly basis to cover that portion of the year subsequent to the lease issuance.

(b) *Report of grazing operations.* Before April 1 of the second lease year and each lease year thereafter, the lessee shall file with the manager a report, in duplicate, on a form approved by the Director, of his grazing operations during the preceeding year.

(c) *Assignments.* No part of the leased land may be subleased. Any proposed assignment of a lease, in whole or in part, must be filed in duplicate with the authorized officer within 90 days of its execution. Assignments will be executed on a form approved by the Director and must be accompanied by the application on a form approved by the Director, executed in duplicate, together with the same showing by the assignee as to qualifications and stock development schedule as would be required of applicants for a new lease, including financial responsibility when specifically requested by the manager. The assignee's acceptance of the lease offered pursuant to the grazing lease assignment shall constitute his acceptance of the lease terms. No assignment will be recognized nor will it confer on the assignee any rights to the leased area until a lease therefor is issued to him.

(d) *Renewals. An application for* renewal of a grazing lease should be executed and filed in duplicate on a form approved by the Director not less than four months but not more than eight months before the expiration date of the lease term. The renewal lease, if issued, will contain such terms and conditions as the manager may determine.

(e) *Rights reserved.* Grazing leases under this part shall be subordinated to and shall be subject to modification or reduction by the manager to the extent necessary to permit:

(1) The protection, development and utilization, under applicable laws and regulations, of the mineral, timber, water, and other resources on or in the leased lands, including their use for agriculture.

(2) The allowance of applications for and the acquisition of homesites, easements, permits, leases, or other rights and uses, pursuant to applicable public land laws, where the same are in the public interest or will not unduly interfere with the use of the area for grazing purposes.

(3) The temporary closing of portions of the leased area to grazing whenever, because of improper handling of the stock, overgrazing, fire or other cause, such action is deemed necessary to restore the range to its normal condition.

(f) *Restrictions.* No lessee may so enclose roads, trails or other highways as to disturb public travel thereon, nor interfere with existing communication lines or other improvements on the leased area; he shall not prevent legal hunting, fishing or trapping on the land, or the ingress of miners, mineral prospectors and other persons entitled to enter the area for lawful purposes.

(g) *Termination.* A lease may be surrendered by the lessee upon prior written notice filed with the manager, effective upon the date indicated in such notice but no less than 30 days from the date of filing, provided the lessee has complied with the terms and conditions of the lease and has paid all charges due thereunder.

(h) *Cancellation.* A lease may be cancelled by the manager if the lease was issued improperly through error with respect to a material fact or facts, or if the lessee shall fail to comply with any of the provisions of the lease or of this part. No lease will be cancelled for default in complying with the provisions of the lease or of this part until the lessee has been notified in writing of the nature of the default and has been afforded an opportunity to show why the lease should not be cancelled.

§ 4220.8 Stock driveways; crossing permits; quarantine regulations.

(a) *Stock driveways.* The manager may establish stock driveways for the regular crossing of livestock across public lands, in such form and manner as he may determine.

(b) *Crossing permits.* A permit for the crossing of livestock on a stock driveway or other public lands, including lands under grazing lease, may be issued free of charge, upon the filing of an application on a form approved by the Director, in duplicate, with the authorized officer at least 30 days prior to the date the crossing is to begin.

(c) *Quarantine regulations.* Persons driving or transporting stock across any public lands must comply with the quarantine and other sanitary laws prescribed by the Territorial or other proper authorities.

§ 4220.9 Range improvements.

(a) *Permits for construction and maintenance.* Application for a permit to construct and maintain range improvements should be filed with the authorized officer in duplicate on a form approved by the Director. The lessee, upon obtaining an executed permit from the authorized officer, may construct, maintain, and utilize authorized fences, buildings, corrals, reservoirs, wells, or other improvements needed for the exercise of the grazing privileges under the lease. The lessee will be required to comply with the laws of the State of Alaska with respect to the construction and maintenance of fences, but any such fence shall be constructed to permit the ingress and egress of miners, prospectors for minerals, and other persons entitled to enter such area for lawful purposes. The lessee, upon written approval by the authorized officer, may improve by seeding or reseeding within the lease area and may harvest hay or ensilage from such seeded or reseeded areas provided that the forage so produced is used primarily as feed for the lessee's livestock. The authorized officer may approve the assignment of range improvements upon receipt of an application for such assignment on a form approved by the Director.

(b) *Removal of improvements and personal property.* (1) Improvements, fixtures, or personal property (other than livestock) may not be removed from the lands unless all moneys due the United States under the lease have been paid.

(2) If all moneys due have been paid and the lessee, on or before the termination of his lease in whole or in part for any reason, notifies the manager of his determination to leave on the land involved in such termination improvements, the construction or maintenance of which has been authorized, no other person shall use or occupy, under any permit, lease or entry under any public land law, the land on which such improvements are located, until there has been paid to the person entitled thereto the value of such improvements. If the interested parties are unable to reach an agreement as to such value, the amount may be fixed by the manager. All such agreements, to be effective, must be approved by the manager. The failure of the subsequent permittee, lessee, or entryman to pay the former lessee in acordance with such agreement will be just cause for the cancellation of the permit, lease, or entry.

(3) In the absence of a notice by the lessee in accordance with subparagraph (2) of this paragraph the lessee shall, within 90 days from the date of expiration or termination of the lease, and if all charges due thereunder have been paid, remove all personal property belonging to him, together with any fence, building, corral, or other removable range improvements owned by him. All

such property which is not removed within the time allowed shall thereupon become the property of the United States.

Subpart 4230—Disposition of Leased Lands

§ 4230.1 Settlement, location, and acquisition.

Lands leased under the act are not subject to settlement, location, and acquisition under the nonmineral public land laws applicable to Alaska unless and until the authorized officer of the Bureau of Land Management determines that the grazing lease should be cancelled or reduced in order to permit, in the public interest and without undue interference with the grazing operations, the apppropriate development and utilization of the lands (see § 4220.7(e)) and that the lands are suitable for and otherwise subject to the intended settlement, location, entry or acquisition. An application on the appropriate form or a notice on a form approved by the Director if applicable to the class of entry contemplated, will be accepted and treated as a petition for determination. Upon such determination and after not less than 30 days' notice thereof to the lessee, the grazing lease may be cancelled or reduced to permit the settlement, location, entry or other acquisition of the lands so eliminated from the lease, and the petitioner will be accorded a preference right to settle upon or enter the lands in accordance with the determination.

§ 4230.2 Mineral prospecting, location and purchase.

Unless otherwise withdrawn therefrom, lands leased under the act are subject to disposition under the mineral leasing laws and to mineral prospecting, location, and purchase under the mining laws, in accordance with the applicable regulations of Group 3800 of this chapter.

Subpart 4240—Protests, Hearings and Appeals

§ 4240.1 Protests.

Protests against an application for a lease should be filed in duplicate, with the manager, contain a complete disclosure of all facts upon which the protest is based, and describe the lands involved in such protest; and should be accompanied by evidence of service of a copy of the protest upon the applicant. If the protestant desires to lease all or part of the land embraced in the application against which the protest is filed, the protest should be accompanied by an application for a grazing lease.

§ 4240.2 Hearings.

Any lessee of or applicant for grazing privileges may procure a review of any action or decision of the authorized officer by filing with such officer an application for a hearing, stating the nature of the action or decision complained of and the grounds of complaint. The filing of any such application and the conduct of the proceedings before an administrative law judge shall be governed by § 4.450 of this title.

Group 4300—Grazing Administration; Alaska; Reindeer

PART 4300—GRAZING ADMINISTRATION; ALASKA; REINDEER

Subpart 4300—Grazing Administration; Alaska; Reindeer; General

Sec.

Subpart 4300—Grazing Administration; Alaska; Reindeer; General

§ 4300.0–3 Authority.

Section 12 of the Act of September 1, 1937 (50 Stat. 902), authorizes the Secretary of the Interior to promulgate such rules and regulations as, in his judgment, are necessary to carry into effect the provisions of this Act.

§ 4300.0–5 Definitions.

(a) "Reindeer" includes reindeer and such caribou as have been introduced into animal husbandry or have actually joined reindeer herds and the increase thereof.

(b) "Natives" include the native Indians, Eskimos, and Aleuts of whole or part blood inhabiting Alaska at the time of the Treaty of Cession of Alaska to the United States and their descendants of whole or part blood, together with the Indians and Eskimos who, since the year 1867 and prior to September 1, 1937, have migrated into Alaska from the Dominion of Canada, and their descendants of whole or part blood.

(c) "Bureau" means Bureau of Land Management.

(d) "Director" means Director, Bureau of Land Management.

(e) "Authorized Officer" means the Bureau official who has been authorized to issue a reindeer grazing permit.

(f) "The Act" means the Act of September 1, 1937 (50 Stat. 902).

Subpart 4310—Conditions

§ 4310.1 Lands subject to grazing permit.

Vacant and unreserved and unappropriated public lands are subject to inclusion in a reindeer grazing permit. Where these lands are within the natural migration routes of caribou, or when they have other important wildlife values, the lands may be included in a permit, at the discretion of the authorized officer after consultation with the Bureau of Sport Fisheries and Wildlife, subject to such special terms and conditions as may be jointly agreed upon Public lands which have been withdrawn for any purpose may also be included in a grazing permit with the prior consent of the Department or agency having administrative jurisdiction thereof, and subject to such additional terms and conditions as such Department or agency may impose.

§ 4310.2 Qualifications of applicants.

An applicant is qualified if he is a native or group, association or corporation of natives as defined by the Act of September 1, 1937, organized under the laws of the United States or the State of Alaska.

§ 4310.3 No rights acquired by applicant prior to issuance of grazing permit.

The filing of an application will not segregate the land applied for from application by other persons for a grazing permit, or from other disposition under the public land laws. As the issuance of a grazing permit is discretionary, the filing of an application will not create a right for such a permit, or to the use of the lands applied for pending the issuance of a grazing permit.

§ 4310.4 Rights reserved; public land laws applicable.

(a) Grazing permits under this part shall be subordinated to higher uses and subject to modification or reduction by the authorized officer to the extent necessary to allow:

(1) The protection, development and utilization, under applicable laws and regulations, of the mineral, timber, water and other resources on or in the lands included in the grazing permit, including their use for agriculture.

(2) The allowance of applications for and the acquisition of homesites, easements, permits, leases, or other rights and uses pursuant to applicable public land laws.

(3) The temporary closing of portions of the permitted area to grazing whenever, because of improper handling of the reindeer, overgrazing, fire or other cause, such action is deemed necessary to restore the range to its normal condition.

(b) No permittee may so enclose roads, trails, or highways as to disturb public travel thereon, nor interfere with existing communication lines or other improvements on the permitted area; he shall not prevent legal hunting, fishing or trapping on the land, or ingress of miners, mineral prospectors and other persons entitled to enter the area for lawful purposes.

(c) Persons using public lands for grazing of reindeer or for driving of reindeer across such lands must comply with applicable State and Federal laws relative to livestock quarantine and sanitation.

§ 4310.5 Location, settlement, entry, and other disposition of lands included in grazing permit; notice to permittee of disposition and reduction of permitted area.

(a) Lands included in grazing permits under the act are subject to settlement, location, and acquisition under the non-mineral public land laws applicable to the State of Alaska.

(b) Upon settlement, location or entry of any lands included within a reindeer grazing permit, the permittee shall be notified of the settlement, location or entry, and the permitted area shall be reduced by the area involved in the settlement, location or entry.

(c) Unless otherwise withdrawn therefrom lands included in grazing permits under the act are subject to disposition under the mineral leasing laws and to mineral prospecting, location, and purchase under the mining laws, in accordance with the applicable regulations of Group 3800 of this chapter.

Subpart 4320—Procedures

§ 4320.1 Application for grazing permit.

(a) *Form used.* An application for a grazing permit must be executed in duplicate on a form approved by the Director and filed in the Bureau office which has jurisdiction over lands applied for.

(b) *Bureau of Indian Affairs certification.* A certification of reindeer allotment to the applicant, signed by the authorized Bureau of Indian Affairs officer, must accompany the application if the applicant is to receive a herd from the Government.

(c) *Source of reindeer other than Government.* If reindeer are to be obtained from a source other than the Government, the applicant should state the source and show evidence of his purchase or option to purchase.

(d) *Listing of improvements.* With the initial application for any grazing permit issued under this part, the applicant must list by location and description the improvements found in the area under application which are owned by the applicant. Such statement of ownership will be verified by a Bureau of Indian Affairs official prior to submitting it to the Bureau of Land Management. Such existing improvements will be permitted by the terms of the initial grazing permit. Improvements to be constructed subsequent to the issuance of the initial grazing permit must be under permit in accordance with § 4320.9.

§ 4320.2 Filing fee; grazing fee.

A filing fee of $10 must accompany each application for a reindeer grazing permit or application for renewal thereof. No grazing fee will be charged.

§ 4320.3 Term of grazing permit; renewals.

(a) Reindeer grazing permits shall be issued for a maximum term of 10 years, except where the applicant desires a shorter term, or where the authorized officer determines that a shorter period will be in the public interest.

(b) Application for renewal of a grazing permit shall be made not less than four months or more than eight months before the expiration date of the permit. The authorized officer may at his discretion offer the permittee a renewed grazing permit containing such terms, conditions, and of such duration as he determines to be in the public interest.

§ 4320.4 Area of use and maximum number of reindeer.

(a) Permits will restrict grazing use to a definitely described area. Grazing permits will be granted only for such areas as may be deemed adequate and usable according to the needs of the permittee.

(b) The grazing permit will indicate the maximum number of reindeer which may be grazed on the permitted area, based on range conditions, and will be subject to adjustment as the condition of the range indicates.

§ 4320.5 Adjustment of grazing permit area.

The permitted area may be reduced at any time, after not less than 30 days notice to the permittee, when in the opinion of the authorized officer the area is excessive for the number of reindeer grazed thereon. The permit may be increased by the authorized officer on his own motion or upon request of the permittee, when in the opinion of the authorized officer the area is insufficient for the number of reindeer grazed thereon. The permittee shall have opportunity within such notice period to show cause why the area included in the grazing permit should not be adjusted.

§ 4320.6 Report of grazing operations; assignments allowed.

(a) Before April 1 of the second permit year and each year thereafter, the permittee shall file with the authorized officer a report in duplicate of his grazing operations during the preceding year on an approved form.

(b) No part of the land included in the permit may be subleased. Proposed assignments of a permit, in whole or in part, must be filed in duplicate with the authorized officer within 90 days from the date of its execution. Such assignments must contain all of the terms and conditions agreed upon by the parties thereto, accompanied by the same showing by the assignee as to qualifications and a reindeer allotment as is required of applicants for a permit, and by the assignee's statement agreeing to be bound by the provisions of the permit. No assignment shall be effective until approved by the authorized officer.

§ 4320.7 Termination of grazing permit; cancellation.

(a) A grazing permit may be surrendered by the permittee upon prior written notice filed with the authorized officer, effective upon the date indicated in such notice, but not less than 30 days from the date of filing.

(b) A grazing permit may be cancelled by the authorized officer if the permit was issued improperly through error with respect to a material fact or facts, or if the permittee shall fail to comply with any of the provisions of the permit or of this part. No permit shall be cancelled for default in complying with the provisions of the permit or of this part until the permittee has been notified in writing of the nature of the default and has been afforded an opportunity of not less than 30 days to show why the permit should not be cancelled.

§ 4320.8 Crossing permits.

A permit for the crossing of reindeer over public lands, including lands under grazing permit, may be issued free of charge, upon application filed with the authorized officer at least 30 days prior to the date the crossing is to begin. The application must show the number of reindeer to be driven, date of starting, approximate period of time required, and the land to be traversed.

§ 4320.9 Permits for construction and maintenance of improvements; removal.

(a) Application for a permit to construct and maintain range improvements should be filed, in duplicate, with the authorized officer on an approved form. The grazing permittee, upon obtaining a permit from the authorized officer, may construct, maintain and utilize any fence, building, corral, reservoir, well, or other improvement needed for the exercise of the grazing privileges under the grazing permit. The permittee will be required to comply with the laws of the State of Alaska with respect to the construction and maintenance of fences, but any such fence shall be constructed to permit the ingress and egress of miners, prospectors for minerals, and other persons entitled to enter such area for lawful purposes.

(b) The permittee, within 90 days from the date of expiration or termination of the grazing permit, or within any extension of such period, shall be allowed to remove all personal property belonging to him, together with any fence, building, corral, or other removable range improvements owned by him. All such property which is not removed within the time allowed shall thereupon become the property of the United States.

Subpart 4330—Protests

§ 4330.1 Protests.

Protests against an application for a grazing permit shall be filed in dupli-

cate, with the authorized officer; contain a complete disclosure of all facts upon which the protest is based; and describe the lands involved in such protests. It shall be accompanied by evidence of service of a copy of the protest upon the applicant. If the protestant desires to obtain a grazing permit for all or part of the land embraced in the application against which the protest is filed, the protest shall be accompanied by an application for a grazing permit.

Subpart 4340—Trespass

§ 4340.1 Trespass.

(a) Any use of the Federal lands for reindeer grazing purposes, unless authorized by a valid permit issued in accordance with the regulations in this part is unlawful and is prohibited.

(b) Any person who wilfully violates any of the rules and regulations in this part shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by imprisonment for not more than one year, or by a fine of not more than $500.

PART 4200—GRAZING ADMINISTRATION; ALASKA; LIVESTOCK

3. Title 43 CFR Group 4200 is deleted from the Code of Federal Regulations.

PART 4700—WILD FREE; ROAMING HORSE AND BURRO PROTECTION, MANAGEMENT, AND CONTROL

§ 4720.3 [Amended]

4. Section 4720.3 of Part 4700 is amended by changing the reference from "43 CFR 9239.3" to "Subpart 4150 of this subchapter."

§ 4730.3 [Amended]

§ 4730.4 [Amended]

5. Section 4730.3 and 4730.4 of Part 4700 are amended by changing the reference from "§§ 4115.2–1(d) and 4121.2–1 (a) of this chapter" to "§ 4120.2–1 and Subpart 4160 of this subchapter."

PART 9230—TRESPASS

§ 9239.3–1 [Removed]

§ 9239.3–2 [Removed]

6. Title 43 CFR 9239.3–1 and 9239.3–2 are deleted from the Code of Federal Regulations.

§ 9239.3–3 [Amended]

7. Section 9239.3–3 is amended by changing the reference in paragraphs (a) (1) and (2) from "Subpart 4132" to "Part 4300."

8. Section 9239.3–3 is amended by changing the reference in paragraph (b) (1) from "§ 4131.2–7 (g) and (h)" to "§ 4220.7 (g) and (h)."

9. Section 9239.3–3 is amended by changing the reference in paragraph (b) (3) from "§ 4131.0–3" to "§ 4200.0–3."

CHRIS FARRAND,
Deputy Assistant Secretary of the Interior.

JULY 22, 1976.

[FR Doc.76-21788 Filed 7-27-76;8:45 am]

federal register

WEDNESDAY, JULY 28, 1976

PART IV:

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

■

OFF-ROAD VEHICLES

Use on Public Lands

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT

PART 6290—OFF-ROAD VEHICLES

Use on Public Lands

Notice is hereby given that the amendments to the regulations set forth below are proposed by the Secretary of the Interior. These amendments are prepared pursuant to Executive Order 11644, "Use of Off-Road Vehicles on the Public Lands," a court decision and order given May 2, 1975, by the United States District Court for the District of Columbia, and experience gained in administering the original off-road vehicle regulations.

By these amendments public lands administered by the Bureau of Land Management are left undesignated pending evaluation and designation. Areas and trails would be designated as open, closed, or regulated with regard to off-road vehicle use. The designation process described and the criteria for designation set forth in Executive Order 11644 are made a part of the regulations, with the exception that endangered species habitat is to be given special consideration as required by the Endangered Species Act of 1973. All lands administered by the Bureau of Land Management will be designated by the end of 1987, with the exception of primitive areas and natural areas, which by the terms of Executive Order 11644 off-road vehicle use is either prohibited or restricted.

The subparts have been regrouped to make the regulations easier to follow. Certain portions have been rephrased to achieve greater clarity and additions have been made to clarify certain aspects of the regulations. For example, headlight and taillight requirements are stated in a more exact manner than before.

Enforcement provisions are added to encompass the enforcement authority of several recently enacted laws, including Title II of the Sikes Act, and the Land and Water Conservation Fund Act, as amended.

In accordance with the Department's policy of public participation in rulemaking (36 FR 8336), interested parties may submit written comments, suggestions, or objections with respect to the proposed amendments to the Director (210), Bureau of Land Management, Washington, D.C. 20240, until October 7, 1976.

Copies of comments, suggestions, or objections made pursuant to this notice will be available for public inspection in the Office of Legislation and Regulatory Management, Bureau of Land Management, Room 5555, Interior Building, Washington, D.C., during regular business hours (7:45–4:15 p.m.).

Chapter II, Title 43, of the Code of Federal Regulations is amended as follows:

1. Part 6290 is revised to read as follows:

Subpart 6290—General

Sec.
6290.0–1 Purpose.
6290.0–2 Objectives.
6290.0–3 Authority.
6290.0–5 Definitions.
6290.0–7 Enforcement.
6290.0–8 Applicability.

Subpart 6291—Conditions of Use of Public Lands

6291.1 Regulations governing use.
6292.2 Special rules.

Subpart 6292—Areas and Trail Designation

6292.1 Designation criteria.
6292.2 Designation procedures.
6293.3 Designation changes.

Subpart 6293—Vehicle Operation

6293.1 Standards.

Subpart 6294—Organized Events

6294.1 Permits.

Subpart 6290—General

§ 6290.0–1 Purpose.

The purpose of this part is to implement Executive Order No. 11644; "Use of Off-Road Vehicles on the Public Lands," of February 8, 1972. (3 CFR P. 332 et seq. (1974)).

§ 6290.0–2 Objectives.

The objectives of these regulations are to provide procedures to control and direct the use of off-road vehicles on public lands to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands.

§ 6290.0–3 Authority.

The provisions of this part are issued under 43 U.S.C. 2, 1201; 42 U.S.C. 4321; 3 CFR P. 332 et seq. (1974); 16 U.S.C. 1281c; 82 Stat. 919 et seq.; 16 U.S.C. 670g–n; 16 U.S.C. 460 (1–6a); 48 Stat. 1269; 43 U.S.C. 315a–r as amended and supplemented; 50 Stat. 874; 43 U.S.C. 1181 et seq.; 16 U.S.C. 1331–1340; 87 Stat. 884 et seq.

§ 6290.0–5 Definitions.

As used in this part:

(a) "Off-Road Vehicle" means any vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain, deriving motive power from any source other than muscle, excluding: (1) any nonamphibious registered motorboat; (2) any military, fire, emergency, law enforcement or other government vehicle while being used for official or emergency purposes; (3) any vehicle whose use is expressly authorized by the authorized officer or otherwise officially approved.

(b) "Public Lands" means any lands the surface of which is administered by the Bureau of Land Management.

(c) "Bureau" means the Bureau of Land Management.

(d) "Authorized Officer" means an employee of the Bureau to whom has been delegated the authority to take actions under this subpart.

(e) "Organized Event" means a structured, or consolidated, or scheduled use of off-road vehicles on the public lands. The term includes nonrecreational vehicles as well as recreational vehicles. The term does not apply to an individual, or an individual's immediate family participating in informal recreational activities.

(f) "Official Use" means use by an employee, agent, or designated representative of the Federal Government or one of its contractors in the course of his employment, agency, or representation.

(g) "Planning System" means the approach provided in Bureau directives and manuals to formulate multiple use plans for the public lands. This approach provides for public participation within the system.

(h) "Open areas and trails" are areas and trails where off-road vehicles may be operated subject to the operating regulations and vehicle standards set forth at subparts 6291.1 and 6293 of this part.

(i) "Regulated areas and trails" are areas and trails where the use of off-road vehicles is subject to restrictions deemed appropriate by the authorized officer. Restrictions may limit the number or types of vehicles allowed, times of use, areas or trails used, and similar matters. Regulated areas and trails may be designated for special or intensive use, including, but not limited to, organized events, and may be subject to, but not limited to, rules set forth at subpart 6291.2.

(j) "Closed areas and trails" are areas and trails where the use of off-road vehicles is permanently or temporarily prohibited.

§ 6290.0–7 Enforcement.

Any person who violates or fails to comply with the regulations of this subpart is subject to arrest and punishment pursuant to appropriate law.

§ 6290.0–8 Applicability.

The regulations in this part apply to all public lands, roads, and trails under administration of the Bureau.

Subpart 6291—Conditions of Use

§ 6291.1 Regulations governing use.

(a) The operation of off-road vehicles is prohibited on those areas and trails designated as closed to off-road vehicle use.

(b) Operators of off-road vehicles on those areas and trails designated as regulated must conform to all terms and conditions of the applicable designation orders.

(c) The operation of off-road vehicles is permitted on those areas and trails designated as open to off-road vehicle use.

(d) Off-road vehicles are prohibited on trails limited to hiking and horseback riding.

(e) Applicable State laws and regulations relating to use, standards, registration, operation, and inspection of off-road vehicles shall apply on public lands. To the extent that State laws and regulations do not exist or are less stringent than the regulations in this part, the regulations in this part are minimum standards and are controlling.

(f) Off-road vehicles operated on the public lands must conform to the vehicle standards set forth in subpart 6293 of this part.

(g) No person may operate on off-road vehicle on public lands without a valid State operator's license or learner's permit unless under the direct supervision of an individual 18 years of age or older who has a valid operator's license and who is responsible for the acts of that person.

(h) No person shall operate an off-road vehicle on public lands:

(1) In a reckless, careless or negligent manner;

(2) In excess of established speed limits;

(3) While under the influence of alcohol, narcotics, or dangerous drugs;

(4) In a manner causing, or likely to cause, excessive damage to or disturbance of the soil, wildlife, wildlife habitat, improvements, cultural, or vegetative resources; and

(5) From a half-hour after sunset to a half-hour before sunrise without lighted headlights and taillights.

(i) Any person who operates an off-road vehicle on public lands must comply with the regulations in this subpart, and in subpart 6291.2 as applicable, while operating such vehicle on public lands.

§ 6291.2 Special rules.

The regulations contained in this subpart are special regulations prescribed for the use of off-road vehicles in specific areas. Such regulations may amend, modify, relax, or make more stringent the regulations contained in subparts 6291.1 and 6293 of this chapter.

The authorized officer may establish rules for the operation of off-road vehicles in specific areas and for special vehicle standards applicable to all or any type of off-road vehicle. Notice of such special rules and standards shall be published in the FEDERAL REGISTER, and the public shall be provided the opportunity to comment before adoption.

Subpart 6292—Designation of Areas and Trails

§ 6292.1 Criteria.

The authorized officer will designate all public lands as either open, regulated, or closse to off-road vehicles, based on the protection of the resources of the public lands, the promotion of the safety of all the users of the public lands, and the minimization of conflicts among various uses of the public lands; and in accordance with the following criteria:

(a) Areas and trails shall be located to minimize damage to soil, watershed, vegetation, or other resources of the public lands.

(b) Areas and trails shall be located to minimiize harrassment of wildlife or significant disruption of wildlife habitats. Special attention will be given to project endangered species and their habitants.

(c) Areas and trails shall be located to minimize conflicts between off-road use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.

(d) Areas and trails shall not be located in officially designated Wilderness Areas or Primitive Areas. Areas and trails shall be located in Natural Areas only if the authorized officer determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values.

§ 6292.2 Designation procedures.

(a) Public participation. The authorized officer, shall to the extent practical, designate and redesignate areas and trails in conjunction with the Bureau planning system for the formulation of multiple use management plans. Prior to making designations or redesignations, the authorized officer will consult with interested user groups, Federal, State, county and local agencies, local landowners, and other parties in a manner that provides an opportunity for the public to express itself and have those views taken into account.

(b) Identification of designated areas and trails. The authorized officer shall take action by posting and/or other appropriate measures to identify designated areas and trails so that the public will be aware of locations and restrictions applicable thereto. Public notice of designations or redesignations shall be given at the time of designation or redesignation through publication in the FEDERAL REGISTER and local news media. Copies of such notices shall be available to the public in local Bureau Offices for a period of one year following publication. The authorized officer will make available to the public other informational material as may be appropriate.

§ 6292.3 Designation changes.

(a) Monitoring use. The authorized officer will monitor effects of the use of off-road vehicles. On the basis of information so obtained, and whenever the authorized officer deems it necessary to carry out the objectives of this part, designations may be amended, revised, revoked, or other actions taken pursuant to the regulations in this part.

(b) Temporary action. The authorized officer may temporarily close or restrict public use and travel in accordance with the provisions of § 6010.4 of this chapter as to public lands which have been designated or redesignated in accordance with this subpart, and as to public lands which have not been designated.

(c) The authorized officer may apply for the withdrawal, reservation, or restriction of public lands in accordance with the withdrawal procedures in Part 2350 of this chapter, even though public lands have been designated or redesignated in accordance with this subpart.

Subpart 6293—Vehicle Operations

§ 6293.1 Standards.

(a) No off-road vehicle may be operated on public lands unless equipped with brakes in good working condition.

(b) No off-road vehicle equipped with a muffler cutout, bypass or similar device, or producing excessive noise exceeding Environmental Protection Agency standards, may be operated on public lands.

(c) The authorized officer may, by posting appropriate signs or by marking a map which shall be available for public inspection at local Bureau Offices, indicate those public lands upon which no off-road vehicle may be operated unless equipped with a properly installed spark arrestor that meets and is qualified to either the U.S. Department of Agriculture—Forest Service Standard 5100–1a, or the 80 percent efficiency level when determined by the appropriate Society of Automotive Engineers (SAE) Recommended Practices J335 or J350, which standards include the requirement that such spark arrestor shall have an efficiency to retain or destroy at least 80 percent of carbon particles for all flow rates, and which includes a requirement that such spark arrestor has been warranted by its manufacturer as meeting such requirement for at least 1,000 hours subject to normal use, with maintenance and mounting in accordance with the manufacturer's recommendation.

(d) Vehicles operating during the time specified in § 6291.1(h) will comply with the following: (1) Headlights shall be of sufficient power to illuminate an object at 300 feet at night under normal, clear atmospheric conditions. Two or three wheeled vehicles or single tracked vehicles will have a minimum of one headlight. Vehicles having four or more wheels or more than a single track will have a minimum of two headlights, except double tracked snowmachines with a maximum capacity of two people may have only one headlight. (2) Red taillights, capable of being seen at a distance of 500 feet from the rear at night under normal, clear atmospheric conditions, are required on vehicles in the same numbers as headlights.

Supart 6294—Organized Events

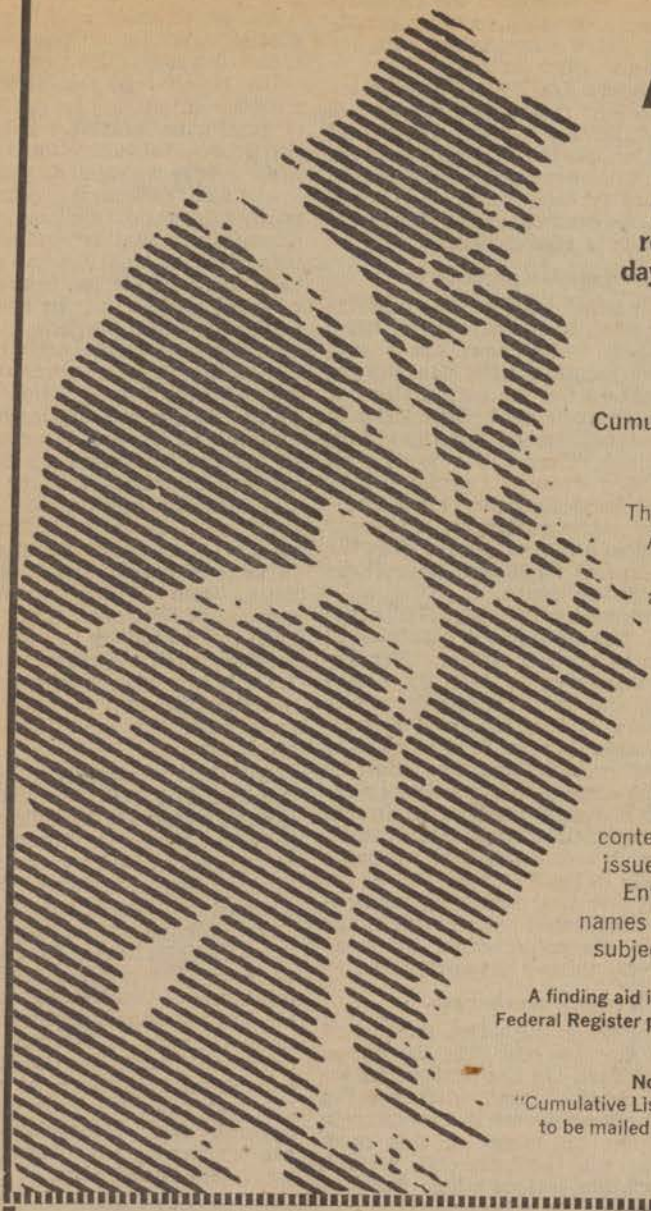
§ 6294.1 Permits.

No person or association of persons may conduct any rally, meet, or other type of organized event, involving the use of 25 or more off-road vehicles, on public lands without first obtaining a permit to do so from the authorized officer pursuant to part 2920 or subpart 6263 of this chapter as appropriate.

CHRIS FARRAND,
Deputy Assistant Secretary of the Interior.

JULY 23, 1976.

[FR Doc.76-21775 Filed 7-27-76;8:45 am]



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